

House Amendments to Senate Bill No. 2689

TO THE SECRETARY OF THE SENATE:

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

AMENDMENT NO. 1

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

33 SECTION 1. (1) The personal use of campaign contributions
34 by any elected public office holder or by any candidate for public
35 office is prohibited.

36 (a) For the purposes of this section, "personal use" is
37 defined as any use, other than expenditures related to gaining or
38 holding public office, or performing the functions and duties of
39 public office, for which the candidate for public office or
40 elected public official would be required to treat the amount of
41 the expenditure as gross income under Section 61 of the Internal
42 Revenue Code of 1986, 26 USC Section 61, or any subsequent
43 corresponding Internal Revenue Code of the United States, as from
44 time to time amended. "Personal use" shall not include donations
45 to a political organization, or to a political action committee,
46 or to another candidate.

47 (b) "Candidate" shall mean any individual described in
48 Section 23-15-801(b), and shall include any person having been a

49 candidate until such time that the person takes office or files a
50 termination report as provided in this section.

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

54 (2) The following personal use expenditures are specifically
55 prohibited under this section:

56 (a) Any residential or household items, supplies or
57 expenditures, including mortgage, rent or utility payments for any
58 part of any personal residence where a homestead exemption is
59 claimed of a candidate or officeholder or a member of the
60 candidate's or officeholder's family;

61 (b) Mortgage, rent or utility payments for any part of
62 any nonresidential property that is owned by a candidate or
63 officeholder or a member of a candidate's or officeholder's family
64 and used for campaign purposes, to the extent the payments exceed
65 the fair market value of the property usage;

66 (c) Funeral, cremation or burial expenses within a
67 candidate's or officeholder's family;

68 (d) Clothing, other than items of de minimis value that
69 are used for gaining or holding public office or performing the
70 functions and duties of public office;

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

74 (f) Tuition payments within a candidate's or
75 officeholder's family other than those associated with training
76 campaign staff or associated with an officeholder's duties;

77 (g) Salary payments to a member of a candidate's
78 family, unless the family member is providing bona fide services
79 to the campaign. If a family member provides bona fide services
80 to a campaign, any salary payments in excess of the fair market
81 value of the services provided is personal use;

82 (h) Nondocumented loans of any type, including loans to
83 candidates;

84 (i) Travel expenses except for travel expenses of a
85 candidate, officeholder or staff member of the officeholder for
86 travel undertaken as an ordinary and necessary expense of gaining
87 or holding public office, or performing the functions and duties
88 of public office or for attending meetings or conferences of
89 officials similar to the office held or sought, or for an issue
90 the legislative body is or will consider, or attending a state or
91 national convention of any party. If a candidate or officeholder
92 uses campaign contributions to pay expenses associated with travel
93 that involves both personal activities and activities related to
94 gaining or holding public office or performing the functions and
95 duties of public office, the incremental expenses that result from
96 the personal activities are personal use, unless the person(s)
97 benefiting from this use reimburse(s) the campaign account within
98 thirty (30) days for the amount of the incremental expenses; and

99 (j) Payment of any fines, fees or penalties assessed
100 pursuant to Mississippi law.

101 (3) Any expense that reasonably relates to gaining or
102 holding public office, or performing the functions and duties of
103 public office is a specifically permitted use of campaign
104 contributions. Such expenditures are not considered personal use
105 expenditures and may include, but are not limited to, the
106 following expenditures:

107 (a) The defrayal of ordinary and necessary expenses of
108 a candidate or officeholder, including expenses reasonably related
109 to performing the duties of the office held or sought to be held;

110 (b) Campaign office or officeholder office expenses and
111 equipment, provided the expenditures and the use of the equipment
112 can be directly attributable to the campaign or office held;

113 (c) Donations to charitable organizations,
114 not-for-profit organizations or for sponsorships, provided the
115 candidate or officeholder does not receive monetary compensation,
116 other than reimbursements of expenses, from the recipient
117 organization;

118 (d) Gifts of nominal value and donations of a nominal
119 amount made on a special occasion such as a holiday, graduation,
120 marriage, retirement or death, unless made to a member of the
121 candidate's or officeholder's family;

122 (e) Meal and beverage expenses which are incurred as
123 part of a campaign activity or as a part of a function that is
124 related to the candidate's or officeholder's responsibilities,

125 including meals between and among candidates and/or officeholders
126 that are incurred as an ordinary and necessary expense of seeking,
127 holding or maintaining public office, or seeking, holding or
128 maintaining a position within the Legislature or other publicly
129 elected body;

130 (f) Reasonable rental or accommodation expenses
131 incurred by an officeholder during a legislative session or a day
132 or days in which the officeholder is required by his or her duties
133 to be at the Capitol or another location outside the
134 officeholder's county of residence. Such rental or accommodation
135 expenses shall not exceed Fifty Dollars (\$50.00) per day, if the
136 officeholder receives per diem, or One Hundred Ninety Dollars
137 (\$190.00) per day, if the officeholder receives no per diem. Any
138 expenses incurred under this paragraph (f) must be reported as an
139 expenditure pursuant to this section;

140 (g) Communication access expenses, including mobile
141 devices and Internet access costs. Examples of communication
142 access expenses include, but are not limited to, the following:
143 captioning on television advertisements; video clips; sign
144 language interpreters; computer-aided real time (CART) services;
145 and assistive listening devices;

146 (h) Costs associated with memberships to chambers of
147 commerce and civic organizations;

148 (i) Legal fees and costs associated with any civil
149 action, criminal prosecution or investigation related to conduct

150 reasonably related to the candidacy or performing the duties of
151 the office held.

152 (4) Upon filing the termination report required under
153 Section 23-15-807, any campaign contributions not used to pay for
154 the expenses of gaining or holding public office or performing the
155 functions and duties of public office shall:

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

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

159 (c) Be transferred, in whole or in part, into a newly
160 established political action committee or ballot question
161 advocate;

162 (d) Be donated to a tax-exempt charitable organization
163 as that term is used in Section 501(c)(3) of the Internal Revenue
164 Code of 1986, 26 USC Section 501, or any subsequent corresponding
165 Internal Revenue Code of the United States, as from time to time
166 amended;

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

168 (f) Be returned to a donor or donors.

169 (5) Any candidate for public office or any elected official
170 who willfully violates this section shall be guilty of a
171 misdemeanor and punished by a fine of One Thousand Dollars
172 (\$1,000.00) and by a state assessment equal to the amount of
173 misappropriated campaign contributions. The state assessment
174 shall be deposited into the Public Employees' Retirement System.

175 No fine or assessment imposed under this section shall be paid by
176 a third party.

177 (6) Any contributions accruing to a candidate's or
178 officeholder's campaign account before January 1, 2018, shall be
179 exempt and not subject to the provisions of this Section 1. All
180 exempt contributions must be designated as exempt on all reports
181 filed with the Secretary of State pursuant to the provisions of
182 this chapter.

183 (7) The Mississippi Ethics Commission shall issue advisory
184 opinions regarding any of the requirements set forth in this
185 section. When any officeholder or candidate requests an advisory
186 opinion, in writing, and has stated all of the facts to govern the
187 opinion, and the Ethics Commission has prepared and delivered the
188 opinion with references to the request, there shall be no civil or
189 criminal liability accruing to or against any officeholder or
190 candidate who, in good faith, follows the direction of the opinion
191 and acts in accordance with the opinion, unless a court of
192 competent jurisdiction, after a full hearing, judicially declares
193 that the opinion is manifestly wrong and without any substantial
194 support. No opinion shall be given or considered if the opinion
195 would be given after judicial proceedings have commenced.

196 All advisory opinions issued pursuant to the provisions of
197 this subsection (7) shall be made public and shall be issued
198 within ninety (90) days of written request. The request for an
199 advisory opinion shall be confidential as to the identity of the
200 individual making the request. The Ethics Commission shall, so

201 far as practicable and before making public, an advisory opinion
202 issued under the provisions of on this subsection (7), make such
203 deletions and changes thereto as may be necessary to ensure the
204 anonymity of the public official and any other person named in the
205 opinion.

206 **SECTION 2.** Section 23-15-801, Mississippi Code of 1972, is
207 amended as follows:

208 23-15-801. (a) "Election" * * *~~shall mean~~ means a general,
209 special, primary or runoff election.

210 (b) "Candidate" * * *~~shall mean~~ means an individual who
211 seeks nomination for election, or election, to any elective office
212 other than a federal elective office * * *. ~~and~~ For purposes of
213 this article, an individual shall be deemed to seek nomination for
214 election, or election:

215 (i) If * * *~~such~~ the individual has received
216 contributions aggregating in excess of Two Hundred Dollars
217 (\$200.00) or has made expenditures aggregating in excess of Two
218 Hundred Dollars (\$200.00) or for a candidate for the Legislature
219 or any statewide or state district office, by the qualifying
220 deadlines specified in Sections 23-15-299 and 23-15-977, whichever
221 occurs first; or

222 (ii) If * * *~~such~~ the individual has given his or her
223 consent to another person to receive contributions or make
224 expenditures on behalf of * * *~~such~~ the individual and
225 if * * *~~such~~ the other person has received * * *~~such~~ contributions
226 aggregating in excess of Two Hundred Dollars (\$200.00) during a

227 calendar year, or has made * * *~~such~~ expenditures aggregating in
228 excess of Two Hundred Dollars (\$200.00) during a calendar year.

229 (c) "Political committee" * * *~~shall mean~~ means any
230 committee, party, club, association, political action committee,
231 campaign committee or other groups of persons or affiliated
232 organizations * * *~~which~~ that receives contributions aggregating
233 in excess of Two Hundred Dollars (\$200.00) during a calendar year
234 or * * *~~which~~ that makes expenditures aggregating in excess of Two
235 Hundred Dollars (\$200.00) during a calendar year for the purpose
236 of influencing or attempting to influence the action of voters for
237 or against the nomination for election, or election, of one or
238 more candidates, or balloted measures * * * . and Political
239 committee shall, in addition, include each political party
240 registered with the Secretary of State.

241 (d) "Affiliated organization" * * *~~shall mean~~ means any
242 organization * * *~~which~~ that is not a political committee,
243 but * * *~~which~~ that directly or indirectly establishes,
244 administers or financially supports a political committee.

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

249 (ii) "Contribution" shall not include the value of
250 services provided without compensation by any individual who
251 volunteers on behalf of a candidate or political committee; or the
252 cost of any food or beverage for use in any candidate's campaign

253 or for use by or on behalf of any political committee of a
254 political party;

255 (iii) "Contribution to a political party" includes any
256 gift, subscription, loan, advance or deposit of money or anything
257 of value made by any person, political committee, or other
258 organization to a political party and to any committee,
259 subcommittee, campaign committee, political committee and other
260 groups of persons and affiliated organizations of the political
261 party * * *;

262 (iv) "Contribution to a political party" shall not
263 include the value of services provided without compensation by any
264 individual who volunteers on behalf of a political party or a
265 candidate of a political party.

266 (f) (i) "Expenditure" shall include any purchase, payment,
267 distribution, loan, advance, deposit, gift of money or anything of
268 value, made by any person or political committee for the purpose
269 of influencing any balloted measure or election for elective
270 office; and a written contract, promise, or agreement to make an
271 expenditure;

272 (ii) "Expenditure" shall not include any news story,
273 commentary or editorial distributed through the facilities of any
274 broadcasting station, newspaper, magazine, or other periodical
275 publication, unless * * *~~such~~ the facilities are owned or
276 controlled by any political party, political committee, or
277 candidate; or nonpartisan activity designed to encourage
278 individuals to vote or to register to vote;

279 (iii) "Expenditure by a political party" includes 1.
280 any purchase, payment, distribution, loan, advance, deposit, gift
281 of money or anything of value, made by any political party and by
282 any contractor, subcontractor, agent, and consultant to the
283 political party; and 2. a written contract, promise, or agreement
284 to make such an expenditure.

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

286 (i) In the case of any individual, the name, the
287 mailing address, and the occupation of such individual, as well as
288 the name of his or her employer; and

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

291 (h) The term "political party" shall mean an association,
292 committee or organization which nominates a candidate for election
293 to any elective office whose name appears on the election ballot
294 as the candidate of * * *~~such~~ the association, committee or
295 organization.

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

298 (j) The term "independent expenditure" shall mean an
299 expenditure by a person expressly advocating the election or
300 defeat of a clearly identified candidate * * *~~which~~ that is made
301 without cooperation or consultation with any candidate or any
302 authorized committee or agent of * * *~~such~~ the candidate,
303 and * * *~~which~~ that is not made in concert with or at the request

304 or suggestion of any candidate or any authorized committee or
305 agent of * * *~~such~~ the candidate.

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

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

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

309 or

310 (iii) The identity of the candidate is apparent by
311 unambiguous reference.

312 **SECTION 3.** Section 23-15-803, Mississippi Code of 1972, is
313 amended as follows:

314 23-15-803. (* * *a₁) * * *~~Statements of organization.~~ Each
315 political committee shall file a statement of organization which
316 must be received by the Secretary of State no later than * * *~~ten~~
317 ~~(10) days~~ forty-eight (48) hours after:

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

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

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

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

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

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

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

334 (* * * ~~e~~3) * * * ~~Change of information in statements.~~ Any
335 change in information previously submitted in a statement of
336 organization shall be reported and noted on the next regularly
337 scheduled report.

338 (4) In addition to any other penalties provided by law, the
339 Mississippi Ethics Commission may impose administrative penalties
340 against any political committee that fails to comply with the
341 requirements of this section in an amount not to exceed Five
342 Thousand Dollars (\$5,000.00) per violation. The notice, hearing
343 and appeals provisions of Section 23-15-813 shall apply to any
344 action taken pursuant to this subsection (4). The Mississippi
345 Ethics Commission may pursue judicial enforcement of any penalties
346 issued pursuant to this section.

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

349 23-15-805. (a) Candidates for state, state district, and
350 legislative district offices, and every political committee, which
351 makes reportable contributions to or expenditures in support of or
352 in opposition to a candidate for any such office or makes
353 reportable contributions to or expenditures in support of or in
354 opposition to a statewide ballot measure, shall file all reports

355 required under this article with the Office of the Secretary of
356 State.

357 (b) Candidates for county or county district office, and
358 every political committee which makes reportable contributions to
359 or expenditures in support of or in opposition to a candidate for
360 such office or makes reportable contributions to or expenditures
361 in support of or in opposition to a countywide ballot measure or a
362 ballot measure affecting part of a county, excepting a municipal
363 ballot measure, shall file all reports required by this section in
364 the office of the circuit clerk of the county in which the
365 election occurs, or directly to the Office of the Secretary of
366 State via facsimile, electronic mail, postal mail or hand
367 delivery. The circuit clerk shall forward copies of all reports
368 to the Office of the Secretary of State.

369 (c) Candidates for municipal office, and every political
370 committee which makes reportable contributions to or expenditures
371 in support of or in opposition to a candidate for such office, or
372 makes reportable contributions to or expenditures in support of or
373 in opposition to a municipal ballot measure shall file all reports
374 required by this article in the office of the municipal clerk of
375 the municipality in which the election occurs, or directly to the
376 Office of the Secretary of State via facsimile, electronic mail,
377 postal mail or hand delivery. The municipal clerk shall forward
378 copies of all reports to the Office of the Secretary of State.

379 (d) The Secretary of State, the circuit clerks and the
380 municipal clerks shall make all reports received under this

381 subsection available for public inspection and copying and shall
382 preserve * * *~~such~~ the reports for a period of five (5) years.

383 * * *~~(e) The provisions of this section applicable to the~~
384 ~~reporting by a political committee of contributions and~~
385 ~~expenditures regarding statewide ballot measures shall apply to~~
386 ~~the statewide special election for the purpose of selecting the~~
387 ~~official state flag provided for in Section 1 of Laws, 2001,~~
388 ~~Chapter 301.~~

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

391 23-15-807. (a) Each candidate or political committee shall
392 file reports of contributions and disbursements in accordance with
393 the provisions of this section. All candidates or political
394 committees required to report such contributions and disbursements
395 may terminate * * *~~its~~ the obligation to report only upon
396 submitting a final report that * * * contributions~~it~~ will no
397 longer * * *~~receive any contributions~~ be received or * * *~~make any~~
398 ~~disbursement~~ disbursements made and that * * *~~such~~ the candidate
399 or committee has no outstanding debts or obligations. The
400 candidate, treasurer or chief executive officer shall
401 sign * * *~~each~~ such the report.

402 (b) Candidates * * *~~who~~ are seeking election, or nomination
403 for election, and political committees * * *~~that make~~ making
404 expenditures * * *~~for the purpose of influencing or attempting to~~
405 influence * * *~~the action of~~ or attempt to influence voters for or
406 against the nomination for election * * *~~, or election,~~ of one or

407 more candidates or balloted measures at such election, shall file
408 the following reports:

409 (i) In any calendar year during which there is a
410 regularly scheduled election, a pre-election report * * *~~which~~
411 shall be filed no later than the seventh day before any election
412 in which * * *~~such~~ the candidate or political committee has
413 accepted contributions or made expenditures and * * *~~which~~ shall
414 be * * *~~complete~~ completed as of the tenth day before * * *~~such~~
415 the election;

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

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

425 (iv) Except as otherwise provided in the requirements
426 of subparagraph (i) of this paragraph (b), unopposed candidates
427 are not required to file pre-election reports but must file all
428 other reports required by subparagraphs (ii) and (iii) of this
429 paragraph (b).

430 (c) All candidates for judicial office as defined in Section
431 23-15-975, or their political committees, shall file periodic
432 reports in the year in which they are to be elected * * *~~;~~

433 ~~periodic reports which shall be filed~~ no later than the tenth day
434 after April 30, May 31, June 30, September 30 and December 31.

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

437 (i) For the reporting period and the calendar year, the
438 total amount of all contributions and the total amount of all
439 expenditures of the candidate or reporting committee * * * ~~which~~
440 ~~shall include~~ including those required to be identified pursuant
441 to * * * ~~item~~ subparagraph (ii) of this paragraph (d) as well as
442 the total of all other contributions and expenditures during the
443 calendar year. * * * ~~Such~~ The reports shall be cumulative during
444 the calendar year to which they relate;

445 (ii) The identification of:

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

452 2. Each person or organization, candidate or
453 political committee who receives an expenditure, payment or other
454 transfer from the reporting candidate, political committee or its
455 agent, employee, designee, contractor, consultant or other person
456 or persons acting in its behalf during the reporting period when
457 the expenditure, payment or other transfer to * * * ~~such~~ the
458 person, organization, candidate or political committee within the

459 calendar year have an aggregate value or amount in excess of Two
460 Hundred Dollars (\$200.00) together with the date and amount
461 of * * *~~such the~~ expenditure * * *~~;~~;

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

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

467 1. Each person or political committee who makes a
468 contribution to a political party during the reporting period and
469 whose contribution or contributions to a political party within
470 the calendar year have an aggregate amount or value in excess of
471 Two Hundred Dollars (\$200.00), together with the date and amount
472 of the contribution;

473 2. Each person or organization who receives an
474 expenditure or expenditures by a political party * * *~~or~~
475 ~~expenditures by a political party~~ during the reporting period when
476 the expenditure or expenditures to the person or organization
477 within the calendar year have an aggregate value or amount in
478 excess of Two Hundred Dollars (\$200.00), together with the date
479 and amount of * * *~~such the~~ expenditure * * *~~;~~;

480 (v) Disclosure required under this section of an
481 expenditure to a credit card issuer, financial institution or
482 business allowing payments and money transfers to be made over the
483 Internet must include, by way of detail or separate entry, the

484 amount of funds passing to each person, business entity or
485 organization receiving funds from the expenditure.

486 (e) The appropriate office specified in Section 23-15-805
487 must be in actual receipt of the reports specified in this article
488 by 5:00 p.m. on the dates specified in paragraph (b) of this
489 section. If the date specified in paragraph (b) of this section
490 shall fall on a weekend or legal holiday then the report shall be
491 due in the appropriate office at 5:00 p.m. on the first working
492 day before the date specified in paragraph (b) of this section.
493 The reporting candidate or reporting political committee shall
494 ensure that the reports are delivered to the appropriate office by
495 the filing deadline. The Secretary of State may approve specific
496 means of electronic transmission of completed campaign finance
497 disclosure reports, which may include, but not be limited to,
498 transmission by electronic facsimile (FAX) devices.

499 (f) (i) If any contribution of more than Two Hundred
500 Dollars (\$200.00) is received by a candidate or candidate's
501 political committee after the tenth day, but more than forty-eight
502 (48) hours before 12:01 a.m. of the day of the election, the
503 candidate or political committee shall notify the appropriate
504 office designated in Section 23-15-805, within forty-eight (48)
505 hours of receipt of the contribution. The notification shall
506 include:

- 507 1. The name of the receiving candidate;
- 508 2. The name of the receiving candidate's political
509 committee, if any;

- 510 3. The office sought by the candidate;
- 511 4. The identification of the contributor;
- 512 5. The date of receipt;
- 513 6. The amount of the contribution;
- 514 7. If the contribution is in-kind, a description
- 515 of the in-kind contribution; and
- 516 8. The signature of the candidate or the treasurer
- 517 or * * *~~director~~ chair of the candidate's political * * *~~committee~~
- 518 organization.

519 (ii) The notification shall be in writing, and may be

520 transmitted by overnight mail, courier service, or other reliable

521 means, including electronic facsimile (FAX), but the candidate or

522 candidate's committee shall ensure that the notification shall in

523 fact be received in the appropriate office designated in Section

524 23-15-805 within forty-eight (48) hours of the contribution.

525 **SECTION 6.** Section 23-15-811, Mississippi Code of 1972, is

526 amended as follows:

527 23-15-811. (a) Any candidate or any other person who~~shall~~

528 * * *~~wilfully and deliberately and substantially~~ willfully

529 violates the provisions and prohibitions of this article shall be

530 guilty of a misdemeanor and upon conviction * * *~~thereof~~ shall be

531 punished by a fine in a sum not to exceed Three Thousand Dollars

532 (\$3,000.00) or imprisoned for not longer than six (6) months or by

533 both fine and imprisonment.

534 (b) In addition to the penalties provided in paragraph (a)

535 of this section and Chapter 13, Title 97, Mississippi Code of

536 1972, any candidate or political committee which is required to
537 file a statement or report * * *~~which and~~ fails to file * * *~~such~~
538 the statement or report on the date * * *~~in which~~ it is due may be
539 compelled to file * * *~~such~~ the statement or report by an action
540 in the nature of a mandamus brought by the Mississippi Ethics
541 Commission.

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

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

550 (e) In the event that a candidate fails to timely file any
551 report required pursuant to this article but subsequently files a
552 report or reports containing all of the information required to be
553 ~~reported by him as of the date on which the sanctions~~
554 ~~of * * * paragraphs subsections (c) and (d) of this section would~~
555 ~~be applied to him, * * * such, the~~ candidate shall not be subject
556 to the sanctions of * * *~~said~~ paragraphs (c) and (d) of this
557 section.

558 **SECTION 7.** Section 23-15-813, Mississippi Code of 1972, is
559 amended as follows:

560 23-15-813. (a) In addition to any other penalty permitted
561 by law, the * * *~~Secretary of State~~ Mississippi Ethics Commission

562 shall require any candidate or political committee, as identified
563 in Section 23-15-805(a), and any other political committee
564 registered with the Secretary of State, who fails to file a
565 campaign finance disclosure report as required under Sections
566 23-15-801 through 23-15-813, or Sections 23-17-47 through
567 23-17-53, or who shall file a report * * *~~which~~ that fails to
568 substantially comply with the requirements of Sections 23-15-801
569 through 23-15-813, or Sections 23-17-47 through 23-17-53, to be
570 assessed a civil penalty as follows:

571 (i) Within five (5) calendar days after any deadline
572 for filing a report pursuant to Sections 23-15-801 through
573 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
574 State shall compile a list of those candidates and political
575 committees who have failed to file a report. The list shall be
576 provided to the Mississippi Ethics Commission. The Secretary of
577 State shall provide each candidate or political committee, who has
578 failed to file a report, notice of the failure by first-class
579 mail.

580 (ii) Beginning with the tenth calendar day after which
581 any report * * *~~shall be~~ is due, the * * *~~Secretary of State~~
582 Mississippi Ethics Commission shall assess the delinquent
583 candidate and political committee a civil penalty of Fifty Dollars
584 (\$50.00) for each day or part of any day until a valid report is
585 delivered to the Secretary of State, up to a maximum of ten (10)
586 days. * * *~~However,~~ In the discretion of the * * *~~Secretary of~~
587 State Mississippi Ethics Commission, the assessing of the fine may

588 be waived, in whole or in part, if the * * *~~Secretary of State~~
589 Commission determines that unforeseeable mitigating circumstances,
590 such as the health of the candidate, interfered with the timely
591 filing of a report. Failure of a candidate or political committee
592 to receive notice of failure to file a report from the Secretary
593 of State is not an unforeseeable mitigating circumstance, and
594 failure to receive the notice shall not result in removal or
595 reduction of any assessed civil penalty.

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

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

606 (v) If any candidate or political committee is assessed
607 a civil penalty, and the penalty is not subsequently waived by
608 the * * *~~Secretary of State~~ Mississippi Ethics Commission, the
609 candidate or political committee shall pay the fine to
610 the * * *~~Secretary of State~~ Commission within ninety (90) days of
611 the date of the assessment of the fine. If, after one hundred
612 twenty (120) days of the assessment of the fine the payment for
613 the entire amount of the assessed fine has not been received by

614 the * * *~~Secretary of State Commission~~, the * * *~~Secretary of~~
615 ~~State Commission~~ shall notify the Attorney General of the
616 delinquency, and the Attorney General shall file, where necessary,
617 a suit to compel payment of the civil penalty.

618 (b) (i) Upon the sworn application, made within sixty (60)
619 calendar days of the date upon which the required report is due,
620 of a candidate or political committee against whom a civil penalty
621 has been assessed pursuant to paragraph (a), the Secretary of
622 State shall forward the application to the State Board of Election
623 Commissioners. The State Board of Election Commissioners shall
624 appoint one or more hearing officers who shall be former
625 chancellors, circuit court judges, judges of the Court of Appeals
626 or justices of the Supreme Court, * * *~~and who shall~~ to conduct
627 hearings held pursuant to this article. The hearing officer shall
628 fix a time and place for a hearing and shall cause a written
629 notice specifying the civil penalties that have been assessed
630 against the candidate or political committee and notice of the
631 time and place of the hearing to be served upon the candidate or
632 political committee at least twenty (20) calendar days before the
633 hearing date. The notice may be served by mailing a
634 copy * * *~~thereof~~ of the notice by certified mail, postage
635 prepaid, to the last known business address of the candidate or
636 political committee.

637 (ii) The hearing officer may issue subpoenas for the
638 attendance of witnesses and the production of * * *~~books and~~
639 ~~papers~~ documents at the hearing. Process issued by the hearing

640 officer shall extend to all parts of the state and shall be served
641 by any person designated by the hearing officer for the service.

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

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

655 (v) * * * ~~Where,~~ In any proceeding before the hearing
656 officer, if any witness fails or refuses to attend upon a subpoena
657 issued by the commission, refuses to testify, or refuses to
658 produce any * * * ~~books and papers the production of which is~~
659 documents called for by a subpoena, the attendance of the witness,
660 the giving of his or her testimony or the production of
661 the * * * ~~books and papers~~ documents shall be enforced by * * * ~~any~~
662 a court of competent jurisdiction of this state in the manner
663 provided for the enforcement of attendance and testimony of
664 witnesses in civil cases in the courts of this state.

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

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

689 (ii) If there is an appeal, the appeal shall act as a
690 supersedeas. The court shall dispose of the appeal and enter its

691 decision promptly. The hearing on the appeal may be tried in
692 vacation, in the court's discretion. The scope of review of the
693 court shall be limited to a review of the record made before the
694 hearing officer to determine if the action of the hearing officer
695 is unlawful for the reason that it was 1. not supported by
696 substantial evidence, 2. arbitrary or capricious, 3. beyond the
697 power of the hearing officer to make, or 4. in violation of some
698 statutory or constitutional right of the appellant. The decision
699 of the court may be appealed to the Supreme Court in the manner
700 provided by law.

701 (d) If, after forty-five (45) calendar days of the date of
702 the administrative hearing procedure set forth in paragraph (b),
703 the candidate or political committee identified in paragraph (a)
704 of this section fails to pay the monetary civil penalty imposed by
705 the hearing officer, the Secretary of State shall notify the
706 Attorney General of the delinquency. The Attorney General shall
707 investigate the offense in accordance with the provisions of this
708 chapter, and where necessary, file suit to compel payment of the
709 unpaid civil penalty.

710 (e) If, after twenty (20) calendar days of the date upon
711 which a campaign finance disclosure report is due, a candidate or
712 political committee identified in paragraph (a) of this section
713 shall not have filed a valid report with the Secretary of State,
714 the Secretary of State shall notify the Attorney General of those
715 candidates and political committees who have not filed a valid

716 report, and the Attorney General shall * * *~~thereupon~~ prosecute
717 the delinquent candidates and political committees.

718 **SECTION 8.** Section 23-15-817, Mississippi Code of 1972, is
719 amended as follows:

720 23-15-817. The Secretary of State shall compile a list of
721 all candidates for the Legislature or any statewide office who
722 fail to file a campaign disclosure report by the dates specified
723 in Section 23-15-807(b) * * *~~.~~ The list shall be provided to the
724 Mississippi Ethics Commission so that the commission may bring a
725 mandamus as provided in Section 23-15-811 or take any other
726 disciplinary action as provided in this chapter. The list shall
727 also be disseminated to the members of the Mississippi Press
728 Association within two (2) working days after such reports are due
729 and made available to the public.

730 **SECTION 9.** This act shall take effect and be in force from
731 and after January 1, 2018.

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

1 AN ACT TO PROHIBIT THE USE OF CAMPAIGN CONTRIBUTIONS FOR
2 PERSONAL USE; TO PROVIDE FOR THE DISPOSITION OF UNUSED CAMPAIGN
3 FUNDS; TO AMEND SECTION 23-15-801, MISSISSIPPI CODE OF 1972, TO
4 MAKE TECHNICAL CHANGES; TO AMEND SECTION 23-15-803, MISSISSIPPI
5 CODE OF 1972, TO REVISE THE DEADLINE FOR FILING A STATEMENT OF
6 ORGANIZATION FOR A POLITICAL COMMITTEE TO 48 HOURS; TO REQUIRE THE
7 DISCLOSURE OF THE NAME, ADDRESS, OFFICERS AND MEMBERS OF A
8 POLITICAL COMMITTEE, THE DESIGNATION OF THE CHAIR AND THE
9 CUSTODIAN OF FINANCIAL BOOKS AND RECORDS; TO ALLOW THE MISSISSIPPI
10 ETHICS COMMISSION TO ADMINISTRATIVELY FINE POLITICAL COMMITTEES
11 NOT MORE THAN \$5,000.00, PER VIOLATION, FOR FAILING TO COMPLY WITH
12 FILING REQUIREMENTS; TO AMEND SECTION 23-15-805, MISSISSIPPI CODE
13 OF 1972, TO ALLOW CANDIDATES TO FILE CAMPAIGN FINANCE REPORTS
14 DIRECTLY WITH THE SECRETARY OF STATE BY FAX, EMAIL, POSTAL MAIL OR

15 HAND DELIVERY; TO AMEND SECTION 23-15-807, MISSISSIPPI CODE OF
16 1972, TO PROVIDE THAT UNOPPOSED CANDIDATES ARE NOT REQUIRED TO
17 FILE PRE-ELECTION REPORTS BUT MUST FILE ALL OTHER REPORTS; TO
18 PROVIDE THAT THE REQUIRED DISCLOSURE OF AN EXPENDITURE TO A CREDIT
19 CARD ISSUER, FINANCIAL INSTITUTION OR BUSINESS ALLOWING PAYMENTS
20 AND MONEY TRANSFERS TO BE MADE OVER THE INTERNET TO INCLUDE,
21 EITHER BY DETAIL OR A SEPARATE ENTITY, MUST INCLUDE THE AMOUNT OF
22 THE FUNDS PASSING TO EACH PERSON, BUSINESS ENTITY OR ORGANIZATION
23 RECEIVING FUNDS FROM THE EXPENDITURE; TO AMEND SECTION 23-15-811,
24 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE MISSISSIPPI ETHICS
25 COMMISSION MAY BRING A MANDAMUS ACTION TO COMPEL THE REQUIRED
26 CAMPAIGN FINANCE DISCLOSURE REPORTS; TO AMEND SECTION 23-15-813,
27 MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL CHANGES; TO AMEND
28 SECTION 23-15-817, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE
29 LIST OF CANDIDATES WHO FAILED TO FILE A CAMPAIGN FINANCE REPORT BE
30 PROVIDED TO THE MISSISSIPPI ETHICS COMMISSION; AND FOR RELATED
31 PURPOSES.

HR31\SB2689PH.1J

Andrew Ketchings
Clerk of the House of Representatives