

By: Senator(s) Chamberlin, Jordan

To: Elections

SENATE BILL NO. 2858
(As Passed the Senate)

1 AN ACT TO CREATE NEW SECTION 23-15-802, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CONTRIBUTIONS TO NAMED CANDIDATE MADE TO A
3 POLITICAL COMMITTEE AUTHORIZED BY THE CANDIDATE TO ACCEPT
4 CONTRIBUTIONS SHALL BE CONSIDERED CONTRIBUTIONS TO THE CANDIDATE;
5 TO PROVIDE THAT EXPENDITURES MADE BY ANY PERSON IN CONCERT WITH A
6 CANDIDATE SHALL BE CONSIDERED TO BE A CONTRIBUTION MADE TO THE
7 CANDIDATE; TO PROVIDE THAT THE FINANCE OF THE DISSEMINATION OF
8 CAMPAIGN MATERIALS SHALL BE CONSIDERED TO BE AN EXPENDITURE FOR,
9 AND A CONTRIBUTION TO THE CANDIDATE; TO PROVIDE THAT DISBURSEMENTS
10 FOR ELECTIONEERING COMMUNICATIONS THAT ARE COORDINATED WITH A
11 CANDIDATE SHALL BE CONSIDERED A CONTRIBUTION TO THE CANDIDATE; TO
12 CREATE NEW SECTION 23-15-808, MISSISSIPPI CODE OF 1972, TO PROVIDE
13 THAT PERSONS WHO MAKE DISBURSEMENT FOR THE DIRECT COST OF
14 PRODUCING AND AIRING ELECTIONEERING COMMUNICATIONS IN AN AGGREGATE
15 AMOUNT IN EXCESS OF \$2,000.00 SHALL FILE A STATEMENT REGARDING
16 SUCH DISBURSEMENT WITHIN 48 HOURS OF THE DISCLOSURE DATE AND TO
17 PROVIDE FOR THE INFORMATION THAT MUST BE INCLUDED IN THE
18 STATEMENT; TO AMEND SECTIONS 23-15-801, 23-15-805, 23-15-807,
19 23-15-809, 23-15-811 AND 23-15-813, MISSISSIPPI CODE OF 1972, TO
20 DEFINE THE TERMS "ELECTIONEERING COMMUNICATION" AND "DISCLOSURE
21 DATE" AND REVISE THE DEFINITION OF CERTAIN TERMS IN THE CAMPAIGN
22 FINANCE DISCLOSURE LAWS; TO REQUIRE, FROM AND AFTER JANUARY 1,
23 2007, CERTAIN CANDIDATES TO FILE THE REPORTS REQUIRED TO BE FILED
24 WITH THE OFFICE OF THE SECRETARY OF STATE BY ELECTRONIC FORMAT; TO
25 CLARIFY THE INFORMATION REQUIRED TO BE INCLUDED IN CERTAIN
26 CAMPAIGN FINANCE REPORTS; TO PROVIDE THAT CAMPAIGN FINANCE REPORTS
27 SHALL INCLUDE CERTAIN INFORMATION REGARDING LOANS OR OTHER
28 EXTENSIONS OF CREDIT MADE TO A CANDIDATE FOR USE IN HIS CAMPAIGN;
29 TO REQUIRE STATEMENTS REGARDING CERTAIN INDEPENDENT CAMPAIGN
30 EXPENDITURES TO BE FILED WITHIN 48 HOURS AND TO REVISE THE
31 INFORMATION REQUIRED TO BE INCLUDED IN SUCH STATEMENTS; TO REVISE
32 THE ELEMENTS NECESSARY FOR A CONVICTION OF A VIOLATION OF THE
33 CAMPAIGN FINANCE LAWS; TO PROVIDE THAT PROSECUTIONS FOR VIOLATIONS
34 OF THE CAMPAIGN FINANCE LAW MAY BE CONDUCTED BY A DISTRICT
35 ATTORNEY OR THE ATTORNEY GENERAL; TO PROVIDE THAT THE ATTORNEY
36 GENERAL SHALL PROSECUTE SUCH VIOLATIONS UPON RECOMMENDATION OF THE
37 STATE BOARD OF ELECTION COMMISSIONERS; TO CLARIFY UPON WHOM
38 ADMINISTRATIVE PENALTIES UNDER THE CAMPAIGN FINANCE LAW MAY APPLY;
39 TO AMEND SECTION 97-13-15, MISSISSIPPI CODE OF 1972, TO INCREASE
40 TO \$2,000.00 THE AMOUNT THAT CORPORATIONS MAY CONTRIBUTED TO
41 POLITICAL CAMPAIGNS IN A CALENDAR YEAR AND TO PLACE INCORPORATED
42 ASSOCIATIONS, LIMITED PARTNERSHIPS, LIMITED LIABILITY PARTNERSHIPS
43 OR MANAGER-MANAGED LIMITED LIABILITY COMPANIES UNDER SUCH
44 RESTRICTION; TO AMEND SECTIONS 23-15-817 AND 97-13-17, MISSISSIPPI
45 CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 23-15-1023,
46 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT JUDICIAL CANDIDATES
47 SHALL DISCLOSE CERTAIN INFORMATION ABOUT CERTAIN LOANS; AND FOR
48 RELATED PURPOSES.

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

50 **SECTION 1.** The following provision shall be codified as
51 Section 23-15-802, Mississippi Code of 1972:

52 23-15-802. (1) Contributions to a named candidate made to a
53 political committee authorized by the candidate to accept
54 contributions on the candidates behalf, shall be considered to be
55 contributions made to the candidate.

56 (2) Expenditures made by any person, other than the
57 candidate or his authorized committee or agent, in cooperation,
58 consultation or concert with, or at the request or suggestion of a
59 candidate, an authorized committee or agent of such candidate,
60 shall be considered to be a contribution made to the candidate.

61 (3) The financing of the dissemination, distribution or
62 republication, in whole or in part, of any broadcast or any
63 written, graphic or other form of campaign materials prepared by
64 the candidate, an authorized committee or agent of the candidate,
65 shall be considered to be an expenditure for, and a contribution
66 to, the candidate.

67 (4) If any person, other than the candidate or his
68 authorized committee or agent, makes or contracts to make any
69 disbursement for any electioneering communication, and the
70 disbursement is coordinated with a candidate or any authorized
71 committee or agent of the candidate, such disbursement or contract
72 shall be considered to be a contribution to the candidate
73 supported by the electioneering communication and as an
74 expenditure by the candidate.

75 **SECTION 2.** The following provision shall be codified as
76 Section 23-15-808, Mississippi Code of 1972:

77 23-15-808. (1) Every person who makes a disbursement for
78 the direct costs of producing and airing electioneering
79 communications in an aggregate amount in excess of Two Thousand
80 Dollars (\$2,000.00) during any calendar year, shall, within
81 forty-eight (48) hours of each disclosure date, file with the
82 appropriate offices as provided for in Section 23-15-805 (such

83 person shall be considered a political committee for determining
84 the place of filing), a statement made under penalty of
85 prosecution containing the following:

86 (a) The identity of:

87 (i) The person making the disbursement;

88 (ii) Any person sharing or exercising discretion or
89 control over the activities of the person making the disbursement;
90 and

91 (iii) The custodian of the books and accounts of
92 the person making the disbursement;

93 (b) The principal place of business of the person
94 making the disbursement if the person is not an individual;

95 (c) The amount of each disbursement of more than Two
96 Hundred Dollars (\$200.00) made during the period covered by the
97 statement and the identity of the person to whom the disbursement
98 was made;

99 (d) The elections to which the electioneering
100 communication pertains and the names, if known, of the candidates
101 to whom the communication refers;

102 (e) If the disbursements were paid out of a segregated
103 bank account, the names and addresses of all contributors who
104 contributed an aggregate amount in excess of Two Hundred Dollars
105 (\$200.00) to the account during the period beginning on the first
106 day of the preceding calendar year and ending on the disclosure
107 date; and

108 (f) If the disbursements were paid out of funds not
109 covered by paragraph (e) of this subsection, the names and
110 addresses of all persons who contributed an aggregate amount in
111 excess of Two Hundred Dollars (\$200.00) to the person making the
112 disbursement during the period beginning on the first day of the
113 preceding calendar year and ending on the disclosure date unless
114 the person making the disbursement is an organization described in
115 26 USC 501(c) and exempt from taxation under 26 USC 501(a).

116 (2) For purposes of this section, a person shall be treated
117 as having made a disbursement if the person has executed a
118 contract to make the disbursement.

119 (3) The reporting requirements of this subsection shall be
120 in addition to any other reporting requirement under this article.

121 **SECTION 3.** Section 23-15-801, Mississippi Code of 1972, is
122 amended as follows:

123 23-15-801. As used in this article:

124 (a) "Election" means a general, special, primary or
125 runoff election.

126 (b) "Candidate" means an individual who seeks
127 nomination for election, or election, to any elective office other
128 than a federal elective office and for purposes of this article,
129 an individual shall be deemed to seek nomination for election, or
130 election:

131 (i) If such individual has received contributions
132 aggregating in excess of Two Hundred Dollars (\$200.00) or has made
133 expenditures aggregating in excess of Two Hundred Dollars
134 (\$200.00) or for a candidate for the Legislature or any statewide
135 or state district office, by the qualifying deadlines specified in
136 Sections 23-15-299 and 23-15-977, whichever occurs first; or

137 (ii) If such individual has given his or her
138 consent to another person to receive contributions or make
139 expenditures on behalf of such individual and if such person has
140 received such contributions aggregating in excess of Two Hundred
141 Dollars (\$200.00) during a calendar year, or has made such
142 expenditures aggregating in excess of Two Hundred Dollars
143 (\$200.00) during a calendar year.

144 (c) "Political committee" means any committee, party,
145 club, association, political action committee, campaign committee
146 or other groups of persons or affiliated organizations which
147 receives contributions aggregating in excess of Two Hundred
148 Dollars (\$200.00) during a calendar year or which makes

149 expenditures aggregating in excess of Two Hundred Dollars
150 (\$200.00) during a calendar year for the purpose of influencing or
151 attempting to influence the action of voters for or against the
152 nomination for election, or election, of one or more candidates,
153 or balloted measures and shall, in addition, include each
154 political party registered with the Secretary of State.

155 (d) "Affiliated organization" means any organization
156 which is not a political committee, but which directly or
157 indirectly establishes, administers or financially supports a
158 political committee.

159 (e) (i) "Contribution" includes any gift,
160 subscription, loan, advance or deposit of money or anything of
161 value made by any person or political committee for the purpose of
162 influencing any election for elective office or balloted
163 measure; * * * however, the term "contribution" does not include
164 the value of services provided without compensation by any
165 individual who volunteers on behalf of a candidate or political
166 committee; or the cost of any food or beverage for use in any
167 candidate's campaign or for use by or on behalf of any political
168 committee of a political party; and

169 (ii) A contribution to a political party includes
170 any gift, subscription, loan, advance or deposit of money or
171 anything of value made by any person, political committee, or
172 other organization to a political party and to any committee,
173 subcommittee, campaign committee, political committee and other
174 groups of persons and affiliated organizations of the political
175 party; * * * however, a contribution to a political party does not
176 include the value of services provided without compensation by any
177 individual who volunteers on behalf of a political party or a
178 candidate of a political party.

179 (f) (i) "Expenditure" includes:

180 1. Any purchase, payment, distribution, loan,
181 advance, deposit, gift of money or anything of value, made by any

182 person or political committee for the purpose of influencing any
183 balloted measure or election for elective office; and

184 2. A written contract, promise, or agreement
185 to make an expenditure;

186 (ii) "Expenditure" does not include:

187 1. Any news story, commentary or editorial
188 distributed through the facilities of any broadcasting station,
189 newspaper, magazine, or other periodical publication, unless such
190 facilities are owned or controlled by any political party,
191 political committee, or candidate; or

192 2. Nonpartisan activity designed to encourage
193 individuals to vote or to register to vote and does not refer to a
194 clearly identified candidate for state or local office;

195 (iii) "Expenditure by a political party" includes:

196 1. Any purchase, payment, distribution, loan,
197 advance, deposit, gift of money or anything of value, made by any
198 political party and by any contractor, subcontractor, agent, and
199 consultant to the political party; and

200 2. A written contract, promise, or agreement
201 to make such an expenditure.

202 (g) The term "identification" means:

203 (i) In the case of any individual, the name, the
204 mailing address, and the occupation of such individual, as well as
205 the name of his or her employer; and

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

208 (h) * * * "Political party" means an association,
209 committee or organization which nominates a candidate for election
210 to any elective office whose name appears on the election ballot
211 as the candidate of such association, committee or organization.

212 (i) * * * "Person" shall mean any individual, family,
213 firm, committee, corporation, partnership, association, political
214 committee or other legal entity.

215 (j) * * * "Independent expenditure" means an
216 expenditure by a person expressly advocating the election or
217 defeat of a clearly identified candidate * * * and which is not
218 made in concert with or at the request or suggestion of any
219 candidate, any authorized committee of the candidate or the agent
220 of the candidate or committee or a political party committee or
221 its agents.

222 (k) * * * "Clearly identified" means that:

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

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

226 (iii) The identity of the candidate is apparent by
227 unambiguous reference.

228 (m) (i) "Electioneering communication" means any
229 broadcast, cable or satellite communication which refers to a
230 clearly identified candidate for state or local office and is made
231 within:

232 1. Sixty (60) days before a general, special
233 or runoff election for the office sought by the candidate and is
234 targeted at the relevant electorate; or

235 2. Thirty (30) days before a primary election
236 for the office sought by the candidate and is targeted at the
237 relevant electorate.

238 (ii) The term "electioneering communication" does
239 not include:

240 1. A communication appearing in a news story,
241 commentary or editorial distributed through the facilities of any
242 broadcasting station, unless such facilities are owned or
243 controlled by any political committee or candidate;

244 2. A communication which constitutes an
245 independent expenditure;

246 3. A communication which constitutes a
247 candidate debate or forum or which solely promotes the candidate

248 debate or forum and is made by or on behalf of the person
249 sponsoring the debate; or

250 4. Nonpartisan activity designed to encourage
251 individuals to vote or register to vote and does not refer to a
252 clearly identified candidate for state or local office.

253 (iii) An electioneering communication is targeted
254 at the relevant electorate if the communication:

255 1. Refers to a clearly identified candidate;
256 and

257 2. Can be received by five thousand (5,000)
258 or more persons in the jurisdiction in which the candidate seeks
259 to represent.

260 (n) "Disclosure date" means:

261 (i) The first date during any calendar year by
262 which a person has made disbursement for the direct costs of
263 producing or airing electioneering communications aggregating in
264 excess of Two Thousand Dollars (\$2,000.00); and

265 (ii) Any subsequent date during the calendar year
266 by which a person has made disbursement for the direct costs of
267 producing or airing electioneering communications aggregating in
268 excess of Two Hundred Dollars (\$200.00) since the most recent
269 disclosure date for such calendar year.

270 **SECTION 4.** Section 23-15-805, Mississippi Code of 1972, is
271 amended as follows:

272 23-15-805. (1) Candidates for state, state district, and
273 legislative district offices, and every political committee, which
274 makes reportable contributions to or expenditures in support of or
275 in opposition to a candidate for any such office or makes
276 reportable contributions to or expenditures in support of or in
277 opposition to a statewide ballot measure, shall file all reports
278 required under this article with the Office of the Secretary of
279 State.

280 (2) (a) From and after January 1, 2007, all candidates,
281 their authorized committees or agents and other political
282 committees that receive contributions in excess of One Hundred
283 Thousand Dollars (\$100,000.00) in any calendar years, shall file
284 the reports required to be filed under this article with the
285 Office of the Secretary of State by electronic format.

286 (b) The Office of the Secretary of State shall adopt
287 rules and regulations designating the format and software to be
288 use in filing reports by electronic format under this subsection.
289 All candidates and committees required to file reports by
290 electronic format under this subsection shall follow the format
291 and use the software prescribed by the Office of the Secretary of
292 State.

293 (3) Candidates for county or county district office, and
294 every political committee which makes reportable contributions to
295 or expenditures in support of or in opposition to a candidate for
296 such office or makes reportable contributions to or expenditures
297 in support of or in opposition to a countywide ballot measure or a
298 ballot measure affecting part of a county, excepting a municipal
299 ballot measure, shall file all reports required by this section in
300 the office of the circuit clerk of the county in which the
301 election occurs. The circuit clerk shall forward copies of all
302 reports to the Office of the Secretary of State.

303 (4) Candidates for municipal office, and every political
304 committee which makes reportable contributions to or expenditures
305 in support of or in opposition to a candidate for such office, or
306 makes reportable contributions to or expenditures in support of or
307 in opposition to a municipal ballot measure shall file all reports
308 required by this article in the office of the municipal clerk of
309 the municipality in which the election occurs. The municipal
310 clerk shall forward copies of all reports to the Office of the
311 Secretary of State.

312 (5) (a) The Secretary of State, the circuit clerks and the
313 municipal clerks shall make all reports received under this
314 subsection available for public inspection and copying and shall
315 preserve such reports for a period of five (5) years.

316 (b) No information copied from reports required to be
317 filed under this article shall be sold or used by any person for
318 the purpose of soliciting contributions or for commercial purposes
319 other than using the name and address of any political committee
320 to solicit contributions from the political committee. A
321 political committee may submit five (5) pseudonyms on each report
322 filed in order to protect against the illegal use of names and
323 addresses of contributors provided the committee attaches a list
324 of the pseudonyms to the appropriate report. The Secretary of
325 State shall exclude those lists from the public record.

326 * * *

327 **SECTION 5.** Section 23-15-807, Mississippi Code of 1972, is
328 amended as follows:

329 23-15-807. (1) Each candidate or political committee shall
330 file reports of contributions and disbursements in accordance with
331 the provisions of this section. All candidates or political
332 committees required to report may terminate its obligation to
333 report only upon submitting a final report that it will no longer
334 receive any contributions or make any disbursement and that such
335 candidate or committee has no outstanding debts or obligations.
336 The candidate, treasurer or chief executive officer shall sign
337 each such report.

338 (2) Candidates who are seeking election, or nomination for
339 election, and political committees that make expenditures for the
340 purpose of influencing or attempting to influence the action of
341 voters for or against the nomination for election, or election, of
342 one or more candidates or balloted measures at such election,
343 shall file the following reports:

344 (a) In any calendar year during which there is a
345 regularly scheduled election, a preelection report, which shall be
346 filed no later than the seventh day before any election in which
347 such candidate or political committee has accepted contributions
348 or made expenditures and which shall include all campaign finance
349 activity for the period beginning after the last appropriately
350 filed annual, periodic or preelection report and extending through
351 the tenth day before such election;

352 (b) In 1987 and every fourth year thereafter, periodic
353 reports, which shall be filed no later than the tenth day after
354 April 30, May 31, June 30, September 30 and December 31, and which
355 shall include all campaign finance activity for the period
356 beginning after the last appropriately filed annual, periodic or
357 preelection report and extending through the last day of each
358 period; and

359 (c) In any calendar years except 1987 and except every
360 fourth year thereafter, a report covering the calendar year which
361 shall be filed no later than January 31 of the following calendar
362 year.

363 (3) All candidates for judicial office as defined in Section
364 23-15-975, and political committees that make expenditures for the
365 purpose of influencing or attempting to influence the action of
366 voters for or against the election of one or more candidates for
367 judicial office, shall file in the year in which they are to be
368 elected, periodic reports which shall be filed no later than the
369 tenth day after April 30, May 31, June 30, September 30 and
370 December 31. These reports shall include all campaign finance
371 activity for the period beginning after the last appropriately
372 filed annual, periodic or preelection report and extending through
373 the last day of each period.

374 (4) * * * Each report under this article shall disclose:

375 (a) For the reporting period and the calendar year, the
376 total amount of all contributions and the total amount of all

377 expenditures of the candidate or reporting committee which shall
378 include those required to be identified pursuant to paragraph (b)
379 of this subsection (4) as well as the total of all other
380 contributions and expenditures during the calendar year. Such
381 reports shall be cumulative during the calendar year to which they
382 relate;

383 (b) The identification of:

384 (i) Each person or political committee who makes a
385 contribution to the reporting candidate or political committee
386 during the reporting period, whose contribution or contributions
387 within the calendar year have an aggregate amount or value in
388 excess of Two Hundred Dollars (\$200.00) together with the date and
389 amount of any such contribution;

390 (ii) Each person or organization, candidate or
391 political committee who receives an expenditure, payment or other
392 transfer from the reporting candidate, political committee or its
393 agent, employee, designee, contractor, consultant or other person
394 or persons acting in its behalf during the reporting period when
395 the expenditure, payment or other transfer to such person,
396 organization, candidate or political committee within the calendar
397 year have an aggregate value or amount in excess of Two Hundred
398 Dollars (\$200.00) together with the date and amount of such
399 expenditure;

400 (c) The total amount of cash on hand of each reporting
401 candidate and reporting political committee;

402 (d) In addition to the contents of reports specified in
403 paragraphs (a), (b) and (c) of this subsection (4), each political
404 party shall disclose:

405 (i) Each person or political committee who makes a
406 contribution to a political party during the reporting period and
407 whose contribution or contributions to a political party within
408 the calendar year have an aggregate amount or value in excess of

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

411 (ii) Each person or organization who receives an
412 expenditure by a political party or expenditures by a political
413 party during the reporting period when the expenditure or
414 expenditures to the person or organization within the calendar
415 year have an aggregate value or amount in excess of Two Hundred
416 Dollars (\$200.00), together with the date and amount of the
417 expenditure.

418 (5) The appropriate office specified in Section 23-15-805
419 must be in actual receipt of the reports specified in this article
420 by 5:00 p.m. on the dates specified in subsection (2) of this
421 section. If the date specified in subsection (2) of this section
422 shall fall on a weekend or legal holiday then the report shall be
423 due in the appropriate office at 5:00 p.m. on the first working
424 day before the date specified in subsection (2) of this section.
425 The reporting candidate or reporting political committee shall
426 ensure that the reports are delivered to the appropriate office by
427 the filing deadline. The Secretary of State may approve specific
428 means of electronic transmission of completed campaign finance
429 disclosure reports, which may include, but not be limited to,
430 transmission by electronic facsimile (FAX) devices.

431 (6) (a) If any contribution of more than Two Hundred
432 Dollars (\$200.00) is received by a candidate or candidate's
433 political committee after the tenth day, but more than forty-eight
434 (48) hours before 12:01 a.m. of the day of the election, the
435 candidate or political committee shall file a report with the
436 appropriate office designated in Section 23-15-805, within
437 forty-eight (48) hours of the receipt of any such contribution in
438 excess of Two Hundred Dollars (\$200.00). Multiple contributions
439 may be included in a single report if none of the reported
440 contributions was received more than forty-eight (48) hours before
441 the report is filed. The report shall include:

442 (i) The name of the receiving candidate;

443 (ii) The name of the receiving candidate's

444 political committee, if any;

445 (iii) The office sought by the candidate;

446 (iv) The identification of each person who made a

447 contribution required to be reported under this subsection;

448 (v) The date of receipt of each contribution

449 required to be reported under this subsection;

450 (vi) The amount of each contribution required to

451 be reported under this subsection;

452 (vii) If a contribution is in-kind, a description

453 of the in-kind contribution; * * *

454 (viii) The signature of the candidate or the

455 treasurer or director of the candidate's political committee; and

456 (xi) The total amount of all contributions

457 required to be reported under this subsection.

458 (b) The report required by this subsection shall be in

459 writing, and may be transmitted by overnight mail, courier

460 service, or other reliable means, including electronic facsimile

461 (FAX), but the candidate or candidate's committee shall ensure

462 that the report shall in fact be received in the appropriate

463 office designated in Section 23-15-805 within forty-eight (48)

464 hours of the contribution.

465 (c) The filing of reports required by this subsection

466 does not relieve the candidate of the responsibility of including

467 the contributions contained in the report in the next report

468 required to be filed under subsection (2) of this section.

469 (7) (a) In addition to the information required to be

470 disclosed in subsection (4) of this section, candidates shall

471 disclose:

472 (i) The identity of any individual or entity from

473 which the candidate receives a loan or other extension of credit

474 for use in his campaign or in furtherance of any campaign
475 activities;

476 (ii) The identity of any individual or entity
477 which assumes, in whole or in part, such loan or other extension
478 of credit;

479 (iii) The identity of any individual or entity to
480 which such loan or other extension of credit has been assigned or
481 otherwise transferred, in whole or in part, by contract, purchase,
482 operation of law or otherwise;

483 (iv) The identity of all creditors, cosigners,
484 guarantors, assignees or other parties to such loan, extension of
485 credit, assumption, assignment or related transaction;

486 (v) How such loan or other extension of credit was
487 utilized; and

488 (vi) All details concerning repayment of the loan
489 or extension of credit including, but not limited to, the time of
490 the repayments, the method of repayments, the amount of repayments
491 and sources of repayments and the identity of the individuals
492 involved in the repayment.

493 (b) Candidates shall also file certified copies of all
494 documents related to the loans, extensions of credit, assumptions,
495 assignments or transactions required to be reported or identified
496 by this subsection.

497 **SECTION 6.** Section 23-15-809, Mississippi Code of 1972, is
498 amended as follows:

499 23-15-809. (1) Every person who makes or contracts to make
500 independent expenditures in an aggregate amount or value in excess
501 of Two Hundred Dollars (\$200.00) during a calendar year shall file
502 a statement within forty-eight (48) hours of making or contracting
503 to make an independent expenditure. The statement shall be filed
504 with the appropriate offices as provided for in Section 23-15-805,
505 and such person shall be considered a political committee for the
506 purpose of determining place of filing.

507 (2) Statements required to be filed under this subsection by
508 a political committee shall include:

509 (a) The name and address of each person who receives
510 any disbursement during the reporting period in an aggregate
511 amount or value in excess of Two Hundred Dollars (\$200.00) within
512 the calendar year;

513 (b) The date, amount and purpose of the expenditure;

514 (c) A statement indicating whether the independent
515 expenditure is in support of, or in opposition to, a candidate,
516 and the office sought by the candidate; and

517 (d) * * * A certification, under penalty of
518 prosecution, of whether * * * the independent expenditure is made
519 in cooperation, consultation or concert with, or at the request or
520 suggestion of, any candidate or any authorized committee or agent
521 of such candidate.

522 (3) Statements required to be filed under this subsection by
523 persons other than a political committee shall include:

524 (a) The name and address of each person who makes a
525 contribution for the purpose of furthering an independent
526 expenditure to the person filing the statement during the
527 reporting period whose contribution during the calendar year has
528 an aggregate amount or value in excess of Two Hundred Dollars
529 (\$200.00) together with the date and amount of such contribution;

530 (b) The name and address of each person who receives
531 any disbursement during the reporting period in an aggregate
532 amount or value in excess of Two Hundred Dollars (\$200.00) within
533 the calendar year;

534 (c) The date, amount and purpose of any independent
535 expenditure;

536 (d) A statement indicating whether the independent
537 expenditure is in support of, or in opposition to, a candidate,
538 and the office sought by the candidate; and

539 (e) A certification, under penalty of prosecution, of
540 whether the independent expenditure is made in cooperation,
541 consultation or concert with, or at the request or suggestion of,
542 any candidate or any authorized committee or agent of such
543 candidate.

544 **SECTION 7.** Section 23-15-811, Mississippi Code of 1972, is
545 amended as follows:

546 23-15-811. (1) Any candidate or any other person who * * *
547 willfully * * * and substantially violates the provisions and
548 prohibitions of this article shall be guilty of a misdemeanor and
549 upon conviction thereof shall be punished by a fine in an amount
550 not to exceed Three Thousand Dollars (\$3,000.00) or imprisoned for
551 not longer than six (6) months, or by both * * *.

552 (2) In addition to the penalties provided in subsection (1)
553 of this section, any candidate or political committee which is
554 required to file a statement or report which fails to file such
555 statement or report on the date in which it is due may be
556 compelled to file such statement or report by an action in the
557 nature of a mandamus.

558 (3) No candidate shall be certified as nominated for
559 election or as elected to office unless and until he files all
560 reports required by this article that are due as of the date of
561 certification.

562 (4) No candidate who is elected to office shall receive any
563 salary or other remuneration for the office unless and until he
564 files all reports required by this article that are due as of the
565 date such salary or remuneration is payable.

566 (5) In the event that a candidate fails to timely file any
567 report required pursuant to this article but subsequently files a
568 report or reports containing all of the information required to be
569 reported by him as of the date on which the sanctions of
570 subsections (3) and (4) of this section would be applied to him,

571 such candidate shall not be subject to the sanctions of
572 subsections (3) and (4) of this section.

573 (6) Prosecutions under this section may be commenced by a
574 district attorney or the Attorney General; however, the Attorney
575 General shall prosecute violations of this article upon
576 recommendation of the State Board of Election Commissioners.

577 **SECTION 8.** Section 23-15-813, Mississippi Code of 1972, is
578 amended as follows:

579 23-15-813. (1) In addition to any other penalty permitted
580 by law, the Secretary of State shall require any person * * * who
581 fails to file a campaign finance disclosure report as required
582 under Sections 23-15-801 through 23-15-813, or Sections 23-17-47
583 through 23-17-53, or who shall file a report which fails to
584 substantially comply with the requirements of Sections 23-15-801
585 through 23-15-813, or Sections 23-17-47 through 23-17-53, to be
586 assessed a civil penalty as follows:

587 (a) Within five (5) calendar days after any deadline
588 for filing a report pursuant to Sections 23-15-801 through
589 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
590 State shall compile a list of those persons who have failed to
591 file a report. The Secretary of State shall provide each person,
592 who has failed to file a report, notice of the failure by
593 first-class mail.

594 (b) Beginning with the tenth calendar day after which
595 any report shall be due, the Secretary of State shall assess the
596 delinquent person a civil penalty of Fifty Dollars (\$50.00) for
597 each day or part of any day until a valid report is delivered to
598 the Secretary of State, up to a maximum of ten (10) days.
599 However, in the discretion of the Secretary of State, the
600 assessing of the fine may be waived in whole or in part if the
601 Secretary of State determines that unforeseeable mitigating
602 circumstances, such as the health of a candidate or other
603 individual required to file a report, interfered with timely

604 filing of a report. Failure of a person to receive notice of
605 failure to file a report from the Secretary of State is not an
606 unforeseeable mitigating circumstance, and failure to receive the
607 notice shall not result in removal or reduction of any assessed
608 civil penalty.

609 (c) Filing of the required report and payment of the
610 fine within ten (10) calendar days of notice by the Secretary of
611 State that a required statement has not been filed, constitutes
612 compliance with Sections 23-15-801 through 23-15-813, or Sections
613 23-17-47 through 23-17-53.

614 (d) Payment of the fine without filing the required
615 report does not in any way excuse or exempt any person required to
616 file from the filing requirements of Sections 23-15-801 through
617 23-15-813, and Sections 23-17-47 through 23-17-53.

618 (e) If any person is assessed a civil penalty, and the
619 penalty is not subsequently waived by the Secretary of State, the
620 person shall pay the fine to the Secretary of State within ninety
621 (90) days of the date of the assessment of the fine. If, after
622 one hundred twenty (120) days of the assessment of the fine the
623 payment for the entire amount of the assessed fine has not been
624 received by the Secretary of State, the Secretary of State shall
625 notify the Attorney General of the delinquency, and the Attorney
626 General shall file, where necessary, a suit to compel payment of
627 the civil penalty.

628 (2) (a) Upon the sworn application, made within sixty (60)
629 calendar days of the date upon which the required report is due,
630 of a person identified in subsection (1) of this section against
631 whom a civil penalty has been assessed pursuant to subsection (1)
632 of this section, the Secretary of State shall forward the
633 application to the State Board of Election Commissioners. The
634 State Board of Election Commissioners shall appoint one or more
635 hearing officers who shall be former chancellors, circuit court
636 judges, judges of the Court of Appeals or justices of the Supreme

637 Court, and who shall conduct hearings held pursuant to this
638 article. The hearing officer shall fix a time and place for a
639 hearing and shall cause a written notice specifying the civil
640 penalties that have been assessed against the person and notice of
641 the time and place of the hearing to be served upon the person at
642 least twenty (20) calendar days before the hearing date. The
643 notice may be served by mailing a copy thereof by certified mail,
644 postage prepaid, to the last known * * * address of the person.

645 (b) The hearing officer may issue subpoenas for the
646 attendance of witnesses and the production of books and papers at
647 the hearing. Process issued by the hearing officer shall extend
648 to all parts of the state and shall be served by any person
649 designated by the hearing officer for the service.

650 (c) The person has the right to appear either
651 personally, by counsel or both, to produce witnesses or evidence
652 in his behalf, to cross-examine witnesses and to have subpoenas
653 issued by the hearing officer.

654 (d) At the hearing, the hearing officer shall
655 administer oaths as may be necessary for the proper conduct of the
656 hearing. All hearings shall be conducted by the hearing officer,
657 who shall not be bound by strict rules of procedure or by the laws
658 of evidence in the conduct of the proceedings, but the
659 determination shall be based upon sufficient evidence to sustain
660 it. The scope of review at the hearing shall be limited to making
661 a determination of whether failure to file a required report was
662 due to an unforeseeable mitigating circumstance.

663 (e) Where, in any proceeding before the hearing
664 officer, any witness fails or refuses to attend upon a subpoena
665 issued by the commission, refuses to testify, or refuses to
666 produce any books and papers the production of which is called for
667 by a subpoena, the attendance of the witness, the giving of his
668 testimony or the production of the books and papers shall be
669 enforced by any court of competent jurisdiction of this state in

670 the manner provided for the enforcement of attendance and
671 testimony of witnesses in civil cases in the courts of this state.

672 (f) Within fifteen (15) calendar days after conclusion
673 of the hearing, the hearing officer shall reduce his or her
674 decision to writing and forward an attested true copy of the
675 decision to the last known business address of the person by way
676 of United States first-class, certified mail, postage prepaid.

677 (3) (a) The right to appeal from the decision of the
678 hearing officer in an administrative hearing concerning the
679 assessment of civil penalties authorized pursuant to this section
680 is granted. The appeal shall be to the Circuit Court of Hinds
681 County and shall include a verbatim transcript of the testimony at
682 the hearing. The appeal shall be taken within thirty (30)
683 calendar days after notice of the decision of the commission
684 following an administrative hearing. The appeal shall be
685 perfected upon filing notice of the appeal and by the prepayment
686 of all costs, including the cost of the preparation of the record
687 of the proceedings by the hearing officer, and the filing of a
688 bond in the sum of Two Hundred Dollars (\$200.00), conditioned that
689 if the decision of the hearing officer be affirmed by the court,
690 the person will pay the costs of the appeal and the action in
691 court. If the decision is reversed by the court, the Secretary of
692 State will pay the costs of the appeal and the action in court.

693 (b) If there is an appeal, the appeal shall act as a
694 supersedeas. The court shall dispose of the appeal and enter its
695 decision promptly. The hearing on the appeal may be tried in
696 vacation, in the court's discretion. The scope of review of the
697 court shall be limited to a review of the record made before the
698 hearing officer to determine if the action of the hearing officer
699 is unlawful for the reason that it was (i) not supported by
700 substantial evidence, (ii) arbitrary or capricious, (iii) beyond
701 the power of the hearing officer to make, or (iv) in violation of
702 some statutory or constitutional right of the appellant. The

703 decision of the court may be appealed to the Supreme Court in the
704 manner provided by law.

705 (4) If, after forty-five (45) calendar days of the date of
706 the administrative hearing procedure set forth in subsection (2)
707 of this section, the person identified in subsection (1) of this
708 section fails to pay the monetary civil penalty imposed by the
709 hearing officer, the Secretary of State shall notify the Attorney
710 General of the delinquency. The Attorney General shall
711 investigate the offense in accordance with the provisions of this
712 chapter, and where necessary, file suit to compel payment of the
713 unpaid civil penalty.

714 (5) If, after twenty (20) calendar days of the date upon
715 which a campaign finance disclosure report is due, a person
716 identified in subsection (1) of this section shall not have filed
717 a valid report with the Secretary of State, the Secretary of State
718 shall notify the Attorney General of those persons who have not
719 filed a valid report, and the Attorney General shall thereupon
720 prosecute the delinquent candidates and political committees.

721 **SECTION 9.** Section 97-13-15, Mississippi Code of 1972, is
722 amended as follows:

723 97-13-15. It shall be unlawful for any corporation,
724 incorporated company, incorporated association, limited
725 partnership, limited liability partnership or manager-managed
726 limited liability company, by whatever name it may be known,
727 incorporated or organized under the laws of this state, or doing
728 or conducting business in this state, or for any servant, agent,
729 employee or officer thereof, to give, donate, appropriate or
730 furnish directly or indirectly, any money, security, funds or
731 property of such a corporation, incorporated company, incorporated
732 association, limited partnership, limited liability partnership or
733 manager-managed limited liability company, in excess of Two
734 Thousand Dollars (\$2,000.00) per calendar year for the purpose of
735 aiding any political party or any candidate for any public office,

736 or any candidate for any nomination for any public office, * * *
737 or any representative or committee of any political party or
738 candidate for nomination by any political party, or any committee
739 or other person acting on behalf of such candidate. * * *

740 **SECTION 10.** Section 23-15-817, Mississippi Code of 1972, is
741 amended as follows:

742 23-15-817. The Secretary of State shall compile a list of
743 all candidates for the Legislature or any statewide office who
744 fail to file a campaign disclosure report by the dates specified
745 in Section 23-15-807(2); the list shall be disseminated to the
746 members of the Mississippi Press Association within two (2)
747 working days after such reports are due and made available to the
748 public.

749 **SECTION 11.** Section 97-13-17, Mississippi Code of 1972, is
750 amended as follows:

751 97-13-17. Any corporation, incorporated company or
752 incorporated association, limited partnership, limited liability
753 partnership or manager-managed limited liability company or agent,
754 officer or employee violating any of the provisions of Section
755 97-13-15 shall, upon conviction, be fined not less than One
756 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
757 (\$5,000.00).

758 **SECTION 12.** Section 23-15-1023, Mississippi Code of 1972,
759 which provides that judicial candidates shall disclose information
760 about certain loans, is repealed.

761 **SECTION 13.** The Attorney General of the State of Mississippi
762 shall submit this act, immediately upon approval by the Governor,
763 or upon approval by the Legislature subsequent to a veto, to the
764 Attorney General of the United States or to the United States
765 District Court for the District of Columbia in accordance with the
766 provisions of the Voting Rights Act of 1965, as amended and
767 extended.

768 **SECTION 14.** This act shall take effect and be in force from
769 and after the date it is effectuated under Section 5 of the Voting
770 Rights Act of 1965, as amended and extended.