

**SUBSTITUTE FOR
HOUSE BILL NO. 4649**

A bill to regulate political activity; to require members of and candidates for the state board of education to file financial reports; to prescribe the powers and duties of certain state officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "state
2 board of education financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Beneficial interest" includes, but is not limited to, the
5 interest in a trust of a qualified trust beneficiary or a trust
6 beneficiary as those terms are defined in section 7103 of the
7 estates and protected individuals code, 1998 PA 386, MCL 700.7103.



1 (b) "Blind trust" means a qualified blind trust or qualified
2 diversified trust as those terms are defined in 5 CFR 2634.403.

3 (c) "Candidate" means that term as defined in section 3 of the
4 Michigan campaign finance act, 1976 PA 388, MCL 169.203.

5 (d) "Candidate for office" means a candidate for the office of
6 member of the state board of education.

7 (e) "Earned income" means salaries, tips, or other
8 compensation, and net earnings from self-employment for the taxable
9 year.

10 (f) "Immediate family of an individual", except as otherwise
11 provided in this act, means a spouse or dependent child of that
12 individual or a person claimed by that individual or that
13 individual's spouse as a dependent for federal income tax purposes.

14 (g) "Income" means money or any thing of value received, or to
15 be received as a claim on future services, whether in the form of a
16 fee, salary, expense, allowance, forbearance, forgiveness,
17 interest, dividend, royalty, rent, capital gain, or any other form
18 of recompense that is considered income under the internal revenue
19 code of 1986, 26 USC 1 to 9834.

20 (h) "State official" means the holder of an office described
21 in subdivision (d) whose current term began after the effective
22 date of this act.

23 Sec. 3. (1) If an individual is a state official at any time
24 during a calendar year, that individual shall electronically file
25 with the secretary of state by May 15 of the following year a
26 report that meets the requirements of section 4. This subsection
27 does not apply to an individual who was a state official only on
28 the first day of the calendar year.

29 (2) If an individual is a candidate for state office and has



1 not already filed a report under subsection (1) covering the
2 preceding calendar year, that individual shall file with the
3 secretary of state a report that meets the requirements of section
4 4 within 30 days after the later of May 15 or the date on which the
5 individual forms a candidate committee as a candidate for state
6 office under section 21 of the Michigan campaign finance act, 1976
7 PA 388, MCL 169.221. However, the individual is not required to
8 file a report under this section if, under any of the following
9 acts, the individual files a report in the current calendar year:

10 (a) State senator financial disclosure act.

11 (b) University board member financial disclosure act.

12 (c) State board of education financial disclosure act.

13 (d) State representative financial disclosure act.

14 (e) Executive branch financial disclosure act.

15 (f) Judicial branch financial disclosure act.

16 (3) If an individual required to file a report under this act
17 receives notice from the secretary of state under section 6(1)(g),
18 the individual shall, within 9 business days after receiving the
19 notice, file corrections to the errors or omissions or file the
20 report, as applicable.

21 Sec. 4. (1) Subject to subsection (4) and except as provided
22 in section 5, a report required under section 3 must include a
23 complete statement of all of the following:

24 (a) The full name, mailing address, occupation of, and the
25 state office held or sought by, the individual filing the report.

26 (b) The name of each member of the immediate family of the
27 individual filing the report who is not a dependent child and the
28 number of members of the immediate family of the individual filing
29 the report who are dependent children.



1 (c) The name, address, and principal activity of each employer
2 of the individual and of each member of the immediate family of the
3 individual filing the report during the calendar year covered by
4 the report if the individual's or member's total earned income from
5 the employer equals \$5,000.00 or more during that calendar year.

6 (d) Both of the following, as applicable:

7 (i) The source and type of earned income received during the
8 preceding calendar year by the individual filing the report if the
9 total earned income from that source equals \$5,000.00 or more
10 during that calendar year.

11 (ii) The source and type of earned income received during the
12 preceding calendar year by each member of the immediate family of
13 the individual filing the report if the total earned income from
14 that source equals \$5,000.00 or more during that calendar year.

15 (e) The source and type of all other income not reported under
16 subdivision (d) that is received during the preceding calendar year
17 by the individual filing the report or a member of the immediate
18 family of that individual if the total income from that source
19 equals \$5,000.00 or more during that calendar year.

20 (f) Excluding a primary residence, the address of each parcel
21 of real property held during the preceding calendar year by the
22 individual filing the report or a member of the immediate family of
23 that individual if the real property had a fair market value of
24 \$50,000.00 or more at any time the real property was held during
25 the preceding calendar year. An individual filing a report may
26 exclude the street number of a parcel of real property listed under
27 this subdivision.

28 (g) A description of any stocks, bonds, commodities, futures,
29 shares in mutual funds, or other forms of securities held by the



1 individual filing the report or a member of the immediate family of
2 that individual during the preceding calendar year, if the security
3 has a total aggregate fair market value of \$10,000.00 or more on
4 the date the report is filed.

5 (h) A description of any interest in any of the following
6 types of assets held by the individual filing the report or a
7 member of the immediate family of that individual, if the interest
8 in the asset has a value of \$10,000.00 or more on the date the
9 report is filed:

10 (i) A qualified or nonqualified annuity.

11 (ii) A benefit under a qualified or nonqualified plan of
12 deferred compensation.

13 (iii) An account in, or benefit payable under, any pension,
14 profit-sharing, stock bonus, or other qualified retirement plan.

15 (iv) An individual retirement account or trust.

16 (v) A benefit under a plan or arrangement that is established
17 under section 401, 403, 408, 408A, or 457 of the internal revenue
18 code of 1986, 26 USC 401, 403, 408, 408A, and 457, or a similar
19 provision of the internal revenue code of 1986, 26 USC 1 to 9834.

20 (i) The identity of all compensated positions held by the
21 individual filing the report or a member of the immediate family of
22 that individual during the preceding calendar year as an officer,
23 director, member, trustee, partner, proprietor, representative,
24 employee, or consultant of a corporation, limited liability
25 company, limited partnership, partnership, or other business
26 enterprise; of a nonprofit organization; of a labor organization;
27 or of an educational or other institution other than this state, if
28 the total compensation received from a position equals \$1,000.00 or
29 more during that calendar year. A position reported under this



1 subdivision must include the title of the position, the name of the
2 entity within which the position exists, and the principal activity
3 of the entity.

4 (j) If the individual filing the report or a member of the
5 immediate family of that individual was required during the
6 previous calendar year to register as a lobbyist or lobbyist agent
7 under section 7 of 1978 PA 472, MCL 4.417, the name, address, and
8 principal activity of all persons who gave compensation to or
9 reimbursed the individual or immediate family member for lobbying.
10 As used in this subdivision, "immediate family" includes the child
11 of an individual, whether dependent or not, parent of an
12 individual, and spouse of a child of an individual.

13 (k) A description of any interest the individual filing the
14 report or a member of the immediate family of that individual had
15 during the preceding calendar year in a legal entity that conducts
16 business in this state, if the interest has a book value of
17 \$10,000.00 or more, unless the entity has shares that are listed or
18 traded over the counter or on an organized exchange.

19 (2) Subject to subsection (4), information an individual is
20 required to report under this section includes information with
21 respect to the income from a trust or other financial arrangement
22 from which income is received by, or with respect to which a
23 beneficial interest in principal or income is held by, an
24 individual required to file a report under this section or a member
25 of the immediate family of that individual.

26 (3) An individual is not required to disclose the value of any
27 real or personal property disclosed under subsection (1).

28 (4) If an individual required to file a report under section 3
29 or an immediate family member of the individual holds a beneficial



1 interest in a blind trust, the individual is not required to
2 include the interests or assets of the blind trust in his or her
3 statement under subsection (1). However, the individual must
4 indicate in his or her report that the individual or the immediate
5 family member of the individual holds a beneficial interest in a
6 blind trust.

7 Sec. 5. An individual filing a report under section 3 may omit
8 any of the following:

9 (a) Information an individual is required to report under the
10 Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

11 (b) An item otherwise required to be reported under section
12 4(1)(f) or (g) if all of the following apply:

13 (i) The item represents the exclusive financial interest and
14 responsibility of a member of the immediate family of the
15 individual filing the report about which the individual filing the
16 report does not have actual knowledge.

17 (ii) The item is not in any way, past or present, derived from
18 the income, assets, or activities of the individual filing the
19 report.

20 (iii) The individual filing the report does not derive, or
21 expect to derive, financial benefit from the item.

22 (c) An item that concerns a spouse who is living separate and
23 apart from the individual filing the report with the intention of
24 terminating the marriage or maintaining a legal separation.

25 (d) An item that concerns income of the individual filing the
26 report or a member of the immediate family of that individual
27 arising from dissolution of the individual's or member's marriage
28 or a permanent legal separation from the individual's or member's
29 spouse.



1 (e) Compensation from a publicly held corporation that has
2 shares that are listed or traded over the counter or on an
3 organized exchange paid to a business owned by the individual
4 filing the report or in which the individual filing the report has
5 an interest, if the report under section 4 includes a complete
6 statement of the identity and value of that business.

7 (f) Benefits received under the social security act, chapter
8 531, 49 Stat 620.

9 Sec. 6. (1) The secretary of state shall do all of the
10 following:

11 (a) Make available through his or her offices appropriate
12 forms, instructions, and manuals required by this act.

13 (b) Create and operate an electronic, internet-accessible
14 system to receive all statements and reports required by this act
15 to be filed with the secretary of state.

16 (c) Prepare forms, instructions, and manuals required under
17 this act.

18 (d) Promulgate rules and issue declaratory rulings to
19 implement this act pursuant to the administrative procedures act of
20 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (e) Upon receiving a written request and the required filing,
22 waive payment of a late filing fee if the request for the waiver is
23 based on good cause and accompanied by adequate documentation. One
24 or more of the following reasons constitute good cause for a late
25 filing fee waiver:

26 (i) The incapacitating physical illness, hospitalization,
27 accident involvement, death, or incapacitation for medical reasons
28 of an individual required to file a report, an individual whose
29 participation is essential to the preparation of the report, or a



1 member of the immediate family of 1 of these individuals.

2 (ii) Other unique, unintentional factors beyond the
3 individual's control that are not the result of a negligent act or
4 nonaction so that a reasonably prudent person would excuse the
5 filing on a temporary basis. These factors include the loss or
6 unavailability of records because of a fire, flood, theft, or
7 similar reason and difficulties related to the transmission of the
8 filing to the secretary of state, such as exceptionally bad
9 weather.

10 (f) As soon as practicable, but not later than 5 business days
11 after a report required to be filed under this act is received,
12 make the report or all of the contents of the report available
13 without charge to the public on the internet at a single website.

14 (g) Within 9 business days after the deadline for filing a
15 report under this act, notify, by registered mail, an individual of
16 any error or omission in the individual's report or that the
17 individual failed to file the required report.

18 (2) The secretary of state shall issue a declaratory ruling
19 under this section only if the person requesting the ruling has
20 provided a reasonably complete statement of facts necessary for the
21 ruling or if the person requesting the ruling has, with the
22 permission of the secretary of state, supplied supplemental facts
23 necessary for the ruling. Within 2 days after receiving a request
24 for a declaratory ruling, the secretary of state shall make the
25 request available in the manner provided for under subsection
26 (1)(f). An interested person may submit written comments regarding
27 the request to the secretary of state within 10 business days after
28 the date the request is made available to the public. Within 45
29 business days after receiving a declaratory ruling request, the



1 secretary of state shall make a proposed response available in the
2 manner provided for under subsection (1)(f). An interested person
3 may submit written comments regarding the proposed response to the
4 secretary of state within 5 business days after the date the
5 proposal is made available to the public. Except as otherwise
6 provided in this section, the secretary of state shall issue a
7 declaratory ruling within 60 business days after receiving a
8 request for a declaratory ruling. If the secretary of state refuses
9 to issue a declaratory ruling, the secretary of state shall notify
10 the person making the request of the reasons for the refusal and
11 issue an interpretative statement providing an informational
12 response to the question presented within the 60-day period. A
13 declaratory ruling or interpretative statement issued under this
14 section must not state a general rule of law, other than that which
15 is stated in this act, until the general rule of law is promulgated
16 by the secretary of state as a rule pursuant to the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or under
18 judicial order.

19 (3) Under extenuating circumstances, the secretary of state
20 may issue a notice extending, for not more than 30 business days,
21 the period during which the secretary of state shall respond to a
22 request for a declaratory ruling. The secretary of state shall not
23 issue more than 1 notice of extension for a particular request. A
24 person requesting a declaratory ruling may waive, in writing, the
25 time limitations provided by this section.

26 (4) The secretary of state shall make available to the public
27 an annual summary of the declaratory rulings and interpretative
28 statements issued by the secretary of state under this section.

29 (5) A person may file with the secretary of state a complaint



1 that alleges a violation of this act. Within 5 business days after
2 a complaint that meets the requirements of subsection (6) is filed,
3 the secretary of state shall mail notice to the person against whom
4 the complaint is filed. The notice must include a copy of the
5 complaint. Within 15 business days after the notice is mailed, the
6 person against whom the complaint was filed may submit a response
7 to the secretary of state. The secretary of state may extend the
8 period for submitting a response an additional 15 business days for
9 good cause. The secretary of state shall mail a copy of a response
10 received to the complainant. Within 10 business days after the
11 response is mailed, the complainant may submit a rebuttal statement
12 to the secretary of state. The secretary of state may extend the
13 period for submitting a rebuttal statement an additional 10
14 business days for good cause. The secretary of state shall provide
15 a copy of the rebuttal statement to the person against whom the
16 complaint was filed.

17 (6) A complaint filed under subsection (5) must satisfy all of
18 the following requirements:

19 (a) Be signed by the complainant.

20 (b) State the name, address, and telephone number of the
21 complainant.

22 (c) Include the complainant's certification that, to the best
23 of the complainant's knowledge, information, and belief, formed
24 after a reasonable inquiry under the circumstances, each factual
25 contention of the complaint is supported by evidence. However, if,
26 after a reasonable inquiry under the circumstances, the complainant
27 is unable to certify that certain factual contentions are supported
28 by evidence, the complainant may certify that, to the best of his
29 or her knowledge, information, or belief, there are grounds to



1 conclude that those specifically identified factual contentions are
2 likely to be supported by evidence after a reasonable opportunity
3 for further inquiry.

4 (7) A person shall not file a complaint with a false
5 certificate under subsection (6)(c). A person may file a complaint
6 under subsection (5) alleging that another person has filed a
7 complaint with a false certificate under subsection (6)(c).

8 (8) The secretary of state shall investigate allegations
9 brought under this act pursuant to the rules promulgated under this
10 act. If an allegation involves the secretary of state, or a member
11 of the immediate family of the secretary of state, the secretary of
12 state shall refer the matter to the attorney general to determine
13 whether a violation of this act occurred.

14 (9) No later than 45 business days after receiving a rebuttal
15 statement submitted under subsection (5) or, if no response or
16 rebuttal is received under subsection (5), 45 business days after
17 receiving a complaint under subsection (5), the secretary of state
18 shall post on the secretary of state's website whether there may be
19 reason to believe that a violation of this act occurred. If the
20 secretary of state determines whether there may be reason to
21 believe that a violation of this act occurred or determines to
22 terminate its proceedings, the secretary of state shall, within 30
23 days after that determination, post on the secretary of state's
24 website any complaint, response, or rebuttal statement received
25 under subsection (5) regarding that violation or alleged violation
26 and any correspondence that is dispositive of that violation or
27 alleged violation between the secretary of state and the
28 complainant or the person against whom the complaint was filed. If
29 the secretary of state determines that there may be reason to



1 believe that a violation of this act occurred, the secretary of
2 state shall endeavor to correct the violation or prevent a further
3 violation by using informal methods such as a conference,
4 conciliation, or persuasion, and may enter into a conciliation
5 agreement with the person involved. Unless violated, a conciliation
6 agreement is a complete bar to any further civil action with
7 respect to matters covered in the conciliation agreement. The
8 secretary of state shall, within 30 days after a conciliation
9 agreement is signed, post that agreement on the secretary of
10 state's website. If, after 90 business days, the secretary of state
11 is unable to correct or prevent further violation by these informal
12 methods, the secretary of state shall commence a hearing as
13 provided in subsection (10) for enforcement of this act.

14 (10) The secretary of state may commence a hearing to
15 determine whether a violation of this act occurred. The hearing
16 must be conducted pursuant to chapter 4 of the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288.

18 (11) A final decision or order issued by the secretary of
19 state under this act is subject to judicial review as provided by
20 chapter 6 of the administrative procedures act of 1969, 1969 PA
21 306, MCL 24.301 to 24.306. The secretary of state shall deposit a
22 civil fine imposed under this act in the general fund. The
23 secretary of state may bring an action in circuit court to recover
24 the amount of a civil fine.

25 (12) The secretary of state shall review a report or statement
26 filed under this act and may investigate an apparent violation of
27 this act pursuant to the rules promulgated under this act. If the
28 secretary of state determines that there may be reason to believe a
29 violation of this act occurred and the procedures prescribed in



1 subsection (9) have been complied with, the secretary of state may
2 commence a hearing under subsection (10) to determine whether a
3 violation of this act occurred.

4 (13) In addition to any other sanction provided for by this
5 act, the secretary of state may require a person who violates
6 subsection (7) to do either or both of the following:

7 (a) Pay to the secretary of state some or all of the expenses
8 incurred by the secretary of state as a direct result of the
9 violation.

10 (b) Pay to the person against whom the complaint was filed
11 some or all of the expenses, including, but not limited to,
12 reasonable attorney fees incurred by that person in proceedings
13 under this act as a direct result of the violation.

14 (14) There is no private right of action, either in law or in
15 equity, under this act. The remedies provided in this act are the
16 exclusive means by which this act may be enforced and by which any
17 harm resulting from a violation of this act may be redressed.

18 Sec. 7. (1) The secretary of state shall provide a copy of a
19 report, or part of a report, required to be filed under this act at
20 a reasonable charge.

21 (2) A report that is made available to the public under this
22 act must not be used for any commercial purpose.

23 (3) The secretary of state shall preserve a report filed under
24 this act for 15 years after the date the report is filed. If the
25 secretary of state or attorney general determines under section 6
26 that a violation of this act occurred, the secretary of state shall
27 preserve all complaints, orders, decisions, or other documents
28 related to that violation for 15 years after the date of the
29 determination or the date the violation is corrected, whichever is



1 later. Reports filed under this act may be reproduced pursuant to
2 the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406.
3 After the required preservation period, the reports, or the
4 reproductions of the reports, may be disposed of in the manner
5 prescribed in the management and budget act, 1984 PA 431, MCL
6 18.1101 to 18.1594, and section 11 of the Michigan history center
7 act, 2016 PA 470, MCL 399.811.

8 (4) The secretary of state shall not collect a charge for the
9 filing of a report under this act, except a late filing fee
10 required by this act.

11 (5) The secretary of state shall determine whether a statement
12 or report filed under this act complies, on its face, with the
13 requirements of this act and the rules promulgated under this act.
14 The secretary of state shall determine whether a statement or
15 report that is required to be filed under this act is in fact
16 filed.

17 (6) A report required to be filed under this act must be filed
18 not later than 5 p.m. of the day it is required to be filed.

19 Sec. 8. (1) An individual who fails to file a report as
20 required under this act shall pay a late filing fee determined as
21 follows:

22 (a) Twenty-five dollars for each of the first 10 business days
23 that the report remains unfiled.

24 (b) Fifty dollars for each business day after the first 10
25 business days that the report remains unfiled.

26 (c) In addition to the late filing fees imposed under
27 subdivisions (a) and (b), \$5,000.00 if the report remains unfiled
28 for more than 105 business days.

29 (2) If an individual required to file a report under this act



1 knowingly files an incomplete or inaccurate report, the individual
2 shall be ordered to pay a civil fine of not more than \$10,000.00.

3 (3) A late filing fee collected under this act must be
4 deposited into the state official financial disclosure fund created
5 in section 9 of the state representative financial disclosure act.
6 A late filing fee assessed under this act that remains unpaid for
7 more than 180 days must be referred to the department of treasury
8 for collection.

9 Enacting section 1. This act takes effect May 1, 2020.

10 Enacting section 2. This act does not take effect unless all
11 of the following bills of the 100th Legislature are enacted into
12 law:

- 13 (a) House Bill No. 4642.
- 14 (b) House Bill No. 4643.
- 15 (c) House Bill No. 4644.
- 16 (d) House Bill No. 4645.
- 17 (e) House Bill No. 4646.
- 18 (f) House Bill No. 4647.
- 19 (g) House Bill No. 4648.

