SENATE BILL No. 64

January 25, 2017, Introduced by Senators BIEDA and HOPGOOD and referred to the Committee on Elections and Government Reform.

A bill to regulate political activity; to regulate certain candidates for elective office and state and local officials; to require financial statements and reports; to prescribe the powers and duties of certain state and local governmental officers and agencies; to impose fees; to prescribe penalties and civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "financial disclosure act".

Sec. 2. As used in this act:

(a) "Bureau of elections" means the bureau provided for by section 32 of the Michigan election law, 1954 PA 116, MCL 168.32.

(b) "Candidate" means that term as defined in section 3 of the Michigan campaign finance act, 1976 PA 388, MCL 169.203.
(c) "Candidate for state or local office" means a candidate for any of the following offices:

(i) Governor.

(ii) Lieutenant governor.

(iii) Secretary of state.

(iv) Attorney general.

(v) State senator.

(vi) State representative.

(vii) Member of the state board of education.

(viii) Justice of the supreme court or judge of a court of record.

(ix) Regent of the University of Michigan, member of the board of trustees of Michigan State University, or member of the board of governors of Wayne State University.

(x) An elective public office for which the compensation is greater than 2 times the statewide median gross income as determined under section 143(f) of the internal revenue code of 1986, 26 USC 143(f).

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

(e) "Immediate family" means a dependent child, a spouse of an individual, or a person claimed by that individual or that individual's spouse as a dependent for federal income tax purposes.

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

(g) "Principal residence" means that term as defined under section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(h) "State or local official" means any of the following:

(i) The holder of an office described in subdivision (c).

(ii) The head of each principal department as described in section 3 of article V of the state constitution of 1963, if the office is filled by appointment.

(iii) A member of a board or commission heading a principal department as described in section 3 of article V of the state constitution of 1963, if the office is filled by appointment.

Sec. 3. (1) If an individual is a state or local official at any time during a calendar year, that individual shall file with the bureau of elections by May 1 of the following year a report that meets the requirements of section 4. This subsection does not apply to an individual who was a state or local official only on the first day of the calendar year.

(2) If an individual is a candidate for state or local office and has not already filed a report under subsection (1) covering the preceding calendar year, that individual shall file with the bureau of elections a report that meets the requirements of section 4 within 30 days after the earliest of the following events, but not later than 11 days before the first election at which the individual's name appears on the ballot as a candidate following
the event:

(a) If the individual files a fee, affidavit of incumbency, or nominating petition for the state office, the deadline for filing the fee, affidavit of incumbency, or nominating petition established under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(b) If the individual is nominated at a political party caucus or convention, the deadline for holding the caucus or convention established under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(c) The date on which the individual first receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with the purpose or intent of bringing about the individual's nomination or election to a state office.

(d) The date on which the individual forms a candidate committee as a candidate for state or local office under section 21 of the Michigan campaign finance act, 1976 PA 388, MCL 169.221.

(3) An individual who is a candidate for the office of governor shall file with the bureau of elections on June 15 of the year in which the election for the office of governor will be held a copy of the individual's federal tax returns for the 3 preceding calendar years. A social security number on a tax return filed under this subsection may be redacted.

Sec. 4. (1) Subject to section 5 and except as provided in section 6, a report required under section 3 must include a complete statement of all of the following:
(a) The full name, address, occupation of, and the state office held or sought by, the individual filing the report.

(b) The name of each member of the immediate family of the individual filing the report.

(c) The name and address of each employer of the individual filing the report during the calendar year covered by the report.

(d) Both of the following, as applicable:

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

(ii) The source and type of earned income received during the preceding calendar year by the spouse of the individual filing the report if the total earned income from that source equals $1,000.00 or more during that calendar year.

(e) The source, type, and amount or value of all other income not reported under subdivision (d) that is received during the preceding calendar year by the individual filing the report or a member of the immediate family of that individual if the total income from that source equals $1,000.00 or more during that calendar year.

(f) The identity and value of each asset held during the preceding calendar year by the individual filing the report or a member of the immediate family of that individual, including real or personal property or cash, if the asset had a fair market value of $10,000.00 or more at any time the asset was held during the preceding calendar year. However, if the individual filing the
report owns or has an interest in all or a portion of a farm or business, he or she is not required to report the identity and value of each asset held during the preceding year that is used in the operation of the farm or business under this subdivision if the report includes a complete statement of the identity and value of the farm or business.

(g) The identity and value of each liability owed during the preceding calendar year by the individual filing the report or a member of the immediate family of that individual if the amount of the liability was $10,000.00 or more at any time during the preceding calendar year. This subdivision does not apply to loans secured by the principal residence of the individual filing the report or by a personal motor vehicle, household furniture, or appliance, if the loans do not exceed the greater of the purchase price or the market value of the item that secures the liability.

(h) A brief description and value of a purchase, sale, or exchange of real property, other than real property used solely as a principal residence by the individual filing the report and his or her immediate family, or of stocks, bonds, commodities, futures, or other forms of securities during the preceding calendar year by the individual filing the report or a member of the immediate family of that individual, if the value is $1,000.00 or more. This subdivision does not require a description of each purchase, sale, or exchange of stocks, bonds, commodities, or other forms of securities if those items are part of a mutual fund and if the identity and value of the mutual fund is otherwise reported under this act.
(i) Except as otherwise provided under this subdivision, the identity of all positions held by the individual filing the report during the preceding calendar year as an officer, director, member, trustee, partner, proprietor, representative, employee, or consultant of a corporation, limited liability company, limited partnership, partnership, or other business enterprise; of a nonprofit organization; of a labor organization; or of an educational or other institution other than this state. If an individual filing the report is required to have a license to practice or engage in a particular occupation or profession, he or she is not required to identify a position held as a consultant of a corporation unless the corporation is a publicly held corporation that has shares that are listed or traded over the counter or on an organized exchange or has gross revenues over $4,000,000.00. This subdivision does not require the reporting of a position held in a religious, social, fraternal, or political entity, or of a position solely of an honorary nature.

(j) If the individual filing the report has an agreement or has made an arrangement with respect to future employment, a leave of absence during that individual's term of office, continuation of payments by a former employer, or continuation of participation in an employee benefit plan maintained by a former employer, a description of the agreement or arrangement, including the dates, parties, and terms.

(2) Information an individual is required to report under this section includes information with respect to the holdings of and the income from a trust or other financial arrangement from which
income is received by, or with respect to which a beneficial
interest in principal or income is held by, an individual required
to file a report under this section or an immediate family member
of the individual.

Sec. 5. (1) An amount or value reported under section 4(d),
(e), (f), or (h) must be reported by category as follows:

(a) $1,000.00 or more but less than $10,000.00.
(b) $10,000.00 or more but less than $50,000.00.
(c) $50,000.00 or more but less than $100,000.00.
(d) $100,000.00 or more but less than $500,000.00.
(e) $500,000.00 or more.

(2) An amount or value reported under section 4(g) must be
reported by category as follows:

(a) $10,000.00 or more but less than $50,000.00.
(b) $50,000.00 or more but less than $100,000.00.
(c) $100,000.00 or more but less than $500,000.00.
(d) $500,000.00 or more.

(3) Instead of specifying the category of the amount or value
of an item in a report under this act, an individual may indicate
the exact amount or value of the item.

Sec. 6. A person filing a report under section 3 may omit any
of the following:

(a) Information a person is required to report under the

(b) A liability owed to the individual filing the report or a
relative within the third degree of consanguinity to that
individual if lent by the individual filing the report or a
relative within the third degree of consanguinity to that individual.

(c) An item otherwise required to be reported under section 4(f), (g), or (h) if all of the following apply:

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

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

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

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

(e) An item that concerns income or obligations of the individual filing the report arising from dissolution of his or her marriage or a permanent legal separation from his or her spouse.

(f) Compensation from a publicly held corporation that has shares that are listed or traded over the counter or on an organized exchange paid to a business owned by the individual filing the report or in which the individual filing the report has an interest, if the report under section 4 includes a complete statement of the identity and value of that business and the individual filing the report is required to have a license as described in section 4(i).
(g) Benefits received under the social security act, chapter 531, 49 Stat. 620.

Sec. 7. The bureau of elections shall do all of the following:
   (a) Prepare and make available appropriate forms and instructions for the reports required by this act.
   (b) Receive reports required by this act.
   (c) As soon as practicable, but not later than the end of the business day on which a report required to be filed under this act is received, make the report or all of the contents of the report available without charge to the public on the internet at a single website established and maintained by the secretary of state, and not later than the third business day following the day on which the report is received, make the report available for public inspection and reproduction during regular business hours.
   (d) Promulgate rules and issue declaratory rulings to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
   (e) Conduct investigations as necessary to determine whether there is reason to believe that a violation of this act occurred.

The bureau of elections shall conduct an investigation under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 8. (1) A citizen of this state may file a complaint with the bureau of elections alleging a violation of this act. If it receives a complaint, the bureau of elections shall investigate the allegations as provided in section 7.
   (2) If the bureau of elections determines after an
investigation that there is reason to believe a violation of this act occurred, the bureau of elections shall forward the results of that investigation to the attorney general for enforcement of this act, if the attorney general is not the subject of the complaint. If the bureau of elections determines after an investigation that there is reason to believe that the attorney general violated this act, the bureau of elections shall forward the results of the investigation to the prosecuting attorney for Ingham county for enforcement of this act.

(3) The attorney general or, if the attorney general is the individual who is alleged to have violated this act, the prosecuting attorney for Ingham County shall enforce this act against an individual who violates this act.

Sec. 9. (1) An individual who fails to file a report as required under this act shall pay a late filing fee of not more than $1,000.00, determined as follows:

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

(b) Fifty dollars for each of the next 7 business days after the first 3 business days that the report remains unfiled.

(c) One hundred dollars for each business day after the first 10 business days that the report remains unfiled.

(2) If an individual required to file a report under this act knowingly files an incomplete or inaccurate report, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $1,000.00, or both.

(3) If an individual required to file a report under this act
fails to file 2 reports and if both of the reports remain unfiled
for more than 30 days, the individual is guilty of a misdemeanor
punishable by imprisonment for not more than 90 days or a fine of
not more than $1,000.00, or both.

(4) A default in the payment of a fee or civil fine due or
ordered under this act, or an installment of the fee or fine, may
be remedied by any means available under the revised judicature act
of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

Enacting section 1. This act takes effect 90 days after the
date it is enacted into law.