

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

To: Rules

HOUSE BILL NO. 479

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 donations
54 from one (1) candidate to another candidate or candidates in which
55 the donation is donated for the purpose of assisting the candidate
56 that receives the donation in gaining or holding public office, or
57 performing the functions and duties of public office.

58 (b) "Candidate" shall mean any individual described in
59 Section 23-15-801(b), and shall include any person that has
60 qualified as a candidate until the time that the person takes
61 office or files a termination report as provided in this section.



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

65 (2) The expenditures that are specifically prohibited under
66 this section are as follows:

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

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

84 (c) Funeral, cremation or burial expenses, including
85 any expenses related to deaths within the family of a candidate or
86 officeholder;



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

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

93 (f) Tuition payments;

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

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

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

107 (j) Nondocumented loans of any type, including loans to
108 candidates;

109 (k) Travel expenses except for travel expenses of a
110 candidate or officeholder for travel undertaken as an ordinary and
111 necessary expense of gaining or holding public office, or



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

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

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

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

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



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

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

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

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

147 (f) Be returned to a donor or donors but not to the
148 candidate.

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

155 (6) The Mississippi Ethics Commission shall issue advisory
156 opinions regarding any of the requirements set forth in this
157 section. When any officeholder or candidate requests an advisory
158 opinion, in writing, and has stated all of the facts to govern the
159 opinion, and the Ethics Commission has prepared and delivered the
160 opinion with references to the request, there shall be no civil or



161 criminal liability accruing to or against any officeholder or
162 candidate who, in good faith, follows the direction of the opinion
163 and acts in accordance with the opinion, unless a court of
164 competent jurisdiction, after a full hearing, judicially declares
165 that the opinion is manifestly wrong and without any substantial
166 support. No opinion shall be given or considered if the opinion
167 would be given after judicial proceedings have commenced.

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

178 **SECTION 2.** It is unlawful for the Governor, Lieutenant
179 Governor or any member of the Legislature to solicit or receive
180 campaign contributions or hold a political fundraising function
181 during any Regular or Special Legislative Session.

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

184 23-15-801. (a) "Election" * * * means a general, special,
185 primary or runoff election.



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

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

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

204 (c) "Political committee" * * * means any committee, party,
205 club, association, political action committee, campaign committee
206 or other groups of persons or affiliated organizations * * * that
207 receives contributions aggregating in excess of Two Hundred
208 Dollars (\$200.00) during a calendar year or * * * that makes
209 expenditures aggregating in excess of Two Hundred Dollars
210 (\$200.00) during a calendar year for the purpose of influencing or



211 attempting to influence the action of voters for or against the
212 nomination for election, or election, of one or more candidates,
213 or balloted measures * * *. Political committee shall, in
214 addition, include each political party registered with the
215 Secretary of State.

216 (d) "Affiliated organization" * * * means any
217 organization * * * that is not a political committee, but * * *
218 that directly or indirectly establishes, administers or
219 financially supports a political committee.

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

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

230 (iii) "Contribution to a political party" includes any
231 gift, subscription, loan, advance or deposit of money or anything
232 of value made by any person, political committee, or other
233 organization to a political party and to any committee,
234 subcommittee, campaign committee, political committee and other



235 groups of persons and affiliated organizations of the political
236 party * * *;

237 (iv) "Contribution to a political party" shall not
238 include the value of services provided without compensation by any
239 individual who volunteers on behalf of a political party or a
240 candidate of a political party.

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

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

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



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

261 (i) In the case of any individual, the name, the
262 mailing address, and the occupation of such individual, as well as
263 the name of his or her employer; and

264 (ii) In the case of any other person, the full name and
265 address of * * * the person.

266 (h) The term "political party" shall mean an association,
267 committee or organization which nominates a candidate for election
268 to any elective office whose name appears on the election ballot
269 as the candidate of * * * the association, committee or
270 organization.

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

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

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

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

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

284 or



285 (iii) The identity of the candidate is apparent by
286 unambiguous reference.

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

289 23-15-803. (* * * 1) * * * Each political committee shall
290 file a statement of organization which must be received by the
291 Secretary of State no later than * * * forty-eight (48) hours
292 after:

293 (a) Receipt of contributions aggregating in excess of
294 Two Hundred Dollars (\$200.00), or * * *

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

297 (* * * 2) * * * The content of the statement of organization
298 of a political committee shall include:

299 (* * * a) The name, * * * address, officers, and
300 members of the committee * * *;

301 (* * * b) The designation of a * * * chair of the * * *
302 organization and a custodian of the financial books, records and
303 accounts of the * * * organization, who shall be designated
304 treasurer; and

305 (* * * c) If the committee is authorized by a
306 candidate, then the name, address, office sought * * * and party
307 affiliation of the candidate.



308 (* * *3) * * * Any change in information previously
309 submitted in a statement of organization shall be reported and
310 noted on the next regularly scheduled report.

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

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

322 23-15-805. (a) Candidates for state, state district, and
323 legislative district offices, and every political committee, which
324 makes reportable contributions to or expenditures in support of or
325 in opposition to a candidate for any such office or makes
326 reportable contributions to or expenditures in support of or in
327 opposition to a statewide ballot measure, shall file all reports
328 required under this article with the Office of the Secretary of
329 State.

330 (b) Candidates for county or county district office, and
331 every political committee which makes reportable contributions to
332 or expenditures in support of or in opposition to a candidate for



333 such office or makes reportable contributions to or expenditures
334 in support of or in opposition to a countywide ballot measure or a
335 ballot measure affecting part of a county, excepting a municipal
336 ballot measure, shall file all reports required by this section in
337 the office of the circuit clerk of the county in which the
338 election occurs, or directly to the Office of the Secretary of
339 State via facsimile, electronic mail, postal mail or hand
340 delivery. The circuit clerk shall forward copies of all reports
341 to the Office of the Secretary of State.

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

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

356 * * *



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

359 23-15-807. (a) Each candidate or political committee shall
360 file reports of contributions and disbursements in accordance with
361 the provisions of this section. All candidates or political
362 committees required to report such contributions and disbursements
363 may terminate * * * the obligation to report only upon submitting
364 a final report that * * * contributions will no longer * * * be
365 received or * * * disbursements made and that * * * the candidate
366 or committee has no outstanding debts or obligations. The
367 candidate, treasurer or chief executive officer shall sign * * *
368 the report.

369 (b) Candidates * * * seeking election, or nomination for
370 election, and political committees * * * making expenditures * * *
371 to influence * * * or attempt to influence voters for or against
372 the nomination for election * * * of one or more candidates or
373 balloted measures at such election, shall file the following
374 reports:

375 (i) In any calendar year during which there is a
376 regularly scheduled election, a pre-election report * * * shall be
377 filed no later than the seventh day before any election in
378 which * * * the candidate or political committee has accepted
379 contributions or made expenditures and * * * shall be * * *
380 completed as of the tenth day before * * * the election;



381 (ii) In 1987 and every fourth year thereafter, periodic
382 reports * * * shall be filed no later than the tenth day after
383 April 30, May 31, June 30, September 30 and December 31, and * * *
384 shall be * * * completed as of the last day of each period; * * *

385 (iii) In any calendar years except 1987 and except
386 every fourth year thereafter, a report covering the calendar
387 year * * * shall be filed no later than January 31 of the
388 following calendar year * * *; and

389 (iv) Except as otherwise provided in the requirements
390 of subparagraph (i) of this paragraph (b), unopposed candidates
391 are not required to file pre-election reports but must file all
392 other reports required by subparagraphs (ii) and (iii) of this
393 paragraph (b).

394 (c) All candidates for judicial office as defined in Section
395 23-15-975, or their political committees, shall file periodic
396 reports in the year in which they are to be elected * * * no later
397 than the tenth day after April 30, May 31, June 30, September 30
398 and December 31.

399 (d) * * * Each report under this article shall disclose:

400 (i) For the reporting period and the calendar year, the
401 total amount of all contributions and the total amount of all
402 expenditures of the candidate or reporting committee * * *
403 including those required to be identified pursuant to * * *
404 subparagraph (ii) of this paragraph (d) as well as the total of
405 all other contributions and expenditures during the calendar year.



406 * * * The reports shall be cumulative during the calendar year to
407 which they relate;

408 (ii) The identification of:

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

415 2. Each person or organization, candidate or
416 political committee who receives an expenditure, payment or other
417 transfer from the reporting candidate, political committee or its
418 agent, employee, designee, contractor, consultant or other person
419 or persons acting in its behalf during the reporting period when
420 the expenditure, payment or other transfer to * * * the person,
421 organization, candidate or political committee within the calendar
422 year have an aggregate value or amount in excess of Two Hundred
423 Dollars (\$200.00) together with the date and amount of * * * the
424 expenditure * * *;

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

427 (iv) In addition to the contents of reports specified
428 in * * * subparagraphs (i), (ii) and (iii) of this paragraph (d),
429 each political party shall disclose:



430 1. Each person or political committee who makes a
431 contribution to a political party during the reporting period and
432 whose contribution or contributions to a political party within
433 the calendar year have an aggregate amount or value in excess of
434 Two Hundred Dollars (\$200.00), together with the date and amount
435 of the contribution;

436 2. Each person or organization who receives an
437 expenditure or expenditures by a political party * * * during the
438 reporting period when the expenditure or expenditures to the
439 person or organization within the calendar year have an aggregate
440 value or amount in excess of Two Hundred Dollars (\$200.00),
441 together with the date and amount of * * * the expenditure * * *;

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

448 (e) The appropriate office specified in Section 23-15-805
449 must be in actual receipt of the reports specified in this article
450 by 5:00 p.m. on the dates specified in paragraph (b) of this
451 section. If the date specified in paragraph (b) of this section
452 shall fall on a weekend or legal holiday then the report shall be
453 due in the appropriate office at 5:00 p.m. on the first working
454 day before the date specified in paragraph (b) of this section.



455 The reporting candidate or reporting political committee shall
456 ensure that the reports are delivered to the appropriate office by
457 the filing deadline. The Secretary of State may approve specific
458 means of electronic transmission of completed campaign finance
459 disclosure reports, which may include, but not be limited to,
460 transmission by electronic facsimile (FAX) devices.

461 (f) (i) If any contribution of more than Two Hundred
462 Dollars (\$200.00) is received by a candidate or candidate's
463 political committee after the tenth day, but more than forty-eight
464 (48) hours before 12:01 a.m. of the day of the election, the
465 candidate or political committee shall notify the appropriate
466 office designated in Section 23-15-805, within forty-eight (48)
467 hours of receipt of the contribution. The notification shall
468 include:

- 469 1. The name of the receiving candidate;
- 470 2. The name of the receiving candidate's political
471 committee, if any;
- 472 3. The office sought by the candidate;
- 473 4. The identification of the contributor;
- 474 5. The date of receipt;
- 475 6. The amount of the contribution;
- 476 7. If the contribution is in-kind, a description
477 of the in-kind contribution; and
- 478 8. The signature of the candidate or the treasurer
479 or * * * chair of the candidate's political * * * organization.



480 (ii) The notification shall be in writing, and may be
481 transmitted by overnight mail, courier service, or other reliable
482 means, including electronic facsimile (FAX), but the candidate or
483 candidate's committee shall ensure that the notification shall in
484 fact be received in the appropriate office designated in Section
485 23-15-805 within forty-eight (48) hours of the contribution.

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

488 23-15-811. (a) Any candidate or any other person who * * *
489 willfully violates the provisions and prohibitions of this article
490 shall be guilty of a misdemeanor and upon conviction * * * shall
491 be punished by a fine in a sum not to exceed Three Thousand
492 Dollars (\$3,000.00) or imprisoned for not longer than six (6)
493 months or by both fine and imprisonment.

494 (b) In addition to the penalties provided in paragraph (a)
495 of this section and Chapter 13, Title 97, Mississippi Code of
496 1972, any candidate or political committee which is required to
497 file a statement or report * * * and fails to file * * * the
498 statement or report on the date * * * it is due may be compelled
499 to file * * * the statement or report by an action in the nature
500 of a mandamus brought by the Mississippi Ethics Commission.

501 (c) No candidate shall be certified as nominated for
502 election or as elected to office * * * until he or she files all
503 reports required by this article that are due as of the date of
504 certification.



505 (d) No candidate who is elected to office shall receive any
506 salary or other remuneration for the office * * * until he or she
507 files all reports required by this article that are due as of the
508 date * * * the salary or remuneration is payable.

509 (e) In the event that a candidate fails to timely file any
510 report required pursuant to this article but subsequently files a
511 report or reports containing all of the information required to be
512 reported * * *, the candidate shall not be subject to the
513 sanctions of * * * paragraphs (c) and (d) of this section.

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

516 23-15-813. (a) In addition to any other penalty permitted
517 by law, the * * * Mississippi Ethics Commission shall require any
518 candidate or political committee, as identified in Section
519 23-15-805(a), and any other political committee registered with
520 the Secretary of State, who fails to file a campaign finance
521 disclosure report as required under Sections 23-15-801 through
522 23-15-813, or Sections 23-17-47 through 23-17-53, or who shall
523 file a report * * * that fails to substantially comply with the
524 requirements of Sections 23-15-801 through 23-15-813, or Sections
525 23-17-47 through 23-17-53, to be assessed a civil penalty as
526 follows:

527 (i) Within five (5) calendar days after any deadline
528 for filing a report pursuant to Sections 23-15-801 through
529 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of



530 State shall compile a list of those candidates and political
531 committees who have failed to file a report. The list shall be
532 provided to the Mississippi Ethics Commission. The Secretary of
533 State shall provide each candidate or political committee, who has
534 failed to file a report, notice of the failure by first-class
535 mail.

536 (ii) Beginning with the tenth calendar day after which
537 any report * * * is due, the * * * Mississippi Ethics Commission
538 shall assess the delinquent candidate and political committee a
539 civil penalty of Fifty Dollars (\$50.00) for each day or part of
540 any day until a valid report is delivered to the Secretary of
541 State, up to a maximum of ten (10) days. * * * In the discretion
542 of the * * * Mississippi Ethics Commission, the assessing of the
543 fine may be waived, in whole or in part, if the * * * Commission
544 determines that unforeseeable mitigating circumstances, such as
545 the health of the candidate, interfered with the timely filing of
546 a report. Failure of a candidate or political committee to
547 receive notice of failure to file a report from the Secretary of
548 State is not an unforeseeable mitigating circumstance, and failure
549 to receive the notice shall not result in removal or reduction of
550 any assessed civil penalty.

551 (iii) Filing of the required report and payment of the
552 fine within ten (10) calendar days of notice by the Secretary of
553 State that a required statement has not been filed * * *



554 constitutes compliance with Sections 23-15-801 through 23-15-813,
555 or Sections 23-17-47 through 23-17-53.

556 (iv) Payment of the fine without filing the required
557 report does not * * * excuse or exempt any person * * * from the
558 filing requirements of Sections 23-15-801 through 23-15-813, and
559 Sections 23-17-47 through 23-17-53.

560 (v) If any candidate or political committee is assessed
561 a civil penalty, and the penalty is not subsequently waived by
562 the * * * Mississippi Ethics Commission, the candidate or
563 political committee shall pay the fine to the * * * Commission
564 within ninety (90) days of the date of the assessment of the fine.
565 If, after one hundred twenty (120) days of the assessment of the
566 fine the payment for the entire amount of the assessed fine has
567 not been received by the * * * Commission, the * * * Commission
568 shall notify the Attorney General of the delinquency, and the
569 Attorney General shall file, where necessary, a suit to compel
570 payment of the civil penalty.

571 (b) (i) Upon the sworn application, made within sixty (60)
572 calendar days of the date upon which the required report is due,
573 of a candidate or political committee against whom a civil penalty
574 has been assessed pursuant to paragraph (a), the Secretary of
575 State shall forward the application to the State Board of Election
576 Commissioners. The State Board of Election Commissioners shall
577 appoint one or more hearing officers who shall be former
578 chancellors, circuit court judges, judges of the Court of Appeals



579 or justices of the Supreme Court, * * * to conduct hearings held
580 pursuant to this article. The hearing officer shall fix a time
581 and place for a hearing and shall cause a written notice
582 specifying the civil penalties that have been assessed against the
583 candidate or political committee and notice of the time and place
584 of the hearing to be served upon the candidate or political
585 committee at least twenty (20) calendar days before the hearing
586 date. The notice may be served by mailing a copy * * * of the
587 notice by certified mail, postage prepaid, to the last known
588 business address of the candidate or political committee.

589 (ii) The hearing officer may issue subpoenas for the
590 attendance of witnesses and the production of * * * documents at
591 the hearing. Process issued by the hearing officer shall extend
592 to all parts of the state and shall be served by any person
593 designated by the hearing officer for the service.

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

598 (iv) At the hearing, the hearing officer shall
599 administer oaths as may be necessary for the proper conduct of the
600 hearing. All hearings shall be conducted by the hearing officer,
601 who shall not be bound by strict rules of procedure or by the laws
602 of evidence * * *, but the determination shall be based upon
603 sufficient evidence to sustain it. The scope of review at the



604 hearing shall be limited to making a determination of whether
605 failure to file a required report was due to an unforeseeable
606 mitigating circumstance.

607 (v) * * * In any proceeding before the hearing officer,
608 if any witness fails or refuses to attend upon a subpoena issued
609 by the commission, refuses to testify, or refuses to produce
610 any * * * documents called for by a subpoena, the attendance of
611 the witness, the giving of his or her testimony or the production
612 of the * * * documents shall be enforced by * * * a court of
613 competent jurisdiction of this state in the manner provided for
614 the enforcement of attendance and testimony of witnesses in civil
615 cases in the courts of this state.

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

622 (c) (i) The right to appeal from the decision of the
623 hearing officer in an administrative hearing concerning the
624 assessment of civil penalties authorized pursuant to this section
625 is granted. The appeal shall be to the Circuit Court of Hinds
626 County and shall include a verbatim transcript of the testimony at
627 the hearing. The appeal shall be taken within thirty (30)
628 calendar days after notice of the decision of the commission



629 following an administrative hearing. The appeal shall be
630 perfected upon filing notice of the appeal and * * * the
631 prepayment of all costs, including the cost of * * * preparing the
632 record of the proceedings by the hearing officer, and * * *
633 filing * * * a bond in the sum of Two Hundred Dollars (\$200.00),
634 conditioned that if the decision of the hearing officer * * * is
635 affirmed by the court, the candidate or political committee will
636 pay the costs of the appeal and the action in court. If the
637 decision is reversed by the court, the * * * Mississippi Ethics
638 Commission will pay the costs of the appeal and the action in
639 court.

640 (ii) If there is an appeal, the appeal shall act as a
641 supersedeas. The court shall dispose of the appeal and enter its
642 decision promptly. The hearing on the appeal may be tried in
643 vacation, in the court's discretion. The scope of review of the
644 court shall be limited to a review of the record made before the
645 hearing officer to determine if the action of the hearing officer
646 is unlawful for the reason that it was 1. not supported by
647 substantial evidence, 2. arbitrary or capricious, 3. beyond the
648 power of the hearing officer to make, or 4. in violation of some
649 statutory or constitutional right of the appellant. The decision
650 of the court may be appealed to the Supreme Court in the manner
651 provided by law.

652 (d) If, after forty-five (45) calendar days of the date of
653 the administrative hearing procedure set forth in paragraph (b),



654 the candidate or political committee identified in paragraph (a)
655 of this section fails to pay the monetary civil penalty imposed by
656 the hearing officer, the Secretary of State shall notify the
657 Attorney General of the delinquency. The Attorney General shall
658 investigate the offense in accordance with the provisions of this
659 chapter, and where necessary, file suit to compel payment of the
660 unpaid civil penalty.

661 (e) If, after twenty (20) calendar days of the date upon
662 which a campaign finance disclosure report is due, a candidate or
663 political committee identified in paragraph (a) of this section
664 shall not have filed a valid report with the Secretary of State,
665 the Secretary of State shall notify the Attorney General of those
666 candidates and political committees who have not filed a valid
667 report, and the Attorney General shall * * * prosecute the
668 delinquent candidates and political committees.

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

671 23-15-817. The Secretary of State shall compile a list of
672 all candidates for the Legislature or any statewide office who
673 fail to file a campaign disclosure report by the dates specified
674 in Section 23-15-807(b) * * *. The list shall be provided to the
675 Mississippi Ethics Commission so that the commission may bring a
676 mandamus as provided in Section 23-15-811 or take any other
677 disciplinary action as provided in this chapter. The list shall
678 also be disseminated to the members of the Mississippi Press



679 Association within two (2) working days after such reports are due
680 and made available to the public.

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

683 23-15-809. (a) Every person who makes independent
684 expenditures in an aggregate amount or value in excess of Two
685 Hundred Dollars (\$200.00) during a calendar year shall file a
686 statement containing the information required under Section
687 23-15-807. Such statement shall be filed with the appropriate
688 offices as provided for in Section 23-15-805, and such person
689 shall be considered a political committee for the purpose of
690 determining place of filing.

691 (b) Statements required to be filed by this subsection shall
692 include:

693 (i) Information indicating whether the independent
694 expenditure is in support of, or in opposition to, the candidate
695 involved;

696 (ii) Under penalty of perjury, a certification of
697 whether or not such independent expenditure is made in
698 cooperation, consultation or concert with, or at the request or
699 suggestion of, any candidate or any authorized committee or agent
700 of such candidate; and

701 (iii) The identification of each person who made a
702 contribution in excess of Two Hundred Dollars (\$200.00) to the



703 person filing such statement which was made for the purpose of
704 furthering an independent expenditure.

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

707 23-15-815. (a) The Secretary of State shall prescribe and
708 make available forms and promulgate rules and regulations
709 necessary to implement this article.

710 (b) The Secretary of State, circuit clerks and municipal
711 clerks shall, within forty-eight (48) hours after the time of the
712 receipt by the appropriate office of reports and statements filed
713 with it, make them available for public inspection, and copying at
714 the expense of the person requesting such copying, and keep such
715 designations, reports and statements for a period of three (3)
716 years from the date of receipt.

717 **SECTION 12.** This act shall take effect and be in force from
718 and after July 1, 2017.

