To amend the Federal Election Campaign Act of 1971 to provide further transparency and accountability for the use of content that is generated by artificial intelligence (generative AI) in political advertisements by requiring such advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image or video footage in the advertisements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2023

Ms. KLOBUCHAR (for herself, Mr. BOOKER, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to provide further transparency and accountability for the use of content that is generated by artificial intelligence (generative AI) in political advertisements by requiring such advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image or video footage in the advertisements, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Require the Exposure of AI–Led Political Advertisements Act” or the “REAL Political Advertisements Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the revolutionary innovations in generative artificial intelligence (generative AI) and the potential for their use in exacerbating and spreading misinformation and disinformation at scale and with unprecedented speed requires Congress and the Federal Election Commission to take action to protect against the use of generative AI that harms our democracy; and

(2) free and fair elections require transparency and accountability, which allow the public to make informed decisions and hold public officials accountable.

SEC. 3. EXPANSION OF DEFINITION OF ELECTIONEERING COMMUNICATION.

(a) Expansion to Online Communications.—

(1) Application to Qualified Internet and Digital Communications.—

is amended by striking “or satellite communication” each place it appears in clauses (i) and (ii) and inserting “satellite, or qualified internet or digital communication”.

(B) QUALIFIED INTERNET OR DIGITAL COMMUNICATION.—Paragraph (3) of section 304(f) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30104(f)(3)) is amended by adding at the end the following new subparagraph:

“(D) QUALIFIED INTERNET OR DIGITAL COMMUNICATION.—The term ‘qualified internet or digital communication’ means any communication that is placed or promoted for a fee on an online platform.”.


(2) NEWS EXEMPTION.—Section 304(f)(3)(B)(i) of the Federal Election Campaign
Act of 1971 (52 U.S.C. 30104(f)(3)(B)(i)) is amended to read as follows:

“(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station or any online or digital newspaper, magazine, publication, periodical, blog, or platform, unless such broadcasting, online, or digital facilities are owned or controlled by any political party, political committee, or candidate;”.

(b) Definition of Online Platform.—Section 301 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101) is amended by adding at the end the following:

“(27) Online platform.—

“(A) In general.—The term ‘online platform’ means any public-facing website, web application, or digital application (including a social network, ad network, or search engine) that—

“(i)(I) sells qualified political advertisements; and

“(II) has 50,000,000 or more unique monthly United States visitors or users for
a majority of months during the preceding 12 months; or

“(ii) is a third-party advertising vendor that has 50,000,000 or more unique monthly United States visitors in the aggregate on any advertisement space that it has sold or bought for a majority of months during the preceding 12 months, as measured by an independent digital ratings service accredited by the Media Ratings Council (or its successor).

“(B) QUALIFIED POLITICAL ADVERTISEMENT.—For purposes of this paragraph, the term ‘qualified political advertisement’ means any advertisement (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that—

“(i) is made by or on behalf of a candidate; or

“(ii) communicates a message relating to any political matter of national importance, including—

“(I) a candidate;
“(II) any election to Federal office; or

“(III) a national legislative issue of public importance.

“(C) THIRD-PARTY ADVERTISING VENDOR DEFINED.—For purposes of this paragraph, the term ‘third-party advertising vendor’ includes any third-party advertising vendor network, advertising agency, advertiser, or third-party advertisement serving company that buys and sells advertisement space on behalf of unaffiliated third-party websites, search engines, digital applications, or social media sites.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any communication made on or after January 1, 2024, and shall take effect without regard to whether or not the Federal Election Commission has promulgated regulations to carry out such amendments.

SEC. 4. REQUIRING DISCLAIMERS ON ADVERTISEMENTS CONTAINING CONTENT GENERATED BY ARTIFICIAL INTELLIGENCE.

(a) REQUIREMENT.—Section 318 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30120) is
amended by adding at the end the following new subsection:

“(e) **Special Disclaimer for Communications Containing Content Generated by Artificial Intelligence.**—

“(1) **Requirement.**—If a communication described in subsection (a) contains an image or video footage that was generated in whole or in part with the use of artificial intelligence (generative AI), the communication shall include, in a clear and conspicuous manner, a statement that the communication contains such an image or footage.

“(2) **Safe Harbor for Determining Clear and Conspicuous Manner.**—A statement required under this subsection shall be considered to be made in a clear and conspicuous manner if the statement meets the following requirements:

“(A) **Text or Graphic Communications.**—In the case of a text or graphic communication, the statement—

“(i) appears in letters at least as large as the majority of the text in the communication; and

“(ii) meets the requirements of paragraphs (2) and (3) of subsection (c).
“(B) AUDIO COMMUNICATIONS.—In the case of an audio communication, the statement is spoken in a clearly audible and intelligible manner at the beginning or end of the communication and lasts at least 3 seconds.

“(C) VIDEO COMMUNICATIONS.—In the case of a video communication that also includes audio, the statement—

“(i) is included at either the beginning or the end of the communication; and

“(ii) is made both in—

“(I) a written format that meets the requirements of subparagraph (A) and appears for at least 4 seconds; and

“(II) an audible format that meets the requirements of subparagraph (B).

“(D) OTHER COMMUNICATIONS.—In the case of any other type of communication, the statement is at least as clear and conspicuous as the statement specified in subparagraph (A), (B), or (C).

“(3) REGULATIONS.—Not later than 120 days after the date of enactment of the Require the Expo-
sure of AI–Led Political Advertisements Act, the
Commission shall promulgate a regulation to carry
out this subsection, including—

“(A) criteria for determining whether an
advertisement contains an image or video foot-
age created through generative artificial intel-
ligence;

“(B) requirements for the contents of the
statement required under paragraph (1); and

“(C) a definition of content generated by
artificial intelligence that considers current and
future uses of artificial intelligence and similar
technologies that have a high risk for use in
creating and spreading misinformation or
disinformation about candidates, elections, and
issues of national concern.”.

(b) EFFECTIVE DATE.—The amendments made by
this section shall apply with respect to any communication
described in section 318(a) of the Federal Election Cam-
paign Act of 1971 (52 U.S.C. 30120(a)) made on or after
January 1, 2024, and shall take effect without regard to
whether or not the Federal Election Commission has pro-
mulgated regulations to carry out such amendments.
SEC. 5. REPORTS.

Not later than 2 years after the date of enactment of this Act, and biannually thereafter, the Federal Election Commission shall submit a report to Congress that includes—

(1) an assessment of the compliance with and the enforcement of the requirements of section 318(e) of the Federal Election Campaign Act of 1971, as added by this Act;

(2) recommendations for any modifications to such section to assist in carrying out its purposes; and

(3) the identification of ways to bring further transparency and accountability to political advertisements.