

# HOUSE BILL NO. 4614

April 13, 2021, Introduced by Rep. Calley and referred to the Committee on Elections and Ethics.

A bill to regulate political activity; to require candidates for the office of state representative 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** "candidate for state representative financial disclosure act".

**3**           Sec. 2. As used in this act:

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

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

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

9 (d) "Candidate for office" means a candidate for the office of  
10 state representative.

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 Sec. 3. (1) If an individual is a candidate for office, that  
25 individual shall electronically file with the secretary of state a  
26 report that meets the requirements of section 4 within 30 days  
27 after the later of May 15 or the date on which the individual forms  
28 a candidate committee as a candidate for state office under section  
29 21 of the Michigan campaign finance act, 1976 PA 388, MCL 169.221.

1 However, the individual is not required to file a report under this  
2 section if, under any of the following acts, the individual files a  
3 report in the current calendar year:

- 4 (a) State senator financial disclosure act.
- 5 (b) University board member financial disclosure act.
- 6 (c) State board of education financial disclosure act.
- 7 (d) State representative financial disclosure act.
- 8 (e) Executive branch financial disclosure act.
- 9 (f) Judicial branch financial disclosure act.

10 (2) If an individual required to file a report under this act  
11 receives notice from the secretary of state under section 6(1)(g),  
12 the individual shall, within 9 business days after receiving the  
13 notice, file corrections to the errors or omissions or file the  
14 report, as applicable.

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

18 (a) The full name, mailing address, and occupation of the  
19 individual filing the report.

20 (b) The name of each member of the immediate family of the  
21 individual filing the report who is not a dependent child and the  
22 number of members of the immediate family of the individual filing  
23 the report who are dependent children.

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

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

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

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

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

14           (f) Excluding a primary residence, the address of each parcel  
15 of real property held during the preceding calendar year by the  
16 individual filing the report or a member of the immediate family of  
17 that individual if the real property had a fair market value of  
18 \$50,000.00 or more at any time the real property was held during  
19 the preceding calendar year. An individual filing a report may  
20 exclude the street number of a parcel of real property listed under  
21 this subdivision.

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

28           (h) A description of any interest in any of the following  
29 types of assets held by the individual filing the report or a

1 member of the immediate family of that individual, if the interest  
2 in the asset has a value of \$10,000.00 or more on the date the  
3 report is filed:

4 (i) A qualified or nonqualified annuity.

5 (ii) A benefit under a qualified or nonqualified plan of  
6 deferred compensation.

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

9 (iv) An individual retirement account or trust.

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

14 (i) The identity of all compensated positions held by the  
15 individual filing the report or a member of the immediate family of  
16 that individual during the preceding calendar year as an officer,  
17 director, member, trustee, partner, proprietor, representative,  
18 employee, or consultant of a corporation, limited liability  
19 company, limited partnership, partnership, or other business  
20 enterprise; of a nonprofit organization; of a labor organization;  
21 or of an educational or other institution other than this state, if  
22 the total compensation received from a position equals \$1,000.00 or  
23 more during that calendar year. A position reported under this  
24 subdivision must include the title of the position, the name of the  
25 entity within which the position exists, and the principal activity  
26 of the entity.

27 (j) If the individual filing the report or a member of the  
28 immediate family of that individual was required during the  
29 previous calendar year to register as a lobbyist or lobbyist agent

1 under section 7 of 1978 PA 472, MCL 4.417, the name, address, and  
2 principal activity of all persons who gave compensation to or  
3 reimbursed the individual or immediate family member for lobbying.  
4 As used in this subdivision, "immediate family" includes the child  
5 of an individual, whether dependent or not, parent of an  
6 individual, and spouse of a child of an individual.

7 (k) A description of any interest the individual filing the  
8 report or a member of the immediate family of that individual had  
9 during the preceding calendar year in a legal entity that conducts  
10 business in this state, if the interest has a book value of  
11 \$10,000.00 or more, unless the entity has shares that are listed or  
12 traded over the counter or on an organized exchange.

13 (2) Subject to subsection (4), information an individual is  
14 required to report under this section includes information with  
15 respect to the income from a trust or other financial arrangement  
16 from which income is received by, or with respect to which a  
17 beneficial interest in principal or income is held by, an  
18 individual required to file a report under this section or a member  
19 of the immediate family of that individual.

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

22 (4) If an individual required to file a report under section 3  
23 or an immediate family member of the individual holds a beneficial  
24 interest in a blind trust, the individual is not required to  
25 include the interests or assets of the blind trust in his or her  
26 statement under subsection (1). However, the individual must  
27 indicate in his or her report that the individual or the immediate  
28 family member of the individual holds a beneficial interest in a  
29 blind trust.

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

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

5           (b) An item otherwise required to be reported under section  
6 4(1)(f) or (g) if all of the following apply:

7           (i) The item represents the exclusive financial interest and  
8 responsibility of a member of the immediate family of the  
9 individual filing the report about which the individual filing the  
10 report does not have actual knowledge.

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

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

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

19           (d) An item that concerns income of the individual filing the  
20 report or a member of the immediate family of that individual  
21 arising from dissolution of the individual's or member's marriage  
22 or a permanent legal separation from the individual's or member's  
23 spouse.

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

1 (f) Benefits received under the social security act, chapter  
2 531, 49 Stat 620.

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

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

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

10 (c) Prepare forms, instructions, and manuals required under  
11 this act.

12 (d) Promulgate rules and issue declaratory rulings to  
13 implement this act pursuant to the administrative procedures act of  
14 1969, 1969 PA 306, MCL 24.201 to 24.328.

15 (e) Upon receiving a written request and the required filing,  
16 waive payment of a late filing fee if the request for the waiver is  
17 based on good cause and accompanied by adequate documentation. One  
18 or more of the following reasons constitute good cause for a late  
19 filing fee waiver:

20 (i) The incapacitating physical illness, hospitalization,  
21 accident involvement, death, or incapacitation for medical reasons  
22 of an individual required to file a report, an individual whose  
23 participation is essential to the preparation of the report, or a  
24 member of the immediate family of 1 of these individuals.

25 (ii) Other unique, unintentional factors beyond the  
26 individual's control that are not the result of a negligent act or  
27 nonaction so that a reasonably prudent person would excuse the  
28 filing on a temporary basis. These factors include the loss or  
29 unavailability of records because of a fire, flood, theft, or



1 similar reason and difficulties related to the transmission of the  
2 filing to the secretary of state, such as exceptionally bad  
3 weather.

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

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

12 (2) The secretary of state shall issue a declaratory ruling  
13 under this section only if the person requesting the ruling has  
14 provided a reasonably complete statement of facts necessary for the  
15 ruling or if the person requesting the ruling has, with the  
16 permission of the secretary of state, supplied supplemental facts  
17 necessary for the ruling. Within 2 days after receiving a request  
18 for a declaratory ruling, the secretary of state shall make the  
19 request available in the manner provided for under subsection  
20 (1)(f). An interested person may submit written comments regarding  
21 the request to the secretary of state within 10 business days after  
22 the date the request is made available to the public. Within 45  
23 business days after receiving a declaratory ruling request, the  
24 secretary of state shall make a proposed response available in the  
25 manner provided for under subsection (1)(f). An interested person  
26 may submit written comments regarding the proposed response to the  
27 secretary of state within 5 business days after the date the  
28 proposal is made available to the public. Except as otherwise  
29 provided in this section, the secretary of state shall issue a

1 declaratory ruling within 60 business days after receiving a  
2 request for a declaratory ruling. If the secretary of state refuses  
3 to issue a declaratory ruling, the secretary of state shall notify  
4 the person making the request of the reasons for the refusal and  
5 issue an interpretative statement providing an informational  
6 response to the question presented within the 60-day period. A  
7 declaratory ruling or interpretative statement issued under this  
8 section must not state a general rule of law, other than that which  
9 is stated in this act, until the general rule of law is promulgated  
10 by the secretary of state as a rule pursuant to the administrative  
11 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or under  
12 judicial order.

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

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

23 (5) A person may file with the secretary of state a complaint  
24 that alleges a violation of this act. Within 5 business days after  
25 a complaint that meets the requirements of subsection (6) is filed,  
26 the secretary of state shall mail notice to the person against whom  
27 the complaint is filed. The notice must include a copy of the  
28 complaint. Within 15 business days after the notice is mailed, the  
29 person against whom the complaint was filed may submit a response

1 to the secretary of state. The secretary of state may extend the  
2 period for submitting a response an additional 15 business days for  
3 good cause. The secretary of state shall mail a copy of a response  
4 received to the complainant. Within 10 business days after the  
5 response is mailed, the complainant may submit a rebuttal statement  
6 to the secretary of state. The secretary of state may extend the  
7 period for submitting a rebuttal statement an additional 10  
8 business days for good cause. The secretary of state shall provide  
9 a copy of the rebuttal statement to the person against whom the  
10 complaint was filed.

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

13 (a) Be signed by the complainant.

14 (b) State the name, address, and telephone number of the  
15 complainant.

16 (c) Include the complainant's certification that, to the best  
17 of the complainant's knowledge, information, and belief, formed  
18 after a reasonable inquiry under the circumstances, each factual  
19 contention of the complaint is supported by evidence. However, if,  
20 after a reasonable inquiry under the circumstances, the complainant  
21 is unable to certify that certain factual contentions are supported  
22 by evidence, the complainant may certify that, to the best of his  
23 or her knowledge, information, or belief, there are grounds to  
24 conclude that those specifically identified factual contentions are  
25 likely to be supported by evidence after a reasonable opportunity  
26 for further inquiry.

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

1 complaint with a false certificate under subsection (6)(c).

2 (8) The secretary of state shall investigate allegations  
3 brought under this act pursuant to the rules promulgated under this  
4 act. If an allegation involves the secretary of state, or a member  
5 of the immediate family of the secretary of state, the secretary of  
6 state shall refer the matter to the attorney general to determine  
7 whether a violation of this act occurred.

8 (9) No later than 45 business days after receiving a rebuttal  
9 statement submitted under subsection (5) or, if no response or  
10 rebuttal is received under subsection (5), 45 business days after  
11 receiving a complaint under subsection (5), the secretary of state  
12 shall post on the secretary of state's website whether there may be  
13 reason to believe that a violation of this act occurred. If the  
14 secretary of state determines whether there may be reason to  
15 believe that a violation of this act occurred or determines to  
16 terminate its proceedings, the secretary of state shall, within 30  
17 days after that determination, post on the secretary of state's  
18 website any complaint, response, or rebuttal statement received  
19 under subsection (5) regarding that violation or alleged violation  
20 and any correspondence that is dispositive of that violation or  
21 alleged violation between the secretary of state and the  
22 complainant or the person against whom the complaint was filed. If  
23 the secretary of state determines that there may be reason to  
24 believe that a violation of this act occurred, the secretary of  
25 state shall endeavor to correct the violation or prevent a further  
26 violation by using informal methods such as a conference,  
27 conciliation, or persuasion, and may enter into a conciliation  
28 agreement with the person involved. Unless violated, a conciliation  
29 agreement is a complete bar to any further civil action with

1 respect to matters covered in the conciliation agreement. The  
2 secretary of state shall, within 30 days after a conciliation  
3 agreement is signed, post that agreement on the secretary of  
4 state's website. If, after 90 business days, the secretary of state  
5 is unable to correct or prevent further violation by these informal  
6 methods, the secretary of state shall commence a hearing as  
7 provided in subsection (10) for enforcement of this act.

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

12 (11) A final decision or order issued by the secretary of  
13 state under this act is subject to judicial review as provided by  
14 chapter 6 of the administrative procedures act of 1969, 1969 PA  
15 306, MCL 24.301 to 24.306. The secretary of state shall deposit a  
16 civil fine imposed under this act in the general fund. The  
17 secretary of state may bring an action in circuit court to recover  
18 the amount of a civil fine.

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

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

1 (a) Pay to the secretary of state some or all of the expenses  
2 incurred by the secretary of state as a direct result of the  
3 violation.

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

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

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

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

17 (3) The secretary of state shall preserve a report filed under  
18 this act for 15 years after the date the report is filed. If the  
19 secretary of state or attorney general determines under section 6  
20 that a violation of this act occurred, the secretary of state shall  
21 preserve all complaints, orders, decisions, or other documents  
22 related to that violation for 15 years after the date of the  
23 determination or the date the violation is corrected, whichever is  
24 later. Reports filed under this act may be reproduced pursuant to  
25 the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406.  
26 After the required preservation period, the reports, or the  
27 reproductions of the reports, may be disposed of in the manner  
28 prescribed in the management and budget act, 1984 PA 431, MCL  
29 18.1101 to 18.1594, and section 11 of the Michigan history center

1 act, 2016 PA 470, MCL 399.811.

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

5 (5) The secretary of state shall determine whether a statement  
6 or report filed under this act complies, on its face, with the  
7 requirements of this act and the rules promulgated under this act.  
8 The secretary of state shall determine whether a statement or  
9 report that is required to be filed under this act is in fact  
10 filed.

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

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

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

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

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

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

26 (3) A late filing fee collected under this act must be  
27 deposited into the state official financial disclosure fund created  
28 in section 9 of the state representative financial disclosure act.  
29 A late filing fee assessed under this act that remains unpaid for

1 more than 180 days must be referred to the department of treasury  
2 for collection.

3 Enacting section 1. This act takes effect May 1, 2022.