

By: Representative Smith (35th)

To: Apportionment and  
Elections; Judiciary A

## HOUSE BILL NO. 1334

1 AN ACT TO CREATE THE JUDICIAL NOMINATING COMMISSION; TO  
 2 PROVIDE THAT THE GOVERNOR SHALL FILL ANY VACANCY IN AN OFFICE OF  
 3 THE SUPREME COURT OR THE COURT OF APPEALS BY APPOINTMENT OF ONE  
 4 PERSON NOMINATED BY THE JUDICIAL NOMINATING COMMISSION; TO PROVIDE  
 5 FOR THE APPOINTMENT OF THE MEMBERS OF THE JUDICIAL NOMINATING  
 6 COMMISSION; TO PROVIDE THE TERMS OF THE COMMISSION MEMBERS; TO  
 7 PROVIDE FOR REIMBURSEMENT AND ADMINISTRATIVE ASSISTANCE; TO  
 8 PRESCRIBE THE POWERS OF THE JUDICIAL NOMINATING COMMISSION; TO  
 9 PRESCRIBE THE METHOD OF ACTING OF THE COMMISSION; TO PRESCRIBE THE  
 10 DEGREE TO WHICH THE COMMISSION IS SUBJECT TO THE OPEN MEETINGS  
 11 LAW; TO PRESCRIBE THE SUBMISSION OF NAMES TO THE GOVERNOR; TO  
 12 CREATE THE COMMISSION ON APPELLATE JUDICIAL PERFORMANCE  
 13 EVALUATION, THE APPOINTMENT OF THOSE COMMISSIONERS, THEIR TERMS  
 14 AND METHODS OF OPERATION; TO PRESCRIBE THE POWERS AND DUTIES OF  
 15 THE COMMISSION; TO PROVIDE ADMINISTRATIVE ASSISTANCE; TO ENACT  
 16 IMMUNITY FOR THE MEMBERS OF THE COMMISSION; TO AMEND SECTION  
 17 23-15-973, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THIS ACT; TO  
 18 AMEND SECTION 23-15-991, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
 19 A RETENTION ELECTION AT THE END OF AN INCUMBENT'S TERM; TO AMEND  
 20 SECTIONS 23-15-993 AND 23-15-995, MISSISSIPPI CODE OF 1972, IN  
 21 CONFORMITY THERETO; TO AMEND SECTION 23-15-369, MISSISSIPPI CODE  
 22 OF 1972, TO PROVIDE THE FORM OF BALLOT IN A RETENTION ELECTION; TO  
 23 AMEND SECTION 23-15-807, MISSISSIPPI CODE OF 1972, TO REQUIRE  
 24 REPORTING OF ALL CONTRIBUTIONS TO ANY CANDIDATE FOR RETENTION AS  
 25 JUDGE OF THE SUPREME COURT OR COURT OF APPEALS; TO AMEND SECTIONS  
 26 23-15-975 AND 23-15-977, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
 27 THERETO; TO AMEND SECTIONS 9-4-5, 9-4-15, 23-15-197, 23-15-607 AND  
 28 23-15-849, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE  
 29 APPOINTMENT OF JUDGES OF THE COURT OF APPEALS; TO PROVIDE FOR  
 30 RETENTION ELECTIONS; TO CONFORM TO THE PROVISIONS OF THIS ACT; AND  
 31 FOR RELATED PURPOSES.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

33 **SECTION 1. Nomination and appointment.** The Governor shall  
 34 fill any vacancy in an office of the Supreme Court justice or the  
 35 Court of Appeals judge by appointing one (1) person nominated by  
 36 the Judicial Nominating Commission. The Judicial Nominating  
 37 Commission shall nominate no more than five (5) nor less than two  
 38 (2) most qualified persons for each vacancy.

39 **SECTION 2. Judicial Nominating Commission.** The Judicial  
 40 Nominating Commission shall consist of nine (9) members. Three  
 41 (3) attorney members, each a resident of separate Supreme Court



42 districts, shall be selected for four-year terms by the  
43 Mississippi Bar, except as provided by Section 3. Three (3) lay  
44 members, each a resident of separate Supreme Court districts,  
45 shall be appointed for four-year terms by the Governor, except as  
46 provided in Section 3. The Lieutenant Governor shall appoint one  
47 (1) lay member who shall reside in Supreme Court District 1, the  
48 Attorney General shall appoint one (1) lay member who shall reside  
49 in Supreme Court District 2, and the Speaker of the House shall  
50 appoint one (1) lay member who shall reside in Supreme Court  
51 District 3. Appointments to the commission shall be made without  
52 regard to political affiliation. All appointing authorities shall  
53 make reasonable efforts to ensure that the commission  
54 substantially reflects the gender, ethnic and racial diversity of  
55 the state. Vacancies shall be filled for an unexpired term in  
56 like manner. No member of the nominating commission may hold any  
57 other office under the United States, the state or other  
58 governmental entity for which monetary compensation is received.  
59 No member shall be eligible for appointment to a state judicial  
60 office so long as he or she is a commission member, nor serve for  
61 more than two (2) full terms as a member of the nominating  
62 commission.

63 **SECTION 3. Terms of initial commission members.** The initial  
64 members of the Judicial Nominating Commission shall serve for  
65 terms as follows: the three (3) attorney members for one (1), two  
66 (2) and three (3) years, respectively; the three (3) lay members  
67 appointed by the Governor for one (1), two (2) and three (3)  
68 years, respectively; the other three (3) lay members shall be one  
69 (1) year for the member appointed by the Attorney General, two (2)  
70 years for the member appointed by the Lieutenant Governor, three  
71 (3) years for the member appointed by the Speaker of the House,  
72 and four (4) years for the member appointed by the Governor.

73 **SECTION 4. Reimbursement and administrative assistance.** (1)  
74 Members of the Judicial Nominating Commission shall be reimbursed



75 for all actual and necessary expenses incurred in the carrying out  
76 of their official duties.

77 (2) The Administrative Office of Courts shall make staff,  
78 equipment and materials available to assist the commission in  
79 carrying out its official duties.

80 **SECTION 5. Powers of the Judicial Nominating Commission.**

81 The Judicial Nominating Commission shall have the power to adopt  
82 any rules and procedures which aid in its selection of the most  
83 qualified nominees for judicial office.

84 **SECTION 6. Vacancies.** Within sixty (60) days of the  
85 occurrence of a vacancy, the Judicial Nominating Commission shall  
86 meet and submit to the Governor a list of no more than five (5)  
87 nor less than two (2) persons qualified for the judicial office.

88 **SECTION 7. Quorum.** The commission cannot act unless a  
89 quorum exists. A quorum consists of a majority of the commission.

90 **SECTION 8. Chair.** The commission shall choose one (1) of  
91 its members as chair and establish the chair's term. The chair  
92 shall preside at all meetings. When the chair is absent, the  
93 commission shall choose a member to act as temporary chair.

94 **SECTION 9. Publicity.** When knowledge of a judicial vacancy  
95 occurs by written notice from the Governor or when it is known  
96 that a vacancy will occur at a definite date, the chair shall  
97 publicize the vacancy and solicit the submission of qualified  
98 individuals by press release to the media and posting in the  
99 courthouses of the district.

100 **SECTION 10. Open meetings.** (1) All organizational meetings  
101 of the Judicial Nominating Commission shall be open to the public.  
102 A notice outlining the topics to be discussed should be given to  
103 the public seventy-two (72) hours prior to the meeting. Public  
104 participation should be encouraged at each organizational meeting.  
105 An "organizational meeting" is an initial meeting to discuss the  
106 commission's procedures and requirements for the vacancy.



107 (2) All final deliberations of the Judicial Nominating  
108 Commission shall be secret and confidential.

109 (3) The confidentiality of other proceedings of the Judicial  
110 Nominating Commission shall be determined by commission rule.

111 **SECTION 11. Submitting names of nominees to the Governor.**

112 (1) The names of nominees shall be submitted to the Governor  
113 in alphabetical order within sixty (60) days after written notice  
114 from the Governor of a vacancy.

115 (2) A confidential memorandum may accompany the list of  
116 nominees and may state objective facts concerning each of the  
117 nominees listed.

118 (3) Upon submission of the names to the Governor, the  
119 Governor shall make the names public and public comment shall be  
120 encouraged.

121 (4) If the Judicial Nominating Commission does not furnish a  
122 list of nominees to the Governor within sixty (60) days of written  
123 notice of a vacancy, the Governor may appoint any qualified  
124 licensed attorney to the vacancy.

125 (5) If the Governor does not make an appointment from the  
126 list of nominees within thirty (30) days of receiving the list,  
127 then the Lieutenant Governor will make the appointment from the  
128 same list.

129 **SECTION 12. Commission on Appellate Judicial Performance**

130 **Evaluation.** The periodic evaluation of appellate judges subject  
131 to retention shall be conducted by the Commission on Appellate  
132 Judicial Performance Evaluation. The appointment of commissioners  
133 and activities and operations of the commission shall be governed  
134 by the following provisions:

135 (1) Appointment of commissioners: The commission shall  
136 consist of nine (9) members appointed as follows: six (6) lay  
137 members, two (2) from each Supreme Court district, appointed by  
138 the Governor; and three (3) attorney members, one (1) from each  
139 Supreme Court district, appointed by the Supreme Court from a list



140 provided by the State Bar Board of Governors. All appointing  
141 authorities shall make reasonable efforts to ensure that the  
142 commission substantially reflects the gender, ethnic and racial  
143 diversity of the jurisdiction.

144 (a) A commissioner shall perform his or her duties in  
145 an impartial and objective manner.

146 (b) A commissioner is disqualified from taking any  
147 action with respect to a judge who is a family member within the  
148 third degree of consanguinity, or a judge who was a commissioner's  
149 business associate, attorney or client within the preceding five  
150 (5) years.

151 (c) A commissioner shall disclose to the full  
152 commission any relationship with a reviewed justice or judge,  
153 whether business, personal or attorney-client, or any other cause  
154 for conflict of interest, and the commission shall determine  
155 whether a commissioner shall be disqualified.

156 (d) A commissioner shall promptly report to the full  
157 commission any information conveyed to him or her concerning any  
158 judicial officer under review. The commissioner also shall  
159 promptly report to the full commission any attempt by any person  
160 or organization to influence him or her other than by fact or  
161 opinion.

162 (2) Terms. All members of the commission shall serve terms  
163 of four (4) years except that, of those first appointed, three (3)  
164 lay members and two (2) attorneys shall serve for a term of three  
165 (3) years. No lay or attorney member may serve more than two (2)  
166 terms. Vacancies on the commission shall be filled by the  
167 original appointing authority.

168 (3) Chair and vice chair. Commission members shall elect a  
169 chair and a vice chair every two (2) years. The chair shall  
170 preside at all meetings of the commission and shall be the  
171 designated spokesperson for the commission. In the absence of the  
172 chair, the vice chair shall preside.



173 (4) Powers and duties of the commission. The powers and  
174 duties of the commission shall be as follows:

175 (a) To develop techniques for evaluating all justices  
176 and judges subject to retention on relevant performance criteria,  
177 which include, but are not limited to: integrity; impartiality;  
178 judicial temperament; knowledge and understanding of substantive  
179 and procedural communication skills; preparation; attentiveness  
180 and control over judicial proceedings; docket management and  
181 prompt case disposition; administrative skills; punctuality; and  
182 effectiveness working with other participants in the judicial  
183 process;

184 (b) To develop performance evaluation surveys of  
185 lawyers, jurors, peers, chief judges, court personnel and others  
186 who have direct and continuing contact with justices and judges;

187 (c) To develop uniform statewide evaluation criteria,  
188 forms and procedures;

189 (d) To consult with trial court commissions on  
190 evaluation criteria, techniques and sources;

191 (e) To subpoena witnesses and hire agents;

192 (f) To request public comment on the performance of  
193 appellate justices and judges;

194 (g) To produce and distribute to the public no later  
195 than sixty (60) days before the election pertinent information  
196 concerning each appellate justice or judge subject to retention;

197 (h) To promulgate rules necessary to implement the  
198 provisions of this legislation.

199 **SECTION 13. Recommendations on retention of justices and**  
200 **judges.** (1) The State Appellate Commission shall conduct an

201 evaluation of each justice of the Supreme Court and each judge of  
202 the Court of Appeals who is subject to retention. Evaluations  
203 shall be completed and a narrative profile prepared for

204 communication to the justice or judge no later than thirty (30)

205 days prior to the last day on which a justice or judge can declare



206 his or her intent to stand for retention. The appellate justice  
207 or judge shall have the opportunity to meet with the appropriate  
208 commission or otherwise respond to the evaluation no later than  
209 ten (10) days following receipt of such evaluation. If such a  
210 meeting is held or response is made, the commission may revise its  
211 evaluation.

212 (2) After the requirement in subsection (1) is met, the  
213 commission shall compile a narrative summary of the evaluation  
214 findings, and shall make a recommendation to the public regarding  
215 the justice or judge subject to retention. The recommendation  
216 shall be stated as "retain," "do not retain" or "no opinion." A  
217 no opinion recommendation shall be made only when a commission  
218 concludes that there is insufficient reliable information to make  
219 a firm recommendation and shall be accompanied by a detailed  
220 explanation.

221 **SECTION 14. Administrative assistance.** (1) The  
222 Administrative Office of Courts shall staff and provide other  
223 assistance to the Commission on Appellate Judicial Performance  
224 Evaluation in carrying out its duties.

225 (2) Commission members shall receive no compensation, but  
226 shall be reimbursed for actual and necessary expenses incurred in  
227 carrying out their official duties.

228 **SECTION 15. Privilege and immunity.** All documents and  
229 information obtained by or submitted to the commission and all  
230 results of judicial evaluations are absolutely privileged and no  
231 lawsuit predicated thereon may be brought. Statements made to the  
232 commission are absolutely privileged; provided, however, that this  
233 absolute privilege does not apply to statements made in any other  
234 forum. Members of the committee and staff shall be immune from  
235 suit and liability for any conduct in the course of their duties.

236 **SECTION 16.** Section 23-15-973, Mississippi Code of 1972, is  
237 amended as follows:



238           23-15-973. It shall be the duty of the judges of the circuit  
239 court to give a reasonable time and opportunity to the candidates  
240 for the office of \* \* \* circuit judge and chancellor to address  
241 the people during court terms. In order to give further and every  
242 possible emphasis to the fact that the said judicial offices are  
243 not political but are to be held without favor and with absolute  
244 impartiality as to all persons, and because of the jurisdiction  
245 conferred upon the courts by this chapter, the judges thereof  
246 should be as far removed as possible from any political  
247 affiliations or obligations. It shall be unlawful for any  
248 candidate for any of the offices mentioned in this section to  
249 align himself with any candidate or candidates for any other  
250 office or with any political faction or any political party at any  
251 time during any primary or general election campaign. Likewise it  
252 shall be unlawful for any candidate for any other office nominated  
253 or to be nominated at any primary election, wherein any candidate  
254 for any of the judicial offices in this section mentioned, is or  
255 are to be nominated, to align himself with any one or more of the  
256 candidates for said offices or to take any part whatever in any  
257 nomination for any one or more of said judicial offices, except to  
258 cast his individual vote. Any candidate for any office, whether  
259 nominated with or without opposition, at any primary wherein a  
260 candidate for any one of the judicial offices herein mentioned is  
261 to be nominated who shall deliberately, knowingly and willfully  
262 violate the provisions of this section shall forfeit his  
263 nomination, or if elected at the following general election by  
264 virtue of said nomination, his election shall be void.

265           **SECTION 17.** Section 23-15-991, Mississippi Code of 1972, is  
266 amended as follows:

267           23-15-991. The term of office of judges of the Supreme Court  
268 shall be as provided in Section 144A, Mississippi Constitution of  
269 1890. Concurrently with the regular election for representatives  
270 in Congress, held next preceding the expiration of the term of an





271 incumbent, and likewise each eighth year thereafter, an election  
272 shall be held in the Supreme Court district from which such  
273 incumbent was selected or appointed to submit the name to the  
274 voters eligible to vote within his district as to whether he shall  
275 be retained in office. If a majority of those voting on the  
276 question vote to retain the incumbent, he shall begin a new term  
277 of office at the expiration of his current term. If a majority of  
278 those voting on the question vote against retaining him in office,  
279 the vacancy shall be filled as provided by Section 144A,  
280 Mississippi Constitution of 1890.

281       **SECTION 18.** Section 23-15-993, Mississippi Code of 1972, is  
282 amended as follows:

283       23-15-993. For the purpose of all elections, each of the  
284 nine (9) judgeships of the Supreme Court shall be considered a  
285 separate office. The three (3) offices in each of the three (3)  
286 Supreme Court districts shall be designated Position Number 1,  
287 Position Number 2 and Position Number 3, and \* \* \* each incumbent  
288 shall state the position number of the office he wishes to retain  
289 and the ballot shall so indicate. In Supreme Court District  
290 Number 1: Position Number 1 shall be that office for which the  
291 term ends in January 1966; Position Number 2 shall be that office  
292 for which the term ends in January 1965; and Position Number 3  
293 shall be that office for which the term ends in January 1969. In  
294 District Number 2: Position Number 1 shall be that office for  
295 which the term ends in January 1972; Position Number 2 shall be  
296 that office for which the term ends in January 1969; and Position  
297 Number 3 shall be for that office for which the term ends in  
298 January 1973. In District Number 3: Position Number 1 shall be  
299 that office for which the term ends in January 1969; Position  
300 Number 2 shall be that office for which the term ends in January  
301 1969; and Position Number 3 shall be that office for which the  
302 term ends in January 1965.



303           **SECTION 19.** Section 23-15-995, Mississippi Code of 1972, is  
304 amended as follows:

305           23-15-995. Except as may be otherwise provided \* \* \*, the  
306 general laws for the election of state officers shall apply to and  
307 govern the retention of judges of the Supreme Court.

308           **SECTION 20.** Section 23-15-369, Mississippi Code of 1972, is  
309 amended as follows:

310           **[Until House Bill No. \_\_\_\_\_, 2002 Regular Session, is**  
311 **effectuated under Section 5 of the Voting Rights Act of 1965, this**  
312 **section will read as follows:]**

313           23-15-369. (1) (a) Whenever a constitutional amendment is  
314 submitted to the vote of the people, the substance of such  
315 amendment shall be printed in clear and unambiguous language on  
316 the ballot after the list of candidates, if any, followed by the  
317 word "YES" and also by the word "NO," and shall be styled in such  
318 a manner that a "YES" vote will indicate approval of the proposal  
319 and a "NO" vote will indicate rejection.

320           (b) The substance of the amendment shall be an  
321 explanatory statement not exceeding seventy-five (75) words in  
322 length of the chief purpose of the measure. Such statement shall  
323 be prepared by the Legislature and included in the concurrent  
324 resolution proposing the amendment to the Constitution. The  
325 statement shall avoid, whenever possible, the use of legal  
326 terminology or jargon and shall use instead, simple, ordinary,  
327 everyday language. The Secretary of State shall give each  
328 proposed constitutional amendment a designating number for  
329 convenient reference. This number designation shall appear on the  
330 ballot. Designating numbers shall be assigned in the order of  
331 filing or certification of the amendments. The Secretary of State  
332 shall furnish the designating number and the substance of each  
333 amendment to the circuit clerk of each county in which such  
334 amendment is to be voted on.



335 (c) The full text of each proposed constitutional  
336 amendment shall be published by the Secretary of State as provided  
337 for in Section 7-3-39, Mississippi Code of 1972, and shall be  
338 posted prominently in all polling places, with copies of said  
339 proposed amendment to be otherwise available at each polling  
340 place.

341 (2) Except as may be otherwise provided in subsection (1) of  
342 this section, whenever any public measure, question or matter that  
343 requires an affirmative or negative vote is submitted to a vote of  
344 the electors, the measure or matter shall be printed on the ballot  
345 and also the words "FOR" or "AGAINST" to be so arranged by the  
346 proper officer so that the voter can intelligently vote his  
347 preference.

348 **[From and after such time as House Bill No.\_\_\_\_, 2002 Regular**  
349 **Session, as effectuated under Section 5 of the Voting Rights Act**  
350 **of 1965, this section will read as follows:]**

351 23-15-369. (1) (a) Whenever a constitutional amendment is  
352 submitted to the vote of the people, the substance of such  
353 amendment shall be printed in clear and unambiguous language on  
354 the ballot after the list of candidates, if any, followed by the  
355 word "YES" and also by the word "NO," and shall be styled in such  
356 a manner that a "YES" vote will indicate approval of the proposal  
357 and a "NO" vote will indicate rejection.

358 (b) The substance of the amendment shall be an  
359 explanatory statement not exceeding seventy-five (75) words in  
360 length of the chief purpose of the measure. Such statement shall  
361 be prepared by the Legislature and included in the concurrent  
362 resolution proposing the amendment to the Constitution. The  
363 statement shall avoid, whenever possible, the use of legal  
364 terminology or jargon and shall use instead, simple, ordinary,  
365 everyday language. The Secretary of State shall give each  
366 proposed constitutional amendment a designating number for  
367 convenient reference. This number designation shall appear on the



368 ballot. Designating numbers shall be assigned in the order of  
369 filing or certification of the amendments. The Secretary of State  
370 shall furnish the designating number and the substance of each  
371 amendment to the circuit clerk of each county in which such  
372 amendment is to be voted on.

373 (c) The full text of each proposed constitutional  
374 amendment shall be published by the Secretary of State as provided  
375 for in Section 7-3-39, Mississippi Code of 1972, and shall be  
376 posted prominently in all polling places, with copies of said  
377 proposed amendment to be otherwise available at each polling  
378 place.

379 (2) Except as may be otherwise provided in subsection (1) of  
380 this section, whenever any public measure, question or matter that  
381 requires an affirmative or negative vote is submitted to a vote of  
382 the electors, the measure or matter shall be printed on the ballot  
383 and also the words "FOR" or "AGAINST" to be so arranged by the  
384 proper officer so that the voter can intelligently vote his  
385 preference.

386 (3) Whenever any judge shall stand for retention election,  
387 the ballot shall be printed as required by the Mississippi  
388 Constitution of 1890 and by law.

389 **SECTION 21.** Section 23-15-807, Mississippi Code of 1972, is  
390 amended as follows:

391 23-15-807. (a) Each candidate or political committee shall  
392 file reports of contributions and disbursements in accordance with  
393 the provisions of this section. All candidates or political  
394 committees required to report may terminate its obligation to  
395 report only upon submitting a final report that it will no longer  
396 receive any contributions or make any disbursement and that such  
397 candidate or committee has no outstanding debts or obligations.  
398 The candidate, treasurer or chief executive officer shall sign  
399 each such report.



400 (b) Candidates who are seeking election, or nomination for  
401 election, and political committees that make expenditures for the  
402 purpose of influencing or attempting to influence the action of  
403 voters for or against the nomination for election, or election, of  
404 one or more candidates or balloted measures at such election,  
405 shall file the following reports:

406 (i) In any calendar year during which there is a  
407 regularly scheduled election, a preelection report, which shall be  
408 filed no later than the seventh day before any election in which  
409 such candidate or political committee has accepted contributions  
410 or made expenditures and which shall be complete as of the tenth  
411 day before such election;

412 (ii) In 1987 and every fourth year thereafter, periodic  
413 reports, which shall be filed no later than the tenth day after  
414 April 30, May 31, June 30, September 30 and December 31, and which  
415 shall be complete as of the last day of each period; and

416 (iii) In any calendar years except 1987 and except  
417 every fourth year thereafter, a report covering the calendar year  
418 which shall be filed no later than January 31 of the following  
419 calendar year.

420 (c) All candidates for judicial office as defined in Section  
421 23-15-975, or their political committees, shall file in the year  
422 in which they are to be elected, periodic reports which shall be  
423 filed no later than the tenth day after April 30, May 31, June 30,  
424 September 30 and December 31.

425 (d) Contents of reports. Each report under this article  
426 shall disclose:

427 (i) For the reporting period and the calendar year, the  
428 total amount of all contributions and the total amount of all  
429 expenditures of the candidate or reporting committee which shall  
430 include those required to be identified pursuant to item (ii) of  
431 this paragraph as well as the total of all other contributions and



432 expenditures during the calendar year. Such reports shall be  
433 cumulative during the calendar year to which they relate;

434 (ii) The identification of:

435 1. Each person or political committee who makes a  
436 contribution to the reporting candidate or political committee  
437 during the reporting period, whose contribution or contributions  
438 within the calendar year have an aggregate amount or value in  
439 excess of Two Hundred Dollars (\$200.00) or in the case of any  
440 candidate for election or retention to the office of judge of the  
441 Supreme Court or the Court of Appeals, each person or political  
442 committee who makes any contribution to the reporting candidate or  
443 political committee during the reporting period, together with the  
444 date and amount of any such contribution;

445 2. Each person or organization, candidate or  
446 political committee who receives an expenditure, payment or other  
447 transfer from the reporting candidate, political committee or its  
448 agent, employee, designee, contractor, consultant or other person  
449 or persons acting in its behalf during the reporting period when  
450 the expenditure, payment or other transfer to such person,  
451 organization, candidate or political committee within the calendar  
452 year have an aggregate value or amount in excess of Two Hundred  
453 Dollars (\$200.00) together with the date and amount of such  
454 expenditure.

455 (iii) The total amount of cash on hand of each  
456 reporting candidate and reporting political committee;

457 (iv) In addition to the contents of reports specified  
458 in items (i), (ii) and (iii) of this paragraph, each political  
459 party shall disclose:

460 1. Each person or political committee who makes a  
461 contribution to a political party during the reporting period and  
462 whose contribution or contributions to a political party within  
463 the calendar year have an aggregate amount or value in excess of



464 Two Hundred Dollars (\$200.00), together with the date and amount  
465 of the contribution;

466           2. Each person or organization who receives an  
467 expenditure by a political party or expenditures by a political  
468 party during the reporting period when the expenditure or  
469 expenditures to the person or organization within the calendar  
470 year have an aggregate value or amount in excess of Two Hundred  
471 Dollars (\$200.00), together with the date and amount of the  
472 expenditure.

473           (e) The appropriate office specified in Section 23-15-805  
474 must be in actual receipt of the reports specified in this article  
475 by 5:00 p.m. on the dates specified in paragraph (b) of this  
476 section. If the date specified in paragraph (b) of this section  
477 shall fall on a weekend or legal holiday then the report shall be  
478 due in the appropriate office at 5:00 p.m. on the first working  
479 day before the date specified in paragraph (b) of this section.  
480 The reporting candidate or reporting political committee shall  
481 ensure that the reports are delivered to the appropriate office by  
482 the filing deadline. The Secretary of State may approve specific  
483 means of electronic transmission of completed campaign finance  
484 disclosure reports, which may include, but not be limited to,  
485 transmission by electronic facsimile (FAX) devices.

486           (f) (i) If any contribution of more than Two Hundred  
487 Dollars (\$200.00) is received by a candidate or candidate's  
488 political committee after the tenth day, but more than forty-eight  
489 (48) hours before 12:01 a.m. of the day of the election, the  
490 candidate or political committee shall notify the appropriate  
491 office designated in Section 23-15-805, within forty-eight (48)  
492 hours of receipt of the contribution. The notification shall  
493 include:

- 494           1. The name of the receiving candidate;
- 495           2. The name of the receiving candidate's political  
496 committee, if any;



- 497                   3. The office sought by the candidate;  
498                   4. The identification of the contributor;  
499                   5. The date of receipt;  
500                   6. The amount of the contribution;  
501                   7. If the contribution is in-kind, a description  
502 of the in-kind contribution; and  
503                   8. The signature of the candidate or the treasurer  
504 or director of the candidate's political committee.

505                   (ii) The notification shall be in writing, and may be  
506 transmitted by overnight mail, courier service, or other reliable  
507 means, including electronic facsimile (FAX), but the candidate or  
508 candidate's committee shall ensure that the notification shall in  
509 fact be received in the appropriate office designated in Section  
510 23-15-805 within forty-eight (48) hours of the contribution.

511                   **SECTION 22.** Section 23-15-975, Mississippi Code of 1972, is  
512 amended as follows:

513                   23-15-975. (1) As used in Sections 23-15-974 through  
514 23-15-985 of this subarticle, the term "judicial office" includes  
515 the office of \* \* \* circuit judge, chancellor, county court judge  
516 and family court judge.

517                   (2) All judicial offices, as well as the office of Supreme  
518 Court judge and judge of the Court of Appeals, shall be full-time  
519 positions and such justices and judges shall not engage in the  
520 practice of law before any court, administrative agency or other  
521 judicial or quasi-judicial forum except as provided by law for  
522 finalizing pending cases after election to judicial office.

523                   **SECTION 23.** Section 23-15-977, Mississippi Code of 1972, is  
524 amended as follows:

525                   23-15-977. (1) All candidates for judicial office as  
526 defined in Section 23-15-975 of this subarticle shall file their  
527 intent to be a candidate with the proper officials not later than  
528 5:00 p.m. on the first Friday after the first Monday in May prior





529 to the general election for judicial office and shall pay to the  
530 proper officials the following amounts:

531 \* \* \*

532 (a) Candidates for circuit judge and chancellor, the  
533 sum of One Hundred Dollars (\$100.00).

534 (b) Candidates for county judge and family court judge,  
535 the sum of Fifteen Dollars (\$15.00).

536 (2) Candidates for judicial offices listed in paragraph  
537 (a) \* \* \* of subsection (1) of this section shall file their  
538 intent to be a candidate with, and pay the proper assessment made  
539 pursuant to subsection (1) of this section to, the State Board of  
540 Election Commissioners.

541 (3) Candidates for judicial offices listed in paragraph (b)  
542 of subsection (1) of this section shall file their intent to be a  
543 candidate with, and pay the proper assessment made pursuant to  
544 subsection (1) of this section to, the circuit clerk of the proper  
545 county. The circuit clerk shall notify the county commissioners  
546 of election of all persons who have filed their intent to be a  
547 candidate filed with, and paid the proper assessment to, such  
548 clerk. Such notification shall occur within two (2) business days  
549 and shall contain all necessary information.

550 **SECTION 24.** Section 9-4-5, Mississippi Code of 1972, is  
551 amended as follows:

552 9-4-5. (1) The term of office of judges of the Court of  
553 Appeals shall be eight (8) years. An election shall be held on  
554 the first Tuesday after the first Monday in November 1994, to  
555 elect the ten (10) judges of the Court of Appeals, two (2) from  
556 each congressional district; provided, however, judges of the  
557 Court of Appeals who are elected to take office after the first  
558 Monday of January 2002, shall be elected from the Court of Appeals  
559 Districts described in subsection (5) of this section. The judges  
560 of the Court of Appeals shall begin service on the first Monday of  
561 January 1995.



562           (2)   (a)   In order to provide that the offices of not more  
563 than a majority of the judges of said court shall become vacant at  
564 any one (1) time, the terms of office of six (6) of the judges  
565 first to be elected shall expire in less than eight (8) years.  
566 For the purpose of all elections of members of the court, each of  
567 the ten (10) judges of the Court of Appeals shall be considered a  
568 separate office. The two (2) offices in each of the five (5)  
569 districts shall be designated Position Number 1 and Position  
570 Number 2, and in qualifying for office as a candidate for any  
571 office of judge of the Court of Appeals each candidate shall state  
572 the position number of the office to which he aspires and the  
573 election ballots shall so indicate.

574                   (i)   In Congressional District Number 1, the judge  
575 of the Court of Appeals for Position Number 1 shall be that office  
576 for which the term ends January 1, 1999, and the judge of the  
577 Court of Appeals for Position Number 2 shall be that office for  
578 which the term ends January 1, 2003.

579                   (ii)   In Congressional District Number 2, the judge  
580 of the Court of Appeals for Position Number 1 shall be that office  
581 for which the term ends on January 1, 2003, and the judge of the  
582 Court of Appeals for Position Number 2 shall be that office for  
583 which the term ends January 1, 2001.

584                   (iii)   In Congressional District Number 3, the  
585 judge of the Court of Appeals for Position Number 1 shall be that  
586 office for which the term ends on January 1, 2001, and the judge  
587 of the Court of Appeals for Position Number 2 shall be that office  
588 for which the term ends January 1, 1999.

589                   (iv)   In Congressional District Number 4, the judge  
590 of the Court of Appeals for Position Number 1 shall be that office  
591 for which the term ends on January 1, 1999, and the judge of the  
592 Court of Appeals for Position Number 2 shall be that office for  
593 which the term ends January 1, 2003.



594 (v) In Congressional District Number 5, the judge  
595 of the Court of Appeals for Position Number 1 shall be that office  
596 for which the term ends on January 1, 2003, and the judge of the  
597 Court of Appeals for Position Number 2 shall be that office for  
598 which the term ends January 1, 2001.

599 (b) From and after January 1, 2004, vacancies in the  
600 office of judge of the Court of Appeals shall be filled as  
601 follows: The Governor shall fill such vacancy by appointing one  
602 (1) from a list of persons who shall be nominated and whose names  
603 shall be submitted to the Governor by the Judicial Nominating  
604 Commission.

605 (c) Any Court of Appeals judge holding office, or  
606 elected thereto, at the time which this section becomes applicable  
607 to his office, shall, unless removed for cause, remain in office  
608 for the term to which he was elected. Not less than ninety (90)  
609 days prior to the holding of the general election next preceding  
610 the expiration of his term of office, an appeals court judge may  
611 file in the Office of the Secretary of State a declaration of  
612 candidacy for election to succeed himself. If a declaration is  
613 not so filed by the judge, the vacancy resulting from the  
614 expiration of his term of office shall be filled by appointment as  
615 provided in this section. If such declaration is filed, his name  
616 shall be submitted at said general election to the voters eligible  
617 to vote within his district. The ballot shall read substantially  
618 as follows:

619 "Shall Judge (Here the name of the judge shall be inserted)  
620 of the (Here the title of the court and district shall be  
621 inserted) be retained in office? Yes No ."

622 If a majority of those voting on the question vote against  
623 retaining him in office, upon the expiration of his term of  
624 office, a vacancy shall exist which shall be filled by appointment  
625 as provided in this section; otherwise, the judge shall, unless  
626 removed for cause, remain in office for the term of such office,



627 and at the expiration of each shall be eligible for retention in  
628 office by election in the manner herein prescribed.

629 (d) If a vacancy occurs during a term of office of an  
630 appeals court judge, the term of office of the successor judge  
631 appointed shall be for the remainder of the unexpired term of the  
632 prior incumbent. The Legislature shall provide as near as can be  
633 conveniently done that the offices of not more than a majority of  
634 the judges of the Court of Appeals shall become vacant at any one  
635 time.

636 (e) The laws regulating the general elections shall  
637 apply to and govern the retention elections of judges of the Court  
638 of Appeals except as otherwise provided in Sections 23-15-974  
639 through 23-15-985.

640 (3) No person shall be eligible for the office of judge of  
641 the Court of Appeals who has not attained the age of thirty (30)  
642 years at the time of his appointment and who has not been a  
643 practicing attorney and citizen of the state for five (5) years  
644 immediately preceding such appointment.

645 (4) Any vacancy on the Court of Appeals shall be filled by  
646 appointment of the Governor for that portion of the unexpired term  
647 prior to the election to fill the remainder of said term according  
648 to provisions of Section 23-15-849, Mississippi Code of 1972.

649 (5) (a) The State of Mississippi is hereby divided into  
650 five (5) Court of Appeals Districts as follows:

651 **FIRST DISTRICT.** The First Court of Appeals District shall be  
652 composed of the following counties and portions of counties:  
653 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,  
654 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,  
655 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada  
656 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;  
657 in Montgomery County the precincts of North Winona, Lodi, Stewart,  
658 Nations and Poplar Creek; in Panola County the precincts of East  
659 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North



660 Springport, South Springport, Eureka, Williamson, East Batesville  
661 4, West Batesville 4, Fern Hill, North Batesville A, East  
662 Batesville 5 and West Batesville 5; and in Tallahatchie County the  
663 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,  
664 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,  
665 Murphreesboro and Rosebloom.

666         **SECOND DISTRICT.** The Second Court of Appeals District shall  
667 be composed of the following counties and portions of counties:  
668 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,  
669 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,  
670 Tunica, Warren, Washington and Yazoo; in Attala County the  
671 precincts of Northeast, Hesterville, Possomneck, North Central,  
672 McAdams, Newport, Sallis and Southwest; that portion of Grenada  
673 County not included in the First Court of Appeals District; in  
674 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,  
675 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,  
676 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,  
677 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the  
678 precincts of Conway, West Carthage, Wiggins, Thomastown and  
679 Ofahoma; in Madison County the precincts of Farmhaven, Canton  
680 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,  
681 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,  
682 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,  
683 Canton Precinct 1 and Canton Precinct 4; that portion of  
684 Montgomery County not included in the First Court of Appeals  
685 District; that portion of Panola County not included in the First  
686 Court of Appeals District; and that portion of Tallahatchie County  
687 not included in the First Court of Appeals District.

688         **THIRD DISTRICT.** The Third Court of Appeals District shall be  
689 composed of the following counties and portions of counties:  
690 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,  
691 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that  
692 portion of Attala County not included in the Second Court of



693 Appeals District; in Jones County the precincts of Northwest High  
694 School, Shady Grove, Sharon, Erata, Glade, Myrick School,  
695 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,  
696 Antioch and Landrum; that portion of Leake County not included in  
697 the Second Court of Appeals District; that portion of Madison  
698 County not included in the Second Court of Appeals District; and  
699 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,  
700 Diamond, Chaparral, Matherville, Coit and Eucutta.

701       **FOURTH DISTRICT.** The Fourth Court of Appeals District shall  
702 be composed of the following counties and portions of counties:  
703 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,  
704 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;  
705 that portion of Hinds County not included in the Second Court of  
706 Appeals District; and that portion of Jones county not included in  
707 the Third Court of Appeals District.

708       **FIFTH DISTRICT.** The Fifth Court of Appeals District shall be  
709 composed of the following counties and portions of counties:  
710 Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Pearl  
711 River, Perry and Stone; and that portion of Wayne County not  
712 included in the Third Court of Appeals District.

713       (b) The boundaries of the Court of Appeals Districts  
714 described in paragraph (a) of this subsection shall be the  
715 boundaries of the counties and precincts listed in paragraph (a)  
716 of this subsection as such boundaries existed on October 1, 1990.

717       **SECTION 25.** Section 9-4-15, Mississippi Code of 1972, is  
718 amended as follows:

719       9-4-15. Retention elections for the office of judge of the  
720 Court of Appeals shall be held at the same times as general  
721 elections for congressional offices.

722       **SECTION 26.** Section 23-15-197, Mississippi Code of 1972, is  
723 amended as follows:



724 23-15-197. (1) Times for holding primary and general  
725 elections for congressional offices shall be as prescribed in  
726 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

727 (2) Times for holding retention elections for the office of  
728 judge of the Supreme Court or of the Court of Appeals shall be as  
729 prescribed in Section 23-15-991 and Sections 23-15-974 through  
730 23-15-985.

731 (3) Times for holding elections for the office of circuit  
732 court judge and the office of chancery court judge shall be as  
733 prescribed in Sections 23-15-974 through 23-15-985, and Section  
734 23-15-1015.

735 (4) Times for holding elections for the office of county  
736 election commissioners shall be as prescribed in Section  
737 23-15-213.

738 **SECTION 27.** Section 23-15-607, Mississippi Code of 1972, is  
739 amended as follows:

740 23-15-607. The commissioners of election shall, within ten  
741 (10) days after a retention election for judges of the Supreme  
742 Court or Court of Appeals, transmit to the Secretary of State, to  
743 be filed in his office, a statement of the whole number of votes  
744 given in their county for and against each retention candidate for  
745 the office of judge of the Supreme Court or Court of Appeals, and  
746 the Secretary of State shall immediately notify each member of the  
747 State Board of Election Commissioners in writing to assemble at  
748 his office on a day to be fixed by him, to be within ten (10) days  
749 after the receipt by him of such statement, and when assembled  
750 pursuant to such notice the State Board of Election Commissioners  
751 shall sum up the whole number of votes given for and against each  
752 candidate for judge of the Supreme Court or Court of Appeals,  
753 ascertain the person or persons to be retained; and thereupon all  
754 persons chosen to such office at the election shall be  
755 commissioned by the Governor; but if it appears that any candidate  
756 for judge of the Supreme Court or Court of Appeals \* \* \* have an



757 equal number of votes, for retention and against retention, the  
758 election shall be forthwith decided \* \* \* by lots, fairly and  
759 publicly drawn under the direction of the State Board of Election  
760 Commissioners. Any Supreme Court position sought by any incumbent  
761 judge who loses the retention election by drawing of lots shall be  
762 filled as prescribed in Section 144A of the Mississippi  
763 Constitution and any Court of Appeals position sought by any  
764 incumbent appeals court judge who loses the retention election by  
765 drawing of lots shall be filled as prescribed in Section 9-4-5.

766 **SECTION 28.** Section 23-15-849, Mississippi Code of 1972, is  
767 amended as follows:

768 23-15-849. (1) Vacancies in the office of justice of the  
769 Supreme Court shall be filled as provided in Section 144A of the  
770 Mississippi Constitution.

771 (2) Vacancies in the office of judge of the Court of Appeals  
772 shall be filled as provided in Section 9-4-5.

773 (3) Vacancies in the office of \* \* \* circuit judge or  
774 chancellor, shall be filled for the unexpired term by the  
775 qualified electors at the next regular election for state officers  
776 or for representatives in Congress occurring more than nine (9)  
777 months after the existence of the vacancy to be filled, and the  
778 term of office of the person elected to fill a vacancy shall  
779 commence on the first Monday in January following his election.  
780 Upon the occurring of such a vacancy, the Governor shall appoint a  
781 qualified person from the district in which the vacancy exists to  
782 hold the office and discharge the duties thereof until the vacancy  
783 shall be filled by election as hereinabove provided.

784 (4) Elections to fill vacancies in the office of judge of  
785 the Supreme Court or Court of Appeals shall be held, conducted,  
786 returned and the persons elected commissioned in accordance with  
787 the law governing regular elections for judges of the Supreme  
788 Court or Court of Appeals insofar as they may be applicable.





789           **SECTION 29.** The Attorney General of the State of Mississippi  
790 shall submit this act, immediately upon approval by the Governor,  
791 or upon approval by the Legislature subsequent to a veto, to the  
792 Attorney General of the United States or to the United States  
793 District Court for the District of Columbia in accordance with the  
794 provisions of the Voting Rights Act of 1965, as amended and  
795 extended.

796           **SECTION 30.** This act shall take effect and be in force from  
797 and after the date it is effectuated under Section 5 of the Voting  
798 Rights Act of 1965, as amended and extended.

