

By: Representative Horne

To: Apportionment and  
Elections

HOUSE BILL NO. 231

1 AN ACT TO AMEND SECTION 23-15-801, MISSISSIPPI CODE OF 1972,  
2 TO REVISE CANDIDATE AND POLITICAL COMMITTEE REPORTING  
3 REQUIREMENTS; TO AMEND SECTION 23-15-803, MISSISSIPPI CODE OF  
4 1972, TO REVISE POLITICAL COMMITTEE REGISTRATION REQUIREMENTS; TO  
5 AMEND SECTION 23-15-807, MISSISSIPPI CODE OF 1972, TO REVISE  
6 REPORTING REQUIREMENTS; TO AMEND SECTION 23-15-809, MISSISSIPPI  
7 CODE OF 1972, TO REVISE STATEMENT REQUIREMENTS FOR PERSONS OTHER  
8 THAN POLITICAL COMMITTEES; TO AMEND SECTION 23-15-811, MISSISSIPPI  
9 CODE OF 1972, TO REVISE PENALTIES; TO AMEND SECTION 23-15-813,  
10 MISSISSIPPI CODE OF 1972, TO REVISE CIVIL PENALTIES FOR FAILURE TO  
11 FILE CAMPAIGN FINANCE DISCLOSURE REPORTS; AND FOR RELATED  
12 PURPOSES.

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

14 **SECTION 1.** Section 23-15-801, Mississippi Code of 1972, is  
15 amended as follows:

16 23-15-801. (a) "Election" shall mean a general, special,  
17 primary or runoff election.

18 (b) "Candidate" shall mean an individual who seeks  
19 nomination for election, or election, to any elective office other  
20 than a federal elective office and for purposes of this article,  
21 an individual shall be deemed to seek nomination for election, or  
22 election:

23 (i) If such individual has received contributions \* \* \*  
24 or has made expenditures \* \* \* for a candidate for the Legislature  
25 or any statewide or state district office, by the qualifying  
26 deadlines specified in Sections 23-15-299 and 23-15-977, whichever  
27 occurs first; or

28 (ii) If such individual has given his or her consent to  
29 another person to receive contributions or make expenditures on  
30 behalf of such individual and if such person has received such  
31 contributions \* \* \* during a calendar year, or has made such  
32 expenditures \* \* \* during a calendar year.



33 (c) "Political committee" shall mean any committee, party,  
34 club, association, political action committee, campaign committee  
35 or other groups of persons or affiliated organizations which  
36 receives contributions \* \* \* during a calendar year or which makes  
37 expenditures \* \* \* during a calendar year for the purpose of  
38 influencing or attempting to influence the action of voters for or  
39 against the nomination for election, or election, of one or more  
40 candidates, or balloted measures and shall, in addition, include  
41 each political party registered with the Secretary of State.

42 (d) "Affiliated organization" shall mean any organization  
43 which is not a political committee, but which directly or  
44 indirectly establishes, administers or financially supports a  
45 political committee.

46 (e) (i) "Contribution" shall include any gift,  
47 subscription, loan, advance or deposit of money or anything of  
48 value made by any person or political committee for the purpose of  
49 influencing any election for elective office or balloted measure;

50 (ii) "Contribution" shall not include the value of  
51 services provided without compensation by any individual who  
52 volunteers on behalf of a candidate or political committee; or the  
53 cost of any food or beverage for use in any candidate's campaign  
54 or for use by or on behalf of any political committee of a  
55 political party;

56 (iii) "Contribution to a political party" includes any  
57 gift, subscription, loan, advance or deposit of money or anything  
58 of value made by any person, political committee, or other  
59 organization to a political party and to any committee,  
60 subcommittee, campaign committee, political committee and other  
61 groups of persons and affiliated organizations of the political  
62 party;

63 (iv) "Contribution to a political party" shall not  
64 include the value of services provided without compensation by any



65 individual who volunteers on behalf of a political party or a  
66 candidate of a political party.

67 (f) (i) "Expenditure" shall include any purchase, payment,  
68 distribution, loan, advance, deposit, gift of money or anything of  
69 value, made by any person or political committee for the purpose  
70 of influencing any balloted measure or election for elective  
71 office; and a written contract, promise, or agreement to make an  
72 expenditure;

73 (ii) "Expenditure" shall not include any news story,  
74 commentary or editorial distributed through the facilities of any  
75 broadcasting station, newspaper, magazine, or other periodical  
76 publication, unless such facilities are owned or controlled by any  
77 political party, political committee, or candidate; or nonpartisan  
78 activity designed to encourage individuals to vote or to register  
79 to vote;

80 (iii) "Expenditure by a political party" includes 1.  
81 any purchase, payment, distribution, loan, advance, deposit, gift  
82 of money or anything of value, made by any political party and by  
83 any contractor, subcontractor, agent, and consultant to the  
84 political party; and 2. a written contract, promise, or agreement  
85 to make such an expenditure.

86 (g) The term "identification" shall mean:

87 (i) In the case of any individual, the name, the  
88 mailing address, and the occupation of such individual, as well as  
89 the name of his or her employer; and

90 (ii) In the case of any other person, the full name and  
91 address of such person.

92 (h) The term "political party" shall mean an association,  
93 committee or organization which nominates a candidate for election  
94 to any elective office whose name appears on the election ballot  
95 as the candidate of such association, committee or organization.

96 (i) The term "person" shall mean any individual, family,  
97 firm, corporation, partnership, association or other legal entity.



98           (j) The term "independent expenditure" shall mean an  
99 expenditure by a person expressly advocating the election or  
100 defeat of a clearly identified candidate which is made without  
101 cooperation or consultation with any candidate or any authorized  
102 committee or agent of such candidate, and which is not made in  
103 concert with or at the request or suggestion of any candidate or  
104 any authorized committee or agent of such candidate.

105           (k) The term "clearly identified" shall mean that:

106                 (i) The name of the candidate involved appears; or

107                 (ii) A photograph or drawing of the candidate appears;

108 or

109                 (iii) The identity of the candidate is apparent by  
110 unambiguous reference.

111           **SECTION 2.** Section 23-15-803, Mississippi Code of 1972, is  
112 amended as follows:

113           23-15-803. (a) Statements of organization. Each political  
114 committee shall file a statement of organization no later than ten  
115 (10) days after receipt of contributions \* \* \* or no later than  
116 ten (10) days after having made expenditures \* \* \*.

117           (b) Contents of statements. The statement of organization  
118 of a political committee shall include:

119                 (i) The name and address of the committee and all  
120 officers;

121                 (ii) Designation of a director of the committee and a  
122 custodian of books and accounts of the committee, who shall be  
123 designated treasurer; and

124                 (iii) If the committee is authorized by a candidate,  
125 the name, address, office sought, and party affiliation of the  
126 candidate.

127           (c) Change of information in statements. Any change in  
128 information previously submitted in a statement of organization  
129 shall be reported and noted on the next regularly scheduled  
130 report.



131           **SECTION 3.** Section 23-15-807, Mississippi Code of 1972, is  
132 amended as follows:

133           23-15-807. (a) Each candidate or political committee shall  
134 file reports of contributions and disbursements in accordance with  
135 the provisions of this section. All candidates or political  
136 committees required to report may terminate its obligation to  
137 report only upon submitting a final report that it will no longer  
138 receive any contributions or make any disbursement and that such  
139 candidate or committee has no outstanding debts or obligations.  
140 The candidate, treasurer or chief executive officer shall sign  
141 each such report.

142           (b) Candidates who are seeking election, or nomination for  
143 election, and political committees that make expenditures for the  
144 purpose of influencing or attempting to influence the action of  
145 voters for or against the nomination for election, or election, of  
146 one or more candidates or balloted measures at such election,  
147 shall file the following reports:

148                   (i) In any calendar year during which there is a  
149 regularly scheduled election, a preelection report, which shall be  
150 filed no later than the seventh day before any election in which  
151 such candidate or political committee has accepted contributions  
152 or made expenditures and which shall be complete as of the tenth  
153 day before such election;

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

158                   (iii) In any calendar years except 1987 and except  
159 every fourth year thereafter, a report covering the calendar year  
160 which shall be filed no later than January 31 of the following  
161 calendar year.

162           (c) All candidates for judicial office as defined in Section  
163 23-15-975, or their political committees, shall file in the year



164 in which they are to be elected, periodic reports which shall be  
165 filed no later than the tenth day after April 30, May 31, June 30,  
166 September 30 and December 31.

167 (d) Contents of reports. Each report under this article  
168 shall disclose:

169 (i) For the reporting period and the calendar year, the  
170 total amount of all contributions and the total amount of all  
171 expenditures of the candidate or reporting committee which shall  
172 include those required to be identified pursuant to item (ii) of  
173 this paragraph as well as the total of all other contributions and  
174 expenditures during the calendar year. Such reports shall be  
175 cumulative during the calendar year to which they relate;

176 (ii) The identification of:

177 1. Each person or political committee who makes a  
178 contribution to the reporting candidate or political committee  
179 during the reporting period \* \* \* together with the date and  
180 amount of any such contribution;

181 2. Each person or organization, candidate or  
182 political committee who receives an expenditure, payment or other  
183 transfer from the reporting candidate, political committee or its  
184 agent, employee, designee, contractor, consultant or other person  
185 or persons acting in its behalf during the reporting period \* \* \*  
186 together with the date and amount of such expenditure;

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

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

192 1. Each person or political committee who makes a  
193 contribution to a political party during the reporting  
194 period \* \* \* together with the date and amount of the  
195 contribution;



196                   2. Each person or organization who receives an  
197 expenditure by a political party or expenditures by a political  
198 party during the reporting period \* \* \* together with the date and  
199 amount of the expenditure.

200           (e) The appropriate office specified in Section 23-15-805  
201 must be in actual receipt of the reports specified in this article  
202 by 5:00 p.m. on the dates specified in paragraph (b) of this  
203 section. If the date specified in paragraph (b) of this section  
204 shall fall on a weekend or legal holiday then the report shall be  
205 due in the appropriate office at 5:00 p.m. on the first working  
206 day before the date specified in paragraph (b) of this section.  
207 The reporting candidate or reporting political committee shall  
208 ensure that the reports are delivered to the appropriate office by  
209 the filing deadline. The Secretary of State may approve specific  
210 means of electronic transmission of completed campaign finance  
211 disclosure reports, which may include, but not be limited to,  
212 transmission by electronic facsimile (FAX) devices.

213           (f) (i) If any contribution \* \* \* is received by a  
214 candidate or candidate's political committee after the tenth day,  
215 but more than forty-eight (48) hours before 12:01 a.m. of the day  
216 of the election, the candidate or political committee shall notify  
217 the appropriate office designated in Section 23-15-805, within  
218 forty-eight (48) hours of receipt of the contribution. The  
219 notification shall include:

- 220                   1. The name of the receiving candidate;
- 221                   2. The name of the receiving candidate's political  
222 committee, if any;
- 223                   3. The office sought by the candidate;
- 224                   4. The identification of the contributor;
- 225                   5. The date of receipt;
- 226                   6. The amount of the contribution;
- 227                   7. If the contribution is in-kind, a description  
228 of the in-kind contribution; and



229                   8. The signature of the candidate or the treasurer  
230 or director of the candidate's political committee;

231                   (ii) The notification shall be in writing, and may be  
232 transmitted by overnight mail, courier service, or other reliable  
233 means, including electronic facsimile (FAX), but the candidate or  
234 candidate's committee shall ensure that the notification shall in  
235 fact be received in the appropriate office designated in Section  
236 23-15-805 within forty-eight (48) hours of the contribution.

237           **SECTION 4.** Section 23-15-809, Mississippi Code of 1972, is  
238 amended as follows:

239           23-15-809. (a) Every person who makes independent  
240 expenditures \* \* \* during a calendar year shall file a statement  
241 containing the information required under Section 23-15-807. Such  
242 statement shall be filed with the appropriate offices as provided  
243 for in Section 23-15-805, and such person shall be considered a  
244 political committee for the purpose of determining place of  
245 filing.

246           (b) Statements required to be filed by this subsection shall  
247 include:

248                   (i) Information indicating whether the independent  
249 expenditure is in support of, or in opposition to, the candidate  
250 involved;

251                   (ii) Under penalty of perjury, a certification of  
252 whether or not such independent expenditure is made in  
253 cooperation, consultation or concert with, or at the request or  
254 suggestion of, any candidate or any authorized committee or agent  
255 of such candidate; and

256                   (iii) The identification of each person who made a  
257 contribution \* \* \* to the person filing such statement which was  
258 made for the purpose of furthering an independent expenditure.

259           **SECTION 5.** Section 23-15-811, Mississippi Code of 1972, is  
260 amended as follows:





261           23-15-811. (a) Any candidate or any other person who shall  
262 wilfully and deliberately and substantially violate the provisions  
263 and prohibitions of this article shall be guilty of a misdemeanor  
264 and upon conviction thereof shall be punished by a fine in a sum  
265 not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for  
266 not longer than one (1) year or by both fine and imprisonment.

267           (b) In addition to the penalties provided in paragraph (a)  
268 of this section, any candidate or political committee which is  
269 required to file a statement or report which fails to file such  
270 statement or report on the date in which it is due shall be  
271 compelled to file such statement or report by an action in the  
272 nature of a mandamus.

273           (c) No candidate shall be certified as nominated for  
274 election or as elected to office unless and until he files all  
275 reports required by this article due as of the date of  
276 certification.

277           (d) No candidate who is elected to office shall receive any  
278 salary or other remuneration for the office unless and until he  
279 files all reports required by this article due as of the date such  
280 salary or remuneration is payable.

281           \* \* \*

282           **SECTION 6.** Section 23-15-813, Mississippi Code of 1972, is  
283 amended as follows:

284           23-15-813. (a) In addition to any other penalty permitted  
285 by law, the Secretary of State shall require any candidate or  
286 political committee, as identified in Section 23-15-805(a), and  
287 any other political committee registered with the Secretary of  
288 State, who fails to file a campaign finance disclosure report as  
289 required under Sections 23-15-801 through 23-15-813, or Sections  
290 23-17-47 through 23-17-53, or who shall file a report which fails  
291 to substantially comply with the requirements of Sections  
292 23-15-801 through 23-15-813, or Sections 23-17-47 through  
293 23-17-53, to be assessed a civil penalty as follows:



294           (i) Within five (5) calendar days after any deadline  
295 for filing a report pursuant to Sections 23-15-801 through  
296 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of  
297 State shall compile a list of those candidates and political  
298 committees who have failed to file a report. The Secretary of  
299 State shall provide each candidate or political committee, who has  
300 failed to file a report, notice of the failure by first-class  
301 mail.

302           (ii) Beginning with the tenth calendar day after which  
303 any report shall be due, the Secretary of State shall assess the  
304 delinquent candidate and political committee a civil penalty of  
305 Fifty Dollars (\$50.00) for each day or part of any day until a  
306 valid report is delivered to the Secretary of State \* \* \*.  
307 However, in the discretion of the Secretary of State, the  
308 assessing of the fine may be waived in whole or in part if the  
309 Secretary of State determines that unforeseeable mitigating  
310 circumstances, such as the health of the candidate, interfered  
311 with timely filing of a report. Failure of a candidate or  
312 political committee to receive notice of failure to file a report  
313 from the Secretary of State is not an unforeseeable mitigating  
314 circumstance, and failure to receive the notice shall not result  
315 in removal or reduction of any assessed civil penalty.

316           (iii) Filing of the required report and payment of the  
317 fine within ten (10) calendar days of notice by the Secretary of  
318 State that a required statement has not been filed, constitutes  
319 compliance with Sections 23-15-801 through 23-15-813, or Sections  
320 23-17-47 through 23-17-53.

321           (iv) Payment of the fine without filing the required  
322 report does not in any way excuse or exempt any person required to  
323 file from the filing requirements of Sections 23-15-801 through  
324 23-15-813, and Sections 23-17-47 through 23-17-53.

325           (v) If any candidate or political committee is assessed  
326 a civil penalty, and the penalty is not subsequently waived by the



327 Secretary of State, the candidate or political committee shall pay  
328 the fine to the Secretary of State within ninety (90) days of the  
329 date of the assessment of the fine. If, after one hundred twenty  
330 (120) days of the assessment of the fine the payment for the  
331 entire amount of the assessed fine has not been received by the  
332 Secretary of State, the Secretary of State shall notify the  
333 Attorney General of the delinquency, and the Attorney General  
334 shall file, where necessary, a suit to compel payment of the civil  
335 penalty.

336 (b) (i) Upon the sworn application, made within sixty (60)  
337 calendar days of the date upon which the required report is due,  
338 of a candidate or political committee against whom a civil penalty  
339 has been assessed pursuant to paragraph (a), the Secretary of  
340 State shall forward the application to the State Board of Election  
341 Commissioners. The State Board of Election Commissioners shall  
342 appoint one or more hearing officers who shall be former  
343 chancellors, circuit court judges, judges of the Court of Appeals  
344 or justices of the Supreme Court, and who shall conduct hearings  
345 held pursuant to this article. The hearing officer shall fix a  
346 time and place for a hearing and shall cause a written notice  
347 specifying the civil penalties that have been assessed against the  
348 candidate or political committee and notice of the time and place  
349 of the hearing to be served upon the candidate or political  
350 committee at least twenty (20) calendar days before the hearing  
351 date. The notice may be served by mailing a copy thereof by  
352 certified mail, postage prepaid, to the last known business  
353 address of the candidate or political committee.

354 (ii) The hearing officer may issue subpoenas for the  
355 attendance of witnesses and the production of books and papers at  
356 the hearing. Process issued by the hearing officer shall extend  
357 to all parts of the state and shall be served by any person  
358 designated by the hearing officer for the service.



359 (iii) The candidate or political committee has the  
360 right to appear either personally, by counsel or both, to produce  
361 witnesses or evidence in his behalf, to cross-examine witnesses  
362 and to have subpoenas issued by the hearing officer.

363 (iv) At the hearing, the hearing officer shall  
364 administer oaths as may be necessary for the proper conduct of the  
365 hearing. All hearings shall be conducted by the hearing officer,  
366 who shall not be bound by strict rules of procedure or by the laws  
367 of evidence in the conduct of the proceedings, but the  
368 determination shall be based upon sufficient evidence to sustain  
369 it. The scope of review at the hearing shall be limited to making  
370 a determination of whether failure to file a required report was  
371 due to an unforeseeable mitigating circumstance.

372 (v) Where, in any proceeding before the hearing  
373 officer, any witness fails or refuses to attend upon a subpoena  
374 issued by the commission, refuses to testify, or refuses to  
375 produce any books and papers the production of which is called for  
376 by a subpoena, the attendance of the witness, the giving of his  
377 testimony or the production of the books and papers shall be  
378 enforced by any court of competent jurisdiction of this state in  
379 the manner provided for the enforcement of attendance and  
380 testimony of witnesses in civil cases in the courts of this state.

381 (vi) Within fifteen (15) calendar days after conclusion  
382 of the hearing, the hearing officer shall reduce his or her  
383 decision to writing and forward an attested true copy of the  
384 decision to the last known business address of the candidate or  
385 political committee by way of United States first-class, certified  
386 mail, postage prepaid.

387 (c) (i) The right to appeal from the decision of the  
388 hearing officer in an administrative hearing concerning the  
389 assessment of civil penalties authorized pursuant to this section  
390 is granted. The appeal shall be to the Circuit Court of Hinds  
391 County and shall include a verbatim transcript of the testimony at



392 the hearing. The appeal shall be taken within thirty (30)  
393 calendar days after notice of the decision of the commission  
394 following an administrative hearing. The appeal shall be  
395 perfected upon filing notice of the appeal and by the prepayment  
396 of all costs, including the cost of the preparation of the record  
397 of the proceedings by the hearing officer, and the filing of a  
398 bond in the sum of Five Hundred Dollars (\$500.00), conditioned  
399 that if the decision of the hearing officer be affirmed by the  
400 court, the candidate or political committee will pay the costs of  
401 the appeal and the action in court. If the decision is reversed  
402 by the court, the Secretary of State will pay the costs of the  
403 appeal and the action in court.

404 (ii) If there is an appeal, the appeal shall act as a  
405 supersedeas. The court shall dispose of the appeal and enter its  
406 decision promptly. The hearing on the appeal may be tried in  
407 vacation, in the court's discretion. The scope of review of the  
408 court shall be limited to a review of the record made before the  
409 hearing officer to determine if the action of the hearing officer  
410 is unlawful for the reason that it was 1. not supported by  
411 substantial evidence, 2. arbitrary or capricious, 3. beyond the  
412 power of the hearing officer to make, or 4. in violation of some  
413 statutory or constitutional right of the appellant. The decision  
414 of the court may be appealed to the Supreme Court in the manner  
415 provided by law.

416 (d) If, after forty-five (45) calendar days of the date of  
417 the administrative hearing procedure set forth in paragraph (b),  
418 the candidate or political committee identified in paragraph (a)  
419 of this section fails to pay the monetary civil penalty imposed by  
420 the hearing officer, the Secretary of State shall notify the  
421 Attorney General of the delinquency. The Attorney General shall  
422 investigate the offense in accordance with the provisions of this  
423 chapter, and where necessary, file suit to compel payment of the  
424 unpaid civil penalty.



425 (e) If, after twenty (20) calendar days of the date upon  
426 which a campaign finance disclosure report is due, a candidate or  
427 political committee identified in paragraph (a) of this section  
428 shall not have filed a valid report with the Secretary of State,  
429 the Secretary of State shall notify the Attorney General of those  
430 candidates and political committees who have not filed a valid  
431 report, and the Attorney General shall thereupon prosecute the  
432 delinquent candidates and political committees.

433 **SECTION 7.** The Attorney General of the State of Mississippi  
434 shall submit this act, immediately upon approval by the Governor,  
435 or upon approval by the Legislature subsequent to a veto, to the  
436 Attorney General of the United States or to the United States  
437 District Court for the District of Columbia in accordance with the  
438 provisions of the Voting Rights Act of 1965, as amended and  
439 extended.

440 **SECTION 8.** This act shall take effect and be in force from  
441 and after the date it is effectuated under Section 5 of the Voting  
442 Rights Act of 1965, as amended and extended.

