

By: Representatives Gunn, Denny, Zuber,
Wilson, Chism, Hughes, Miles, Baker, Snowden,
Brown, Eubanks, Hopkins, Turner, Williams-
Barnes, Horne, McNeal, Dixon, Henley,
Monsour, Oliver, Sykes, Karriem

To: Rules

HOUSE BILL NO. 479
(As Passed the House)

1 AN ACT TO PROHIBIT THE PERSONAL USE OF CAMPAIGN CONTRIBUTIONS
2 BY ANY ELECTED PUBLIC OFFICE HOLDER OR ANY CANDIDATE FOR PUBLIC
3 OFFICE; TO SPECIFICALLY PROHIBIT CERTAIN PERSONAL USE
4 EXPENDITURES; TO PROVIDE THAT ANY EXPENSE THAT REASONABLY RELATES
5 TO GAINING OR HOLDING PUBLIC OFFICE, OR PERFORMING THE FUNCTIONS
6 AND DUTIES OF PUBLIC OFFICE, IS PERMITTED; TO PROVIDE FOR THE
7 DISPOSAL OF CAMPAIGN CONTRIBUTIONS ONCE A TERMINATION REPORT IS
8 FILED; TO PROVIDE PENALTIES; TO REQUIRE THE MISSISSIPPI ETHICS
9 COMMISSION TO ISSUE ADVISORY OPINIONS REGARDING THE USE OF
10 CAMPAIGN CONTRIBUTIONS; TO AMEND SECTION 23-15-801, MISSISSIPPI
11 CODE OF 1972, TO MAKE TECHNICAL CHANGES; TO AMEND SECTION
12 23-15-803, MISSISSIPPI CODE OF 1972, TO REVISE THE DEADLINE FOR
13 FILING A STATEMENT OF ORGANIZATION FOR A POLITICAL COMMITTEE TO 48
14 HOURS; TO REQUIRE THE DISCLOSURE OF THE NAME, ADDRESS, OFFICERS
15 AND MEMBERS OF A POLITICAL COMMITTEE, THE DESIGNATION OF THE CHAIR
16 AND THE CUSTODIAN OF FINANCIAL BOOKS AND RECORDS; TO ALLOW THE
17 MISSISSIPPI ETHICS COMMISSION TO ADMINISTRATIVELY FINE POLITICAL
18 COMMITTEES NOT MORE THAN \$5,000.00, PER VIOLATION, FOR FAILING TO
19 COMPLY WITH FILING REQUIREMENTS; TO AMEND SECTION 23-15-805,
20 MISSISSIPPI CODE OF 1972, TO ALLOW CANDIDATES TO FILE CAMPAIGN
21 FINANCE REPORTS DIRECTLY WITH THE SECRETARY OF STATE BY FAX,
22 EMAIL, POSTAL MAIL OR HAND DELIVERY; TO AMEND SECTION 23-15-807,
23 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNOPPOSED CANDIDATES ARE
24 NOT REQUIRED TO FILE PRE-ELECTION REPORTS BUT MUST FILE ALL OTHER
25 REPORTS; TO PROVIDE THAT THE REQUIRED DISCLOSURE OF AN EXPENDITURE
26 TO A CREDIT CARD ISSUER, FINANCIAL INSTITUTION OR BUSINESS
27 ALLOWING PAYMENTS AND MONEY TRANSFERS TO BE MADE OVER THE INTERNET
28 TO INCLUDE, EITHER BY DETAIL OR A SEPARATE ENTITY, MUST INCLUDE
29 THE AMOUNT OF THE FUNDS PASSING TO EACH PERSON, BUSINESS ENTITY OR
30 ORGANIZATION RECEIVING FUNDS FROM THE EXPENDITURE; TO AMEND
31 SECTION 23-15-811, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE
32 MISSISSIPPI ETHICS COMMISSION MAY BRING A MANDAMUS ACTION TO
33 COMPEL THE REQUIRED CAMPAIGN FINANCE DISCLOSURE REPORTS; TO AMEND
34 SECTION 23-15-813, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL



35 CHANGES; TO AMEND SECTION 23-15-817, MISSISSIPPI CODE OF 1972, TO
36 REQUIRE THAT THE LIST OF CANDIDATES WHO FAILED TO FILE CAMPAIGN
37 FINANCE REPORT BE PROVIDED TO THE MISSISSIPPI ETHICS COMMISSION;
38 TO BRING FORWARD SECTIONS 23-15-809 AND 23-15-815, MISSISSIPPI
39 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
40 RELATED PURPOSES.

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

42 **SECTION 1.** (1) The personal use of campaign contributions
43 by any elected public office holder or by any candidate for public
44 office is prohibited.

45 (a) For the purposes of this section, "personal use" is
46 defined as any use, other than expenditures related to gaining or
47 holding public office, or performing the functions and duties of
48 public office, for which the candidate for public office or
49 elected public official would be required to treat the amount of
50 the expenditure as gross income under Section 61 of the Internal
51 Revenue Code of 1986, 26 USCS Section 61, or any subsequent
52 corresponding Internal Revenue Code of the United States, as from
53 time to time amended. "Personal use" shall not include
54 donations ~~* * *from one (1) candidate to another candidate or~~
55 ~~candidates in which the donation is donated for the purpose of~~
56 ~~assisting the candidate that receives the donation in gaining or~~
57 ~~holding public office, or performing the functions and duties of~~
58 ~~public office~~ to a political organization, or to a political
59 action committee, or to another candidate.

60 (b) "Candidate" shall mean any individual described in
61 Section 23-15-801(b), and shall include any person that has



62 qualified as a candidate until the time that the person takes
63 office or files a termination report as provided in this section.

64 (c) "Officeholder" shall mean any elected or appointed
65 official from the beginning of his or her term of office until
66 that person no longer holds office.

67 (2) The expenditures that are specifically prohibited under
68 this section are as follows:

69 (a) Any residential or household items, supplies or
70 expenditures, including mortgage, rent or utility payments for any
71 part of any residential property of a candidate or officeholder or
72 a family member of the candidate or officeholder; however, this
73 does not include a residence maintained for the purpose of
74 performing official duties at the seat of government. Campaign
75 contributions used for a residence maintained for the purpose of
76 performing official duties at the seat of government shall not
77 exceed the amount necessary to pay the difference between the
78 actual rental or mortgage amount of the property and the per diem
79 earned by the candidate or office holder to maintain such
80 residence;

81 (b) Mortgage, rent or utility payments for any part of
82 any nonresidential property of a candidate or officeholder or a
83 family member of a candidate or officeholder that are used for
84 campaign purposes, to the extent the payments exceed the fair
85 market value of the property usage;



86 (c) Funeral, cremation or burial expenses ~~***~~
87 ~~including any expenses related to deaths~~ within the family of a
88 candidate or officeholder;

89 (d) Clothing, other than items of ~~***de minimis~~
90 nominal value that are used for gaining or holding public office
91 or performing the functions and duties of public office;

92 (e) Automobiles, except for automobile rental expenses
93 and other automobile expenses related to gaining or holding public
94 office, or performing the functions and duties of public office;

95 (f) Tuition payments;

96 (g) Dues, fees or gratuities at a country club, health
97 club or recreational facility, unless they are part of a specific
98 fundraising event that takes place on the premises of the
99 facility;

100 (h) Salary payments to a family member of a candidate,
101 unless the family member is providing bona fide services to the
102 campaign. If a family member provides bona fide services to a
103 campaign, any salary payments in excess of the fair market value
104 of the services provided is personal use;

105 (i) Admission to a sporting event, concert, theater or
106 other form of entertainment, unless related to gaining or holding
107 public office, or performing the functions and duties of public
108 office;

109 (j) Nondocumented loans of any type, including loans to
110 candidates;



111 (k) Travel expenses except for travel expenses of a
112 candidate or officeholder for travel undertaken as an ordinary and
113 necessary expense of gaining or holding public office, or
114 performing the functions and duties of public office, or for
115 attending meetings or conferences of officials similar to the
116 office held or sought, or for an issue the candidate or office
117 holder is or will consider, or for attending a state or national
118 convention of any party. If a candidate or officeholder uses
119 campaign contributions to pay expenses associated with travel that
120 involves both personal activities and activities related to
121 gaining or holding public office, or performing the functions and
122 duties of public office, the incremental expenses that result from
123 the personal activities are personal use, unless the person(s)
124 benefiting from this use reimburse(s) the campaign account within
125 thirty (30) days for the amount of the incremental expenses; and

126 (1) Payment of any fines, fees or penalties assessed
127 pursuant to Mississippi law.

128 (3) Any expense that reasonably relates to gaining or
129 holding public office, or performing the functions and duties of
130 public office is a permitted use of campaign contributions. It is
131 the intent of the Legislature that such expenditures are not
132 considered personal use expenditures.

133 (4) Upon filing the termination report required under
134 Section 23-15-807, any campaign contributions not used to pay for



135 the expenses of gaining or holding public office or performing the
136 functions and duties of public office shall:

137 (a) Be maintained in a campaign account(s);

138 (b) Be donated to a political organization, or to a
139 political action committee, or to another candidate;

140 (c) Be transferred, in whole or in part, into a newly
141 established political action committee or ballot question
142 advocate;

143 (d) Be donated to a tax-exempt charitable organization
144 as that term is used in Section 501(c)(3) of the Internal Revenue
145 Code of 1986, 26 USCS Section 501, or any subsequent corresponding
146 Internal Revenue Code of the United States, as from time to time
147 amended;

148 (e) Be donated to the State of Mississippi; or

149 (f) Be returned to a donor or donors but not to the
150 candidate.

151 (5) Any candidate for public office or any elected official
152 who willfully violates this section shall be guilty of a
153 misdemeanor and punished by a fine of One Thousand Dollars
154 (\$1,000.00) and by a state assessment equal to the amount of
155 misappropriated campaign contributions. The state assessment
156 shall be deposited into the Public Employees' Retirement System.

157 (6) The Mississippi Ethics Commission shall issue advisory
158 opinions regarding any of the requirements set forth in this
159 section. When any officeholder or candidate requests an advisory



160 opinion, in writing, and has stated all of the facts to govern the
161 opinion, and the Ethics Commission has prepared and delivered the
162 opinion with references to the request, there shall be no civil or
163 criminal liability accruing to or against any officeholder or
164 candidate who, in good faith, follows the direction of the opinion
165 and acts in accordance with the opinion, unless a court of
166 competent jurisdiction, after a full hearing, judicially declares
167 that the opinion is manifestly wrong and without any substantial
168 support. No opinion shall be given or considered if the opinion
169 would be given after judicial proceedings have commenced.

170 All advisory opinions issued pursuant to the provisions of
171 this subsection (6) shall be made public and shall be issued
172 within ninety (90) days of written request. The request for an
173 advisory opinion shall be confidential as to the identity of the
174 individual making the request. The Ethics Commission shall, so
175 far as practicable and before making public, an advisory opinion
176 issued under the provisions of on this subsection (6), make such
177 deletions and changes thereto as may be necessary to ensure the
178 anonymity of the public official and any other person named in the
179 opinion.

180 **SECTION 2.** It is unlawful for the Governor, Lieutenant
181 Governor or any member of the Legislature or any candidates for
182 such offices to solicit or receive cash campaign contributions or
183 hold a political fundraising function during any Regular or
184 Special Legislative Session.



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

187 23-15-801. (a) "Election" * * *~~shall mean~~ means a general,
188 special, primary or runoff election.

189 (b) "Candidate" * * *~~shall mean~~ means an individual who
190 seeks nomination for election, or election, to any elective office
191 other than a federal elective office * * *. ~~and~~ For purposes of
192 this article, an individual shall be deemed to seek nomination for
193 election, or election:

194 (i) If * * *~~such~~ the individual has received
195 contributions aggregating in excess of Two Hundred Dollars
196 (\$200.00) or has made expenditures aggregating in excess of Two
197 Hundred Dollars (\$200.00) or for a candidate for the Legislature
198 or any statewide or state district office, by the qualifying
199 deadlines specified in Sections 23-15-299 and 23-15-977, whichever
200 occurs first; or

201 (ii) If * * *~~such~~ the individual has given his or her
202 consent to another person to receive contributions or make
203 expenditures on behalf of * * *~~such~~ the individual and
204 if * * *~~such~~ the other person has received * * *~~such~~ contributions
205 aggregating in excess of Two Hundred Dollars (\$200.00) during a
206 calendar year, or has made * * *~~such~~ expenditures aggregating in
207 excess of Two Hundred Dollars (\$200.00) during a calendar year.

208 (c) "Political committee" * * *~~shall mean~~ means any
209 committee, party, club, association, political action committee,



210 campaign committee or other groups of persons or affiliated
211 organizations * * *~~which~~ that receives contributions aggregating
212 in excess of Two Hundred Dollars (\$200.00) during a calendar year
213 or * * *~~which~~ that makes expenditures aggregating in excess of Two
214 Hundred Dollars (\$200.00) during a calendar year for the purpose
215 of influencing or attempting to influence the action of voters for
216 or against the nomination for election, or election, of one or
217 more candidates, or balloted measures * * *. and Political
218 committee shall, in addition, include each political party
219 registered with the Secretary of State.

220 (d) "Affiliated organization" * * *~~shall mean~~ means any
221 organization * * *~~which~~ that is not a political committee,
222 but * * *~~which~~ that directly or indirectly establishes,
223 administers or financially supports a political committee.

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

228 (ii) "Contribution" shall not include the value of
229 services provided without compensation by any individual who
230 volunteers on behalf of a candidate or political committee; or the
231 cost of any food or beverage for use in any candidate's campaign
232 or for use by or on behalf of any political committee of a
233 political party;



234 (iii) "Contribution to a political party" includes any
235 gift, subscription, loan, advance or deposit of money or anything
236 of value made by any person, political committee, or other
237 organization to a political party and to any committee,
238 subcommittee, campaign committee, political committee and other
239 groups of persons and affiliated organizations of the political
240 party * * *;

241 (iv) "Contribution to a political party" shall not
242 include the value of services provided without compensation by any
243 individual who volunteers on behalf of a political party or a
244 candidate of a political party.

245 (f) (i) "Expenditure" shall include any purchase, payment,
246 distribution, loan, advance, deposit, gift of money or anything of
247 value, made by any person or political committee for the purpose
248 of influencing any balloted measure or election for elective
249 office; and a written contract, promise, or agreement to make an
250 expenditure;

251 (ii) "Expenditure" shall not include any news story,
252 commentary or editorial distributed through the facilities of any
253 broadcasting station, newspaper, magazine, or other periodical
254 publication, unless * * *~~such~~ the facilities are owned or
255 controlled by any political party, political committee, or
256 candidate; or nonpartisan activity designed to encourage
257 individuals to vote or to register to vote;



258 (iii) "Expenditure by a political party" includes 1.
259 any purchase, payment, distribution, loan, advance, deposit, gift
260 of money or anything of value, made by any political party and by
261 any contractor, subcontractor, agent, and consultant to the
262 political party; and 2. a written contract, promise, or agreement
263 to make such an expenditure.

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

265 (i) In the case of any individual, the name, the
266 mailing address, and the occupation of such individual, as well as
267 the name of his or her employer; and

268 (ii) In the case of any other person, the full name and
269 address of * * *~~such~~ the person.

270 (h) The term "political party" shall mean an association,
271 committee or organization which nominates a candidate for election
272 to any elective office whose name appears on the election ballot
273 as the candidate of * * *~~such~~ the association, committee or
274 organization.

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

277 (j) The term "independent expenditure" shall mean an
278 expenditure by a person expressly advocating the election or
279 defeat of a clearly identified candidate * * *~~which~~ that is made
280 without cooperation or consultation with any candidate or any
281 authorized committee or agent of * * *~~such~~ the candidate,
282 and * * *~~which~~ that is not made in concert with or at the request



283 or suggestion of any candidate or any authorized committee or
284 agent of * * *~~such~~ the candidate.

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

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

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

288 or

289 (iii) The identity of the candidate is apparent by
290 unambiguous reference.

291 **SECTION 4.** Section 23-15-803, Mississippi Code of 1972, is
292 amended as follows:

293 23-15-803. (* * *a₁) * * *~~Statements of organization.~~ Each
294 political committee shall file a statement of organization which
295 must be received by the Secretary of State no later than * * *~~ten~~
296 ~~(10) days~~ forty-eight (48) hours after:

297 (a) Receipt of contributions aggregating in excess of
298 Two Hundred Dollars (\$200.00), or * * *~~no later than ten (10) days~~
299 ~~after~~

300 (b) Having made expenditures aggregating in excess of
301 Two Hundred Dollars (\$200.00).

302 (* * *b₂) * * *~~Contents of statements.~~ The content of the
303 statement of organization of a political committee shall include:

304 (* * *i_a) The name, * * *~~and~~ address, officers, and
305 members of the committee * * *~~and all officers;~~

306 (* * *i_b) The designation of a * * *~~director~~ chair of
307 the * * *~~committee~~ organization and a custodian of the financial



308 books, records and accounts of the * * * ~~committee~~ organization,
309 who shall be designated treasurer; and

310 (* * * ~~iii~~c) If the committee is authorized by a
311 candidate, then the name, address, office sought * * * ~~r~~ and party
312 affiliation of the candidate.

313 (* * * ~~e~~3) * * * ~~Change of information in statements.~~ Any
314 change in information previously submitted in a statement of
315 organization shall be reported and noted on the next regularly
316 scheduled report.

317 (4) In addition to any other penalties provided by law, the
318 Mississippi Ethics Commission may impose administrative penalties
319 against any political committee that fails to comply with the
320 requirements of this section in an amount not to exceed Five
321 Thousand Dollars (\$5,000.00) per violation. The notice, hearing
322 and appeals provisions of Section 23-15-813 shall apply to any
323 action taken pursuant to this subsection (4). The Mississippi
324 Ethics Commission may pursue judicial enforcement of any penalties
325 issued pursuant to this section.

326 **SECTION 5.** Section 23-15-805, Mississippi Code of 1972, is
327 amended as follows:

328 23-15-805. (a) Candidates for state, state district, and
329 legislative district offices, and every political committee, which
330 makes reportable contributions to or expenditures in support of or
331 in opposition to a candidate for any such office or makes
332 reportable contributions to or expenditures in support of or in



333 opposition to a statewide ballot measure, shall file all reports
334 required under this article with the Office of the Secretary of
335 State.

336 (b) Candidates for county or county district office, and
337 every political committee which makes reportable contributions to
338 or expenditures in support of or in opposition to a candidate for
339 such office or makes reportable contributions to or expenditures
340 in support of or in opposition to a countywide ballot measure or a
341 ballot measure affecting part of a county, excepting a municipal
342 ballot measure, shall file all reports required by this section in
343 the office of the circuit clerk of the county in which the
344 election occurs, or directly to the Office of the Secretary of
345 State via facsimile, electronic mail, postal mail or hand
346 delivery. The circuit clerk shall forward copies of all reports
347 to the Office of the Secretary of State.

348 (c) Candidates for municipal office, and every political
349 committee which makes reportable contributions to or expenditures
350 in support of or in opposition to a candidate for such office, or
351 makes reportable contributions to or expenditures in support of or
352 in opposition to a municipal ballot measure shall file all reports
353 required by this article in the office of the municipal clerk of
354 the municipality in which the election occurs, or directly to the
355 Office of the Secretary of State via facsimile, electronic mail,
356 postal mail or hand delivery. The municipal clerk shall forward
357 copies of all reports to the Office of the Secretary of State.



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

362 * * * ~~(e) The provisions of this section applicable to the~~
363 ~~reporting by a political committee of contributions and~~
364 ~~expenditures regarding statewide ballot measures shall apply to~~
365 ~~the statewide special election for the purpose of selecting the~~
366 ~~official state flag provided for in Section 1 of Laws, 2001,~~
367 ~~Chapter 301.~~

368 **SECTION 6.** Section 23-15-807, Mississippi Code of 1972, is
369 amended as follows:

370 23-15-807. (a) Each candidate or political committee shall
371 file reports of contributions and disbursements in accordance with
372 the provisions of this section. All candidates or political
373 committees required to report such contributions and disbursements
374 may terminate * * * ~~its~~ the obligation to report only upon
375 submitting a final report that * * * contributions ~~it~~ will no
376 longer * * * ~~receive any contributions~~ be received or * * * ~~make any~~
377 ~~disbursement~~ disbursements made and that * * * ~~such~~ the candidate
378 or committee has no outstanding debts or obligations. The
379 candidate, treasurer or chief executive officer shall
380 sign * * * ~~each~~ such the report.

381 (b) Candidates * * * ~~who~~ are seeking election, or nomination
382 for election, and political committees * * * ~~that~~ make making



383 expenditures * * *~~for the purpose of influencing or attempting to~~
384 influence * * *~~the action of~~ or attempt to influence voters for or
385 against the nomination for election * * *~~, or election,~~ of one or
386 more candidates or balloted measures at such election, shall file
387 the following reports:

388 (i) In any calendar year during which there is a
389 regularly scheduled election, a pre-election report * * *~~, which~~
390 shall be filed no later than the seventh day before any election
391 in which * * *~~such~~ the candidate or political committee has
392 accepted contributions or made expenditures and * * *~~which~~ shall
393 be * * *~~complete~~ completed as of the tenth day before * * *~~such~~
394 the election;

395 (ii) In 1987 and every fourth year thereafter, periodic
396 reports * * *~~, which~~ shall be filed no later than the tenth day
397 after April 30, May 31, June 30, September 30 and December 31,
398 and * * *~~which~~ shall be * * *~~complete~~ completed as of the last day
399 of each period; * * *~~and~~

400 (iii) In any calendar years except 1987 and except
401 every fourth year thereafter, a report covering the calendar
402 year * * *~~which~~ shall be filed no later than January 31 of the
403 following calendar year * * *~~;~~ and

404 (iv) Except as otherwise provided in the requirements
405 of subparagraph (i) of this paragraph (b), unopposed candidates
406 are not required to file pre-election reports but must file all



407 other reports required by subparagraphs (ii) and (iii) of this
408 paragraph (b).

409 (c) All candidates for judicial office as defined in Section
410 23-15-975, or their political committees, shall file periodic
411 reports in the year in which they are to be elected * * *~~7~~
412 ~~periodic reports which shall be filed~~ no later than the tenth day
413 after April 30, May 31, June 30, September 30 and December 31.

414 (d) * * *~~Contents of reports.~~ Each report under this
415 article shall disclose:

416 (i) For the reporting period and the calendar year, the
417 total amount of all contributions and the total amount of all
418 expenditures of the candidate or reporting committee * * *~~, which~~
419 ~~shall include~~ including those required to be identified pursuant
420 to * * *~~item~~ subparagraph (ii) of this paragraph (d) as well as
421 the total of all other contributions and expenditures during the
422 calendar year. * * *~~Such~~ The reports shall be cumulative during
423 the calendar year to which they relate;

424 (ii) The identification of:

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



431 2. Each person or organization, candidate or
432 political committee who receives an expenditure, payment or other
433 transfer from the reporting candidate, political committee or its
434 agent, employee, designee, contractor, consultant or other person
435 or persons acting in its behalf during the reporting period when
436 the expenditure, payment or other transfer to * * *~~such~~ the
437 person, organization, candidate or political committee within the
438 calendar year have an aggregate value or amount in excess of Two
439 Hundred Dollars (\$200.00) together with the date and amount
440 of * * *~~such~~ the expenditure * * *~~;~~;

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

443 (iv) In addition to the contents of reports specified
444 in * * *~~items~~ subparagraphs (i), (ii) and (iii) of this paragraph
445 (d), each political party shall disclose:

446 1. Each person or political committee who makes a
447 contribution to a political party during the reporting period and
448 whose contribution or contributions to a political party within
449 the calendar year have an aggregate amount or value in excess of
450 Two Hundred Dollars (\$200.00), together with the date and amount
451 of the contribution;

452 2. Each person or organization who receives an
453 expenditure or expenditures by a political party * * *~~or~~
454 ~~expenditures by a political party~~ during the reporting period when
455 the expenditure or expenditures to the person or organization



456 within the calendar year have an aggregate value or amount in
457 excess of Two Hundred Dollars (\$200.00), together with the date
458 and amount of * * * ~~such~~ the expenditure * * * .;

459 (v) Disclosure required under this section of an
460 expenditure to a credit card issuer, financial institution or
461 business allowing payments and money transfers to be made over the
462 Internet must include, by way of detail or separate entry, the
463 amount of funds passing to each person, business entity or
464 organization receiving funds from the expenditure.

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

478 (f) (i) If any contribution of more than Two Hundred
479 Dollars (\$200.00) is received by a candidate or candidate's
480 political committee after the tenth day, but more than forty-eight



481 (48) hours before 12:01 a.m. of the day of the election, the
482 candidate or political committee shall notify the appropriate
483 office designated in Section 23-15-805, within forty-eight (48)
484 hours of receipt of the contribution. The notification shall
485 include:

- 486 1. The name of the receiving candidate;
- 487 2. The name of the receiving candidate's political
488 committee, if any;
- 489 3. The office sought by the candidate;
- 490 4. The identification of the contributor;
- 491 5. The date of receipt;
- 492 6. The amount of the contribution;
- 493 7. If the contribution is in-kind, a description
494 of the in-kind contribution; and
- 495 8. The signature of the candidate or the treasurer
496 or * * *~~director~~ chair of the candidate's political * * *~~committee~~
497 organization.

498 (ii) The notification shall be in writing, and may be
499 transmitted by overnight mail, courier service, or other reliable
500 means, including electronic facsimile (FAX), but the candidate or
501 candidate's committee shall ensure that the notification shall in
502 fact be received in the appropriate office designated in Section
503 23-15-805 within forty-eight (48) hours of the contribution.

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



506 23-15-811. (a) Any candidate or any other person who shall
507 * * * ~~wilfully and deliberately and substantially~~ willfully
508 violates the provisions and prohibitions of this article shall be
509 guilty of a misdemeanor and upon conviction * * * ~~thereof~~ shall be
510 punished by a fine in a sum not to exceed Three Thousand Dollars
511 (\$3,000.00) or imprisoned for not longer than six (6) months or by
512 both fine and imprisonment.

513 (b) In addition to the penalties provided in paragraph (a)
514 of this section and Chapter 13, Title 97, Mississippi Code of
515 1972, any candidate or political committee which is required to
516 file a statement or report * * * ~~which~~ and fails to file * * * ~~such~~
517 the statement or report on the date * * * ~~in which~~ it is due may be
518 compelled to file * * * ~~such~~ the statement or report by an action
519 in the nature of a mandamus brought by the Mississippi Ethics
520 Commission.

521 (c) No candidate shall be certified as nominated for
522 election or as elected to office * * * ~~unless and~~ until he or she
523 files all reports required by this article that are due as of the
524 date of certification.

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

529 (e) In the event that a candidate fails to timely file any
530 report required pursuant to this article but subsequently files a



531 report or reports containing all of the information required to be
532 reported ~~by him as of the date on which the sanctions~~
533 ~~of * * * paragraphs subsections (c) and (d) of this section would~~
534 ~~be applied to him, * * * such,~~ the candidate shall not be subject
535 to the sanctions of * * * ~~said~~ paragraphs (c) and (d) of this
536 section.

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

539 23-15-813. (a) In addition to any other penalty permitted
540 by law, the * * * ~~Secretary of State~~ Mississippi Ethics Commission
541 shall require any candidate or political committee, as identified
542 in Section 23-15-805(a), and any other political committee
543 registered with the Secretary of State, who fails to file a
544 campaign finance disclosure report as required under Sections
545 23-15-801 through 23-15-813, or Sections 23-17-47 through
546 23-17-53, or who shall file a report * * * ~~which~~ that fails to
547 substantially comply with the requirements of Sections 23-15-801
548 through 23-15-813, or Sections 23-17-47 through 23-17-53, to be
549 assessed a civil penalty as follows:

550 (i) Within five (5) calendar days after any deadline
551 for filing a report pursuant to Sections 23-15-801 through
552 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
553 State shall compile a list of those candidates and political
554 committees who have failed to file a report. The list shall be
555 provided to the Mississippi Ethics Commission. The Secretary of



556 State shall provide each candidate or political committee, who has
557 failed to file a report, notice of the failure by first-class
558 mail.

559 (ii) Beginning with the tenth calendar day after which
560 any report * * *~~shall be~~ is due, the * * *~~Secretary of State~~
561 Mississippi Ethics Commission shall assess the delinquent
562 candidate and political committee a civil penalty of Fifty Dollars
563 (\$50.00) for each day or part of any day until a valid report is
564 delivered to the Secretary of State, up to a maximum of ten (10)
565 days. * * *~~However,~~ In the discretion of the * * *~~Secretary of~~
566 ~~State~~ Mississippi Ethics Commission, the assessing of the fine may
567 be waived, in whole or in part, if the * * *~~Secretary of State~~
568 Commission determines that unforeseeable mitigating circumstances,
569 such as the health of the candidate, interfered with the timely
570 filing of a report. Failure of a candidate or political committee
571 to receive notice of failure to file a report from the Secretary
572 of State is not an unforeseeable mitigating circumstance, and
573 failure to receive the notice shall not result in removal or
574 reduction of any assessed civil penalty.

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



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

585 (v) If any candidate or political committee is assessed
586 a civil penalty, and the penalty is not subsequently waived by
587 the * * *~~Secretary of State~~ Mississippi Ethics Commission, the
588 candidate or political committee shall pay the fine to
589 the * * *~~Secretary of State~~ Commission within ninety (90) days of
590 the date of the assessment of the fine. If, after one hundred
591 twenty (120) days of the assessment of the fine the payment for
592 the entire amount of the assessed fine has not been received by
593 the * * *~~Secretary of State~~ Commission, the * * *~~Secretary of~~
594 ~~State~~ Commission shall notify the Attorney General of the
595 delinquency, and the Attorney General shall file, where necessary,
596 a suit to compel payment of the civil penalty.

597 (b) (i) Upon the sworn application, made within sixty (60)
598 calendar days of the date upon which the required report is due,
599 of a candidate or political committee against whom a civil penalty
600 has been assessed pursuant to paragraph (a), the Secretary of
601 State shall forward the application to the State Board of Election
602 Commissioners. The State Board of Election Commissioners shall
603 appoint one or more hearing officers who shall be former
604 chancellors, circuit court judges, judges of the Court of Appeals



605 or justices of the Supreme Court, * * *~~and who shall~~ to conduct
606 hearings held pursuant to this article. The hearing officer shall
607 fix a time and place for a hearing and shall cause a written
608 notice specifying the civil penalties that have been assessed
609 against the candidate or political committee and notice of the
610 time and place of the hearing to be served upon the candidate or
611 political committee at least twenty (20) calendar days before the
612 hearing date. The notice may be served by mailing a
613 copy * * *~~thereof~~ of the notice by certified mail, postage
614 prepaid, to the last known business address of the candidate or
615 political committee.

616 (ii) The hearing officer may issue subpoenas for the
617 attendance of witnesses and the production of * * *~~books and~~
618 ~~papers~~ documents at the hearing. Process issued by the hearing
619 officer shall extend to all parts of the state and shall be served
620 by any person designated by the hearing officer for the service.

621 (iii) The candidate or political committee has the
622 right to appear either personally, by counsel or both, to produce
623 witnesses or evidence in his or her behalf, to cross-examine
624 witnesses and to have subpoenas issued by the hearing officer.

625 (iv) At the hearing, the hearing officer shall
626 administer oaths as may be necessary for the proper conduct of the
627 hearing. All hearings shall be conducted by the hearing officer,
628 who shall not be bound by strict rules of procedure or by the laws
629 of evidence * * *~~in the conduct of the proceedings~~, but the



630 determination shall be based upon sufficient evidence to sustain
631 it. The scope of review at the hearing shall be limited to making
632 a determination of whether failure to file a required report was
633 due to an unforeseeable mitigating circumstance.

634 (v) * * * ~~Where,~~ In any proceeding before the hearing
635 officer, if any witness fails or refuses to attend upon a subpoena
636 issued by the commission, refuses to testify, or refuses to
637 produce any * * * ~~books and papers the production of which is~~
638 documents called for by a subpoena, the attendance of the witness,
639 the giving of his or her testimony or the production of
640 the * * * ~~books and papers~~ documents shall be enforced by * * * ~~any~~
641 a court of competent jurisdiction of this state in the manner
642 provided for the enforcement of attendance and testimony of
643 witnesses in civil cases in the courts of this state.

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

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



655 the hearing. The appeal shall be taken within thirty (30)
656 calendar days after notice of the decision of the commission
657 following an administrative hearing. The appeal shall be
658 perfected upon filing notice of the appeal and * * *~~by~~ the
659 prepayment of all costs, including the cost of * * *~~the~~
660 ~~preparation of~~ preparing the record of the proceedings by the
661 hearing officer, and * * *~~the~~ filing * * *~~of~~ a bond in the sum of
662 Two Hundred Dollars (\$200.00), conditioned that if the decision of
663 the hearing officer * * *~~be~~ is affirmed by the court, the
664 candidate or political committee will pay the costs of the appeal
665 and the action in court. If the decision is reversed by the
666 court, the * * *~~Secretary of State~~ Mississippi Ethics Commission
667 will pay the costs of the appeal and the action in court.

668 (ii) If there is an appeal, the appeal shall act as a
669 supersedeas. The court shall dispose of the appeal and enter its
670 decision promptly. The hearing on the appeal may be tried in
671 vacation, in the court's discretion. The scope of review of the
672 court shall be limited to a review of the record made before the
673 hearing officer to determine if the action of the hearing officer
674 is unlawful for the reason that it was 1. not supported by
675 substantial evidence, 2. arbitrary or capricious, 3. beyond the
676 power of the hearing officer to make, or 4. in violation of some
677 statutory or constitutional right of the appellant. The decision
678 of the court may be appealed to the Supreme Court in the manner
679 provided by law.



680 (d) If, after forty-five (45) calendar days of the date of
681 the administrative hearing procedure set forth in paragraph (b),
682 the candidate or political committee identified in paragraph (a)
683 of this section fails to pay the monetary civil penalty imposed by
684 the hearing officer, the Secretary of State shall notify the
685 Attorney General of the delinquency. The Attorney General shall
686 investigate the offense in accordance with the provisions of this
687 chapter, and where necessary, file suit to compel payment of the
688 unpaid civil penalty.

689 (e) If, after twenty (20) calendar days of the date upon
690 which a campaign finance disclosure report is due, a candidate or
691 political committee identified in paragraph (a) of this section
692 shall not have filed a valid report with the Secretary of State,
693 the Secretary of State shall notify the Attorney General of those
694 candidates and political committees who have not filed a valid
695 report, and the Attorney General shall * * *~~thereupon~~ prosecute
696 the delinquent candidates and political committees.

697 **SECTION 9.** Section 23-15-817, Mississippi Code of 1972, is
698 amended as follows:

699 23-15-817. The Secretary of State shall compile a list of
700 all candidates for the Legislature or any statewide office who
701 fail to file a campaign disclosure report by the dates specified
702 in Section 23-15-807(b) * * *~~.~~ The list shall be provided to the
703 Mississippi Ethics Commission so that the commission may bring a
704 mandamus as provided in Section 23-15-811 or take any other



705 disciplinary action as provided in this chapter. The list shall
706 also be disseminated to the members of the Mississippi Press
707 Association within two (2) working days after such reports are due
708 and made available to the public.

709 **SECTION 10.** Section 23-15-809, Mississippi Code of 1972, is
710 brought forward as follows:

711 23-15-809. (a) Every person who makes independent
712 expenditures in an aggregate amount or value in excess of Two
713 Hundred Dollars (\$200.00) during a calendar year shall file a
714 statement containing the information required under Section
715 23-15-807. Such statement shall be filed with the appropriate
716 offices as provided for in Section 23-15-805, and such person
717 shall be considered a political committee for the purpose of
718 determining place of filing.

719 (b) Statements required to be filed by this subsection shall
720 include:

721 (i) Information indicating whether the independent
722 expenditure is in support of, or in opposition to, the candidate
723 involved;

724 (ii) Under penalty of perjury, a certification of
725 whether or not such independent expenditure is made in
726 cooperation, consultation or concert with, or at the request or
727 suggestion of, any candidate or any authorized committee or agent
728 of such candidate; and



729 (iii) The identification of each person who made a
730 contribution in excess of Two Hundred Dollars (\$200.00) to the
731 person filing such statement which was made for the purpose of
732 furthering an independent expenditure.

733 **SECTION 11.** Section 23-15-815, Mississippi Code of 1972, is
734 brought forward as follows:

735 23-15-815. (a) The Secretary of State shall prescribe and
736 make available forms and promulgate rules and regulations
737 necessary to implement this article.

738 (b) The Secretary of State, circuit clerks and municipal
739 clerks shall, within forty-eight (48) hours after the time of the
740 receipt by the appropriate office of reports and statements filed
741 with it, make them available for public inspection, and copying at
742 the expense of the person requesting such copying, and keep such
743 designations, reports and statements for a period of three (3)
744 years from the date of receipt.

745 **SECTION 12.** This act shall take effect and be in force from
746 and after * * *~~July 1, 2017~~ January 1, 2018.

