

**SUBSTITUTE FOR  
HOUSE BILL NO. 4646**

A bill to regulate political activity; to require certain elected state officers and candidates for state elective office 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  
2 "executive branch 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 state office" means a candidate for any of  
6 the following offices:

7 (i) Governor.

8 (ii) Lieutenant governor.

9 (iii) Secretary of state.

10 (iv) Attorney general.

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

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

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

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

27 Sec. 3. (1) If an individual is a state official at any time  
28 during a calendar year, that individual shall electronically file  
29 with the secretary of state by May 15 of the following year a



1 report that meets the requirements of section 4. This subsection  
2 does not apply to an individual who was a state official only on  
3 the first day of the calendar year.

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

- 14 (a) State senator financial disclosure act.  
15 (b) University board member financial disclosure act.  
16 (c) State board of education financial disclosure act.  
17 (d) State representative financial disclosure act.  
18 (e) Judicial branch financial disclosure act.

19 (3) In addition to the report required under subsection (1), a  
20 candidate for state office shall file with the secretary of state  
21 by June 15 of the year in which the election for the office will be  
22 held a copy of the individual's federal tax returns for the 3  
23 preceding calendar years. A Social Security number on a tax return  
24 filed under this subsection may be redacted.

25 (4) If an individual required to file a report under this act  
26 receives notice from the secretary of state under section 6(1)(g),  
27 the individual shall, within 9 business days after receiving the  
28 notice, file corrections to the errors or omissions or file the  
29 report, as applicable.



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

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

6           (b) The name of each member of the immediate family of the  
7 individual filing the report who is not a dependent child and the  
8 number of members of the immediate family of the individual filing  
9 the report who are dependent children.

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

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

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

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

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

29           (f) Excluding a primary residence, the address of each parcel



1 of real property held during the preceding calendar year by the  
2 individual filing the report or a member of the immediate family of  
3 that individual if the real property had a fair market value of  
4 \$50,000.00 or more at any time the real property was held during  
5 the preceding calendar year. An individual filing a report may  
6 exclude the street number of a parcel of real property listed under  
7 this subdivision.

8 (g) A description of any stocks, bonds, commodities, futures,  
9 shares in mutual funds, or other forms of securities held by the  
10 individual filing the report or a member of the immediate family of  
11 that individual during the preceding calendar year, if the security  
12 has a total aggregate fair market value of \$10,000.00 or more on  
13 the date the report is filed.

14 (h) A description of any interest in any of the following  
15 types of assets held by the individual filing the report or a  
16 member of the immediate family of that individual, if the interest  
17 in the asset has a value of \$10,000.00 or more on the date the  
18 report is filed:

19 (i) A qualified or nonqualified annuity.

20 (ii) A benefit under a qualified or nonqualified plan of  
21 deferred compensation.

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

24 (iv) An individual retirement account or trust.

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

29 (i) The identity of all compensated positions held by the



1 individual filing the report or a member of the immediate family of  
2 that individual during the preceding calendar year as an officer,  
3 director, member, trustee, partner, proprietor, representative,  
4 employee, or consultant of a corporation, limited liability  
5 company, limited partnership, partnership, or other business  
6 enterprise; of a nonprofit organization; of a labor organization;  
7 or of an educational or other institution other than this state, if  
8 the total compensation received from a position equals \$1,000.00 or  
9 more during that calendar year. A position reported under this  
10 subdivision must include the title of the position, the name of the  
11 entity within which the position exists, and the principal activity  
12 of the entity.

13 (j) If the individual filing the report or a member of the  
14 immediate family of that individual was required during the  
15 previous calendar year to register as a lobbyist or lobbyist agent  
16 under section 7 of 1978 PA 472, MCL 4.417, the name, address, and  
17 principal activity of all persons who gave compensation to or  
18 reimbursed the individual or immediate family member for lobbying.  
19 As used in this subdivision, "immediate family" includes the child  
20 of an individual, whether dependent or not, parent of an  
21 individual, and spouse of a child of an individual.

22 (k) A description of any interest the individual filing the  
23 report or a member of the immediate family of that individual had  
24 during the preceding calendar year in a legal entity that conducts  
25 business in this state, if the interest has a book value of  
26 \$10,000.00 or more, unless the entity has shares that are listed or  
27 traded over the counter or on an organized exchange.

28 (2) Subject to subsection (4), information an individual is  
29 required to report under this section includes information with



1 respect to the income from a trust or other financial arrangement  
2 from which income is received by, or with respect to which a  
3 beneficial interest in principal or income is held by, an  
4 individual required to file a report under this section or a member  
5 of the immediate family of that individual.

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

8 (4) If an individual required to file a report under section 3  
9 or an immediate family member of the individual holds a beneficial  
10 interest in a blind trust, the individual is not required to  
11 include the interests or assets of the blind trust in his or her  
12 statement under subsection (1). However, the individual must  
13 indicate in his or her report that the individual or the immediate  
14 family member of the individual holds a beneficial interest in a  
15 blind trust.

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

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

20 (b) An item otherwise required to be reported under section  
21 4(1)(f) or (g) if all of the following apply:

22 (i) The item represents the exclusive financial interest and  
23 responsibility of a member of the immediate family of the  
24 individual filing the report about which the individual filing the  
25 report does not have actual knowledge.

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

29 (iii) The individual filing the report does not derive, or



1 expect to derive, financial benefit from the item.

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

5 (d) An item that concerns income of the individual filing the  
6 report or a member of the immediate family of that individual  
7 arising from dissolution of the individual's or member's marriage  
8 or a permanent legal separation from the individual's or member's  
9 spouse.

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

16 (f) Benefits received under the social security act, chapter  
17 531, 49 Stat 620.

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

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

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

25 (c) Prepare forms, instructions, and manuals required under  
26 this act.

27 (d) Promulgate rules and issue declaratory rulings to  
28 implement this act pursuant to the administrative procedures act of  
29 1969, 1969 PA 306, MCL 24.201 to 24.328.





1 (e) Upon receiving a written request and the required filing,  
2 waive payment of a late filing fee if the request for the waiver is  
3 based on good cause and accompanied by adequate documentation. One  
4 or more of the following reasons constitute good cause for a late  
5 filing fee waiver:

6 (i) The incapacitating physical illness, hospitalization,  
7 accident involvement, death, or incapacitation for medical reasons  
8 of an individual required to file a report, an individual whose  
9 participation is essential to the preparation of the report, or a  
10 member of the immediate family of 1 of these individuals.

11 (ii) Other unique, unintentional factors beyond the  
12 individual's control that are not the result of a negligent act or  
13 nonaction so that a reasonably prudent person would excuse the  
14 filing on a temporary basis. These factors include the loss or  
15 unavailability of records because of a fire, flood, theft, or  
16 similar reason and difficulties related to the transmission of the  
17 filing to the secretary of state, such as exceptionally bad  
18 weather.

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

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

27 (2) The secretary of state shall issue a declaratory ruling  
28 under this section only if the person requesting the ruling has  
29 provided a reasonably complete statement of facts necessary for the



1 ruling or if the person requesting the ruling has, with the  
2 permission of the secretary of state, supplied supplemental facts  
3 necessary for the ruling. Within 2 days after receiving a request  
4 for a declaratory ruling, the secretary of state shall make the  
5 request available in the manner provided for under subsection  
6 (1)(f). An interested person may submit written comments regarding  
7 the request to the secretary of state within 10 business days after  
8 the date the request is made available to the public. Within 45  
9 business days after receiving a declaratory ruling request, the  
10 secretary of state shall make a proposed response available in the  
11 manner provided for under subsection (1)(f). An interested person  
12 may submit written comments regarding the proposed response to the  
13 secretary of state within 5 business days after the date the  
14 proposal is made available to the public. Except as otherwise  
15 provided in this section, the secretary of state shall issue a  
16 declaratory ruling within 60 business days after receiving a  
17 request for a declaratory ruling. If the secretary of state refuses  
18 to issue a declaratory ruling, the secretary of state shall notify  
19 the person making the request of the reasons for the refusal and  
20 issue an interpretative statement providing an informational  
21 response to the question presented within the 60-day period. A  
22 declaratory ruling or interpretative statement issued under this  
23 section must not state a general rule of law, other than that which  
24 is stated in this act, until the general rule of law is promulgated  
25 by the secretary of state as a rule pursuant to the administrative  
26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or under  
27 judicial order.

28 (3) Under extenuating circumstances, the secretary of state  
29 may issue a notice extending, for not more than 30 business days,



1 the period during which the secretary of state shall respond to a  
2 request for a declaratory ruling. The secretary of state shall not  
3 issue more than 1 notice of extension for a particular request. A  
4 person requesting a declaratory ruling may waive, in writing, the  
5 time limitations provided by this section.

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

9 (5) A person may file with the secretary of state a complaint  
10 that alleges a violation of this act. Within 5 business days after  
11 a complaint that meets the requirements of subsection (6) is filed,  
12 the secretary of state shall mail notice to the person against whom  
13 the complaint is filed. The notice must include a copy of the  
14 complaint. Within 15 business days after the notice is mailed, the  
15 person against whom the complaint was filed may submit a response  
16 to the secretary of state. The secretary of state may extend the  
17 period for submitting a response an additional 15 business days for  
18 good cause. The secretary of state shall mail a copy of a response  
19 received to the complainant. Within 10 business days after the  
20 response is mailed, the complainant may submit a rebuttal statement  
21 to the secretary of state. The secretary of state may extend the  
22 period for submitting a rebuttal statement an additional 10  
23 business days for good cause. The secretary of state shall provide  
24 a copy of the rebuttal statement to the person against whom the  
25 complaint was filed.

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

28 (a) Be signed by the complainant.

29 (b) State the name, address, and telephone number of the



1 complainant.

2 (c) Include the complainant's certification that, to the best  
3 of the complainant's knowledge, information, and belief, formed  
4 after a reasonable inquiry under the circumstances, each factual  
5 contention of the complaint is supported by evidence. However, if,  
6 after a reasonable inquiry under the circumstances, the complainant  
7 is unable to certify that certain factual contentions are supported  
8 by evidence, the complainant may certify that, to the best of his  
9 or her knowledge, information, or belief, there are grounds to  
10 conclude that those specifically identified factual contentions are  
11 likely to be supported by evidence after a reasonable opportunity  
12 for further inquiry.

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

17 (8) The secretary of state shall investigate allegations  
18 brought under this act pursuant to the rules promulgated under this  
19 act. If an allegation involves the secretary of state, or a member  
20 of the immediate family of the secretary of state, the secretary of  
21 state shall refer the matter to the attorney general to determine  
22 whether a violation of this act occurred.

23 (9) No later than 45 business days after receiving a rebuttal  
24 statement submitted under subsection (5) or, if no response or  
25 rebuttal is received under subsection (5), 45 business days after  
26 receiving a complaint under subsection (5), the secretary of state  
27 shall post on the secretary of state's website whether there may be  
28 reason to believe that a violation of this act occurred. If the  
29 secretary of state determines whether there may be reason to



1 believe that a violation of this act occurred or determines to  
2 terminate its proceedings, the secretary of state shall, within 30  
3 days after that determination, post on the secretary of state's  
4 website any complaint, response, or rebuttal statement received  
5 under subsection (5) regarding that violation or alleged violation  
6 and any correspondence that is dispositive of that violation or  
7 alleged violation between the secretary of state and the  
8 complainant or the person against whom the complaint was filed. If  
9 the secretary of state determines that there may be reason to  
10 believe that a violation of this act occurred, the secretary of  
11 state shall endeavor to correct the violation or prevent a further  
12 violation by using informal methods such as a conference,  
13 conciliation, or persuasion, and may enter into a conciliation  
14 agreement with the person involved. Unless violated, a conciliation  
15 agreement is a complete bar to any further civil action with  
16 respect to matters covered in the conciliation agreement. The  
17 secretary of state shall, within 30 days after a conciliation  
18 agreement is signed, post that agreement on the secretary of  
19 state's website. If, after 90 business days, the secretary of state  
20 is unable to correct or prevent further violation by these informal  
21 methods, the secretary of state shall commence a hearing as  
22 provided in subsection (10) for enforcement of this act.

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

27 (11) A final decision or order issued by the secretary of  
28 state under this act is subject to judicial review as provided by  
29 chapter 6 of the administrative procedures act of 1969, 1969 PA



1 306, MCL 24.301 to 24.306. The secretary of state shall deposit a  
2 civil fine imposed under this act in the general fund. The  
3 secretary of state may bring an action in circuit court to recover  
4 the amount of a civil fine.

5 (12) The secretary of state shall review a report or statement  
6 filed under this act and may investigate an apparent violation of  
7 this act pursuant to the rules promulgated under this act. If the  
8 secretary of state determines that there may be reason to believe a  
9 violation of this act occurred and the procedures prescribed in  
10 subsection (9) have been complied with, the secretary of state may  
11 commence a hearing under subsection (10) to determine whether a  
12 violation of this act occurred.

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

16 (a) Pay to the secretary of state some or all of the expenses  
17 incurred by the secretary of state as a direct result of the  
18 violation.

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

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

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



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

3 (3) The secretary of state shall preserve a report filed under  
4 this act for 15 years after the date the report is filed. If the  
5 secretary of state or attorney general determines under section 6  
6 that a violation of this act occurred, the secretary of state shall  
7 preserve all complaints, orders, decisions, or other documents  
8 related to that violation for 15 years after the date of the  
9 determination or the date the violation is corrected, whichever is  
10 later. Reports filed under this act may be reproduced pursuant to  
11 the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406.  
12 After the required preservation period, the reports, or the  
13 reproductions of the reports, may be disposed of in the manner  
14 prescribed in the management and budget act, 1984 PA 431, MCL  
15 18.1101 to 18.1594, and section 11 of the Michigan history center  
16 act, 2016 PA 470, MCL 399.811.

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

20 (5) The secretary of state shall determine whether a statement  
21 or report filed under this act complies, on its face, with the  
22 requirements of this act and the rules promulgated under this act.  
23 The secretary of state shall determine whether a statement or  
24 report that is required to be filed under this act is in fact  
25 filed.

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

28 Sec. 8. (1) An individual who fails to file a report as  
29 required under this act shall pay a late filing fee determined as



1 follows:

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

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

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

9 (2) If an individual required to file a report under this act  
10 knowingly files an incomplete or inaccurate report, the individual  
11 shall be ordered to pay a civil fine of not more than \$10,000.00.

12 (3) A late filing fee collected under this act must be  
13 deposited into the state official financial disclosure fund created  
14 in section 9 of the state representative financial disclosure act.  
15 A late filing fee assessed under this act that remains unpaid for  
16 more than 180 days must be referred to the department of treasury  
17 for collection.

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

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

22 (a) House Bill No. 4642.

23 (b) House Bill No. 4643.

24 (c) House Bill No. 4644.

25 (d) House Bill No. 4645.

26 (e) House Bill No. 4647.

27 (f) House Bill No. 4648.

28 (g) House Bill No. 4649.

