TITLE 5
Executive Employees

5 §19. Financial disclosure by executive employees

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Appointed executive employee" means a compensated member of the classified or unclassified service employed by the Executive Branch, who is appointed by the Governor and confirmed by the Legislature, or who serves in a major policy-influencing position, except assistant attorneys general, as set forth in chapter 71.

A-1. "Associated organization" means any organization in which an executive employee or a member of the executive employee's immediate family is a managerial employee, director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

B-1. "Domestic partner" means the partner of an executive employee who:

(1) Has been legally domiciled with the executive employee for at least 12 months;

(2) Is not legally married to or legally separated from an individual;

(3) Is the sole partner of the executive employee and expects to remain so; and

(4) Is jointly responsible with the executive employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

B. "Constitutional officers" means the Governor, Attorney General, Secretary of State and Treasurer of State.

C. "Elected executive employee" means the constitutional officers and the State Auditor.

D. "Executive employee" means an appointed executive employee or an elected executive employee.

E. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:

(1) Gifts received from a single source during the reporting period with an aggregate value of $300 or less;

(2) A bequest or other form of inheritance; and

(3) A gift received from a relative or from an individual on the basis of a personal friendship as long as that individual is not a registered lobbyist or lobbyist associate under Title 3, section 313, unless the employee has reason to believe that the

gift was provided because of the employee's official position and not because of a personal friendship.

F. "Honorarium" means a payment of money or anything with a monetary resale value to a person for an appearance or a speech by the person. "Honorarium" does not include reimbursement for actual and necessary travel expenses for an appearance or speech. Honorarium" does not include a payment for an appearance or a speech that is unrelated to the person's official capacity or duties.

G. "Immediate family" means a person's spouse, domestic partner or dependent children.

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; gross income derived from business; gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributions from a partnership or limited liability company; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. "Income" does not include alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to fees paid in advance or money to be spent on behalf of a client for payment of a licensing or filing fee.

H-1. "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

I. "Relative" means an individual who is related to the executive employee or the executive employee's spouse as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and shall be deemed to include the fiancé or fiancée of the executive employee.

I-1. "Reportable liabilities" means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of $3,000 or more received from a person not a relative. Reportable liabilities do not include:

(1) A credit card liability;

(2) An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

(3) A loan made from a state or federally regulated financial institution for business purposes.

J. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13-A.

2. Statement of sources of income. (REPEALED)

2. Content of statement. Each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the executive employee or members of the executive employee's immediate family. The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the executive employee to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

A. If the executive employee is an employee of another person, firm, corporation, association or organization that has provided the executive employee with compensation of $2,000 or more, the name and address of the employer;

B. If the executive employee is self-employed, the name and address of the executive employee's business and each source of income derived from self-employment that represents more than 10% of the employee's gross income from self-employment or $2,000, whichever is greater;

H. The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in which the executive employee or members of the employee's immediate family own or control, directly or indirectly, more than 50% of the outstanding equity, whether individually or in the aggregate, that has received revenue of $2,000 or more;

I. Each source of income of $2,000 or more the executive employee derived from providing services as an attorney, the major areas of law practiced by the executive employee and, if associated with a law firm, the major areas of practice of the firm;

J. Each additional source of income of $2,000 or more received by the executive employee;

K. The specific source of each gift received by the executive employee;

L. Each source of income of $2,000 or more received by any member of the immediate family of the executive employee, except that the employee is not required to identify the names of dependent children. If the member of the executive employee's immediate family received income of $2,000 or more in compensation, the executive employee

shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member;

M. Each source of honoraria of $2,000 or more that the executive employee accepted;

N. Each executive branch agency before which the executive employee or a member of the employee's immediate family has represented or assisted others for compensation;

O. Each state governmental agency, board or commission to which the executive employee, a member of the employee's immediate family or an associated organization has sold, rented or leased goods or services with a value of $10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased;

P. Each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the executive employee is a treasurer, principal officer or principal fund-raiser or decision maker of the organization;

Q. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee or a member of the employee's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and

R. All reportable liabilities incurred by the executive employee or members of the employee's immediate family during the reporting period.

2-A. Statement of interests. Beginning in 2010, each executive branch employee shall annually file with the Commission on Governmental Ethics and Election Practices a statement of those positions set forth in this subsection for the preceding calendar year. The statement must indicate:

A. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee in the preceding calendar year with any for-profit or nonprofit firm, corporation, association, partnership or business; and

B. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by a member of the immediate family of the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business and the name of that member of the executive employee's immediate family.

3. Time for filing.

A. An elected executive employee shall file an initial report within 30 days of his election. An appointed executive employee shall file an initial report prior to confirmation by the Legislature.

B. Each executive employee shall file the annual report by 5:00 p.m. on April 15 of each year, unless that employee has filed an initial or updating report during the preceding 30 days or has already filed a report for the preceding calendar year pursuant to paragraph A.

C. An executive employee shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the executive employee or an immediate family member, excluding dependent children, substantially change from those disclosed in the employee's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the executive employee or immediate family member, excluding dependent children, $2,000 or more during the current year, another source that has provided the employee with income that totals $2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 2, paragraph Q. The executive employee shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions.

3-A. Filing upon termination of employment. An executive employee whose employment has terminated shall file a statement of finances as described in subsection 2 and a statement of positions as described in subsection 2-A within 45 days after the termination of employment relating to the final calendar year of the employment.

4. Penalties. Penalties for violation of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the Commission on Governmental Ethics and Election Practices is a civil violation for which a fine of not more than $100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of Title 1, chapter 25, subchapter 2 and is properly signed. The commission shall determine whether a statement substantially conforms to such requirements.

B. The intentional filing of a false statement is a Class E crime. If the Commission on Governmental Ethics and Election Practices concludes that it appears that an executive employee has willfully filed a false statement, it shall refer its findings of fact to the Attorney General.

5. Rules. The Commission on Governmental Ethics and Election Practices may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section.

6. Public record. Statements filed under this section are public records. The Commission on Governmental Ethics and Election Practices shall publish on a publicly accessible website the completed forms of executive employees filed under this section.

7. Disclosure of reportable liabilities. (REPEALED)