

By: Representative Wilson

To: Rules

HOUSE BILL NO. 937

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 DIRECTLY RESULTS
5 FROM CAMPAIGN OR OFFICEHOLDER ACTIVITY IS PERMITTED; TO PROVIDE
6 FOR THE DISPOSAL OF CAMPAIGN CONTRIBUTIONS ONCE A TERMINATION
7 REPORT IS FILED; TO PROVIDE PENALTIES; TO REQUIRE THE SECRETARY OF
8 STATE TO ISSUE ADVISORY OPINIONS REGARDING THE USE OF CAMPAIGN
9 CONTRIBUTIONS; TO AMEND SECTION 23-15-801, MISSISSIPPI CODE OF
10 1972, TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23-15-803,
11 MISSISSIPPI CODE OF 1972, TO REVISE THE DEADLINE FOR FILING A
12 STATEMENT OF ORGANIZATION FOR A POLITICAL COMMITTEE TO 48 HOURS;
13 TO REQUIRE THE DISCLOSURE OF THE NAME, ADDRESS, OFFICERS AND
14 MEMBERS OF A POLITICAL COMMITTEE, THE DESIGNATION OF THE CHAIR AND
15 THE CUSTODIAN OF FINANCIAL BOOKS AND RECORDS; TO ALLOW THE
16 SECRETARY OF STATE TO ADMINISTRATIVELY FINE POLITICAL COMMITTEES
17 NOT MORE THAN \$5,000.00, PER VIOLATION, FOR FAILING TO COMPLY WITH
18 FILING REQUIREMENTS; TO AMEND SECTION 23-15-805, MISSISSIPPI CODE
19 OF 1972, TO ALLOW CANDIDATES TO FILE CAMPAIGN FINANCE REPORTS
20 DIRECTLY WITH THE SECRETARY OF STATE BY FAX, EMAIL, POSTAL MAIL OR
21 HAND DELIVERY; TO REQUIRE, BEGINNING WITH THE 2018 ELECTION CYCLE,
22 ALL STATEMENTS, REPORTS OF CONTRIBUTIONS AND EXPENDITURES, AND
23 OTHER REPORTS TO BE FILED ELECTRONICALLY OVER THE INTERNET; TO
24 REQUIRE THE SECRETARY OF STATE, BEGINNING WITH THE 2018 ELECTION
25 CYCLE, TO IMPLEMENT AND MAINTAIN AN ELECTRONIC DATABASE ACCESSIBLE
26 BY THE PUBLIC THROUGH THE SECRETARY OF STATE'S WEBSITE THAT
27 PROVIDES THE CAPABILITY OF SEARCH AND RETRIEVAL OF ALL STATEMENTS,
28 REPORTS OF CONTRIBUTIONS AND EXPENDITURES, AND OTHER REPORTS
29 REQUIRED TO BE FILED WITH THE SECRETARY OF STATE; TO AMEND SECTION
30 23-15-807, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNOPPOSED
31 CANDIDATES ARE NOT REQUIRED TO FILE PRE-ELECTION REPORTS BUT MUST
32 FILE ALL OTHER REPORTS; TO PROVIDE THAT THE REQUIRED DISCLOSURE OF
33 AN EXPENDITURE TO A CREDIT CARD ISSUER, FINANCIAL INSTITUTION OR
34 BUSINESS ALLOWING PAYMENTS AND MONEY TRANSFERS TO BE MADE OVER THE



35 INTERNET TO INCLUDE, EITHER BY DETAIL OR A SEPARATE ENTITY, THE
36 AMOUNT OF THE FUNDS PASSING TO EACH PERSON, BUSINESS ENTITY OR
37 ORGANIZATION RECEIVING FUNDS FROM THE EXPENDITURE; TO AMEND
38 SECTION 23-15-811, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE
39 SECRETARY OF STATE OR ATTORNEY GENERAL MAY BRING A MANDAMUS ACTION
40 TO COMPEL THE REQUIRED CAMPAIGN FINANCE DISCLOSURE REPORTS; TO
41 AMEND SECTION 23-15-813, MISSISSIPPI CODE OF 1972, TO MAKE
42 TECHNICAL CHANGES; TO BRING FORWARD SECTIONS 23-15-809, 23-15-815
43 AND 23-15-817, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
44 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

46 **SECTION 1.** (1) The personal use of campaign contributions
47 by any elected public office holder or by any candidate for public
48 office is prohibited.

49 (a) For the purposes of this section, "personal use" is
50 defined as any use, other than expenditures related to gaining or
51 holding public office, for which the candidate for public office
52 or elected public official would be required to treat the amount
53 of the expenditure as gross income under Section 61 of the
54 Internal Revenue Code of 1986, 26 USCS Section 61, or any
55 subsequent corresponding Internal Revenue Code of the United
56 States, as from time to time amended.

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

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



64 (2) The following personal use expenditures are specifically
65 prohibited under this section:

66 (a) Any residential or household items, supplies or
67 expenditures, including mortgage, rent or utility payments for any
68 part of any personal residence where a homestead exemption is
69 claimed by a candidate or officeholder or a family member of the
70 candidate or officeholder;

71 (b) Mortgage, rent or utility payments for any part of
72 any nonresidential property that is owned by a candidate or
73 officeholder or a family member of a candidate or officeholder and
74 used for campaign purposes, to the extent the payments exceed the
75 fair market value of the property usage;

76 (c) Funeral, cremation or burial expenses, including
77 any expenses related to deaths within the family of a candidate or
78 officeholder;

79 (d) Clothing, other than clothing items that are used
80 in the campaign;

81 (e) Automobiles, except for automobile rental expenses
82 and other automobile expenses related to campaign or officeholder
83 activity;

84 (f) Tuition payments within the family of a candidate
85 or officeholder other than those associated with training campaign
86 staff or associated with the duties of an officeholder;

87 (g) Salary payments to a family member of a candidate,
88 unless the family member is providing bona fide services to the



89 campaign. If a family member provides bona fide services to a
90 campaign, any salary payments in excess of the fair market value
91 of the services provided is personal use;

92 (h) Nondocumented loans of any type, including loans to
93 candidates;

94 (i) Travel expenses except for travel expenses of a
95 candidate, officeholder or staff member of the officeholder for
96 travel undertaken as an ordinary and necessary expense of seeking,
97 holding or maintaining public office, or for attending meetings or
98 conferences of officials similar to the office held or sought, or
99 for an issue the legislative body is considering or will consider,
100 or for attending a state or national convention of any party. If
101 a candidate or officeholder uses campaign contributions to pay
102 expenses associated with travel that involves both personal
103 activities and campaign or officeholder activities, the
104 incremental expenses that result from the personal activities are
105 personal use, unless the person(s) benefiting from this use
106 reimburse(s) the campaign account within thirty (30) days for the
107 amount of the incremental expenses; and

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

110 (3) Any expense that directly results from campaign or
111 officeholder activity is a specifically permitted use of campaign
112 contributions. Such expenditures are not considered personal use



113 expenditures and may include, but are not limited to, the
114 following expenditures:

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

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

121 (c) Donations to charitable organizations,
122 not-for-profit organizations or for sponsorships, provided the
123 candidate or officeholder does not receive monetary compensation,
124 other than reimbursements of expenses, from the recipient
125 organization;

126 (d) Gifts of nominal value and donations of a nominal
127 amount made on special occasions such as holidays, graduation,
128 marriage, retirement or death, unless made to a family member of
129 the candidate or officeholder;

130 (e) Meal and beverage expenses that are incurred as
131 part of a campaign activity or as a part of a function that is
132 related to the responsibilities of the candidate or officeholder,
133 including meals between and among candidates and/or officeholders
134 that are incurred as an ordinary and necessary expense of seeking,
135 holding or maintaining public office;

136 (f) Reasonable rental or accommodation expenses
137 incurred by an officeholder during a legislative session or a day



138 or days in which the officeholder is required by his or her duties
139 to be at the Capitol or another location outside the county of
140 residence of the officeholder. The rental or accommodation
141 expenses shall not exceed Fifty Dollars (\$50.00) per day, if the
142 officeholder receives per diem, or One Hundred Ninety Dollars
143 (\$190.00) per day, if the officeholder receives no per diem. Any
144 expenses incurred under this paragraph (f) must be reported as an
145 expenditure pursuant to this section;

146 (g) Communication access expenses, including mobile
147 devices and Internet access costs, which are incurred as part of a
148 campaign activity and operation to ensure that deaf and
149 hearing-impaired citizens are fully participating, volunteering,
150 and/or otherwise maintaining a position with the campaign
151 committee. Examples of communication access expenses include, but
152 are not limited to, the following: captioning on television
153 advertisements; video clips; sign language interpreters;
154 computer-aided real time (CART) services; and assistive listening
155 devices;

156 (h) Legal fees and costs associated with any civil or
157 administrative action, criminal prosecution or investigation
158 related to conduct reasonably related to the candidacy or
159 performing the duties of the office held.

160 (4) Upon filing the termination report required under
161 Section 23-15-807, any campaign contributions not used to pay for
162 the expenses of gaining or holding public office shall:



163 (a) Be maintained in a campaign account(s);
164 (b) Be donated to a political organization, or to a
165 political action committee, or to another candidate;
166 (c) Be transferred, in whole or in part, into a newly
167 established political action committee or ballot question
168 advocate;
169 (d) Be donated to a tax-exempt charitable organization
170 as that term is used in Section 501(c) of the Internal Revenue
171 Code of 1986, 26 USCS Section 501, or any subsequent corresponding
172 Internal Revenue Code of the United States, as from time to time
173 amended;
174 (e) Be donated to the State of Mississippi; or
175 (f) Be returned to a donor or donors but not to the
176 candidate filing the termination report.
177 (5) Any candidate for public office or any elected official
178 who willfully violates this section shall be guilty of a
179 misdemeanor and punished by a fine of One Thousand Dollars
180 (\$1,000.00) and by a state assessment equal to the amount of
181 misappropriated campaign contributions. The fine and state
182 assessment shall be deposited into the Public Employees'
183 Retirement System.
184 (6) Any contributions accruing to the campaign account of a
185 candidate or officeholder before January 1, 2018, shall be exempt
186 and not subject to the provisions of this Section 1. All exempt
187 contributions must be designated as exempt on all reports filed



188 with the Secretary of State pursuant to the provisions of this
189 chapter.

190 (7) The Secretary of State, through the Elections Division,
191 shall issue advisory opinions regarding any of the requirements
192 set forth in this section. When any officeholder or candidate
193 requests an advisory opinion, in writing, and has stated all of
194 the facts to govern the opinion, and the Secretary of State has
195 prepared and delivered the opinion with references to the request,
196 there shall be no criminal liability accruing to or against any
197 officeholder or candidate who, in good faith, follows the
198 direction of the opinion and acts in accordance with the opinion,
199 unless a court of competent jurisdiction, after a full hearing,
200 judicially declares that the opinion is manifestly wrong and
201 without any substantial support. No opinion shall be considered
202 or issued if the opinion would be issued after judicial
203 proceedings have commenced.

204 All advisory opinions issued pursuant to the provisions of
205 this subsection (7) shall be made public and shall be issued
206 within fourteen (14) days of receipt by the Secretary of State of
207 the written opinion request, whichever is later. The identity of
208 the individual making a request for an advisory opinion shall be
209 confidential. The Secretary of State shall, so far as is
210 practicable and before making the opinion public, make deletions
211 and changes to any advisory opinion issued under the provisions of



212 this subsection (7) that may be necessary to ensure the anonymity
213 of the public official and any other person named in the opinion.

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

216 23-15-801. (a) "Election" * * * means a general, special,
217 primary or runoff election.

218 (b) "Candidate" * * * means an individual who seeks
219 nomination for election, or election, to any elective office other
220 than a federal elective office * * *. For purposes of this
221 article, an individual shall be deemed to seek nomination for
222 election, or election:

223 (i) If * * * the individual has received contributions
224 aggregating in excess of Two Hundred Dollars (\$200.00) or has made
225 expenditures aggregating in excess of Two Hundred Dollars
226 (\$200.00) or for a candidate for the Legislature or any statewide
227 or state district office, by the qualifying deadlines specified in
228 Sections 23-15-299 and 23-15-977, whichever occurs first; or

229 (ii) If * * * the individual has given his or her
230 consent to another person to receive contributions or make
231 expenditures on behalf of * * * the individual and if * * * the
232 other person has received * * * contributions aggregating in
233 excess of Two Hundred Dollars (\$200.00) during a calendar year, or
234 has made * * * expenditures aggregating in excess of Two Hundred
235 Dollars (\$200.00) during a calendar year.



236 (c) "Political committee" * * * means any committee, party,
237 club, association, political action committee, campaign committee
238 or other groups of persons or affiliated organizations * * * that
239 receives contributions aggregating in excess of Two Hundred
240 Dollars (\$200.00) during a calendar year or * * * that makes
241 expenditures aggregating in excess of Two Hundred Dollars
242 (\$200.00) during a calendar year for the purpose of influencing or
243 attempting to influence the action of voters for or against the
244 nomination for election, or election, of one or more candidates,
245 or balloted measures * * *. Political committee shall, in
246 addition, include each political party registered with the
247 Secretary of State.

248 (d) "Affiliated organization" * * * means any
249 organization * * * that is not a political committee, but * * *
250 that directly or indirectly establishes, administers or
251 financially supports a political committee.

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

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



260 or for use by or on behalf of any political committee of a
261 political party;

262 (iii) "Contribution to a political party" includes any
263 gift, subscription, loan, advance or deposit of money or anything
264 of value made by any person, political committee, or other
265 organization to a political party and to any committee,
266 subcommittee, campaign committee, political committee and other
267 groups of persons and affiliated organizations of the political
268 party * * *;

269 (iv) "Contribution to a political party" shall not
270 include the value of services provided without compensation by any
271 individual who volunteers on behalf of a political party or a
272 candidate of a political party.

273 (f) (i) "Expenditure" shall include any purchase, payment,
274 distribution, loan, advance, deposit, gift of money or anything of
275 value, made by any person or political committee for the purpose
276 of influencing any balloted measure or election for elective
277 office; and a written contract, promise, or agreement to make an
278 expenditure;

279 (ii) "Expenditure" shall not include any news story,
280 commentary or editorial distributed through the facilities of any
281 broadcasting station, newspaper, magazine, or other periodical
282 publication, unless * * * the facilities are owned or controlled
283 by any political party, political committee, or candidate; or



284 nonpartisan activity designed to encourage individuals to vote or
285 to register to vote;

286 (iii) "Expenditure by a political party" includes 1.
287 any purchase, payment, distribution, loan, advance, deposit, gift
288 of money or anything of value, made by any political party and by
289 any contractor, subcontractor, agent, and consultant to the
290 political party; and 2. a written contract, promise, or agreement
291 to make such an expenditure.

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

293 (i) In the case of any individual, the name, the
294 mailing address, and the occupation of such individual, as well as
295 the name of his or her employer; and

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

298 (h) The term "political party" shall mean an association,
299 committee or organization which nominates a candidate for election
300 to any elective office whose name appears on the election ballot
301 as the candidate of * * * the association, committee or
302 organization.

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

305 (j) The term "independent expenditure" shall mean an
306 expenditure by a person expressly advocating the election or
307 defeat of a clearly identified candidate * * * that is made
308 without cooperation or consultation with any candidate or any



309 authorized committee or agent of * * * the candidate, and * * *
310 that is not made in concert with or at the request or suggestion
311 of any candidate or any authorized committee or agent of * * * the
312 candidate.

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

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

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

316 or

317 (iii) The identity of the candidate is apparent by
318 unambiguous reference.

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

321 23-15-803. (* * *1) * * * Each political committee shall
322 file a statement of organization which must be received by the
323 Secretary of State no later than * * * forty-eight (48) hours
324 after:

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

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

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

331 (* * *a) The name, * * * address, officers, and
332 members of the committee * * *;



333 (* * *b) The designation of a * * * chair of the * * *
334 organization and a custodian of the financial books, records and
335 accounts of the * * * organization, who shall be designated
336 treasurer; and

337 (* * *c) If the committee is authorized by a
338 candidate, then the name, address, office sought * * * and party
339 affiliation of the candidate.

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

343 (4) In addition to any other penalties provided by law, the
344 Secretary of State may impose administrative penalties against any
345 political committee that fails to comply with the requirements of
346 this section in an amount not to exceed Five Thousand Dollars
347 (\$5,000.00) per violation. The notice, hearing and appeals
348 provisions of Section 23-15-813 shall apply to any action taken
349 pursuant to this subsection (4). The Secretary of State may
350 pursue judicial enforcement of any penalties issued pursuant to
351 this section.

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

354 23-15-805. (a) Candidates for state, state district, and
355 legislative district offices, and every political committee, which
356 makes reportable contributions to or expenditures in support of or
357 in opposition to a candidate for any such office or makes



358 reportable contributions to or expenditures in support of or in
359 opposition to a statewide ballot measure, shall file all reports
360 required under this article with the Office of the Secretary of
361 State.

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

375 (c) Candidates for municipal office, and every political
376 committee which makes reportable contributions to or expenditures
377 in support of or in opposition to a candidate for such office, or
378 makes reportable contributions to or expenditures in support of or
379 in opposition to a municipal ballot measure shall file all reports
380 required by this article in the office of the municipal clerk of
381 the municipality in which the election occurs, or directly to the
382 Office of the Secretary of State via facsimile, electronic mail,



383 postal mail or hand delivery. The municipal clerk shall promptly
384 forward copies of all reports received by the clerk to the Office
385 of the Secretary of State.

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

390 * * *

391 (e) (i) All statements, reports of contributions
392 and expenditures, and other reports required to be filed pursuant
393 to this chapter, that are filed after January 1, 2018, shall be
394 filed electronically over the Internet by a computer file
395 containing the report information in a format and medium to be
396 prescribed by the Secretary of State.

397 (ii) The Secretary of State shall implement and
398 maintain an electronic database accessible by the public through
399 the Secretary of State's website that provides the capability of
400 search and retrieval of all statements, reports of contributions
401 and expenditures, and other reports required to be filed
402 electronically with the Secretary of State pursuant to this
403 chapter. The searchable database shall provide the ability to
404 search by the name of a recipient, the name of a contributor, the
405 Zip code of a contributor or recipient, and the dates of
406 contribution. Electronic filings shall satisfy any filing



407 requirements of this chapter, and no paper filing is required for
408 any report filed electronically.

409 (iii) The Secretary of State may promulgate any
410 necessary rules to implement and administer items (i) through
411 (iii) of this paragraph.

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

414 23-15-807. (a) Each candidate or political committee shall
415 file reports of contributions and disbursements in accordance with
416 the provisions of this section. All candidates or political
417 committees required to report such contributions and disbursements
418 may terminate * * * the obligation to report only upon submitting
419 a final report that * * * contributions will no longer * * * be
420 received or * * * disbursements made and that * * * the candidate
421 or committee has no outstanding debts or obligations. The
422 candidate, treasurer or chief executive officer shall sign * * *
423 the report.

424 (b) Candidates * * * seeking election, or nomination for
425 election, and political committees * * * making expenditures * * *
426 to influence * * * or attempt to influence voters for or against
427 the nomination for election * * * of one or more candidates or
428 balloted measures at such election, shall file the following
429 reports:

430 (i) In any calendar year during which there is a
431 regularly scheduled election, a pre-election report * * * shall be



432 filed no later than the seventh day before any election in
433 which * * * the candidate or political committee has accepted
434 contributions or made expenditures and * * * shall be * * *
435 completed as of the tenth day before * * * the election;

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

440 (iii) In any calendar years except 1987 and except
441 every fourth year thereafter, a report covering the calendar
442 year * * * shall be filed no later than January 31 of the
443 following calendar year * * *; and

444 (iv) Except as otherwise provided in the requirements
445 of subparagraph (i) of this paragraph (b), unopposed candidates
446 are not required to file pre-election reports but must file all
447 other reports required by subparagraphs (ii) and (iii) of this
448 paragraph (b).

449 (c) All candidates for judicial office as defined in Section
450 23-15-975, or their political committees, shall file periodic
451 reports in the year in which they are to be elected * * * no later
452 than the tenth day after April 30, May 31, June 30, September 30
453 and December 31.

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

455 (i) For the reporting period and the calendar year, the
456 total amount of all contributions and the total amount of all



457 expenditures of the candidate or reporting committee * * *,
458 including those required to be identified pursuant to * * *
459 subparagraph (ii) of this paragraph (d) as well as the total of
460 all other contributions and expenditures during the calendar year.

461 * * * The reports shall be cumulative during the calendar year to
462 which they relate;

463 (ii) The identification of:

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

470 2. Each person or organization, candidate or
471 political committee who receives an expenditure, payment or other
472 transfer from the reporting candidate, political committee or its
473 agent, employee, designee, contractor, consultant or other person
474 or persons acting in its behalf during the reporting period when
475 the expenditure, payment or other transfer to * * * the person,
476 organization, candidate or political committee within the calendar
477 year have an aggregate value or amount in excess of Two Hundred
478 Dollars (\$200.00) together with the date and amount of * * * the
479 expenditure * * *;

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



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

485 1. Each person or political committee who makes a
486 contribution to a political party during the reporting period and
487 whose contribution or contributions to a political party within
488 the calendar year have an aggregate amount or value in excess of
489 Two Hundred Dollars (\$200.00), together with the date and amount
490 of the contribution;

491 2. Each person or organization who receives an
492 expenditure or expenditures by a political party * * * during the
493 reporting period when the expenditure or expenditures to the
494 person or organization within the calendar year have an aggregate
495 value or amount in excess of Two Hundred Dollars (\$200.00),
496 together with the date and amount of * * * the expenditure * * *;

497 (v) Disclosure required under this section of an
498 expenditure to a credit card issuer, financial institution or
499 business allowing payments and money transfers to be made over the
500 Internet must include, by way of detail or separate itemized
501 entry, the amount of funds passing to each person, business entity
502 or organization receiving funds from the expenditure.

503 (e) The appropriate office specified in Section 23-15-805
504 must be in actual receipt of the reports specified in this article
505 by 5:00 p.m. on the dates specified in paragraph (b) of this
506 section. If the date specified in paragraph (b) of this section



507 shall fall on a weekend or legal holiday then the report shall be
508 due in the appropriate office at 5:00 p.m. on the first working
509 day before the date specified in paragraph (b) of this section.
510 The reporting candidate or reporting political committee shall
511 ensure that the reports are delivered to the appropriate office by
512 the filing deadline. The Secretary of State may approve specific
513 means of electronic transmission of completed campaign finance
514 disclosure reports, which may include, but not be limited to,
515 transmission by electronic facsimile (FAX) devices.

516 (f) (i) If any contribution of more than Two Hundred
517 Dollars (\$200.00) is received by a candidate or candidate's
518 political committee after the tenth day, but more than forty-eight
519 (48) hours before 12:01 a.m. of the day of the election, the
520 candidate or political committee shall notify the appropriate
521 office designated in Section 23-15-805, within forty-eight (48)
522 hours of receipt of the contribution. The notification shall
523 include:

- 524 1. The name of the receiving candidate;
- 525 2. The name of the receiving candidate's political
526 committee, if any;
- 527 3. The office sought by the candidate;
- 528 4. The identification of the contributor;
- 529 5. The date of receipt;
- 530 6. The amount of the contribution;



531 7. If the contribution is in-kind, a description
532 of the in-kind contribution; and

533 8. The signature of the candidate or the treasurer
534 or * * * chair of the candidate's political * * * organization.

535 (ii) The notification shall be in writing, and may be
536 transmitted by overnight mail, courier service, or other reliable
537 means, including electronic facsimile (FAX), but the candidate or
538 candidate's committee shall ensure that the notification shall in
539 fact be received in the appropriate office designated in Section
540 23-15-805 within forty-eight (48) hours of the contribution.

541 **SECTION 6.** Section 23-15-811, Mississippi Code of 1972, is
542 amended as follows:

543 23-15-811. (a) Any candidate or any other person who * * *
544 willfully violates the provisions and prohibitions of this article
545 shall be guilty of a misdemeanor and upon conviction * * * shall
546 be punished by a fine in a sum not to exceed * * * One Thousand
547 Dollars (\$1,000.00) or imprisoned for not longer than six (6)
548 months or by both fine and imprisonment.

549 (b) In addition to the penalties provided in paragraph (a)
550 of this section and Chapter 13, Title 97, Mississippi Code of
551 1972, any candidate or political committee which is required to
552 file a statement or report * * * and fails to file * * * the
553 statement or report on the date * * * it is due may be compelled
554 to file * * * the statement or report by an action in the nature



555 of a mandamus brought by the Secretary of State or Attorney
556 General.

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

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

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

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

572 23-15-813. (a) In addition to any other penalty permitted
573 by law, the Secretary of State shall require any candidate or
574 political committee, as identified in Section 23-15-805(a), and
575 any other political committee registered with the Secretary of
576 State, who fails to file a campaign finance disclosure report as
577 required under Sections 23-15-801 through 23-15-813, or Sections
578 23-17-47 through 23-17-53, or who shall file a report * * * that
579 fails to substantially comply with the requirements of Sections



580 23-15-801 through 23-15-813, or Sections 23-17-47 through
581 23-17-53, to be assessed a civil penalty as follows:

582 (i) Within five (5) calendar days after any deadline
583 for filing a report pursuant to Sections 23-15-801 through
584 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
585 State shall compile a list of those candidates and political
586 committees who have failed to file a report. The Secretary of
587 State shall provide each candidate or political committee, who has
588 failed to file a report, notice of the failure by first-class
589 mail.

590 (ii) Beginning with the tenth calendar day after which
591 any report * * * is due, the Secretary of State shall assess the
592 delinquent candidate and political committee a civil penalty of
593 Fifty Dollars (\$50.00) for each day or part of any day until a
594 valid report is delivered to the Secretary of State, up to a
595 maximum of ten (10) days. * * * In the discretion of the
596 Secretary of State, the assessing of the fine may be waived in
597 whole or in part if the Secretary of State determines that
598 unforeseeable mitigating circumstances, such as the health of the
599 candidate, interfered with the timely filing of a report. Failure
600 of a candidate or political committee to receive notice of failure
601 to file a report from the Secretary of State is not an
602 unforeseeable mitigating circumstance, and failure to receive the
603 notice shall not result in removal or reduction of any assessed
604 civil penalty.



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

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

614 (v) If any candidate or political committee is assessed
615 a civil penalty, and the penalty is not subsequently waived by the
616 Secretary of State, the candidate or political committee shall pay
617 the fine to the Secretary of State within ninety (90) days of the
618 date of the assessment of the fine. If, after one hundred twenty
619 (120) days of the assessment of the fine the payment for the
620 entire amount of the assessed fine has not been received by the
621 Secretary of State, the Secretary of State shall notify the
622 Attorney General of the delinquency, and the Attorney General
623 shall file, where necessary, a suit to compel payment of the civil
624 penalty.

625 (b) (i) Upon the sworn application, made within sixty (60)
626 calendar days of the date upon which the required report is due,
627 of a candidate or political committee against whom a civil penalty
628 has been assessed pursuant to paragraph (a), the Secretary of
629 State shall forward the application to the State Board of Election



630 Commissioners. The State Board of Election Commissioners shall
631 appoint one or more hearing officers who shall be former
632 chancellors, circuit court judges, judges of the Court of Appeals
633 or justices of the Supreme Court, * * * to conduct hearings held
634 pursuant to this article. The hearing officer shall fix a time
635 and place for a hearing and shall cause a written notice
636 specifying the civil penalties that have been assessed against the
637 candidate or political committee and notice of the time and place
638 of the hearing to be served upon the candidate or political
639 committee at least twenty (20) calendar days before the hearing
640 date. The notice may be served by mailing a copy * * * of the
641 notice by certified mail, postage prepaid, to the last known
642 business address of the candidate or political committee.

643 (ii) The hearing officer may issue subpoenas for the
644 attendance of witnesses and the production of * * * documents at
645 the hearing. Process issued by the hearing officer shall extend
646 to all parts of the state and shall be served by any person
647 designated by the hearing officer for the service.

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

652 (iv) At the hearing, the hearing officer shall
653 administer oaths as may be necessary for the proper conduct of the
654 hearing. All hearings shall be conducted by the hearing officer,



655 who shall not be bound by strict rules of procedure or by the laws
656 of evidence * * *, but the determination shall be based upon
657 sufficient evidence to sustain it. The scope of review at the
658 hearing shall be limited to making a determination of whether
659 failure to file a required report was due to an unforeseeable
660 mitigating circumstance.

661 (v) * * * In any proceeding before the hearing officer,
662 if any witness fails or refuses to attend upon a subpoena issued
663 by the commission, refuses to testify, or refuses to produce
664 any * * * documents called for by a subpoena, the attendance of
665 the witness, the giving of his or her testimony or the production
666 of the * * * documents shall be enforced by * * * a court of
667 competent jurisdiction of this state in the manner provided for
668 the enforcement of attendance and testimony of witnesses in civil
669 cases in the courts of this state.

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

676 (c) (i) The right to appeal from the decision of the
677 hearing officer in an administrative hearing concerning the
678 assessment of civil penalties authorized pursuant to this section
679 is granted. The appeal shall be to the Circuit Court of Hinds



680 County and shall include a verbatim transcript of the testimony at
681 the hearing. The appeal shall be taken within thirty (30)
682 calendar days after notice of the decision of the commission
683 following an administrative hearing. The appeal shall be
684 perfected upon filing notice of the appeal and * * * the
685 prepayment of all costs, including the cost of * * * preparing the
686 record of the proceedings by the hearing officer, and * * *
687 filing * * * a bond in the sum of Two Hundred Dollars (\$200.00),
688 conditioned that if the decision of the hearing officer * * * is
689 affirmed by the court, the candidate or political committee will
690 pay the costs of the appeal and the action in court. If the
691 decision is reversed by the court, the Secretary of State will pay
692 the costs of the appeal and the action in court.

693 (ii) If there is an appeal, the appeal shall act as a
694 supersedeas. The court shall dispose of the appeal and enter its
695 decision promptly. The hearing on the appeal may be tried in
696 vacation, in the court's discretion. The scope of review of the
697 court shall be limited to a review of the record made before the
698 hearing officer to determine if the action of the hearing officer
699 is unlawful for the reason that it was 1. not supported by
700 substantial evidence, 2. arbitrary or capricious, 3. beyond the
701 power of the hearing officer to make, or 4. in violation of some
702 statutory or constitutional right of the appellant. The decision
703 of the court may be appealed to the Supreme Court in the manner
704 provided by law.



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

714 (e) If, after twenty (20) calendar days of the date upon
715 which a campaign finance disclosure report is due, a candidate or
716 political committee identified in paragraph (a) of this section
717 shall not have filed a valid report with the Secretary of State,
718 the Secretary of State shall notify the Attorney General of those
719 candidates and political committees who have not filed a valid
720 report, and the Attorney General shall * * * prosecute the
721 delinquent candidates and political committees.

722 **SECTION 8.** Section 23-15-809, Mississippi Code of 1972, is
723 brought forward as follows:

724 23-15-809. (a) Every person who makes independent
725 expenditures in an aggregate amount or value in excess of Two
726 Hundred Dollars (\$200.00) during a calendar year shall file a
727 statement containing the information required under Section
728 23-15-807. Such statement shall be filed with the appropriate
729 offices as provided for in Section 23-15-805, and such person



730 shall be considered a political committee for the purpose of
731 determining place of filing.

732 (b) Statements required to be filed by this subsection shall
733 include:

734 (i) Information indicating whether the independent
735 expenditure is in support of, or in opposition to, the candidate
736 involved;

737 (ii) Under penalty of perjury, a certification of
738 whether or not such independent expenditure is made in
739 cooperation, consultation or concert with, or at the request or
740 suggestion of, any candidate or any authorized committee or agent
741 of such candidate; and

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

746 **SECTION 9.** Section 23-15-815, Mississippi Code of 1972, is
747 brought forward as follows:

748 23-15-815. (a) The Secretary of State shall prescribe and
749 make available forms and promulgate rules and regulations
750 necessary to implement this article.

751 (b) The Secretary of State, circuit clerks and municipal
752 clerks shall, within forty-eight (48) hours after the time of the
753 receipt by the appropriate office of reports and statements filed
754 with it, make them available for public inspection, and copying at



755 the expense of the person requesting such copying, and keep such
756 designations, reports and statements for a period of three (3)
757 years from the date of receipt.

758 **SECTION 10.** Section 23-15-817, Mississippi Code of 1972, is
759 brought forward as follows:

760 23-15-817. The Secretary of State shall compile a list of
761 all candidates for the Legislature or any statewide office who
762 fail to file a campaign disclosure report by the dates specified
763 in Section 23-15-807(b); the list shall be disseminated to the
764 members of the Mississippi Press Association within two (2)
765 working days after such reports are due and made available to the
766 public.

767 **SECTION 11.** This act shall take effect and be in force from
768 and after its passage.

