

By: Representatives Lamar, Eubanks, Anderson
(110th), Hudson

To: Apportionment and
Elections

HOUSE BILL NO. 1019

1 AN ACT TO CREATE NEW SECTION 23-15-808, MISSISSIPPI CODE OF
2 1972, TO REQUIRE THE GOVERNOR-ELECT TO FORM AN INAUGURAL
3 COMMITTEE, APPOINT AN INAUGURAL TREASURER AND CREATE A SEPARATE
4 INAUGURAL FUND FOR RECEIVING ANY CONTRIBUTION OR MAKING ANY
5 EXPENDITURE FOR A GUBERNATORIAL INAUGURATION; TO PROVIDE THAT
6 BEFORE RECEIVING ANY CONTRIBUTION TO OR MAKING ANY EXPENDITURE
7 FROM THE INAUGURAL FUND, THE GOVERNOR-ELECT SHALL APPOINT AN
8 INAUGURAL TREASURER, WHO SHALL MANAGE THE INAUGURAL FUNDS OF THE
9 INAUGURAL COMMITTEE; TO PROVIDE THAT ALL CONTRIBUTIONS TO AN
10 INAUGURAL FUND AND ALL EXPENDITURES FROM THE INAUGURAL FUND IN
11 EXCESS OF TWO HUNDRED DOLLARS SHALL BE REPORTED TO THE OFFICE OF
12 THE SECRETARY OF STATE; TO PROVIDE THE DATES FOR FILING SUCH
13 REPORTS; TO PROVIDE THE PENALTIES FOR FAILURE TO FILE THE REPORTS;
14 TO AMEND SECTION 23-15-801, MISSISSIPPI CODE OF 1972, TO DEFINE
15 "CONTRIBUTIONS" AND "EXPENDITURES" AS THOSE TERMS RELATE TO THE
16 INAUGURAL FUND; TO AMEND SECTIONS 23-15-805 AND 23-15-811,
17 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
18 ACT; TO BRING FORWARD SECTIONS 23-15-813 AND 23-15-817,
19 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
20 AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** The following shall be codified as Section
23 23-15-808, Mississippi Code of 1972:

24 23-15-808. (1) The following words and phrases shall have
25 the meanings as defined in this section unless the context clearly
26 indicates otherwise:



27 (a) "Contribution" means contribution as defined in
28 23-15-801(e)(ii).

29 (b) "Expenditure" means expenditure as defined in
30 23-15-801(f)(ii).

31 (2) As soon as possible after the certification of the
32 election results for governor, the governor-elect shall form an
33 inaugural committee, appoint an inaugural treasurer and create a
34 separate inaugural fund for receiving any contribution or making
35 any expenditure for a gubernatorial inauguration. Before
36 receiving any contribution to or making any expenditure from the
37 inaugural fund, the governor-elect shall appoint an inaugural
38 treasurer, who shall manage the inaugural funds of the inaugural
39 committee. The governor-elect shall report the name and address
40 of the inaugural treasurer to the Secretary of State not later
41 than two (2) days after he or she makes the appointment. No
42 contributions to the inaugural fund shall be made until after the
43 governor-elect has reported the inaugural treasurer's name to the
44 Secretary of State.

45 (3) (a) All contributions received for the gubernatorial
46 inauguration shall be deposited in the inaugural fund, which shall
47 be a separate and segregated account and shall not be comingled
48 with any contributions received by the candidate or any political
49 committee or with any personal or business funds of the candidate
50 or any other person.



51 (b) No person or candidate shall make any expenditure
52 from the inaugural fund or make or receive any contribution or
53 receipt, in kind or otherwise, to be deposited into the inaugural
54 fund for a gubernatorial inauguration without going through the
55 inaugural treasurer.

56 (c) Any expenditure made with monies from the inaugural
57 fund shall be for an expense related to the gubernatorial
58 inauguration or a gubernatorial inauguration-related event.

59 (4) (a) The inaugural treasurer shall keep detailed
60 accounts of all contributions, in kind or otherwise, and all
61 expenditures which exceed Two Hundred Dollars (\$200.00) that are
62 made by the inaugural committee. The inaugural treasurer shall
63 compile the detailed accounts and submit a report of all of the
64 contributions and expenditures to the Secretary of State using an
65 electronic format. The inaugural treasurer shall submit the
66 report in full and accurate detail under oath or affirmation and
67 subject to the penalties of perjury by 5:00 p.m. on or before the
68 following dates:

69 (i) January 31 of an inauguration year, for the
70 period beginning on the date of organization of the inaugural
71 committee through January 25 of the inauguration year; and

72 (ii) Annually on July 10, for the period beginning
73 on the closing date of the report required in paragraph (a) of
74 this subsection through July 1, and until the inaugural committee
75 files a final report.



76 (b) (i) A detailed report of all contributions
77 received, in kind or otherwise, and all expenditures related to
78 the gubernatorial inauguration in 2020 shall be provided to the
79 Secretary of State within thirty (30) days of the effective date
80 of this act.

81 (ii) The Secretary of State shall publish such
82 report on its official website for public inspection.

83 (c) If any of the dates specified in paragraph (a) or
84 (b) of this subsection fall on a weekend or legal holiday then the
85 report shall be due to the Secretary of State at 5:00 p.m. on the
86 first working day before the dates specified in paragraph (a) or
87 (b) of this subsection.

88 (d) If any inaugural treasurer fails to file the
89 reports required in this subsection (4), he or she shall be
90 subject to the penalties provided in Section 23-15-811(b).

91 (e) The Ethics Commission shall be authorized to
92 inspect all of the reports that the inaugural treasurer filed with
93 the Secretary of State, and the Secretary of State shall keep all
94 reports in their original form for five (5) years from the date of
95 the inauguration for which they were filed, and after such time,
96 the reports may be destroyed.

97 (f) The Secretary of State shall publish such reports
98 on its official website for public inspection.



99 (5) (a) An inaugural committee shall terminate and file its
100 final report within one (1) year of the later of one (1) of the
101 following events:

102 (i) The Governor's tenure in office ends; or

103 (ii) The inaugural committee completes its final
104 debt or other obligation.

105 (b) Before the final report required in paragraph (a)
106 of this subsection (5) is filed, the inaugural committee shall
107 complete all outstanding debts and obligations and dispose of all
108 remaining assets as provided in Section 23-15-821(4).

109 (c) The final report shall be filed with the Secretary
110 of State and shall demonstrate that the inaugural committee will
111 no longer make any expenditures or receive any kind of
112 contributions and that the inaugural treasurer has no outstanding
113 debts or obligations.

114 (6) Any person who willfully violates the provisions and
115 prohibitions of this section shall be subject to the penalties
116 provided in Section 23-15-811(a).

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

119 23-15-801. (a) "Election" means a general, special, primary
120 or runoff election.

121 (b) "Candidate" means an individual who seeks nomination for
122 election, or election, to any elective office other than a federal



elective office. For purposes of this article, an individual shall be deemed to seek nomination for election, or election:

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

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

(c) "Political committee" means any committee, party, club, association, political action committee, campaign committee or other groups of persons or affiliated organizations that receives contributions aggregating in excess of Two Hundred Dollars (\$200.00) during a calendar year or that makes expenditures aggregating in excess of Two Hundred Dollars (\$200.00) during a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination for election, or election, of one or more candidates, or balloted



measures. Political committee shall, in addition, include each political party registered with the Secretary of State.

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

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

(ii) "Contribution" shall also include any gift, subscription, loan, advance or deposit of money or anything of value made by any person or political committee to the inaugural fund;

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

(* * *iv) "Contribution to a political party" includes any gift, subscription, loan, advance or deposit of money or anything of value made by any person, political committee, or other organization to a political party and to any committee, subcommittee, campaign committee, political committee and other



groups of persons and affiliated organizations of the political party;

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

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

(ii) "Expenditure" shall also include any purchase, payment, distribution, loan, advance, deposit, gift of money or anything of value, made by any person or political committee from the inaugural fund. Expenditure shall also include a written contract, promise or agreement to make an expenditure from the inaugural fund;

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



197 (* * *iv) "Expenditure by a political party" includes
198 1. any purchase, payment, distribution, loan, advance, deposit,
199 gift of money or anything of value, made by any political party
200 and by any contractor, subcontractor, agent, and consultant to the
201 political party; and 2. a written contract, promise, or agreement
202 to make such an expenditure.

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

204 (i) In the case of any individual, the name, the
205 mailing address, and the occupation of such individual, as well as
206 the name of his or her employer; and

207 (ii) In the case of any other person, the full name and
208 address of the person.

209 (h) The term "political party" shall mean an association,
210 committee or organization which nominates a candidate for election
211 to any elective office whose name appears on the election ballot
212 as the candidate of the association, committee or organization.

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

215 (j) The term "independent expenditure" shall mean an
216 expenditure by a person expressly advocating the election or
217 defeat of a clearly identified candidate that is made without
218 cooperation or consultation with any candidate or any authorized
219 committee or agent of the candidate, and that is not made in
220 concert with or at the request or suggestion of any candidate or
221 any authorized committee or agent of the candidate.



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

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

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

or

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

SECTION 3. Section 23-15-805, Mississippi Code of 1972, is amended as follows:

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

(b) Candidates for county or county district office, and every political committee which makes reportable contributions to or expenditures in support of or in opposition to a candidate for such office or makes reportable contributions to or expenditures in support of or in opposition to a countywide ballot measure or a ballot measure affecting part of a county, excepting a municipal ballot measure, shall file all reports required by this section in the office of the circuit clerk of the county in which the election occurs, or directly to the Office of the Secretary of



State via facsimile, electronic mail, postal mail or hand delivery. The circuit clerk shall forward copies of all reports to the Office of the Secretary of State.

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

(d) The inaugural committee for the gubernatorial inauguration of any governor-elect or other person as provided in Section 23-15-808 shall be required to file all reports with the Secretary of State as provided in Section 23-15-808.

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

SECTION 4. Section 23-15-811, Mississippi Code of 1972, is amended as follows:

23-15-811. (a) Any candidate or any other person who willfully violates the provisions and prohibitions of this article



shall be guilty of a misdemeanor and upon conviction shall be punished by a fine in a sum not to exceed Three Thousand Dollars (\$3,000.00) or imprisoned for not longer than six (6) months or by both fine and imprisonment.

(b) In addition to the penalties provided in subsection (a) of this section and Chapter 13, Title 97, Mississippi Code of 1972, any candidate * * *, political committee, inaugural treasurer as provided in Section 23-15-808 or other person as provided in Section 23-15-808 which is required to file a statement or report and fails to file the statement or report on the date it is due may be compelled to file the statement or report by an action in the nature of a mandamus brought by the Mississippi Ethics Commission.

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

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

(e) In the event that a candidate fails to timely file any report required pursuant to this article but subsequently files a report or reports containing all of the information required to be



reported, the candidate shall not be subject to the sanctions of subsections (c) and (d) of this section.

SECTION 5. Section 23-15-813, Mississippi Code of 1972, is brought forward as follows:

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

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



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

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

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

(v) If any candidate or political committee is assessed a civil penalty, and the penalty is not subsequently waived by the



Mississippi Ethics Commission, the candidate or political committee shall pay the fine to the Commission within ninety (90) days of the date of the assessment of the fine. If, after one hundred twenty (120) days of the assessment of the fine the payment for the entire amount of the assessed fine has not been received by the Commission, the Commission shall notify the Attorney General of the delinquency, and the Attorney General shall file, where necessary, a suit to compel payment of the civil penalty.

(b) (i) Upon the sworn application, made within sixty (60) calendar days of the date upon which the required report is due, of a candidate or political committee against whom a civil penalty has been assessed pursuant to subsection (a) of this section, the Secretary of State shall forward the application to the State Board of Election Commissioners. The State Board of Election Commissioners shall appoint one or more hearing officers who shall be former chancellors, circuit court judges, judges of the Court of Appeals or justices of the Supreme Court, to conduct hearings held pursuant to this article. The hearing officer shall fix a time and place for a hearing and shall cause a written notice specifying the civil penalties that have been assessed against the candidate or political committee and notice of the time and place of the hearing to be served upon the candidate or political committee at least twenty (20) calendar days before the hearing date. The notice may be served by mailing a copy of the notice by



certified mail, postage prepaid, to the last-known business address of the candidate or political committee.

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

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

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

(v) In any proceeding before the hearing officer, if any witness fails or refuses to attend upon a subpoena issued by the commission, refuses to testify, or refuses to produce any documents called for by a subpoena, the attendance of the witness, the giving of his or her testimony or the production of the



documents shall be enforced by a court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

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

(c) (i) The right to appeal from the decision of the hearing officer in an administrative hearing concerning the assessment of civil penalties authorized pursuant to this section is granted. The appeal shall be to the Circuit Court of Hinds County and shall include a verbatim transcript of the testimony at the hearing. The appeal shall be taken within thirty (30) calendar days after notice of the decision of the commission following an administrative hearing. The appeal shall be perfected upon filing notice of the appeal and the prepayment of all costs, including the cost of preparing the record of the proceedings by the hearing officer, and filing a bond in the sum of Two Hundred Dollars (\$200.00), conditioned that if the decision of the hearing officer is affirmed by the court, the candidate or political committee will pay the costs of the appeal and the action in court. If the decision is reversed by the court, the



Mississippi Ethics Commission will pay the costs of the appeal and the action in court.

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

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

(e) If, after twenty (20) calendar days of the date upon which a campaign finance disclosure report is due, a candidate or



political committee identified in subsection (a) of this section shall not have filed a valid report with the Secretary of State, the Secretary of State shall notify the Attorney General of those candidates and political committees who have not filed a valid report, and the Attorney General shall prosecute the delinquent candidates and political committees.

SECTION 6. Section 23-15-817, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 7. This act shall take effect and be in force from and after July 1, 2021.

