

House Amendments to Senate Bill No. 2858

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

59 23-15-802. (1) Contributions to a named candidate made to a
60 political committee authorized by the candidate to accept
61 contributions on the candidate's behalf, shall be considered to be
62 contributions made to the candidate.

63 (2) Expenditures made by any person, other than the
64 candidate or his authorized committee or agent, in cooperation,
65 consultation or concert with, or at the request or suggestion of a
66 candidate, an authorized committee or agent of such candidate,
67 shall be considered to be a contribution made to the candidate.

68 (3) The financing of the dissemination, distribution or
69 republication, in whole or in part, of any broadcast or any
70 written, graphic or other form of campaign materials prepared by
71 the candidate, an authorized committee or agent of the candidate,
72 shall be considered to be an expenditure for, and a contribution
73 to, the candidate.

74 (4) If any person, other than the candidate or his
75 authorized committee or agent, makes or contracts to make any
76 disbursement for any electioneering communication, and the
77 disbursement is coordinated with a candidate or any authorized
78 committee or agent of the candidate, such disbursement or contract
79 shall be considered to be a contribution to the candidate
80 supported by the electioneering communication and as an
81 expenditure by the candidate.

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

84 23-15-808. (1) Every person who makes a disbursement for
85 the direct costs of producing and airing electioneering
86 communications in an aggregate amount in excess of Two Hundred
87 Dollars (\$200.00) during any calendar year, shall, within
88 forty-eight (48) hours of each disclosure date, file with the
89 appropriate offices as provided for in Section 23-15-805 (such
90 person shall be considered a political committee for determining
91 the place of filing), a statement made under penalty of perjury
92 containing the following:

93 (a) The identity of:

94 (i) The person making the disbursement;

95 (ii) Any person sharing or exercising discretion or
96 control over the activities of the person making the disbursement;
97 and

98 (iii) The custodian of the books and accounts of
99 the person making the disbursement;

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

102 (c) The amount of each disbursement of more than Two
103 Hundred Dollars (\$200.00) made during the period covered by the
104 statement and the identity of the person to whom the disbursement
105 was made;

106 (d) The elections to which the electioneering
107 communication pertains and the names, if known, of the candidates
108 to whom the communication refers;

109 (e) If the disbursements were paid out of a segregated
110 bank account, the names and addresses of all contributors who
111 contributed an aggregate amount in excess of Two Hundred Dollars
112 (\$200.00) to the account during the period beginning on the first
113 day of the preceding calendar year and ending on the disclosure
114 date; and

115 (f) If the disbursements were paid out of funds not
116 covered by paragraph (e) of this subsection, the names and

addresses of all persons who contributed an aggregate amount in excess of Two Hundred Dollars (\$200.00) to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

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

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

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

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

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

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

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

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

(c) "Political committee" means any committee, party, club, association, political action committee, campaign committee or other groups of persons or affiliated organizations which

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

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

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

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

(f) (i) "Expenditure" includes:

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

187 person or political committee for the purpose of influencing any
188 balloted measure or election for elective office;

189 2. A written contract, promise, or agreement
190 to make an expenditure; and

191 3. A written contract, promise or agreement
192 to make an expenditure.

193 (ii) "Expenditure" does not include:

194 1. Any news story, commentary or editorial
195 distributed through the facilities of any broadcasting station,
196 newspaper, magazine, or other periodical publication, unless such
197 facilities are owned or controlled by any political party,
198 political committee, or candidate; or

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

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

203 1. Any purchase, payment, distribution, loan,
204 advance, deposit, gift of money or anything of value, made by any
205 political party and by any contractor, subcontractor, agent, and
206 consultant to the political party; and

207 2. A written contract, promise, or agreement
208 to make such an expenditure.

209 (g) The term "identification" means:

210 (i) In the case of any individual, the name, the
211 mailing address, and the occupation of such individual, as well as
212 the name of his or her employer; and

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

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

219 (i) * * * "Person" shall mean any individual, family,
220 firm, committee, corporation, partnership, association, political
221 committee or other legal entity.

222 (j) * * * "Independent expenditure" means an
223 expenditure by a person expressly advocating the election or
224 defeat of a clearly identified candidate * * * and which is not
225 made in concert with or at the request or suggestion of any
226 candidate, any authorized committee of the candidate or the agent
227 of the candidate or committee or a political party committee or
228 its agents.

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

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

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

233 (iii) The identity of the candidate is apparent by
234 unambiguous reference.

235 (m) (i) "Electioneering communication" means any
236 broadcast, cable or satellite communication which refers to a
237 clearly identified candidate for state or local office and is
238 made:

239 1. Within sixty (60) days before a general,
240 special or runoff election for the office sought by the candidate;
241 or

242 2. Thirty (30) days before a primary election
243 for the office sought by the candidate; and is targeted at the
244 relevant electorate.

245 (ii) The term "electioneering communication" does
246 not include:

247 1. A communication appearing in a news story,
248 commentary or editorial distributed through the facilities of any
249 broadcasting station, unless such facilities are owned or
250 controlled by any political committee or candidate;

251 2. A communication which constitutes an
252 independent expenditure;

253 3. A communication which constitutes a
254 candidate debate or forum or which solely promotes the candidate
255 debate or forum and is made by or on behalf of the person
256 sponsoring the debate; or

257 4. Nonpartisan activity designed to encourage
258 individuals to vote or register to vote and does not refer to a
259 clearly identified candidate for state or local office.

260 (iii) An electioneering communication is targeted
261 at the relevant electorate if the communication:

262 1. Refers to a clearly identified candidate;
263 and

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

267 (n) "Disclosure date" means:

268 (i) The first date during any calendar year by
269 which a person has made disbursement for the direct costs of
270 producing or airing electioneering communications aggregating in
271 excess of Two Hundred Dollars (\$200.00); and

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

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

279 23-15-805. (1) Candidates for state, state district, and
280 legislative district offices, and every political committee, which
281 makes reportable contributions to or expenditures in support of or
282 in opposition to a candidate for any such office or makes
283 reportable contributions to or expenditures in support of or in
284 opposition to a statewide ballot measure, shall file all reports
285 required under this article with the Office of the Secretary of
286 State.

287 (2) (a) From and after January 1, 2007, all candidates,
288 their authorized committees or agents and other political
289 committees that receive contributions in excess of Fifty Thousand
290 Dollars (\$50,000.00) in any calendar years, shall file the reports
291 required to be filed under this article with the Office of the

Secretary of State by electronic format and shall refile all previously filed reports required to be filed under this article with the Secretary of State by electronic format.

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

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

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

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

* * *

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

328 23-15-807. (1) Each candidate or political committee shall
329 file reports of contributions and disbursements in accordance with
330 the provisions of this section. All candidates or political
331 committees required to report may terminate its obligation to
332 report only upon submitting a final report that it will no longer
333 receive any contributions or make any disbursement and that such
334 candidate or committee has no outstanding debts or obligations.
335 The candidate, treasurer or chief executive officer shall sign
336 each such report.

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

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

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

358 (c) In any calendar years except 1987 and except every
359 fourth year thereafter, a report covering the calendar year which

shall be filed no later than January 31 of the following calendar year.

(3) All candidates for judicial office as defined in Section 23-15-975, or their political committees, shall file in the year in which they are to be elected, periodic reports which shall be filed no later than the tenth day after April 30, May 31, June 30, September 30 and December 31. These reports shall include all campaign finance activity for the period beginning after the last appropriately filed annual, periodic or preelection report and extending through the last day of each period.

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

(a) For the reporting period and the calendar year, the total amount of all contributions and the total amount of all expenditures of the candidate or reporting committee which shall include those required to be identified pursuant to paragraph (b) of this subsection (4) as well as the total of all other contributions and expenditures during the calendar year. Such reports shall be cumulative during the calendar year to which they relate;

(b) The identification of:

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

(ii) Each person or organization, candidate or political committee who receives an expenditure, payment or other transfer from the reporting candidate, political committee or its agent, employee, designee, contractor, consultant or other person or persons acting in its behalf during the reporting period when the expenditure, payment or other transfer to such person, organization, candidate or political committee within the calendar year have an aggregate value or amount in excess of Two Hundred

394 Dollars (\$200.00) together with the date and amount of such
395 expenditure;

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

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

401 (i) Each person or political committee who makes a
402 contribution to a political party during the reporting period and
403 whose contribution or contributions to a political party within
404 the calendar year have an aggregate amount or value in excess of
405 Two Hundred Dollars (\$200.00), together with the date and amount
406 of the contribution;

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

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

427 (6) (a) If any contribution of more than Two Hundred
428 Dollars (\$200.00) is received by a candidate or candidate's

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

- (i) The name of the receiving candidate;
- (ii) The name of the receiving candidate's political committee, if any;
- (iii) The office sought by the candidate;
- (iv) The identification of each person who made a contribution required to be reported under this subsection;
- (v) The date of receipt of each contribution required to be reported under this subsection;
- (vi) The amount of each contribution required to be reported under this subsection;
- (vii) If a contribution is in-kind, a description of the in-kind contribution; * * *
- (viii) The signature of the candidate or the treasurer or director of the candidate's political committee; and
- (xi) The total amount of all contributions required to be reported under this subsection.

(b) The report required by this subsection shall be in writing, and may be transmitted by overnight mail, courier service, or other reliable means, including electronic facsimile (FAX), but the candidate or candidate's committee shall ensure that the report shall in fact be received in the appropriate office designated in Section 23-15-805 within forty-eight (48) hours of the contribution.

(c) The filing of reports required by this subsection does not relieve the candidate of the responsibility of including

the contributions contained in the report in the next report
required to be filed under subsection (2) of this section.

(7) (a) In addition to the information required to be
disclosed in subsection (4) of this section, candidates shall
disclose:

(i) The identity of any individual or entity from
which the candidate receives a loan or other extension of credit
for use in such candidate's campaign or in furtherance of any
campaign activities;

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

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

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

(v) The identity of a person who guarantees a
personal loan to a candidate when any proceeds from such personal
loan are used by the candidate in such candidate's campaign or in
furtherance of such candidate's campaign activities;

(vi) How such loan or other extension of credit
was utilized; and

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

(b) Candidates shall also file certified copies of all
documents related to the loans, extensions of credit, assumptions,
assignments or transactions required to be reported or identified
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 perjury, of
518 whether * * * the independent expenditure is made in cooperation,
519 consultation or concert with, or at the request or suggestion of,
520 any candidate or any authorized committee or agent of such
521 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

amount or value in excess of Two Hundred Dollars (\$200.00) within the calendar year;

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

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

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

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

23-15-811. (1) Any candidate or any other person who willfully * * * violates the provisions and prohibitions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed Ten Thousand Dollars (\$10,000.00) or imprisoned for not longer than one (1) year, or by both * * *.

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

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

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

(5) In the event that a candidate fails to timely file any report required pursuant to this article but subsequently files a report or reports containing all of the information required to be reported by him as of the date on which the sanctions of subsections (3) and (4) of this section would be applied to him, such candidate shall not be subject to the sanctions of subsections (3) and (4) of this section.

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

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

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

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

failure to file a report from the Secretary of State is not an unforeseeable mitigating circumstance, and failure to receive the notice shall not result in removal or reduction of any assessed civil penalty.

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

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

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

(2) (a) Upon the sworn application, made within sixty (60) calendar days of the date upon which the required report is due, of a person identified in subsection (1) of this section against whom a civil penalty has been assessed pursuant to subsection (1) of this section, the Secretary of State shall forward the application to the State Board of Election Commissioners. The State Board of Election Commissioners shall appoint one or more hearing officers who shall be former chancellors, circuit court judges, judges of the Court of Appeals or justices of the Supreme Court, and who shall conduct hearings held pursuant to this article. The hearing officer shall fix a time and place for a hearing and shall cause a written notice specifying the civil

penalties that have been assessed against the person and notice of the time and place of the hearing to be served upon the person at least twenty (20) calendar days before the hearing date. The notice may be served by mailing a copy thereof by certified mail, postage prepaid, to the last known business address of the person.

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

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

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

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

(f) Within fifteen (15) calendar days after conclusion of the hearing, the hearing officer shall reduce his or her decision to writing and forward an attested true copy of the

671 decision to the last known business address of the person by way
672 of United States first-class, certified mail, postage prepaid.

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

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

701 (4) If, after forty-five (45) calendar days of the date of
702 the administrative hearing procedure set forth in subsection (2)
703 of this section, the person identified in subsection (1) of this
704 section fails to pay the monetary civil penalty imposed by the
705 hearing officer, the Secretary of State shall notify the Attorney

General of the delinquency. The Attorney General shall investigate the offense in accordance with the provisions of this chapter, and where necessary, file suit to compel payment of the unpaid civil penalty.

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

SECTION 9. Section 23-15-1021, Mississippi Code of 1972, is amended as follows:

23-15-1021. (1) It shall be unlawful for any individual or political action committee not affiliated with a political party to give, donate, appropriate or furnish directly or indirectly, any money, security, funds or property in excess of Two Thousand Five Hundred Dollars (\$2,500.00) for the purpose of aiding any candidate or candidate's political committee for judge of a county, circuit or chancery court or in excess of Five Thousand Dollars (\$5,000.00) for the purpose of aiding any candidate or candidate's political committee for judge of the Court of Appeals or justice of the Supreme Court, or to give, donate, appropriate or furnish directly or indirectly, any money, security, funds or property in excess of Two Thousand Five Hundred Dollars (\$2,500.00) to any candidate or the candidate's political committee for judge of a county, circuit or chancery court or in excess of Five Thousand Dollars (\$5,000.00) for the purpose of aiding any candidate or candidate's political committee for judge of the Court of Appeals or justice of the Supreme Court, as a contribution to the expense of a candidate for judicial office.

(2) It shall be unlawful for any for-profit business entity, whose owners directly control the entity's actions, and such an entity's members, to give, donate, appropriate or furnish directly or indirectly any money, security, funds or property to judicial

candidates in an aggregate amount in excess of the amount which
the owners could lawfully contribute to the persons if each gave
the maximum amount allowed by law.

SECTION 10. Section 97-13-15, Mississippi Code of 1972, is amended as follows:

97-13-15. It shall be unlawful for any corporation, incorporated company, incorporated association, limited partnership, limited liability partnership or manager-managed limited liability company, by whatever name it may be known, incorporated or organized under the laws of this state, or doing or conducting business in this state, or for any servant, agent, employee or officer thereof, to give, donate, appropriate or furnish directly or indirectly, any money, security, funds or property of such a corporation, incorporated company, incorporated association, limited partnership, limited liability partnership or manager-managed limited liability company, in excess of Two Thousand Dollars (\$2,000.00) per calendar year for the purpose of aiding any political party or any candidate for any public office, or any person for any nomination for any public office, or any representative or committee of any political party or person for nomination by any political party, or any committee or other person acting on behalf of such candidate. * * *

SECTION 11. Section 23-15-817, Mississippi Code of 1972, is amended as follows:

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

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

775 **SECTION 13.** No political committee shall make contributions
776 to any other political committee, other than a political committee
777 authorized to accept contributions on a candidate's behalf, in any
778 calendar year which, in the aggregate, exceeds Five Thousand
779 Dollars (\$5,000.00).

780 **SECTION 14.** The provisions of Sections 23-15-801 through
781 23-15-817 are severable, and, if any of its provisions shall be
782 held unconstitutional by any court of competent jurisdiction, the
783 decision of such court shall not affect, impair or abrogate any of
784 the remaining provisions, but the remaining provisions thereof
785 shall be and remain in full force and effect without regard to
786 that phrase, clause or portion invalidated.

787 **SECTION 15.** Section 97-13-17, Mississippi Code of 1972, is
788 amended as follows:

789 97-13-17. Any corporation, trust, incorporated company or
790 incorporated association, limited partnership, limited liability
791 partnership or manager or manager-managed limited liability
792 company, or agent, officer or employee violating any of the
793 provisions of Section 97-13-15 shall, upon conviction, be fined
794 not less than One Thousand Dollars (\$1,000.00) nor more than Five
795 Thousand Dollars (\$5,000.00).

796 **SECTION 16.** The Attorney General of the State of Mississippi
797 shall submit this act, immediately upon approval by the Governor,
798 or upon approval by the Legislature subsequent to a veto, to the
799 Attorney General of the United States or to the United States
800 District Court for the District of Columbia in accordance with the
801 provisions of the Voting Rights Act of 1965, as amended and
802 extended.

803 **SECTION 17.** This act shall take effect and be in force from
804 and after the date it is effectuated under Section 5 of the Voting
805 Rights Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 \$200.00 SHALL FILE A STATEMENT REGARDING SUCH
16 DISBURSEMENT WITHIN 48 HOURS OF THE DISCLOSURE DATE AND TO PROVIDE
17 FOR THE INFORMATION THAT MUST BE INCLUDED IN THE STATEMENT; TO
18 AMEND SECTIONS 23-15-801, 23-15-805, 23-15-807, 23-15-809,
19 23-15-811 AND 23-15-813, MISSISSIPPI CODE OF 1972, TO DEFINE THE
20 TERMS "ELECTIONEERING COMMUNICATION" AND "DISCLOSURE DATE" AND
21 REVISE THE DEFINITION OF CERTAIN TERMS IN THE CAMPAIGN FINANCE
22 DISCLOSURE LAWS; TO REQUIRE, FROM AND AFTER JANUARY 1, 2007,
23 CERTAIN CANDIDATES TO FILE THE REPORTS REQUIRED TO BE FILED WITH
24 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 SUCH
29 CANDIDATE'S CAMPAIGN; TO REQUIRE STATEMENTS REGARDING CERTAIN
30 INDEPENDENT CAMPAIGN EXPENDITURES TO BE FILED WITHIN 48 HOURS AND
31 TO REVISE THE INFORMATION REQUIRED TO BE INCLUDED IN SUCH
32 STATEMENTS; TO REVISE THE ELEMENTS NECESSARY FOR A CONVICTION OF A
33 VIOLATION OF THE CAMPAIGN FINANCE LAWS; TO CLARIFY UPON WHOM
34 ADMINISTRATIVE PENALTIES UNDER THE CAMPAIGN FINANCE LAW MAY APPLY;
35 TO AMEND SECTION 23-15-1021, MISSISSIPPI CODE OF 1972, TO MAKE IT
36 UNLAWFUL FOR ANY FOR-PROFIT BUSINESS ENTITY WHOSE OWNERS DIRECTLY
37 CONTROL THE ENTITY'S ACTIONS TO CONTRIBUTE MONEY TO JUDICIAL
38 CANDIDATES IN EXCESS OF THE AMOUNT THE OWNERS COULD LAWFULLY
39 CONTRIBUTE TO THE CANDIDATES IF EACH GAVE THE MAXIMUM AMOUNT
40 ALLOWED BY LAW; TO AMEND SECTION 97-13-15, MISSISSIPPI CODE OF
41 1972, TO INCREASE TO \$2,000.00 THE AMOUNT THAT CORPORATIONS MAY
42 CONTRIBUTE TO POLITICAL CAMPAIGNS IN A CALENDAR YEAR AND TO PLACE
43 INCORPORATED ASSOCIATIONS, LIMITED PARTNERSHIPS, LIMITED LIABILITY
44 PARTNERSHIPS OR MANAGER-MANAGED LIMITED LIABILITY COMPANIES UNDER
45 SUCH RESTRICTION; TO AMEND SECTION 23-15-817, MISSISSIPPI CODE OF
46 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 23-15-1023,
47 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT JUDICIAL CANDIDATES
48 SHALL DISCLOSE CERTAIN INFORMATION ABOUT CERTAIN LOANS; TO
49 PROHIBIT A POLITICAL COMMITTEE FROM MAKING A CONTRIBUTION TO
50 ANOTHER POLITICAL COMMITTEE WITHIN ANY CALENDAR YEAR IN WHICH THE
51 CONTRIBUTION EXCEEDS \$5,000.00; TO PROVIDE A SEVERABILITY CLAUSE
52 FOR PROVISIONS WHICH MAY BE HELD UNCONSTITUTIONAL; TO AMEND
53 SECTION 97-13-17, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES
54 FOR VIOLATIONS OF THE PRECEDING SECTIONS; AND FOR RELATED
55 PURPOSES.

HR07\SB2858A.J

Don Richardson
Clerk of the House of Representatives