

By: Representatives Turner, Arnold, Bell, Carpenter, DeBar, McLeod, Monsour, Patterson, Pigott, Rogers (61st), Staples, Taylor, Weathersby, Kinkade, Haney, Willis, Jennings, Hamilton, Barker, Miles

To: Accountability, Efficiency, Transparency

HOUSE BILL NO. 825
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-9-120, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MEMBERSHIP OF THE PERSONAL SERVICE CONTRACT REVIEW
3 BOARD; TO PROHIBIT ANY PERSON, EMPLOYEE OR OWNER OF A COMPANY THAT
4 RECEIVES ANY GRANTS, PROCUREMENTS OR CONTRACTS SUBJECT TO APPROVAL
5 UNDER THIS SECTION FROM BEING APPOINTED TO THE PERSONAL SERVICE
6 CONTRACT REVIEW BOARD; TO REMOVE CERTAIN EXEMPTIONS OF PERSONAL
7 SERVICES CONTRACTS FROM BOARD REVIEW; TO REDUCE THE THRESHOLD
8 AMOUNT OF EXPENDITURE IN CONTRACTS THAT REQUIRE APPROVAL BY THE
9 BOARD; TO REQUIRE CERTAIN REPORTS TO BE SUBMITTED TO THE CHAIRMEN
10 OF THE ACCOUNTABILITY, EFFICIENCY AND TRANSPARENCY COMMITTEES OF
11 THE SENATE AND HOUSE OF REPRESENTATIVES; TO AUTHORIZE AND DIRECT
12 THE PERSONAL SERVICE CONTRACT REVIEW BOARD TO DEVELOP AND ISSUE
13 REGULATIONS TO DEFINE STANDARDS FOR CONTRACT EMPLOYEES THAT ARE IN
14 CONFORMITY WITH FEDERAL INTERNAL REVENUE SERVICE REGULATIONS; TO
15 REQUIRE CERTAIN RECORDKEEPING FOR ALL SOLE SOURCE PROCUREMENTS FOR
16 PERSONAL AND PROFESSIONAL SERVICES; TO CREATE A NEW SECTION
17 REQUIRING THE PEER COMMITTEE TO EVALUATE ON A BIENNIAL BASIS THE
18 PROCUREMENT PROCESS UTILIZED BY ALL STATE AGENCIES; TO AMEND
19 SECTION 25-1-100, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
20 CONTRACTS FOR PERSONAL AND PROFESSIONAL SERVICES AWARDED OR
21 EXECUTED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES AND
22 THE DEPARTMENT OF TRANSPORTATION SHALL NOT BE EXEMPT FROM THE
23 MISSISSIPPI PUBLIC RECORDS ACT; TO AMEND SECTION 26-61-9,
24 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PROVISIONS OF
25 ALL PROCUREMENT CONTRACTS AWARDED BY STATE AGENCIES SHALL NOT BE
26 DEEMED TO BE A TRADE SECRET OR CONFIDENTIAL INFORMATION UNDER THE
27 MISSISSIPPI PUBLIC RECORDS ACT; TO AMEND SECTIONS 27-104-155 AND
28 27-104-161, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT PERSONAL AND
29 PROFESSIONAL SERVICE CONTRACTS SHALL BE INCLUDED ON THE
30 MISSISSIPPI TRANSPARENCY WEBSITE; TO AMEND SECTIONS 5-8-3 AND
31 5-8-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY INDIVIDUAL
32 WHO PERFORMS BOTH CONSULTING AND LOBBYING SERVICES FOR A PUBLIC
33 ENTITY SHALL BE CONSIDERED A LOBBYIST AND SHALL NOT BE EXEMPT FROM
34 ANY LOBBYING LAW; TO BRING FORWARD SECTIONS 5-8-1, 5-8-5, 5-8-9



35 THROUGH 5-8-23, AND 25-53-151, MISSISSIPPI CODE OF 1972, FOR
36 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

38 **SECTION 1.** Section 25-9-120, Mississippi Code of 1972, is
39 amended as follows:

40 25-9-120. (1) Contract personnel, whether classified as
41 contract workers or independent contractors shall not be deemed
42 state service or nonstate service employees of the State of
43 Mississippi, and shall not be eligible to participate in the
44 Public Employees' Retirement System, or the State and School
45 Employees' Health Insurance Plan, nor be allowed credit for
46 personal and sick leave and other leave benefits as employees of
47 the State of Mississippi, notwithstanding Sections 25-3-91 through
48 25-3-101; 25-9-101 through 25-9-151; 25-11-1 through 25-11-126;
49 25-11-128 through 25-11-131; 25-15-1 through 25-15-23 and for the
50 purpose set forth herein. Contract workers, i.e., contract
51 personnel who do not meet the criteria of independent contractors,
52 shall be subject to the provisions of Section 25-11-127.

53 (2) (a) There is hereby created the Personal Service
54 Contract Review Board, which shall be composed of the * * *
55 following members:

56 (i) The State Personnel Director;

57 (ii) Two (2) individuals appointed by the Governor
58 with the advice and consent of the Senate;

59 (iii) Two (2) individuals appointed by the
60 Lieutenant Governor with the advice and consent of the Senate; and



61 (iv) The Executive Director of the Department of
62 Finance and Administration, serving as an ex officio member;

63 (b) The initial terms of each appointee shall be as
64 follows:

65 (i) One (1) member appointed by the Governor to
66 serve for a term ending June 30, 2017;

67 (ii) One (1) member appointed by the Governor to
68 serve for a term ending June 30, 2020;

69 (iii) One (1) member appointed by the Lieutenant
70 Governor to serve for a term ending June 30, 2018; and

71 (iv) One (1) member appointed by the Lieutenant
72 Governor to serve for a term ending June 30, 2019.

73 After the expiration of the initial terms, all appointed
74 members' terms shall be for a period of four (4) years from the
75 expiration date of the previous term, and until such time as the
76 member's successor is duly appointed and qualified;

77 (c) When appointing members to the Personal Service
78 Contract Review Board, the Governor and Lieutenant Governor shall
79 take into consideration persons who possess at least five (5)
80 years of management experience in general business, health care,
81 or finance for an organization, corporation, or other public or
82 private entity. Any person, or any employee or owner of a
83 company, who receives any grants, procurements or contracts that
84 are subject to approval under this section shall not be appointed
85 to the Personal Service Contract Review Board. Any person, or any



86 employee or owner of a company, who is a principal of the source
87 providing the personal or professional service shall not be
88 appointed to the Personal Service Contract Review Board if the
89 principal owns or controls a greater than five percent (5%)
90 interest or has an ownership value of One Million Dollars
91 (\$1,000,000.00) in the source's business, whichever is smaller;

92 (d) Members of the Personal Service Contract Review
93 Board shall be entitled to per diem as authorized by Section
94 25-3-69 and travel reimbursement as authorized by Section 25-3-41;

95 (e) The State Personnel Director shall be chairman and
96 shall preside over the meetings of the board. The board shall
97 annually elect a vice chairman, who shall serve in the absence of
98 the chairman. No business shall be transacted, including adoption
99 of rules of procedure, without the presence of a quorum of the
100 board. Three (3) members shall be a quorum. No action shall be
101 valid unless approved by the chairman and two (2) other of those
102 members present and voting, entered upon the minutes of the board
103 and signed by the chairman. Necessary clerical and administrative
104 support for the board shall be provided by the State Personnel
105 Board. Minutes shall be kept of the proceedings of each meeting,
106 copies of which shall be filed on a monthly basis with the * * *
107 Chairmen of the Accountability, Efficiency and Transparency
108 Committees of the Senate and House of Representatives.

109 (3) The Personal Service Contract Review Board shall have
110 the following powers and responsibilities:



111 (a) Promulgate rules and regulations governing the
112 solicitation and selection of contractual services personnel
113 including personal and professional services contracts for any
114 form of consulting, policy analysis, public relations, marketing,
115 public affairs, legislative advocacy services or any other
116 contract that the board deems appropriate for oversight, with the
117 exception of any personal service contracts entered into for
118 computer or information technology-related services governed by
119 the Mississippi Department of Information Technology Services, any
120 personal service contracts entered into by the Mississippi
121 Department of Transportation, and any contract for attorney,
122 accountant, auditor, * * * architect, engineer, * * * and utility
123 rate expert services. Any such rules and regulations shall
124 provide for maintaining continuous internal audit covering the
125 activities of such agency affecting its revenue and expenditures
126 as required under Section 7-7-3(6)(d), Mississippi Code of 1972.
127 Any rules and regulation changes related to personal and
128 professional services contracts that may be proposed by the
129 Personal Service Contract Review Board shall be submitted to the
130 Chairmen of the Accountability, Efficiency and Transparency
131 Committees of the Senate and House of Representatives at least
132 fifteen (15) days prior to the board voting on the proposed
133 changes, and such rules and regulation changes, if adopted, shall
134 be promulgated in accordance with the Mississippi Administrative
135 Procedures Act;



136 (b) Approve all personal and professional services
137 contracts involving the expenditures of funds in excess of * * *
138 Seventy-five Thousand Dollars (\$75,000.00);

139 (c) Develop mandatory standards with respect to
140 contractual services personnel which require invitations for
141 public bid, requests for proposals, record keeping and financial
142 responsibility of contractors. The Personal Service Contract
143 Review Board * * * shall, unless exempted under this paragraph (c)
144 or under paragraph (d) or (j) of this subsection (3), require the
145 agency involved to advertise such contract for public bid, and may
146 reserve the right to reject any or all bids;

147 (i) Any agency that seeks to procure personal or
148 professional service contracts that are required to be approved by
149 the Personal Service Contract Review Board may petition for relief
150 from any requirement that the agency use competitive bidding as a
151 procurement method. The agency shall be required to show to the
152 Personal Service Contract Review Board's satisfaction one (1) of
153 the following:

154 1. Federal law has established limitations on
155 the use of competitive bidding for the personal or professional
156 contracts the agency is seeking to procure; or

157 2. The agency is required to hire
158 professionals whose members are prohibited from bidding by the
159 rules of professional conduct promulgated by the regulating agency
160 or agencies for that professional; or



161 3. The agency can establish that the use of
162 competitive bidding will be counterproductive to the business of
163 the agency.

164 (ii) If the Personal Service Contract Review Board
165 determines that competitive bidding shall not be required for the
166 particular personal or professional service the agency seeks to
167 procure, then the Personal Service Contract Review Board shall
168 direct the agency to establish a competitive procurement procedure
169 for selecting the personal or professional service contract that
170 ensures open, transparent procedures for making a selection. Such
171 procedures shall include, but not be limited to, qualifications
172 based selection or requests for qualifications. The Personal
173 Service Contract Review Board shall also have the authority to
174 audit the records of any agency to ensure it has used competitive
175 procedures to contract for the personal or professional service;

176 (d) Prescribe certain circumstances whereby agency
177 heads may enter into contracts for personal and professional
178 services without receiving prior approval from the Personal
179 Service Contract Review Board. The Personal Service Contract
180 Review Board may establish a preapproved list of providers of
181 various personal and professional services for set prices with
182 which state agencies may contract without bidding or prior
183 approval from the board * * *;

184 (e) To provide standards for the issuance of requests
185 for proposals, the evaluation of proposals received, consideration



186 of costs and quality of services proposed, contract negotiations,
187 the administrative monitoring of contract performance by the
188 agency and successful steps in terminating a contract;

189 (f) To present recommendations for governmental
190 privatization and to evaluate privatization proposals submitted by
191 any state agency;

192 (g) To authorize personal and professional service
193 contracts to be effective for more than one (1) year provided a
194 funding condition is included in any such multiple year contract,
195 except the State Board of Education, which shall have the
196 authority to enter into contractual agreements for student
197 assessment for a period up to ten (10) years. The State Board of
198 Education shall procure these services in accordance with the
199 Personal Service Contract Review Board procurement regulations;

200 (h) To request the State Auditor to conduct a
201 performance audit on any personal or professional service
202 contract;

203 (i) Prepare an annual report to the Legislature
204 concerning the issuance of personal service contracts during the
205 previous year, collecting any necessary information from state
206 agencies in making such report * * *;

207 (j) Develop and implement the following standards and
208 procedures for the approval of any sole source contract for
209 personal and professional services regardless of the value of the
210 procurement:



211 (i) For the purposes of this paragraph (j), the
212 term "sole source" means only one (1) source is available that can
213 provide the required personal or professional service.

214 (ii) An agency that has been issued a binding,
215 valid court order mandating that a particular source or provider
216 must be used for the required service must include a copy of the
217 applicable court order in all future sole source contract reviews
218 for the particular personal or professional service referenced in
219 the court order.

220 (iii) Any agency alleging to have a sole source
221 for any personal or professional service shall have published on
222 the procurement portal website established by Sections 25-53-151
223 and 27-104-165, for at least fourteen (14) days, the terms of the
224 proposed contract for those services. In addition, the
225 publication shall include, but is not limited to, the following
226 information:

227 1. The personal or professional service
228 offered in the contract;

229 2. An explanation of why the personal or
230 professional service is the only one that can meet the needs of
231 the agency;

232 3. An explanation of why the source is the
233 only person or entity that can provide the required personal or
234 professional service;



235 4. An explanation of why the amount to be
236 expended for the personal or professional service is reasonable;
237 and

238 5. The efforts that the agency went through
239 to obtain the best possible price for the personal or professional
240 service.

241 (iv) If any person or entity objects and proposes
242 that the personal or professional service published under
243 subparagraph (iii) of this paragraph (j) is not a sole source
244 service and can be provided by another person or entity, then the
245 objecting person or entity shall notify the Personal Service
246 Contract Review Board and the agency that published the proposed
247 sole source contract with a detailed explanation of why the
248 personal or professional service is not a sole source service.

249 (v) 1. If the agency determines after review that
250 the personal or professional service in the proposed sole source
251 contract can be provided by another person or entity, then the
252 agency must withdraw the sole source contract publication from the
253 procurement portal website and submit the procurement of the
254 personal or professional service to an advertised competitive bid
255 or selection process.

256 2. If the agency determines after review that
257 there is only one (1) source for the required personal or
258 professional service, then the agency may appeal to the Personal
259 Service Contract Review Board. The agency has the burden of



260 proving that the personal or professional service is only provided
261 by one (1) source.

262 3. If the Personal Service Contract Review
263 Board has any reasonable doubt as to whether the personal or
264 professional service can only be provided by one (1) source, then
265 the agency must submit the procurement of the personal or
266 professional service to an advertised competitive bid or selection
267 process. No action taken by the Personal Service Contract Review
268 Board in this appeal process shall be valid unless approved by the
269 chairman and two (2) other members of the Personal Service
270 Contract Review Board present and voting.

271 (vi) The Personal Service Contract Review Board
272 shall prepare and submit a quarterly report to the House of
273 Representatives and Senate Committees on Accountability,
274 Efficiency and Transparency that details the sole source contracts
275 presented to the Personal Service Contract Review Board and the
276 reasons that the Personal Service Contract Review Board approved
277 or rejected each contract. Such quarterly reports shall also
278 include the documentation and memoranda required in subsection (5)
279 of this section. An agency that submitted a sole source contract
280 shall be prepared to explain the sole source contract to each
281 committee by December 15 of each year upon request by the
282 committee.

283 (4) Any contract submitted to the Personal Service Contract
284 Review Board for review and approval shall be presumed to be



285 approved if the Personal Service Contract Review Board does not
286 object to the contract within thirty (30) days of the agency's
287 submission of the contract. All submissions shall be made thirty
288 (30) days before the monthly meeting of the Personal Service
289 Contract Review Board or as prescribed by the Personal Service
290 Contract Review Board. If the Personal Service Contract Review
291 Board rejects any contract submitted for review or approval, the
292 Personal Service Contract Review Board shall clearly set out the
293 reasons for its action, including, but not limited to, the policy
294 that the agency has violated in its submitted contract and any
295 corrective actions that the agency may take to amend the contract
296 to comply with the rules and regulations of the Personal Service
297 Contract Review Board.

298 (5) All sole source contracts for personal and professional
299 services awarded by state agencies, whether approved by an agency
300 head or the Personal Service Contract Review Board, shall contain
301 in the procurement file a written determination for the approval,
302 using a request form furnished by the Personal Service Contract
303 Review Board. The written determination shall document the basis
304 for the determination, including any market analysis conducted in
305 order to ensure that the service required was practicably
306 available from only one (1) source. A memorandum shall accompany
307 the request form and address the following four (4) points:

308 (a) Explanation of why this service is the only service
309 that can meet the needs of the purchasing agency;



310 (b) Explanation of why this vendor is the only
311 practicably available source from which to obtain this service;

312 (c) Explanation of why the price is considered
313 reasonable; and

314 (d) Description of the efforts that were made to
315 conduct a noncompetitive negotiation to get the best possible
316 price for the taxpayers.

317 (6) The Personal Service Contract Review Board shall develop
318 and promulgate rules and regulations to define the allowable legal
319 relationship between contract employees and the contracting
320 departments, agencies and institutions of state government under
321 the jurisdiction of the State Personnel Board, in compliance with
322 the applicable rules and regulations of the federal Internal
323 Revenue Service (IRS) for federal employment tax purposes. Under
324 these regulations, the usual common law rules are applicable to
325 determine and require that such worker is an independent
326 contractor and not an employee, requiring evidence of lawful
327 behavioral control, lawful financial control and lawful
328 relationship of the parties. Any state department, agency or
329 institution shall only be authorized to contract for personnel
330 services in compliance with said regulations.

331 (* * *7) No member of the Personal Service Contract Review
332 Board shall use his official authority or influence to coerce, by
333 threat of discharge from employment, or otherwise, the purchase of



334 commodities or the contracting for personal or professional
335 services under this section.

336 (8) Nothing in this section shall impair or limit the
337 authority of the Board of Trustees of the Public Employees'
338 Retirement System to enter into any personal or professional
339 services contracts directly related to their constitutional
340 obligation to manage the trust funds, including, but not limited
341 to, actuarial, custodial banks, cash management, investment
342 consultant, and investment management contracts.

343 **SECTION 2.** The Joint Committee on Performance Evaluation and
344 Expenditure Review (PEER) shall evaluate on a biennial basis the
345 procurement process utilized by all state agencies, including, but
346 not limited to, the contract review, reporting and recordkeeping
347 requirements in Section 25-9-120, and the bid requirements in
348 Section 31-7-13. Upon completion of its evaluation, the PEER
349 Committee shall submit a report to the Legislature with
350 recommendations for improving the procurement process. The
351 Department of Finance and Administration and the Personal Service
352 Contract Review Board shall cooperate with the PEER Committee to
353 carry out the provisions of this section.

354 **SECTION 3.** Section 25-1-100, Mississippi Code of 1972, is
355 amended as follows:

356 25-1-100. (1) Personnel records and applications for
357 employment in the possession of a public body, as defined by
358 paragraph (a) of Section 25-61-3, except those which may be



359 released to the person who made the application or with the prior
360 written consent of the person who made the application, shall be
361 exempt from the provisions of the Mississippi Public Records Act
362 of 1983.

363 (2) Test questions and answers in the possession of a public
364 body, as defined by paragraph (a) of Section 25-61-3, which are to
365 be used in employment examinations, shall be exempt from the
366 provisions of the Mississippi Public Records Act of 1983.

367 (3) Letters of recommendation in the possession of a public
368 body, as defined by paragraph (a) of Section 25-61-3, respecting
369 any application for employment, shall be exempt from the
370 provisions of the Mississippi Public Records Act of 1983.

371 (4) Documents relating to contract authorization under
372 Section 25-9-120 shall not be exempt from the provisions of
373 Mississippi Public Records Act of 1983.

374 (5) Contracts for personal and professional services that
375 are awarded or executed by any state agency, including, but not
376 limited to, the Department of Information Technology Services and
377 the Department of Transportation, shall not be exempt from the
378 Mississippi Public Records Act of 1983.

379 **SECTION 4.** Section 25-61-9, Mississippi Code of 1972, is
380 amended as follows:

381 25-61-9. (1) Records furnished to public bodies by third
382 parties which contain trade secrets or confidential commercial or
383 financial information shall not be subject to inspection,



384 examination, copying or reproduction under this chapter until
385 notice to said third parties has been given, but such records
386 shall be released within a reasonable period of time unless the
387 said third parties shall have obtained a court order protecting
388 such records as confidential.

389 (2) If any public record which is held to be exempt from
390 disclosure pursuant to this chapter contains material which is not
391 exempt pursuant to this chapter, the public body shall separate
392 the exempt material and make the nonexempt material available for
393 examination and/or copying as provided for in this chapter.

394 (3) Trade secrets and confidential commercial and financial
395 information of a proprietary nature developed by a college or
396 university under contract with a firm, business, partnership,
397 association, corporation, individual or other like entity shall
398 not be subject to inspection, examination, copying or reproduction
399 under this chapter.

400 (4) Misappropriation of a trade secret shall be governed by
401 the provisions of the Mississippi Uniform Trade Secrets Act,
402 Sections 75-26-1 through 75-26-19.

403 (5) A waste minimization plan and any updates developed by
404 generators and facility operators under the Mississippi
405 Comprehensive Multimedia Waste Minimization Act of 1990 shall be
406 retained at the facility and shall not be subject to inspection,
407 examination, copying or reproduction under this chapter.



408 (6) Data processing software obtained by an agency under a
409 licensing agreement that prohibits its disclosure and which
410 software is a trade secret, as defined in Section 75-26-3, and
411 data processing software produced by a public body which is
412 sensitive must not be subject to inspection, copying or
413 reproduction under this chapter. As used in this subsection,
414 "sensitive" means only those portions of data processing software,
415 including the specifications and documentation, used to:

416 (a) Collect, process, store, and retrieve information
417 which is exempt under this chapter.

418 (b) Control and direct access authorizations and
419 security measures for automated systems.

420 (c) Collect, process, store, and retrieve information,
421 disclosure of which would require a significant intrusion into the
422 business of the public body.

423 (7) For all procurement contracts awarded by state agencies,
424 the provisions of the contract which contain the commodities
425 purchased or the personal or professional services provided, the
426 price to be paid, and the term of the contract shall not be deemed
427 to be a trade secret or confidential commercial or financial
428 information under this section, and shall be available for
429 examination, copying or reproduction as provided for in this
430 chapter.

431 **SECTION 5.** Section 27-104-155, Mississippi Code of 1972, is
432 amended as follows:



433 27-104-155. (1) The Department of Finance and
434 Administration shall develop and operate a searchable website that
435 includes information on expenditures of state funds from all
436 funding sources. The website shall have a unique and simplified
437 website address, and the department shall require each agency that
438 maintains a generally accessible Internet site or for which a
439 generally accessible Internet site is maintained to include a link
440 on the front page of the agency's Internet site to the searchable
441 website required under this section.

442 (a) With regard to disbursement of funds, the website
443 shall include, but not be limited to:

444 (i) The name and principal location of the entity
445 or recipients of the funds, excluding release of information
446 relating to an individual's place of residence, the identity of
447 recipients of state or federal assistance payments, and any other
448 information deemed confidential by state or federal law relating
449 to privacy rights;

450 (ii) The amount of state funds expended;

451 (iii) A descriptive purpose of the funding action
452 or expenditure;

453 (iv) The funding source of the expenditure;

454 (v) The budget program or activity of the
455 expenditure;



456 (vi) The specific source of authority and
457 descriptive purpose of the expenditure, to include a link to the
458 funding authorization document(s) in a searchable PDF form;

459 (vii) The specific source of authority for the
460 expenditure including, but not limited to, a grant, subgrant,
461 contract, or the general discretion of the agency director,
462 provided that if the authority is a grant, subgrant or contract,
463 the website entry shall include a grant, subgrant or contract
464 number or similar information that clearly identifies the specific
465 source of authority. The information required under this
466 paragraph includes data relative to tax exemptions and credits;

467 (viii) The expending agency;

468 (ix) The type of transaction;

469 (x) The expected performance outcomes achieved for
470 the funding action or expenditure;

471 (xi) Links to any state audit or report relating
472 to the entity or recipient of funds or the budget program or
473 activity or agency; and

474 (xii) Any other information deemed relevant by the
475 Department of Finance and Administration.

476 (b) When the expenditure of state funds involves the
477 expenditure of bond proceeds, the searchable website must include
478 a clear, detailed description of the purpose of the bonds, a
479 current status report on the project or projects being financed by



480 the bonds, and a current status report on the payment of the
481 principal and interest on the bonds.

482 (c) The searchable website must include access to an
483 electronic summary of each grant, including amendments; subgrant,
484 including amendments; contract, including amendments; and payment
485 voucher that includes, wherever possible, a hyperlink to the
486 actual document in a searchable PDF format, subject to the
487 restrictions in paragraph (d) of this section. The Department of
488 Finance and Administration may cooperate with other agencies to
489 accomplish the requirements of this paragraph.

490 (d) Nothing in Sections 27-104-151 through 27-104-159
491 shall permit or require the disclosure of trade secrets or other
492 proprietary information, including confidential vendor
493 information, or any other information that is required to be
494 confidential by state or federal law.

495 (e) The information available from the searchable
496 website must be updated no later than fourteen (14) days after the
497 receipt of data from an agency, and the Department of Finance and
498 Administration shall require each agency to provide to the
499 department access to all data that is required to be accessible
500 from the searchable website within fourteen (14) days of each
501 expenditure, grant award, including amendments; subgrant,
502 including amendments; or contract, including amendments; executed
503 by the agency.



504 (f) The searchable website must include all information
505 required by this section for all transactions that are initiated
506 in fiscal year 2015 or later. In addition, all information that
507 is included on the searchable website from the date of the
508 inception of the website until July 1, 2014, must be maintained on
509 the website according to the requirements of this section before
510 July 1, 2014, and remain accessible for ten (10) years from the
511 date it was originally made available. All data on the searchable
512 website must remain accessible to the public for a minimum of ten
513 (10) years.

514 (g) For the purposes of this subsection (1), the term
515 "contract" includes, but is not limited to, personal and
516 professional services contracts.

517 (2) The Board of Trustees of State Institutions of Higher
518 Learning shall create the IHL Accountability and Transparency
519 website to include its executive office and the institutions of
520 higher learning no later than July 1, 2012. This website shall:

521 (a) Provide access to existing financial reports,
522 financial audits, budgets and other financial documents that are
523 used to allocate, appropriate, spend and account for appropriated
524 funds;

525 (b) Have a unique and simplified website address;

526 (c) Be directly accessible via a link from the main
527 page of the Department of Finance and Administration website, as



528 well as the IHL website and the main page of the website of each
529 institution of higher learning;

530 (d) Include other links, features or functionality that
531 will assist the public in obtaining and reviewing public financial
532 information;

533 (e) Report expenditure information currently available
534 within these enterprise resource planning (ERP) computer systems;
535 and

536 (f) Design the reporting format using the existing
537 capabilities of these ERP computer systems.

538 (3) The Mississippi Community College Board shall create the
539 Community and Junior Colleges Accountability and Transparency
540 website to include its executive office and the community and
541 junior colleges no later than July 1, 2012. This website shall:

542 (a) Provide access to existing financial reports,
543 financial audits, budgets and other financial documents that are
544 used to allocate, appropriate, spend and account for appropriated
545 funds;

546 (b) Have a unique and simplified website address;

547 (c) Be directly accessible via a link from the main
548 page of the Department of Finance and Administration website, as
549 well as the Mississippi Community College Board website and the
550 main page of the website of each community and junior college;



551 (d) Include other links, features or functionality that
552 will assist the public in obtaining and reviewing public financial
553 information;

554 (e) Report expenditure information currently available
555 within the computer system of each community and junior college;
556 and

557 (f) Design the reporting format using the existing
558 capabilities of the computer system of each community and junior
559 college.

560 **SECTION 6.** Section 27-104-161, Mississippi Code of 1972, is
561 amended as follows:

562 27-104-161. No provision of Sections 27-104-151 through
563 27-104-159 shall be construed as conferring upon the Department of
564 Finance and Administration any authority to review, approve or
565 deny any expenditures or contracts entered into by the Legislature
566 or any of its committees, or to impose any requirement on the
567 Legislature or any of its committees to take any action other than
568 to disclose expenditures and contracts entered into on or after
569 July 1, 2011. For the purposes of this section, the term
570 "contract" includes, but is not limited to, personal and
571 professional services contracts.

572 **SECTION 7.** Section 5-8-3, Mississippi Code of 1972, is
573 amended as follows:



574 5-8-3. The following words and phrases shall have the
575 meanings ascribed herein unless the context clearly indicates
576 otherwise:

577 (a) (i) "Anything of value" means:

578 1. A pecuniary item, including money, or a
579 bank bill or note;

580 2. A promissory note, bill of exchange,
581 order, draft, warrant, check or bond given for the payment of
582 money;

583 3. A contract, agreement, promise or other
584 obligation for an advance, conveyance, forgiveness of
585 indebtedness, deposit, distribution, loan, payment, gift, pledge
586 or transfer of money;

587 4. A stock, bond, note or other investment
588 interest in an entity;

589 5. A receipt given for the payment of money
590 or other property;

591 6. A right in action;

592 7. A gift, tangible good, chattel or an
593 interest in a gift, tangible good or chattel;

594 8. A loan or forgiveness of indebtedness;

595 9. A work of art, antique or collectible;

596 10. An automobile or other means of personal
597 transportation;



598 11. Real property or an interest in real
599 property, including title to realty, a fee simple or partial
600 interest, present or future, contingent or vested within realty, a
601 leasehold interest, or other beneficial interest in realty;

602 12. An honorarium or compensation for
603 services;

604 13. A rebate or discount in the price of
605 anything of value, unless the rebate or discount is made in the
606 ordinary course of business to a member of the public without
607 regard to that person's status as an executive, legislative or
608 public official or public employee, or the sale or trade of
609 something for reasonable compensation that would ordinarily not be
610 available to a member of the public;

611 14. A promise or offer of employment;

612 15. Any other thing of value that is
613 pecuniary or compensatory in value to a person, except as
614 otherwise provided in subparagraph (ii) of this paragraph; or

615 16. A payment that directly benefits an
616 executive, legislative or public official or public employee or a
617 member of that person's immediate family.

618 (ii) "Anything of value" does not mean:

619 1. Informational material such as books,
620 reports, pamphlets, calendars or periodicals informing an
621 executive, legislative or public official or public employee of
622 her or his official duties;



623 2. A certificate, plaque or other
624 commemorative item which has little pecuniary value;
625 3. Food and beverages for immediate
626 consumption provided by a lobbyist up to a value of Ten Dollars
627 (\$10.00) in the aggregate during any calendar year;
628 4. Campaign contributions reported in
629 accordance with Section 23-15-801 et seq., Mississippi Code of
630 1972.

631 (b) "Commission" means the Mississippi Ethics
632 Commission, when used in the context of Section 5-8-19.

633 (c) "Compensation" means:

634 (i) An advance, conveyance, forgiveness of
635 indebtedness, deposit, distribution, loan, payment, gift, pledge
636 or transfer of money or anything of value, including reimbursement
637 of travel, food or lodging costs; or

638 (ii) A contract, agreement, promise or other
639 obligation for an advance, conveyance, forgiveness of
640 indebtedness, deposit, distribution, loan, payment, gift, pledge
641 or transfer of money or anything of value, including reimbursement
642 of travel, food or lodging costs, for services rendered or to be
643 rendered.

644 (d) "Executive action" means the proposal, drafting,
645 development, consideration, amendment, adoption, approval,
646 promulgation, issuance, modification, rejection or postponement by
647 a state or local governmental entity of a rule, regulation, order,



648 decision, determination or other quasi-legislative action or
649 proceeding.

650 (e) "Executive agency" means:

651 (i) An agency, board, commission, governing
652 authority or other body in the executive branch of state or local
653 government; or

654 (ii) An independent body of state or local
655 government that is not a part of the legislative or judicial
656 branch, but which shall include county boards of supervisors.

657 (f) "Executive official" means:

658 (i) A member or employee of a state agency, board,
659 commission, governing authority or other body in the executive
660 branch of state or local government; or

661 (ii) A public official or public employee, or any
662 employee of such person, of state or local government who takes an
663 executive action.

664 (g) "Expenditure" means:

665 (i) A purchase, payment, distribution, loan,
666 forgiveness of a loan or payment of a loan by a third party,
667 advance, deposit, transfer of funds, a promise to make a payment,
668 or a gift of money or anything of value for any purpose;

669 (ii) A payment to a lobbyist for salary, fee,
670 commission, compensation for expenses, or other purpose by a
671 person employing, retaining or contracting for the services of the
672 lobbyist separately or jointly with other persons;



673 (iii) A payment in support of or assistance to a
674 lobbyist or the lobbyist's activities, including the direct
675 payment of expenses incurred at the request or suggestion of the
676 lobbyist;

677 (iv) A payment that directly benefits an
678 executive, legislative or public official or a member of the
679 official's immediate family;

680 (v) A payment, including compensation, payment or
681 reimbursement for the services, time or expenses of an employee
682 for or in connection with direct communication with an executive,
683 legislative or public official made at the direction of the
684 employee's employer;

685 (vi) A payment for or in connection with
686 soliciting or urging other persons to enter into direct
687 communication with an executive, legislative or public official;
688 or

689 (vii) A payment or reimbursement for food,
690 beverages, travel, lodging, entertainment or sporting activities.

691 (h) "Gift" means anything of value to the extent that
692 consideration of equal or greater value is not received, including
693 a rebate or discount in the price of anything of value unless the
694 rebate or discount is made in the ordinary course of business to a
695 member of the public without regard to that person's status as an
696 executive, legislative or public official.

697 (i) "Legislative action" means:



698 (i) Preparation, research, drafting, introduction,
699 consideration, modification, amendment, approval, passage,
700 enactment, tabling, postponement, defeat or rejection of a bill,
701 resolution, amendment, motion, report, nomination, appointment or
702 other matter by the Mississippi State Legislature or a member or
703 employee of the Legislature acting or purporting to act in an
704 official capacity;

705 (ii) Action by the Governor in approving or
706 vetoing a bill or other action of the Legislature;

707 (iii) Action by the Legislature in:

708 1. Overriding or sustaining a veto by the
709 Governor; or

710 2. Considering, confirming or rejecting an
711 executive appointment of the Governor.

712 (j) "Legislative official" means:

713 (i) A member, member-elect or presiding officer of
714 the Legislature;

715 (ii) A member of a commission or other entity
716 established by and responsible to either or both houses of the
717 Legislature;

718 (iii) A staff member, officer or employee to a
719 member or member-elect of the Legislature, to a member of a
720 commission or other entity established by and responsible to
721 either or both houses of the Legislature, or to the Legislature or
722 any house, committee or office thereof.



723 (k) "Lobbying" means:

724 (i) Influencing or attempting to influence

725 legislative or executive action through oral or written

726 communication; or

727 (ii) Solicitation of others to influence

728 legislative or executive action; or

729 (iii) Paying or promising to pay anything of value

730 directly or indirectly related to legislative or executive action.

731 (l) "Lobbyist" means:

732 (i) An individual who is employed and receives

733 payments, or who contracts for economic consideration, including

734 reimbursement for reasonable travel and living expenses, for the

735 purpose of lobbying;

736 (ii) An individual who represents a legislative or

737 public official or public employee, or who represents a person,

738 organization, association or other group, for the purpose of

739 lobbying; * * *

740 (iii) A sole proprietor, owner, part owner or

741 shareholder in a business who has a pecuniary interest in

742 legislative or executive action, who engages in lobbying

743 activities * * *; or

744 (iv) Any individual described in subparagraphs

745 (i), (ii) or (iii) of this paragraph (l) who is employed by or has

746 contracted with any agency, legislative or public official or

747 public employee, or any other public entity for the purpose of



748 providing any type of consulting or other similar service but also
749 engages in any type of lobbying activities. Such individual shall
750 not qualify for any exemption under Section 5-8-7.

751 (m) "Lobbyist's client" means the person in whose
752 behalf the lobbyist influences or attempts to influence
753 legislative or executive action.

754 (n) "Local" means all entities of government at the
755 county, county-district, multicounty district, municipal or school
756 district level.

757 (o) "Person" means an individual, proprietorship, firm,
758 partnership, joint venture, joint-stock company, syndicate,
759 business trust, estate, company, corporation, association, club,
760 committee, organization or group of persons acting in concert.

761 (p) "Public employee" means an individual appointed to
762 a position, including a position created by statute, whether
763 compensated or not, in state or local government and includes any
764 employee of the public employee. The term includes a member of
765 the board of trustees, chancellor, vice chancellor or the
766 equivalent thereof in the state university system or the state
767 community and junior college system, and a president of a state
768 college or university.

769 (q) "Public official" means an individual elected to a
770 state or local office, or an individual who is appointed to fill a
771 vacancy in the office.



772 (r) "Value" means the retail cost or fair market worth
773 of an item or items, whichever is greater.

774 **SECTION 8.** Section 5-8-7, Mississippi Code of 1972, is
775 amended as follows:

776 5-8-7. Notwithstanding any other provisions of this chapter,
777 except as otherwise provided in Section 5-8-3(1)(iv), the
778 following person shall not be included within the definition of
779 "lobbyist" or "lobbyist's client" under this chapter, and
780 accordingly the registration and reporting provisions, including
781 the payment of related fees, of this chapter do not apply to:

782 (a) A legislative or public official acting in an
783 official capacity.

784 (b) An individual who:

785 (i) Represents or purports to represent only the
786 individual;

787 (ii) Receives no compensation or anything of value
788 for lobbying; and

789 (iii) Has no pecuniary interest in the legislative
790 or executive action.

791 (c) An individual lobbying in his or her own interest,
792 his or her own business interest, who pays, or promises to pay,
793 offers to pay or causes to be paid to public officials,
794 legislative officials or public employees any thing or things of
795 value aggregating in value to less than Two Hundred Dollars
796 (\$200.00) in any calendar year.



797 (d) An individual lobbying on behalf of his or her
798 employer's business interest where such lobbying is not a primary
799 or regular function of his employment position if such individual
800 pays, promises to pay, offers to pay, or causes to be paid
801 individually or on the employer's behalf to public officials,
802 legislative officials, or public employees any thing or things of
803 value aggregating in value to less than Two Hundred Dollars
804 (\$200.00) in any calendar year.

805 (e) An individual lobbying on behalf of an association
806 of which he or she is a member, where such lobbying is not a
807 primary or regular function of his or her position in the
808 association, if such individual pays, promises to pay, offers to
809 pay, or causes to be paid individually or on the association's
810 behalf to public officials, legislative officials or public
811 employees any thing or things of value aggregating in value to
812 less than Two Hundred Dollars (\$200.00) in any calendar year.

813 (f) An individual who is a shareholder, owner or part
814 owner of a business who lobbies on behalf of such business, where
815 such individual is not an employee of the business, if such
816 individual pays, promises to pay, offers to pay, or causes to be
817 paid individually or on behalf of the business to public
818 officials, legislative officials or public employees any thing or
819 things of value aggregating in value to less than Two Hundred
820 Dollars (\$200.00) in any calendar year.

821 (g) An individual who:



822 (i) Limits lobbying solely to formal testimony
823 before a public meeting of a legislative body or an executive
824 agency, or a committee, division or department thereof; and

825 (ii) Registers the appearance in the records of
826 the public body, if such records are kept.

827 (h) An individual who is a licensed attorney
828 representing a client by:

829 (i) Drafting bills, preparing arguments thereon,
830 and advising the client or rendering opinions as to the
831 construction and effect of proposed or pending legislation, where
832 such services are usual and customary professional legal services
833 which are not otherwise connected with legislative action; or

834 (ii) Providing information, on behalf of the
835 client, to an executive or public official, a public employee, or
836 an agency, board, commission, governing authority or other body of
837 state or local government where such services are usual and
838 customary professional legal services including or related to a
839 particular nonlegislative matter, case or controversy.

840 (i) News media and employees of the news media whose
841 activity is limited solely to the publication or broadcast of
842 news, editorial comments, or paid advertisements that attempt to
843 influence legislative or executive action. For the purposes of
844 this section, "news media" shall be construed to be bona fide
845 radio and television stations, newspapers, journals or magazines,
846 or bona fide news bureaus or associations which in turn furnish



847 information solely to bona fide radio or television stations,
848 newspapers, journals or magazines.

849 (j) An individual who engages in lobbying activities
850 exclusively on behalf of a religious organization which qualifies
851 as a tax-exempt organization under the Internal Revenue Code.

852 (k) An individual who is a nonattorney professional and
853 who receives professional fees and expenses to represent clients
854 on executive agency matters, except that if anything of value
855 shall be paid or promised to be paid directly or indirectly on
856 behalf of a client for the personal use or benefit of an executive
857 or public official or public employee, then expenditures and
858 actions of the individual are reportable under this chapter, and
859 the individual must register as a lobbyist.

860 **SECTION 9.** Section 5-8-1, Mississippi Code of 1972, is
861 brought forward as follows:

862 5-8-1. This chapter shall be cited as the "Lobbying Law
863 Reform Act of 1994."

864 **SECTION 10.** Section 5-8-5, Mississippi Code of 1972, is
865 brought forward as follows:

866 5-8-5. (1) Except as otherwise provided in Section 5-8-7 of
867 this chapter and in addition to reports required by Sections 5-8-9
868 and 5-8-11 of this chapter, every lobbyist and every lobbyist's
869 client shall file a registration statement with the Secretary of
870 State within five (5) calendar days after becoming a lobbyist,
871 becoming a lobbyist's client or beginning to lobby for a new



872 client. The filing of every registration statement shall be
873 accompanied by the payment of a registration fee of Twenty-five
874 Dollars (\$25.00) to the Secretary of State. The lobbyist shall
875 file the registration statement and pay the fees to the Secretary
876 of State for each lobbyist's client whom the lobbyist represents.

877 (2) The registration statement shall include the following:

878 (a) The name, address, occupation and telephone number
879 of the lobbyist;

880 (b) The name, address, telephone number and principal
881 place of business of the lobbyist's client;

882 (c) The kind of business of the lobbyist's client;

883 (d) The full name of the person or persons who control
884 the lobbyist's client, the partners, if any, and officers of the
885 lobbyist's client;

886 (e) The full name, address and telephone number of each
887 lobbyist employed by or representing the lobbyist's client; and

888 (f) A statement or statements by the lobbyist and
889 lobbyist's client indicating the specific nature of the issues
890 being advocated for or against on behalf of the lobbyist's client,
891 with sufficient detail so that the precise nature of the
892 lobbyist's advocacy is evident from the statement itself.

893 (3) Registration shall be valid for one (1) calendar year,
894 commencing January 1 and ending December 31 of each year. If the
895 lobbyist or lobbyist's client shall register after January 1, the



896 registration shall be effective upon actual receipt by the
897 Secretary of State and shall cease on December 31 of each year.

898 (4) A lobbyist or lobbyist's client may terminate his
899 registration by filing an expenditure report required under this
900 chapter. Such report shall include information through the last
901 day of lobbying activity. The termination report must indicate
902 that the lobbyist intends to use the report as the final
903 accounting of lobbying activity.

904 (5) The Secretary of State shall prescribe and make
905 available to every lobbyist and lobbyist's client appropriate
906 forms for filing registration statements as required by Sections
907 5-8-1 through 5-8-19 of this chapter.

908 **SECTION 11.** Section 5-8-9, Mississippi Code of 1972, is
909 brought forward as follows:

910 5-8-9. (1) Except as otherwise provided in Section 5-8-7 of
911 this chapter and in subsection (7) of this section, no later than
912 January 30 of each year, a lobbyist's client shall file a report
913 of expenditures with the Secretary of State. The report must
914 contain information on all expenditures paid by the lobbyist's
915 client during the preceding twelve (12) calendar months.

916 (2) The report must list expenditures for the purpose of
917 lobbying according to the following categories:

918 (a) A payment to a lobbyist for salary, fee,
919 compensation for expenses, or other purpose by a person employing,



920 retaining or contracting for the services of the lobbyist
921 separately or jointly with other persons;

922 (b) A payment for those portions of office rent,
923 utilities, supplies and compensation of support personnel
924 attributable to lobbying activities;

925 (c) A payment in support of or assistance to a lobbyist
926 or the lobbyist's activities, including the direct payment of
927 expenses incurred at the request or suggestion of the lobbyist;

928 (d) A payment, including compensation, payment or
929 reimbursement for the services, time or expenses of an employee
930 for or in connection with direct communication with an executive,
931 legislative or public official or public employee, where such
932 communication is made at the request, suggestion or direction of
933 the lobbyist's client;

934 (e) A payment for or in connection with soliciting or
935 urging other persons to enter into direct communication with an
936 executive, legislative or public official or public employee,
937 where such communication is made at the request, suggestion or
938 direction of the lobbyist's client;

939 (f) A payment or reimbursement for food, beverages,
940 travel, lodging, entertainment or sporting activities; or

941 (g) A purchase, payment, distribution, loan,
942 forgiveness of a loan or payment of a loan by a third party,
943 advance, deposit, transfer of funds, a promise to make a payment,
944 or a gift of money or anything of value for any purpose.



945 (3) For each executive, legislative or public official or
946 public employee who was paid, given or promised to be paid
947 anything of value in full or in part from the lobbyist's client,
948 the report must also include:

949 (a) The name of the executive, legislative or public
950 official or public employee who was paid, given or promised
951 anything of value;

952 (b) A description and the monetary value of anything of
953 value paid, given or promised to such official or employee, with
954 sufficient detail so that the nature of the transfer is clear;

955 (c) The place and date anything of value was paid,
956 given or promised; and

957 (d) The name of the person who paid, gave or promised
958 to pay anything of value.

959 (4) Each expenditure for the purpose of lobbying must be
960 reported in accordance with the category of the expenditure
961 required in this section and with any additional categories as may
962 be required by rule or regulation of the Secretary of State.

963 (5) The report due January 30 shall include a cumulative
964 total for the calendar year for all reportable categories.

965 (6) A lobbyist's client shall maintain contemporaneous
966 records of all expenditures reportable under Sections 5-8-1
967 through 5-8-19 of this chapter and shall retain such records for a
968 period of two (2) years.



969 (7) If the State of Mississippi is a lobbyist's client, the
970 State of Mississippi shall be exempt from filing an annual report.

971 (8) (a) If the entire Legislature and all statewide elected
972 officials are individually invited to a single function, which is
973 sponsored by a lobbyist's client, or a lobbyist on behalf of such
974 client, and is to begin and end within one (1) day, then it shall
975 not be necessary to report the costs related to food and beverages
976 offered for immediate consumption required in subsection (3) of
977 this section, so long as food and beverages provided at such
978 functions are offered equally to all invitees; however, in all
979 such cases, the amount expended for such functions shall be
980 reported in accordance with the provisions of this subsection.

981 (b) The report of the expenditure connected with a
982 single function as described in paragraph (a) of this subsection
983 shall be made by the lobbyist's client and shall include the
984 following:

985 (i) The total amount of money expended for the
986 function;

987 (ii) The estimated total number of persons in
988 attendance at the function;

989 (iii) The estimated total number of public
990 officials in attendance at the function.

991 **SECTION 12.** Section 5-8-11, Mississippi Code of 1972, is
992 brought forward as follows:



993 5-8-11. (1) Except as otherwise provided in Section 5-8-7
994 of this chapter, a lobbyist shall file with the Secretary of State
995 a separate report for each lobbyist's client. The report shall
996 specifically list all payments received from the lobbyist's client
997 and all expenditures that were initiated or paid by the lobbyist
998 on behalf of each lobbyist's client during each reporting period
999 required herein.

1000 (2) The report must list expenditures for the purpose of
1001 lobbying according to the following categories:

1002 (a) A payment to the lobbyist for salary, fee,
1003 compensation for expenses, or other purpose by the person
1004 employing, retaining or contracting for the services of the
1005 lobbyist separately or jointly with other persons;

1006 (b) A payment for those portions of office rent,
1007 utilities, supplies and compensation of support personnel
1008 attributable to lobbying activities;

1009 (c) A payment in support of or assistance to a lobbyist
1010 or the lobbyist's activities, including the direct payment of
1011 expenses incurred at the request or suggestion of the lobbyist;

1012 (d) A payment, including compensation, payment or
1013 reimbursement for the services, time or expenses of an employee
1014 for or in connection with direct communication with an executive,
1015 legislative or public official or public employee, where such
1016 communication is made at the request, suggestion or direction of
1017 the lobbyist;



1018 (e) A payment for or in connection with soliciting or
1019 urging other persons to enter into direct communication with an
1020 executive, legislative or public official or public employee,
1021 where such communication is made at the request, suggestion or
1022 direction of the lobbyist;

1023 (f) A payment or reimbursement for food, beverages,
1024 travel, lodging, entertainment or sporting activities;

1025 (g) A purchase, payment, distribution, loan, or
1026 forgiveness of a loan or payment of a loan by a third party,
1027 advance, deposit, transfer of funds, a promise to make a payment,
1028 or a gift of money or anything of value for any purpose.

1029 (3) For each executive, legislative or public official or
1030 public employee who was paid, given or promised to be paid
1031 anything of value in full or in part from the lobbyist, the report
1032 must also include:

1033 (a) The name of the executive, legislative or public
1034 official or employee who was paid, given or promised anything of
1035 value;

1036 (b) A description and the monetary value of anything of
1037 value paid, given or promised to such official or employee, with
1038 sufficient detail so that the nature of the transfer is clear;

1039 (c) The place and date anything of value was paid,
1040 given or promised; and

1041 (d) The name of the person who paid, gave or promised
1042 to pay anything of value.



1043 (4) Each expenditure for the purpose of lobbying must be
1044 reported in accordance with the category of the expenditure
1045 required in this section and with any additional categories as may
1046 be required by rule or regulation of the Secretary of State.

1047 (5) A report of expenditures must be filed with the
1048 Secretary of State no later than January 30 of each year. The
1049 report shall contain information on all expenditures paid or
1050 initiated by the lobbyist on behalf of each lobbyist's client
1051 during the preceding twelve (12) calendar months, and it shall
1052 include a cumulative total for the calendar year of all reportable
1053 categories.

1054 (6) In addition to the annual report required above, a
1055 lobbyist shall file two (2) reports during regular sessions of the
1056 Legislature with the Secretary of State on February 25 and within
1057 ten (10) days after the Legislature's adjournment sine die. Such
1058 additional report shall include the name of the executive,
1059 legislative, or public official or public employee who receives
1060 anything of value from the lobbyist or from the lobbyist on behalf
1061 of the lobbyist's client, the name of the person receiving the
1062 payment, the name of the person making the payment, the amount of
1063 the payment and the date of the payment. However, any lobbyist
1064 who lobbies local government exclusively shall be exempt from the
1065 requirement of filing the reports required by this paragraph.

1066 (7) (a) If the entire Legislature and all statewide elected
1067 officials are individually invited to a single function which is



1068 sponsored by a lobbyist on behalf of one or more lobbyist's
1069 clients and is to begin and end within one (1) day, then it shall
1070 not be necessary to report the costs related to food and beverages
1071 offered for immediate consumption as required in subsection (3) of
1072 this section, so long as food and beverages provided at such
1073 functions are offered equally to all invitees; however, in all
1074 such cases, the amount expended for such functions shall be
1075 reported in accordance with the provisions of this subsection.

1076 (b) The report of the expenditure connected with a
1077 single function as described in paragraph (a) of this subsection
1078 shall be made by the lobbyist and shall include the following:

1079 (i) The total amount of money expended for the
1080 function, reception or meal;

1081 (ii) The total number of persons in attendance at
1082 the function, reception or meal;

1083 (iii) The total number of legislators in
1084 attendance at the function, reception or meal.

1085 (8) A lobbyist shall maintain contemporaneous records of all
1086 expenditures reportable under Sections 5-8-1 through 5-8-19 of
1087 this chapter, and shall retain such records for a period of two
1088 (2) years.

1089 **SECTION 13.** Section 5-8-13, Mississippi Code of 1972, is
1090 brought forward as follows:



1091 5-8-13. (1) A lobbyist shall not contract to receive or
1092 accept compensation dependent upon the success or failure of a
1093 legislative or executive action.

1094 (2) A lobbyist or lobbyist's client shall not knowingly or
1095 willfully make or cause to be made a false statement or
1096 misrepresentation of facts to an executive, legislative or public
1097 official or public employee, or to the public in general with the
1098 intent to affect the outcome of a legislative or executive action.

1099 (3) A lobbyist or lobbyist's client shall not cause a
1100 legislative or executive action for the purpose of obtaining
1101 employment to lobby in support of or in opposition to the
1102 legislative or executive action.

1103 (4) An executive, legislative or public official or public
1104 employee shall not be a lobbyist, except that he may act as a
1105 lobbyist when acting in his official capacity.

1106 (5) A lobbyist must disclose anything of value given in
1107 whole or in part to any executive, legislative or public official
1108 or public employee.

1109 **SECTION 14.** Section 5-8-15, Mississippi Code of 1972, is
1110 brought forward as follows:

1111 5-8-15. (1) The district attorney of the circuit court of
1112 the district wherein an alleged violation occurred shall
1113 investigate violations of this chapter.

1114 (2) In addition to a district attorney's authority as set
1115 forth in subsection (1) of this section, the Attorney General



1116 shall investigate alleged violations of this chapter and use all
1117 existing powers granted that office in conducting such
1118 investigations.

1119 **SECTION 15.** Section 5-8-17, Mississippi Code of 1972, is
1120 brought forward as follows:

1121 5-8-17. (1) In addition to any other penalty permitted by
1122 law, the Secretary of State shall require any person who fails to
1123 file a report as required under Sections 5-8-1 through 5-8-19 of
1124 this chapter, or who shall file a report which fails to comply
1125 with the material particulars of Sections 5-8-1 through 5-8-19 of
1126 this chapter or any rules, regulations or procedures implemented
1127 pursuant to Sections 5-8-1 through 5-8-19 of this chapter, to be
1128 assessed a civil penalty as follows:

1129 (a) Within five (5) calendar days after any deadline
1130 for filing a report pursuant to Sections 5-8-1 through 5-8-19 of
1131 this chapter, the Secretary of State shall compile a list of those
1132 lobbyists and lobbyists' clients who have failed to file a
1133 required report. The Secretary of State shall provide each
1134 lobbyist or lobbyist's client who has failed to file such a report
1135 notice of such failure by certified mail.

1136 (b) Beginning with the tenth calendar day after which
1137 any report shall be due, the Secretary of State shall assess the
1138 delinquent lobbyist and delinquent lobbyist's client a civil
1139 penalty of Fifty Dollars (\$50.00) per day and part of any day
1140 until a valid report is delivered to the Secretary of State, up to



1141 a maximum of ten (10) days. However, in the discretion of the
1142 Secretary of State, the assessing of such fine may be waived if
1143 the Secretary of State shall determine that unforeseeable
1144 mitigating circumstances, such as the health of the lobbyist,
1145 shall interfere with timely filing of a required report.

1146 (c) Filing of the required report and payment of the
1147 fine within ten (10) calendar days of notice by the Secretary of
1148 State that a required statement has not been filed constitutes
1149 compliance with Sections 5-8-1 through 5-8-19 of this chapter.

1150 (d) Payment of the fine without filing the required
1151 report does not in any way excuse or exempt any person required to
1152 file from the filing requirements of Sections 5-8-1 through 5-8-19
1153 of this chapter.

1154 (2) (a) Upon the sworn application of a lobbyist or
1155 lobbyist's client against whom a civil penalty has been assessed
1156 pursuant to subsection (1), the Secretary of State shall forward
1157 the application to the Mississippi Ethics Commission. The
1158 commission shall fix a time and place for a hearing and shall
1159 cause a written notice specifying the civil penalties that have
1160 been assessed against the lobbyist or lobbyist's client and notice
1161 of the time and place of the hearing to be served upon the
1162 lobbyist or lobbyist's client at least twenty (20) calendar days
1163 prior to the hearing date. Such notice may be served by mailing a
1164 copy thereof by certified mail, postage prepaid, to the last known
1165 business address of the lobbyist or lobbyist's client.



1166 (b) The commission is authorized to issue subpoenas for
1167 the attendance of witnesses and the production of books and papers
1168 at such hearing. Process issued by the commission shall extend to
1169 all parts of the state and shall be served by any person
1170 designated by the commission for such service.

1171 (c) The lobbyist or lobbyist's client shall have the
1172 right to appear either personally or by counsel, or both, to
1173 produce witnesses or evidence in his behalf, to cross-examine
1174 witnesses and to have subpoenas issued by the commission.

1175 (d) A hearing officer shall be appointed by the
1176 commission to conduct the hearing. At the hearing, the hearing
1177 officer shall administer oaths as may be necessary for the proper
1178 conduct of the hearing. All hearings shall be conducted by the
1179 commission, who shall not be bound by strict rules of procedure or
1180 by the laws of evidence in the conduct of the proceedings, but the
1181 determination shall be based upon sufficient evidence to sustain
1182 it.

1183 (e) Where, in any proceeding before the commission, any
1184 witness fails or refuses to attend upon a subpoena issued by the
1185 commission, refuses to testify, or refuses to produce any books
1186 and papers the production of which is called for by a subpoena,
1187 the attendance of such witness, the giving of his testimony or the
1188 production of the books and papers shall be enforced by any court
1189 of competent jurisdiction of this state in the manner provided for



1190 the enforcement of attendance and testimony of witnesses in civil
1191 cases in the courts of this state.

1192 (f) Within fifteen (15) calendar days after conclusion
1193 of the hearing, the commission shall reduce its decision to
1194 writing and forward an attested true copy thereof to the last
1195 known business address of the lobbyist or lobbyist's client by way
1196 of United States first-class, certified mail, postage prepaid.

1197 (3) (a) The right to appeal from the decision of the
1198 commission in an administrative hearing concerning the assessment
1199 of civil penalties authorized pursuant to this section is hereby
1200 granted. Such appeal shall be to the Circuit Court of Hinds
1201 County and shall include a verbatim transcript of the testimony at
1202 the hearing. The appeal shall be taken within thirty (30)
1203 calendar days after notice of the decision of the commission
1204 following an administrative hearing. The appeal shall be
1205 perfected upon filing notice of the appeal and by the prepayment
1206 of all costs, including the cost of the preparation of the record
1207 of the proceedings by the commission, and the filing of a bond in
1208 the sum of Two Hundred Dollars (\$200.00), conditioned that if the
1209 decision of the commission be affirmed by the court, the lobbyist
1210 or lobbyist's client will pay the costs of the appeal and the
1211 action in court. If the decision is reversed by the court, the
1212 Secretary of State will pay the costs of the appeal and the action
1213 in court.



1214 (b) If there is an appeal, such appeal shall act as a
1215 supersedeas. The court shall dispose of the appeal and enter its
1216 decision promptly. The hearing on the appeal may be tried in
1217 vacation, in the court's discretion. The scope of review of the
1218 court shall be limited to a review of the record made before the
1219 commission to determine if the action of the commission is
1220 unlawful for the reason that it was (i) not supported by
1221 substantial evidence, (ii) arbitrary or capricious, (iii) beyond
1222 the power of the commission to make, or (iv) in violation of some
1223 statutory or constitutional right of the appellant. The decision
1224 of the court may be appealed to the Supreme Court in the manner
1225 provided by law.

1226 (4) If, after forty-five (45) calendar days of the date of
1227 the administrative hearing procedure set forth in subsection (2),
1228 the lobbyist or lobbyist's client shall not file a valid report as
1229 required by law, the commission shall notify the Attorney General
1230 of the delinquency. The Attorney General shall investigate said
1231 offense in accordance with the provisions of this chapter.

1232 **SECTION 16.** Section 5-8-19, Mississippi Code of 1972, is
1233 brought forward as follows:

1234 5-8-19. The Secretary of State shall:

1235 (a) Provide forms for registration and for statements
1236 required by Sections 5-8-1 through 5-8-19 of this chapter to all
1237 persons required to file.



1238 (b) Issue a certificate of registration to a lobbyist
1239 registered under the provisions of Sections 5-8-1 through 5-8-19
1240 of this chapter.

1241 (c) Make all statements and reports filed available for
1242 public inspection and copying, at a reasonable cost, during
1243 regular office hours.

1244 (d) Publish an annual report summarizing the financial
1245 activities of lobbyists and lobbyists' clients, and such annual
1246 report shall not include amounts reported pursuant to Sections
1247 5-8-9(8) and 5-8-11(7) for single functions in the calculation of
1248 the cumulative total amount of money expended for lobbying
1249 purposes.

1250 **SECTION 17.** Section 5-8-21, Mississippi Code of 1972, is
1251 brought forward as follows:

1252 5-8-21. Any person who, with intent, violates any of the
1253 provisions of this chapter whether acting either individually or
1254 as an officer, agent, employee, or counsel of a person, firm,
1255 corporation or association, or any person whether acting
1256 individually or as the officer, employee, agent or counsel of a
1257 firm, corporation or association, who, with intent, causes or
1258 participates, either directly or indirectly, in any violation of
1259 the provisions of this chapter shall upon conviction for the first
1260 offense be fined not more than One Thousand Dollars (\$1,000.00) or
1261 imprisoned in the county jail not more than six (6) months or both
1262 and upon conviction for a second or any subsequent offense be



1263 fined not more than Five Thousand Dollars (\$5,000.00) or
1264 imprisoned in the Penitentiary not more than three (3) years or
1265 both. Any association or corporation which, with intent,
1266 violates, or causes or participates, either directly or
1267 indirectly, in any violation of any of the provisions of this
1268 chapter shall, for each offense, upon conviction, be fined not
1269 more than Five Thousand Dollars (\$5,000.00). The prosecution or
1270 conviction of one or more of the officers or employees of such
1271 corporation or association shall not be a bar to the prosecution
1272 and conviction of the corporation or association for such offense.

1273 **SECTION 18.** Section 5-8-23, Mississippi Code of 1972, is
1274 brought forward as follows:

1275 5-8-23. If any section, paragraph, sentence, clause, phrase
1276 or any part of this chapter passed hereafter is declared to be
1277 unconstitutional or void, or if for any reason is declared to be
1278 invalid or of no effect, the remaining sections, paragraphs,
1279 sentences, clauses, phrases or parts thereof shall be in no manner
1280 affected thereby but shall remain in full force and effect.

1281 **SECTION 19.** Section 25-53-151, Mississippi Code of 1972, is
1282 brought forward as follows:

1283 25-53-151. (1) There is established in the State Treasury
1284 the "Electronic Government Services Fund," into which shall be
1285 deposited specific funds appropriated by the Legislature for
1286 developing and providing electronic government services within the
1287 State of Mississippi. Any funds in the Electronic Government



1288 Services Fund at the end of a fiscal year shall not lapse into the
1289 State General Fund, but shall be available for expenditure in the
1290 subsequent fiscal year. The funds in the Electronic Government
1291 Fund shall be available for expenditure pursuant to specific
1292 appropriation by the Legislature beginning in fiscal year 2002, to
1293 the Mississippi Department of Information Technology Services.

1294 (2) There is hereby established an Electronic Government
1295 Oversight Committee to oversee the implementation of E-Government
1296 and related technology initiatives. Duties of this committee
1297 would include: (a) prioritize and make recommendations for all
1298 electronic government services, in order to cut across state and
1299 local governmental organizational structures; (b) address policy
1300 issues such as privacy, security, transaction fees and
1301 accessibility; (c) review ongoing fiscal and operational
1302 management and support of portal; (d) provide a mechanism for
1303 gathering input from citizens, businesses and government entities;
1304 (e) encourage self-service models for citizens through state
1305 websites and other electronic services; and (f) promote economic
1306 development and efficient delivery of government services by
1307 encouraging governmental and private sector entities to conduct
1308 their business and transactions using electronic media. The
1309 Electronic Government Oversight Committee shall be composed of the
1310 following: (a) the Executive Director of the Mississippi
1311 Department of Information Technology Services, or his designee;



1312 (b) the State Auditor, or his designee; (c) the State Treasurer,
1313 or his designee; (d) the Secretary of State, or his designee; (e)
1314 the Executive Director of the Department of Finance and
1315 Administration, or his designee; (f) the Commissioner of Public
1316 Safety, or his designee; (g) the Commissioner of Revenue, or his
1317 designee. The committee shall annually elect one (1) member to
1318 serve as chairman and one (1) member to serve as vice chairman,
1319 who shall act as chairman in the absence of the chairman. The
1320 committee shall meet monthly or upon the call of the chairman, and
1321 shall make necessary reports and recommendations to the
1322 Legislature and the appropriate agencies of state government. All
1323 agencies of state government shall cooperate with the committee in
1324 providing requested information, shall work closely with and
1325 provide information to the committee and shall report to the
1326 committee at its request. The Mississippi Department of
1327 Information Technology Services shall provide administrative
1328 support for the committee. Nonlegislative members of the
1329 committee shall serve without compensation.

1330 (3) The Electronic Government Oversight Committee shall
1331 advise and provide direction to the Department of Finance and
1332 Administration to develop a procurement portal that will enable
1333 potential vendors of goods and services to access relevant and
1334 necessary information related to the sale of the following types
1335 of goods and services to the State of Mississippi and its
1336 agencies:



1337 (a) Commodities, as defined by Section 31-7-1;
1338 (b) Contract personnel, as defined by Sections 25-9-107
1339 and 25-9-120; and
1340 (c) Computer equipment and services, as defined by
1341 Section 25-53-3.

1342 (4) The procurement portal provided for in subsection (3)
1343 must provide potential vendors with the following:

1344 (a) A searchable database of business procurement
1345 opportunities with the state which includes a breakdown by product
1346 or service and by the organization seeking the product or service;

1347 (b) Listings of the published date and closing date for
1348 each business procurement opportunity;

1349 (c) A "Frequently Asked Questions" section regarding
1350 doing business with the respective agencies;

1351 (d) A breakdown of "Frequently Asked Questions"
1352 regarding the selection process with the respective agencies;

1353 (e) An open-air forum for questions and answers
1354 relating to the procurement process, in general, as well as
1355 specifically relating to a single contract; and

1356 (f) Links to individual agency websites and contacts to
1357 enable potential vendors to obtain more specific information, if
1358 necessary.

1359 (5) The procurement portal must be linked to the
1360 Transparency Mississippi website established in accordance with
1361 Sections 27-104-151 through 27-104-163. The Mississippi



1362 Department of Information Technology Services shall develop and
1363 maintain a link to the procurement portal from the state website.

1364 **SECTION 20.** This act shall take effect and be in force from
1365 and after July 1, 2015.

