

# HOUSE BILL No. 6369

December 8, 2004, Introduced by Reps. Tobocman, Anderson, Kolb, Bieda, Ward, Casperson, Vagnozzi, Drolet and Kooiman and referred to the Committee on Government Operations.

A bill to regulate political activity; to regulate certain candidates and state officials; to require certain 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:**

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

3       Sec. 2. As used in this act:

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

6       (b) "Candidate for state office" means a candidate for any of

1 the following:

2 (i) The office of governor.

3 (ii) The office of lieutenant governor.

4 (iii) The office of attorney general.

5 (iv) The office of secretary of state.

6 (v) The office of state senator.

7 (vi) The office of state representative.

8 (vii) The office of head of a principal department as  
9 provided in section 3 of article V of the state constitution of  
10 1963, if the office is filled by election.

11 (viii) The office of a member of a board or commission  
12 heading a principal department as provided in section 3 of  
13 article V of the state constitution of 1963, if the office is  
14 filled by election.

15 (ix) The office of judge of a court of record.

16 (x) The office of regent of the university of Michigan,  
17 member of the board of trustees of Michigan state university, or  
18 member of the board of governors of Wayne state university.

19 (c) "Earned income" means salaries, tips, and other employee  
20 compensation, and net earnings from self-employment for the  
21 taxable year.

22 (d) "Immediate family" means a child residing in an  
23 individual's household, a spouse of an individual, or a person  
24 claimed by that individual or that individual's spouse as a  
25 dependent for federal income tax purposes.

26 (e) "Income" means money or any thing of value received, or  
27 to be received as a claim on future services, whether in the form

1 of a fee, salary, expense, allowance, forbearance, forgiveness,  
2 interest, dividend, royalty, rent, capital gain, or any other  
3 form of recompense that is considered income under the internal  
4 revenue code, 26 USC 1 to 1789.

5 (f) "Secretary of state" means the secretary of state or the  
6 designee of the secretary of state.

7 (g) "State official" means all of the following:

8 (i) The governor.

9 (ii) The lieutenant governor.

10 (iii) The attorney general.

11 (iv) The secretary of state.

12 (v) A state senator.

13 (vi) A state representative.

14 (vii) The head of each principal department as provided in  
15 section 3 of article V of the state constitution of 1963.

16 (viii) The members of a board or commission heading a  
17 principal department as provided in section 3 of article V of the  
18 state constitution of 1963.

19 (ix) The person appointed by a board or commission to be the  
20 principal executive officer of a principal department as provided  
21 in section 3 of article V of the state constitution of 1963.

22 (x) A judge of a court of record.

23 (xi) A regent of the university of Michigan, a member of the  
24 board of trustees of Michigan state university, or a member of  
25 the board of governors of Wayne state university.

26 Sec. 3. (1) If an individual was a state official at any  
27 time during a calendar year, that individual shall file with the

1 secretary of state by May 1 of the following year a report that  
2 meets the requirements of section 4 unless that individual is no  
3 longer a state official.

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  
8 section 4 within 30 days after whichever of the following events  
9 is applicable, but not later than 11 days before the first  
10 election at which the individual's name appears on the ballot as  
11 a candidate following the event:

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

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

21 Sec. 4. Subject to section 5 and except as provided in  
22 section 6, a report required by section 3 shall include a  
23 complete statement of all of the following:

24 (a) The name of each member of the immediate family of the  
25 individual filing the report.

26 (b) The name and address of each employer of the individual  
27 filing the report during the calendar year covered by the

1 report.

2 (c) Both of the following, as applicable:

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

7 (ii) The source and type of earned income received during the  
8 preceding calendar year by the spouse of the individual filing  
9 the report if the total earned income from that source equals  
10 \$1,000.00 or more during that calendar year.

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

17 (e) The identity and value of each asset held during the  
18 preceding calendar year by the individual filing the report or a  
19 member of the immediate family of that individual, including real  
20 or personal property or cash, if the asset had a fair market  
21 value of \$1,000.00 or more at any time the asset was held during  
22 the preceding calendar year. However, if the individual filing  
23 the report owns or has an interest in all or a portion of a farm  
24 or business, the identity and value of each asset held during the  
25 preceding year that is used in the operation of the farm or  
26 business is not required to be reported under this subdivision if  
27 the report includes a complete statement of the identity and

1 value of the farm or business.

2 (f) The identity and value of each liability owed during the  
3 preceding calendar year by the individual filing the report or a  
4 member of the immediate family of that individual if the amount  
5 of the liability was \$10,000.00 or more at any time during the  
6 preceding calendar year. This subdivision does not apply to a  
7 loan secured by the personal residence of the individual filing  
8 the report or by a personal motor vehicle, household furniture,  
9 or appliance, if the loan does not exceed the purchase price of  
10 the item that secures the liability.

11 (g) A brief description and value of a purchase, sale, or  
12 exchange of real property, other than real property used solely  
13 as a personal residence by the individual filing the report and  
14 his or her immediate family, or of stocks, bonds, commodities,  
15 futures, or other forms of securities during the preceding  
16 calendar year by the individual filing the report or a member of  
17 the immediate family of that individual, if the value is  
18 \$1,000.00 or more. This subdivision does not require a  
19 description of each purchase, sale, or exchange of stocks, bonds,  
20 commodities, or other forms of securities if those items are part  
21 of a mutual fund and if the identity and value of the mutual fund  
22 is otherwise reported under this act.

23 (h) Except as otherwise provided by this subdivision, the  
24 identity of all positions held by the individual filing the  
25 report during the preceding calendar year as an officer,  
26 director, trustee, partner, proprietor, representative, employee,  
27 or consultant of a corporation, partnership, or other business

1 enterprise; of a nonprofit organization; of a labor organization;  
2 or of an educational or other institution. An individual filing  
3 the report who is required to have a license to practice or  
4 engage in a particular occupation or profession is not required  
5 to identify a position held as a consultant of a corporation  
6 unless the corporation is a publicly held corporation that has  
7 shares that are listed or traded over the counter or on an  
8 organized exchange or has gross revenues over \$4,000,000.00.  
9 This subdivision does not require the reporting of a position  
10 held in a religious, social, fraternal, or political entity, or  
11 of a position solely of an honorary nature.

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

19 Sec. 5. (1) An amount or value reported under section 4(c),  
20 (d), (e), or (g) shall be reported by category as follows:

- 21 (a) \$1,000.00 or more but less than \$10,000.00.  
22 (b) \$10,000.00 or more but less than \$50,000.00.  
23 (c) \$50,000.00 or more but less than \$100,000.00.  
24 (d) \$100,000.00 or more but less than \$500,000.00.  
25 (e) \$500,000.00 or more.

26 (2) An amount or value reported under section 4(f) shall be  
27 reported by category as follows:

- 1 (a) \$10,000.00 or more but less than \$50,000.00.  
2 (b) \$50,000.00 or more but less than \$100,000.00.  
3 (c) \$100,000.00 or more but less than \$500,000.00.  
4 (d) \$500,000.00 or more.

5 Sec. 6. A report under section 4 may omit any of the  
6 following:

7 (a) Information required to be reported under the Michigan  
8 campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

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

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

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

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

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

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



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

5 (f) Compensation from a publicly held corporation that has  
6 shares that are listed or traded over the counter or on an  
7 organized exchange paid to a business owned by the individual  
8 filing the report or in which the individual filing the report  
9 has an interest, if the report under section 4 includes a  
10 complete statement of the identity and value of that business and  
11 the individual filing the report is required to have a license as  
12 described in section 4(h).

13 Sec. 7. The secretary of state shall do all of the  
14 following:

15 (a) Prepare and make available appropriate forms and  
16 instructions for the reports required by this act.

17 (b) Receive reports required by this act.

18 (c) As soon as practicable, but not later than the end of the  
19 business day on which a report required to be filed under this  
20 act is received, make the report or all of the contents of the  
21 report available without charge to the public on the internet at  
22 a single website established and maintained by the secretary of  
23 state, and not later than the third business day following the  
24 day on which the report is received, make the report available  
25 for public inspection and reproduction during regular business  
26 hours.

27 (d) Promulgate rules and issue declaratory rulings to

1 implement this act pursuant to the administrative procedures act  
2 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

3 (e) Conduct investigations as may be necessary to determine  
4 if there is reason to believe a violation of this act occurred.  
5 Investigations shall be conducted pursuant to the administrative  
6 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 Sec. 8. (1) A citizen of this state may file a complaint  
8 with the secretary of state alleging a violation of this act.  
9 The secretary of state, upon receipt of a complaint, shall  
10 investigate the allegations as provided in section 7.

11 (2) If the secretary of state, upon investigation, determines  
12 that there is reason to believe a violation of this act occurred,  
13 the secretary of state shall forward the results of that  
14 investigation to the attorney general for enforcement of this  
15 act.

16 (3) The attorney general shall enforce this act against an  
17 individual who violates this act.

18 Sec. 9. (1) An individual who fails to file a report as  
19 required under this act shall pay a late filing fee not to exceed  
20 \$1,000.00, determined as follows:

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

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

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

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

1 act knowingly files an incomplete or inaccurate report, the  
2 individual is guilty of a misdemeanor punishable by a fine of not  
3 more than \$1,000.00 or imprisonment for not more than 90 days, or  
4 both.

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

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