

Senate Amendments to House Bill No. 1244

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

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

66 **SECTION 1.** The following provision shall be codified as
67 Section 23-15-802, Mississippi Code of 1972:

68 23-15-802. (1) Contributions to a named candidate made to a
69 political committee authorized by the candidate to accept
70 contributions on the candidates behalf shall be considered to be
71 contributions made to the candidate.

72 (2) Expenditures made by any person, other than the
73 candidate or his authorized committee or agent, in cooperation,
74 consultation or concert with, or at the request or suggestion of a
75 candidate, an authorized committee or agent of such candidate,
76 shall be considered to be a contribution made to the candidate.

77 (3) The financing of the dissemination, distribution or
78 republication, in whole or in part, of any broadcast or any
79 written, graphic or other form of campaign materials prepared by
80 the candidate, an authorized committee or agent of the candidate,
81 shall be considered to be an expenditure for, and a contribution
82 to, the candidate.

83 (4) If any person, other than the candidate or his
84 authorized committee or agent, makes or contracts to make any
85 disbursement for any electioneering communication, and the
86 disbursement is coordinated with a candidate or any authorized
87 committee or agent of the candidate, such disbursement or contract
88 shall be considered to be a contribution to the candidate
89 supported by the electioneering communication and as an
90 expenditure by the candidate.

91 **SECTION 2.** The following provision shall be codified as
92 Section 23-15-808, Mississippi Code of 1972:

93 23-15-808. (1) Every person who makes a disbursement for
94 the direct costs of producing and airing electioneering
95 communications in an aggregate amount in excess of Two Thousand
96 Dollars (\$2,000.00) during any calendar year, shall, within
97 forty-eight (48) hours of each disclosure date, file with the
98 appropriate offices as provided for in Section 23-15-805 (such
99 person shall be considered a political committee for determining
100 the place of filing), a statement made under penalty of
101 prosecution containing the following:

102 (a) The identity of:

103 (i) The person making the disbursement;

104 (ii) Any person sharing or exercising discretion or
105 control over the activities of the person making the disbursement;
106 and

107 (iii) The custodian of the books and accounts of
108 the person making the disbursement;

109 (b) The principal place of business of the person
110 making the disbursement if the person is not an individual;

111 (c) The amount of each disbursement of more than Two
112 Hundred Dollars (\$200.00) made during the period covered by the
113 statement and the identity of the person to whom the disbursement
114 was made;

115 (d) The elections to which the electioneering
116 communication pertains and the names, if known, of the candidates
117 to whom the communication refers;

118 (e) If the disbursements were paid out of a segregated
119 bank account, the names and addresses of all contributors who
120 contributed an aggregate amount in excess of Two Hundred Dollars
121 (\$200.00) to the account during the period beginning on the first
122 day of the preceding calendar year and ending on the disclosure
123 date; and

124 (f) If the disbursements were paid out of funds not
125 covered by paragraph (e) of this subsection, the names and

126 addresses of all persons who contributed an aggregate amount in
127 excess of Two Hundred Dollars (\$200.00) to the person making the
128 disbursement during the period beginning on the first day of the
129 preceding calendar year and ending on the disclosure date.

130 (2) For purposes of this section, a person shall be treated
131 as having made a disbursement if the person has executed a
132 contract to make the disbursement.

133 (3) The reporting requirements of this subsection shall be
134 in addition to any other reporting requirement under this article.

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

137 23-15-801. As used in this article:

138 (a) "Election" means a general, special, primary or
139 runoff election.

140 (b) "Candidate" means an individual who seeks
141 nomination for election, or election, to any elective office other
142 than a federal elective office and for purposes of this article,
143 an individual shall be deemed to seek nomination for election, or
144 election:

145 (i) If such individual has received contributions
146 aggregating in excess of Two Hundred Dollars (\$200.00) or has made
147 expenditures aggregating in excess of Two Hundred Dollars
148 (\$200.00) or for a candidate for the Legislature or any statewide
149 or state district office, by the qualifying deadlines specified in
150 Sections 23-15-299 and 23-15-977, whichever occurs first; or

151 (ii) If such individual has given his or her
152 consent to another person to receive contributions or make
153 expenditures on behalf of such individual and if such person has
154 received such contributions aggregating in excess of Two Hundred
155 Dollars (\$200.00) during a calendar year, or has made such
156 expenditures aggregating in excess of Two Hundred Dollars
157 (\$200.00) during a calendar year.

158 (c) "Political committee" means any committee, party,
159 club, association, political action committee, campaign committee
160 or other groups of persons or affiliated organizations which

161 receives contributions aggregating in excess of Two Hundred
162 Dollars (\$200.00) during a calendar year or which makes
163 expenditures aggregating in excess of Two Hundred Dollars
164 (\$200.00) during a calendar year for the purpose of influencing or
165 attempting to influence the action of voters for or against the
166 nomination for election, or election, of one or more candidates,
167 or balloted measures and shall, in addition, include each
168 political party registered with the Secretary of State.

169 (d) "Affiliated organization" means any organization
170 which is not a political committee, but which directly or
171 indirectly establishes, administers or financially supports a
172 political committee.

173 (e) (i) "Contribution" includes any gift,
174 subscription, loan, advance or deposit of money or anything of
175 value made by any person or political committee for the purpose of
176 influencing any election for elective office or balloted
177 measure; * * * however, the term "contribution" does not include
178 the value of services provided without compensation by any
179 individual who volunteers on behalf of a candidate or political
180 committee; or the cost of any food or beverage for use in any
181 candidate's campaign or for use by or on behalf of any political
182 committee of a political party; and

183 (ii) A contribution to a political party includes
184 any gift, subscription, loan, advance or deposit of money or
185 anything of value made by any person, political committee, or
186 other organization to a political party and to any committee,
187 subcommittee, campaign committee, political committee and other
188 groups of persons and affiliated organizations of the political
189 party; * * * however, a contribution to a political party does not
190 include the value of services provided without compensation by any
191 individual who volunteers on behalf of a political party or a
192 candidate of a political party.

193 (f) (i) "Expenditure" includes:

194 1. Any purchase, payment, distribution, loan,
195 advance, deposit, gift of money or anything of value, made by any

196 person or political committee for the purpose of influencing any
197 balloted measure or election for elective office; and

198 2. A written contract, promise, or agreement
199 to make an expenditure;

200 (ii) "Expenditure" does not include:

201 1. Any news story, commentary or editorial
202 distributed through the facilities of any broadcasting station,
203 newspaper, magazine, or other periodical publication, unless such
204 facilities are owned or controlled by any political party,
205 political committee, or candidate; or

206 2. Nonpartisan activity designed to encourage
207 individuals to vote or to register to vote and does not refer to a
208 clearly identified candidate for state or local office;

209 (iii) "Expenditure by a political party" includes:

210 1. Any purchase, payment, distribution, loan,
211 advance, deposit, gift of money or anything of value, made by any
212 political party and by any contractor, subcontractor, agent, and
213 consultant to the political party; and

214 2. A written contract, promise, or agreement
215 to make such an expenditure.

216 (g) The term "identification" means:

217 (i) In the case of any individual, the name, the
218 mailing address, and the occupation of such individual, as well as
219 the name of his or her employer; and

220 (ii) In the case of any other person, the full
221 name and address of such person.

222 (h) * * * "Political party" means an association,
223 committee or organization which nominates a candidate for election
224 to any elective office whose name appears on the election ballot
225 as the candidate of such association, committee or organization.

226 (i) * * * "Person" shall mean any individual, family,
227 firm, committee, corporation, partnership, association, political
228 committee or other legal entity.

229 (j) * * * "Independent expenditure" means an
230 expenditure by a person expressly advocating the election or

231 defeat of a clearly identified candidate * * * and which is not
232 made in concert with or at the request or suggestion of any
233 candidate, any authorized committee of the candidate or the agent
234 of the candidate or committee or a political party committee or
235 its agents.

236 (k) * * * "Clearly identified" means that:

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

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

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

242 (m) (i) "Electioneering communication" means any
243 broadcast, cable or satellite communication which refers to a
244 clearly identified candidate for state or local office and is made
245 within:

246 1. Sixty (60) days before a general, special
247 or runoff election for the office sought by the candidate and is
248 targeted at the relevant electorate; or

249 2. Thirty (30) days before a primary election
250 for the office sought by the candidate and is targeted at the
251 relevant electorate.

252 (ii) The term "electioneering communication" does
253 not include:

254 1. A communication appearing in a news story,
255 commentary or editorial distributed through the facilities of any
256 broadcasting station, unless such facilities are owned or
257 controlled by any political committee or candidate;

258 2. A communication which constitutes an
259 independent expenditure;

260 3. A communication which constitutes a
261 candidate debate or forum or which solely promotes the candidate
262 debate or forum and is made by or on behalf of the person
263 sponsoring the debate; or

264 4. Nonpartisan activity designed to encourage
265 individuals to vote or register to vote and does not refer to a
266 clearly identified candidate for state or local office.

267 (iii) An electioneering communication is targeted
268 at the relevant electorate if the communication:

269 1. Refers to a clearly identified candidate;
270 and

271 2. Can be received by five thousand (5,000)
272 or more persons in the jurisdiction in which the candidate seeks
273 to represent.

274 (n) "Disclosure date" means:

275 (i) The first date during any calendar year by
276 which a person has made disbursement for the direct costs of
277 producing or airing electioneering communications aggregating in
278 excess of Two Thousand Dollars (\$2,000.00); and

279 (ii) Any subsequent date during the calendar year
280 by which a person has made disbursement for the direct costs of
281 producing or airing electioneering communications aggregating in
282 excess of Two Hundred Dollars (\$200.00) since the most recent
283 disclosure date for such calendar year.

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

286 23-15-805. (1) Candidates for state, state district, and
287 legislative district offices, and every political committee, which
288 makes reportable contributions to or expenditures in support of or
289 in opposition to a candidate for any such office or makes
290 reportable contributions to or expenditures in support of or in
291 opposition to a statewide ballot measure, shall file all reports
292 required under this article with the Office of the Secretary of
293 State.

294 (2) (a) From and after January 1, 2007, all candidates,
295 their authorized committees or agents and other political
296 committees that receive contributions in excess of One Hundred
297 Thousand Dollars (\$100,000.00) in any calendar years, shall file

298 the reports required to be filed under this article with the
299 Office of the Secretary of State by electronic format.

300 (b) The Office of the Secretary of State shall adopt
301 rules and regulations designating the format and software to be
302 use in filing reports by electronic format under this subsection.
303 All candidates and committees required to file reports by
304 electronic format under this subsection shall follow the format
305 and use the software prescribed by the Office of the Secretary of
306 State.

307 (3) Candidates for county or county district office, and
308 every political committee which makes reportable contributions to
309 or expenditures in support of or in opposition to a candidate for
310 such office or makes reportable contributions to or expenditures
311 in support of or in opposition to a countywide ballot measure or a
312 ballot measure affecting part of a county, excepting a municipal
313 ballot measure, shall file all reports required by this section in
314 the office of the circuit clerk of the county in which the
315 election occurs. The circuit clerk shall forward copies of all
316 reports to the Office of the Secretary of State.

317 (4) Candidates for municipal office, and every political
318 committee which makes reportable contributions to or expenditures
319 in support of or in opposition to a candidate for such office, or
320 makes reportable contributions to or expenditures in support of or
321 in opposition to a municipal ballot measure shall file all reports
322 required by this article in the office of the municipal clerk of
323 the municipality in which the election occurs. The municipal
324 clerk shall forward copies of all reports to the Office of the
325 Secretary of State.

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

330 (b) No information copied from reports required to be
331 filed under this article shall be sold or used by any person for
332 the purpose of soliciting contributions or for commercial purposes

333 other than using the name and address of any political committee
334 to solicit contributions from the political committee. A
335 political committee may submit five (5) pseudonyms on each report
336 filed in order to protect against the illegal use of names and
337 addresses of contributors provided the committee attaches a list
338 of the pseudonyms to the appropriate report. The Secretary of
339 State shall exclude those lists from the public record.

340 * * *

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

343 23-15-807. (1) Each candidate or political committee shall
344 file reports of contributions and disbursements in accordance with
345 the provisions of this section. All candidates or political
346 committees required to report may terminate its obligation to
347 report only upon submitting a final report that it will no longer
348 receive any contributions or make any disbursement and that such
349 candidate or committee has no outstanding debts or obligations.
350 The candidate, treasurer or chief executive officer shall sign
351 each such report.

352 (2) Candidates who are seeking election, or nomination for
353 election, and political committees that make expenditures for the
354 purpose of influencing or attempting to influence the action of
355 voters for or against the nomination for election, or election, of
356 one or more candidates or balloted measures at such election,
357 shall file the following reports:

358 (a) In any calendar year during which there is a
359 regularly scheduled election, a preelection report, which shall be
360 filed no later than the seventh day before any election in which
361 such candidate or political committee has accepted contributions
362 or made expenditures and which shall include all campaign finance
363 activity for the period beginning after the last appropriately
364 filed annual, periodic or preelection report and extending through
365 the tenth day before such election;

366 (b) In 1987 and every fourth year thereafter, periodic
367 reports, which shall be filed no later than the tenth day after

368 April 30, May 31, June 30, September 30 and December 31, and which
369 shall include all campaign finance activity for the period
370 beginning after the last appropriately filed annual, periodic or
371 preelection report and extending through the last day of each
372 period; and

373 (c) In any calendar years except 1987 and except every
374 fourth year thereafter, a report covering the calendar year which
375 shall be filed no later than January 31 of the following calendar
376 year.

377 (3) All candidates for judicial office as defined in Section
378 23-15-975, and political committees that make expenditures for the
379 purpose of influencing or attempting to influence the action of
380 voters for or against the election of one or more candidates for
381 judicial office, shall file in the year in which they are to be
382 elected, periodic reports which shall be filed no later than the
383 tenth day after April 30, May 31, June 30, September 30 and
384 December 31. These reports shall include all campaign finance
385 activity for the period beginning after the last appropriately
386 filed annual, periodic or preelection report and extending through
387 the last day of each period.

388 (4) * * * Each report under this article shall disclose:

389 (a) For the reporting period and the calendar year, the
390 total amount of all contributions and the total amount of all
391 expenditures of the candidate or reporting committee which shall
392 include those required to be identified pursuant to paragraph (b)
393 of this subsection (4) as well as the total of all other
394 contributions and expenditures during the calendar year. Such
395 reports shall be cumulative during the calendar year to which they
396 relate;

397 (b) The identification of:

398 (i) Each person or political committee who makes a
399 contribution to the reporting candidate or political committee
400 during the reporting period, whose contribution or contributions
401 within the calendar year have an aggregate amount or value in

402 excess of Two Hundred Dollars (\$200.00) together with the date and
403 amount of any such contribution;

404 (ii) Each person or organization, candidate or
405 political committee who receives an expenditure, payment or other
406 transfer from the reporting candidate, political committee or its
407 agent, employee, designee, contractor, consultant or other person
408 or persons acting in its behalf during the reporting period when
409 the expenditure, payment or other transfer to such person,
410 organization, candidate or political committee within the calendar
411 year have an aggregate value or amount in excess of Two Hundred
412 Dollars (\$200.00) together with the date and amount of such
413 expenditure;

414 (c) The total amount of cash on hand of each reporting
415 candidate and reporting political committee;

416 (d) In addition to the contents of reports specified in
417 paragraphs (a), (b) and (c) of this subsection (4), each political
418 party shall disclose:

419 (i) Each person or political committee who makes a
420 contribution to a political party during the reporting period and
421 whose contribution or contributions to a political party within
422 the calendar year have an aggregate amount or value in excess of
423 Two Hundred Dollars (\$200.00), together with the date and amount
424 of the contribution;

425 (ii) Each person or organization who receives an
426 expenditure by a political party or expenditures by a political
427 party during the reporting period when the expenditure or
428 expenditures to the person or organization within the calendar
429 year have an aggregate value or amount in excess of Two Hundred
430 Dollars (\$200.00), together with the date and amount of the
431 expenditure.

432 (5) The appropriate office specified in Section 23-15-805
433 must be in actual receipt of the reports specified in this article
434 by 5:00 p.m. on the dates specified in subsection (2) of this
435 section. If the date specified in subsection (2) of this section
436 shall fall on a weekend or legal holiday then the report shall be

437 due in the appropriate office at 5:00 p.m. on the first working
438 day before the date specified in subsection (2) of this section.
439 The reporting candidate or reporting political committee shall
440 ensure that the reports are delivered to the appropriate office by
441 the filing deadline. The Secretary of State may approve specific
442 means of electronic transmission of completed campaign finance
443 disclosure reports, which may include, but not be limited to,
444 transmission by electronic facsimile (FAX) devices.

445 (6) (a) If any contribution of more than Two Hundred
446 Dollars (\$200.00) is received by a candidate or candidate's
447 political committee after the tenth day, but more than forty-eight
448 (48) hours before 12:01 a.m. of the day of the election, the
449 candidate or political committee shall file a report with the
450 appropriate office designated in Section 23-15-805, within
451 forty-eight (48) hours of the receipt of any such contribution in
452 excess of Two Hundred Dollars (\$200.00). Multiple contributions
453 may be included in a single report if none of the reported
454 contributions was received more than forty-eight (48) hours before
455 the report is filed. The report shall include:

456 (i) The name of the receiving candidate;

457 (ii) The name of the receiving candidate's
458 political committee, if any;

459 (iii) The office sought by the candidate;

460 (iv) The identification of each person who made a
461 contribution required to be reported under this subsection;

462 (v) The date of receipt of each contribution
463 required to be reported under this subsection;

464 (vi) The amount of each contribution required to
465 be reported under this subsection;

466 (vii) If a contribution is in-kind, a description
467 of the in-kind contribution; * * *

468 (viii) The signature of the candidate or the
469 treasurer or director of the candidate's political committee; and

470 (xi) The total amount of all contributions
471 required to be reported under this subsection.

472 (b) The report required by this subsection shall be in
473 writing, and may be transmitted by overnight mail, courier
474 service, or other reliable means, including electronic facsimile
475 (FAX), but the candidate or candidate's committee shall ensure
476 that the report shall in fact be received in the appropriate
477 office designated in Section 23-15-805 within forty-eight (48)
478 hours of the contribution.

479 (c) The filing of reports required by this subsection
480 does not relieve the candidate of the responsibility of including
481 the contributions contained in the report in the next report
482 required to be filed under subsection (2) of this section.

483 (7) (a) In addition to the information required to be
484 disclosed in subsection (4) of this section, candidates shall
485 disclose:

486 (i) The identity of any individual or entity from
487 which the candidate receives a loan or other extension of credit
488 for use in his campaign or in furtherance of any campaign
489 activities;

490 (ii) The identity of any individual or entity
491 which assumes, in whole or in part, such loan or other extension
492 of credit;

493 (iii) The identity of any individual or entity to
494 which such loan or other extension of credit has been assigned or
495 otherwise transferred, in whole or in part, by contract, purchase,
496 operation of law or otherwise;

497 (iv) The identity of all creditors, cosigners,
498 guarantors, assignees or other parties to such loan, extension of
499 credit, assumption, assignment or related transaction;

500 (v) How such loan or other extension of credit was
501 utilized; and

502 (vi) All details concerning repayment of the loan
503 or extension of credit including, but not limited to, the time of
504 the repayments, the method of repayments, the amount of repayments
505 and sources of repayments and the identity of the individuals
506 involved in the repayment.

507 (b) Candidates shall also file certified copies of all
508 documents related to the loans, extensions of credit, assumptions,
509 assignments or transactions required to be reported or identified
510 by this subsection.

511 **SECTION 6.** Section 23-15-809, Mississippi Code of 1972, is
512 amended as follows:

513 23-15-809. (1) Every person who makes or contracts to make
514 independent expenditures in an aggregate amount or value in excess
515 of Two Hundred Dollars (\$200.00) during a calendar year shall file
516 a statement within forty-eight (48) hours of making or contracting
517 to make an independent expenditure. The statement shall be filed
518 with the appropriate offices as provided for in Section 23-15-805,
519 and such person shall be considered a political committee for the
520 purpose of determining place of filing.

521 (2) Statements required to be filed under this subsection by
522 a political committee shall include:

523 (a) The name and address of each person who receives
524 any disbursement during the reporting period in an aggregate
525 amount or value in excess of Two Hundred Dollars (\$200.00) within
526 the calendar year;

527 (b) The date, amount and purpose of the expenditure;

528 (c) A statement indicating whether the independent
529 expenditure is in support of, or in opposition to, a candidate,
530 and the office sought by the candidate; and

531 (d) * * * A certification, under penalty of
532 prosecution, of whether * * * the independent expenditure is made
533 in cooperation, consultation or concert with, or at the request or
534 suggestion of, any candidate or any authorized committee or agent
535 of such candidate.

536 (3) Statements required to be filed under this subsection by
537 persons other than a political committee shall include:

538 (a) The name and address of each person who makes a
539 contribution for the purpose of furthering an independent
540 expenditure to the person filing the statement during the
541 reporting period whose contribution during the calendar year has

542 an aggregate amount or value in excess of Two Hundred Dollars
543 (\$200.00) together with the date and amount of such contribution;

544 (b) The name and address of each person who receives
545 any disbursement during the reporting period in an aggregate
546 amount or value in excess of Two Hundred Dollars (\$200.00) within
547 the calendar year;

548 (c) The date, amount and purpose of any independent
549 expenditure;

550 (d) A statement indicating whether the independent
551 expenditure is in support of, or in opposition to, a candidate,
552 and the office sought by the candidate; and

553 (e) A certification, under penalty of prosecution, of
554 whether the independent expenditure is made in cooperation,
555 consultation or concert with, or at the request or suggestion of,
556 any candidate or any authorized committee or agent of such
557 candidate.

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

560 23-15-811. (1) Any candidate or any other person who * * *
561 willfully * * * and substantially violates the provisions and
562 prohibitions of this article shall be guilty of a misdemeanor and
563 upon conviction thereof shall be punished by a fine in an amount
564 not to exceed Three Thousand Dollars (\$3,000.00) or imprisoned for
565 not longer than six (6) months, or by both * * *.

566 (2) In addition to the penalties provided in subsection (1)
567 of this section, any candidate or political committee which is
568 required to file a statement or report which fails to file such
569 statement or report on the date in which it is due may be
570 compelled to file such statement or report by an action in the
571 nature of a mandamus.

572 (3) No candidate shall be certified as nominated for
573 election or as elected to office unless and until he files all
574 reports required by this article that are due as of the date of
575 certification.

576 (4) No candidate who is elected to office shall receive any
577 salary or other remuneration for the office unless and until he
578 files all reports required by this article that are due as of the
579 date such salary or remuneration is payable.

580 (5) In the event that a candidate fails to timely file any
581 report required pursuant to this article but subsequently files a
582 report or reports containing all of the information required to be
583 reported by him as of the date on which the sanctions of
584 subsections (3) and (4) of this section would be applied to him,
585 such candidate shall not be subject to the sanctions of
586 subsections (3) and (4) of this section.

587 (6) Prosecutions under this section may be commenced by a
588 district attorney or the Attorney General; however, the Attorney
589 General shall prosecute violations of this article upon
590 recommendation of the State Board of Election Commissioners.

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

593 23-15-813. (1) In addition to any other penalty permitted
594 by law, the Secretary of State shall require any person * * * who
595 fails to file a campaign finance disclosure report as required
596 under Sections 23-15-801 through 23-15-813, or Sections 23-17-47
597 through 23-17-53, or who shall file a report which fails to
598 substantially comply with the requirements of Sections 23-15-801
599 through 23-15-813, or Sections 23-17-47 through 23-17-53, to be
600 assessed a civil penalty as follows:

601 (a) Within five (5) calendar days after any deadline
602 for filing a report pursuant to Sections 23-15-801 through
603 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
604 State shall compile a list of those persons who have failed to
605 file a report. The Secretary of State shall provide each person,
606 who has failed to file a report, notice of the failure by
607 first-class mail.

608 (b) Beginning with the tenth calendar day after which
609 any report shall be due, the Secretary of State shall assess the
610 delinquent person a civil penalty of Fifty Dollars (\$50.00) for

611 each day or part of any day until a valid report is delivered to
612 the Secretary of State, up to a maximum of ten (10) days.
613 However, in the discretion of the Secretary of State, the
614 assessing of the fine may be waived in whole or in part if the
615 Secretary of State determines that unforeseeable mitigating
616 circumstances, such as the health of a candidate or other
617 individual required to file a report, interfered with timely
618 filing of a report. Failure of a person to receive notice of
619 failure to file a report from the Secretary of State is not an
620 unforeseeable mitigating circumstance, and failure to receive the
621 notice shall not result in removal or reduction of any assessed
622 civil penalty.

623 (c) Filing of the required report and payment of the
624 fine within ten (10) calendar days of notice by the Secretary of
625 State that a required statement has not been filed, constitutes
626 compliance with Sections 23-15-801 through 23-15-813, or Sections
627 23-17-47 through 23-17-53.

628 (d) Payment of the fine without filing the required
629 report does not in any way excuse or exempt any person required to
630 file from the filing requirements of Sections 23-15-801 through
631 23-15-813, and Sections 23-17-47 through 23-17-53.

632 (e) If any person is assessed a civil penalty, and the
633 penalty is not subsequently waived by the Secretary of State, the
634 person shall pay the fine to the Secretary of State within ninety
635 (90) days of the date of the assessment of the fine. If, after
636 one hundred twenty (120) days of the assessment of the fine the
637 payment for the entire amount of the assessed fine has not been
638 received by the Secretary of State, the Secretary of State shall
639 notify the Attorney General of the delinquency, and the Attorney
640 General shall file, where necessary, a suit to compel payment of
641 the civil penalty.

642 (2) (a) Upon the sworn application, made within sixty (60)
643 calendar days of the date upon which the required report is due,
644 of a person identified in subsection (1) of this section against
645 whom a civil penalty has been assessed pursuant to subsection (1)

646 of this section, the Secretary of State shall forward the
647 application to the State Board of Election Commissioners. The
648 State Board of Election Commissioners shall appoint one or more
649 hearing officers who shall be former chancellors, circuit court
650 judges, judges of the Court of Appeals or justices of the Supreme
651 Court, and who shall conduct hearings held pursuant to this
652 article. The hearing officer shall fix a time and place for a
653 hearing and shall cause a written notice specifying the civil
654 penalties that have been assessed against the person and notice of
655 the time and place of the hearing to be served upon the person at
656 least twenty (20) calendar days before the hearing date. The
657 notice may be served by mailing a copy thereof by certified mail,
658 postage prepaid, to the last known * * * address of the person.

659 (b) The hearing officer may issue subpoenas for the
660 attendance of witnesses and the production of books and papers at
661 the hearing. Process issued by the hearing officer shall extend
662 to all parts of the state and shall be served by any person
663 designated by the hearing officer for the service.

664 (c) The person has the right to appear either
665 personally, by counsel or both, to produce witnesses or evidence
666 in his behalf, to cross-examine witnesses and to have subpoenas
667 issued by the hearing officer.

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

677 (e) Where, in any proceeding before the hearing
678 officer, any witness fails or refuses to attend upon a subpoena
679 issued by the commission, refuses to testify, or refuses to
680 produce any books and papers the production of which is called for

681 by a subpoena, the attendance of the witness, the giving of his
682 testimony or the production of the books and papers shall be
683 enforced by any court of competent jurisdiction of this state in
684 the manner provided for the enforcement of attendance and
685 testimony of witnesses in civil cases in the courts of this state.

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

691 (3) (a) The right to appeal from the decision of the
692 hearing officer in an administrative hearing concerning the
693 assessment of civil penalties authorized pursuant to this section
694 is granted. The appeal shall be to the Circuit Court of Hinds
695 County and shall include a verbatim transcript of the testimony at
696 the hearing. The appeal shall be taken within thirty (30)
697 calendar days after notice of the decision of the commission
698 following an administrative hearing. The appeal shall be
699 perfected upon filing notice of the appeal and by the prepayment
700 of all costs, including the cost of the preparation of the record
701 of the proceedings by the hearing officer, and the filing of a
702 bond in the sum of Two Hundred Dollars (\$200.00), conditioned that
703 if the decision of the hearing officer be affirmed by the court,
704 the person will pay the costs of the appeal and the action in
705 court. If the decision is reversed by the court, the Secretary of
706 State will pay the costs of the appeal and the action in court.

707 (b) If there is an appeal, the appeal shall act as a
708 supersedeas. The court shall dispose of the appeal and enter its
709 decision promptly. The hearing on the appeal may be tried in
710 vacation, in the court's discretion. The scope of review of the
711 court shall be limited to a review of the record made before the
712 hearing officer to determine if the action of the hearing officer
713 is unlawful for the reason that it was (i) not supported by
714 substantial evidence, (ii) arbitrary or capricious, (iii) beyond
715 the power of the hearing officer to make, or (iv) in violation of

716 some statutory or constitutional right of the appellant. The
717 decision of the court may be appealed to the Supreme Court in the
718 manner provided by law.

719 (4) If, after forty-five (45) calendar days of the date of
720 the administrative hearing procedure set forth in subsection (2)
721 of this section, the person identified in subsection (1) of this
722 section fails to pay the monetary civil penalty imposed by the
723 hearing officer, the Secretary of State shall notify the Attorney
724 General of the delinquency. The Attorney General shall
725 investigate the offense in accordance with the provisions of this
726 chapter, and where necessary, file suit to compel payment of the
727 unpaid civil penalty.

728 (5) If, after twenty (20) calendar days of the date upon
729 which a campaign finance disclosure report is due, a person
730 identified in subsection (1) of this section shall not have filed
731 a valid report with the Secretary of State, the Secretary of State
732 shall notify the Attorney General of those persons who have not
733 filed a valid report, and the Attorney General shall thereupon
734 prosecute the delinquent candidates and political committees.

735 **SECTION 9.** Section 97-13-15, Mississippi Code of 1972, is
736 amended as follows:

737 97-13-15. It shall be unlawful for any corporation,
738 incorporated company, incorporated association, limited
739 partnership, limited liability partnership or manager-managed
740 limited liability company, by whatever name it may be known,
741 incorporated or organized under the laws of this state, or doing
742 or conducting business in this state, or for any servant, agent,
743 employee or officer thereof, to give, donate, appropriate or
744 furnish directly or indirectly, any money, security, funds or
745 property of such a corporation, incorporated company, incorporated
746 association, limited partnership, limited liability partnership or
747 manager-managed limited liability company, in excess of Two
748 Thousand Dollars (\$2,000.00) per calendar year for the purpose of
749 aiding any political party or any candidate for any public office,
750 or any candidate for any nomination for any public office, * * *

751 or any representative or committee of any political party or
752 candidate for nomination by any political party, or any committee
753 or other person acting on behalf of such candidate. * * *

754 **SECTION 10.** Section 23-15-817, Mississippi Code of 1972, is
755 amended as follows:

756 23-15-817. The Secretary of State shall compile a list of
757 all candidates for the Legislature or any statewide office who
758 fail to file a campaign disclosure report by the dates specified
759 in Section 23-15-807(2); the list shall be disseminated to the
760 members of the Mississippi Press Association within two (2)
761 working days after such reports are due and made available to the
762 public.

763 **SECTION 11.** Section 97-13-17, Mississippi Code of 1972, is
764 amended as follows:

765 97-13-17. Any corporation, incorporated company or
766 incorporated association, limited partnership, limited liability
767 partnership or manager-managed limited liability company or agent,
768 officer or employee violating any of the provisions of Section
769 97-13-15 shall, upon conviction, be fined not less than One
770 Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars
771 (\$5,000.00).

772 **SECTION 12.** Sections 12 through 16 of this act shall be
773 known and may be cited as the "Voluntary Contributions Act."

774 **SECTION 13.** As used in Sections 12 through 16 of this act:

775 (a) "Ballot proposition" includes initiatives, proposed
776 constitutional amendments and any other items submitted to the
777 voters for their approval or rejection.

778 (b) "Filing entity" means any entity required to report
779 contributions or expenditures under Title 23, Chapter 15, Article
780 23.

781 (c) "Fund" means the separate segregated fund
782 established by a labor organization for political purposes
783 according to the procedures and requirements of this act.

784 (d) "Labor organization" means any association or
785 organization of employees, and any agency, employee representation

786 committee, or plan in which employees participate that exists, in
787 whole or in part, to advocate on behalf of employees about
788 grievances, labor disputes, wages, rates of pay, hours of
789 employment or conditions of employment and includes, but is not
790 limited to, each employee association and union for employees of
791 public and private sector employers. The term "labor
792 organization" does not include organizations governed by the
793 National Labor Relations Act, 29 USCS 151 et seq. or the Railroad
794 Labor Act, 45 USCS 151 et seq.

795 (e) "Political activities" means electoral activities,
796 independent expenditures or expenditures made to any candidate,
797 political party, political committee, affiliated organization,
798 ballot proposition or any other political or legislative cause.

799 (f) "Union dues" means dues, fees or other money
800 required as a condition of membership in a labor organization or
801 as a condition of employment.

802 **SECTION 14.** (1) Except as provided in subsection (2) of
803 this section, a labor organization may not expend union dues for
804 political activities.

805 (2) A labor organization may only make expenditures for
806 political activities if the labor organization establishes a
807 separate segregated fund that meets the requirements of this act
808 and the labor organization ensures that:

809 (a) In soliciting contributions for the fund, the
810 solicitor discloses, in clear and unambiguous language on the face
811 of the solicitation, that contributions are voluntary and that the
812 fund is a political fund and will be expended for political
813 activities;

814 (b) Union dues are not used for political activities,
815 transferred to the fund or intermingled in any way with money in
816 the fund;

817 (c) The cost of administering the fund is paid from
818 fund contributions and not from union dues; and

819 (d) Each contribution is voluntary.

820 (3) At the time the labor organization is soliciting
821 contribution for the fund from an employee, the labor organization
822 shall:

823 (a) Affirmatively inform the employee, in writing, of
824 the fund's political purpose; and

825 (b) Affirmatively inform the employee, in writing, of
826 the employee's right to refuse to contribute without fear or
827 reprisal or loss of membership in the labor organization.

828 (4) The labor organization has the burden of proof to
829 establish that the requirements of subsections (2) and (3) of this
830 section are met.

831 (5) Notwithstanding the requirements of subsection (2)(b) of
832 this section, a labor organization may use union dues to
833 communicated directly with its own members about political
834 candidates, ballot proposition and other political issues.

835 **SECTION 15.** (1) (a) It is unlawful for a labor
836 organization to make expenditures for political activities by
837 using contributions:

838 (i) Secured by physical force or threat of force,
839 job discrimination or threat of job discrimination, membership
840 discrimination or threat or membership discrimination or economic
841 reprisals or threat of economic reprisals; or

842 (ii) From union dues except as provided in Section
843 3(5) of this act.

844 (b) When a labor organization is soliciting
845 contribution for a fund from an employee, it is unlawful for a
846 labor organization to fail to:

847 (i) Affirmatively inform the employee in writing
848 of the fund's political purpose; and

849 (ii) Affirmatively inform the employee in writing
850 of the employee's right to refuse to contribute without fear of
851 reprisal or loss of membership in the labor organization.

852 (c) It is unlawful for a labor organization to solicit
853 contributions for the fund from any person other than its members
854 and their families.

855 (d) It is unlawful for a labor organization to pay a
856 member for contribution to the fund by providing a bonus, expense
857 account, rebate of union dues or by any other form of direct or
858 indirect compensation.

859 (2) Any person or entity violating this section shall be
860 guilty of a misdemeanor and upon conviction thereof shall be
861 punished as provided in Section 99-19-31.

862 **SECTION 16.** Each fund established under Sections 12 through
863 16 of this act shall register as a political committee as required
864 by Section 23-15-803 and shall file all reports required of a
865 political committee under Article 23 of Title 23, Chapter 15.

866 **SECTION 17.** Section 23-15-1023, Mississippi Code of 1972,
867 which provides that judicial candidates shall disclose information
868 about certain loans, is repealed.

869 **SECTION 18.** The Attorney General of the State of Mississippi
870 shall submit this act, immediately upon approval by the Governor,
871 or upon approval by the Legislature subsequent to a veto, to the
872 Attorney General of the United States or to the United States
873 District Court for the District of Columbia in accordance with the
874 provisions of the Voting Rights Act of 1965, as amended and
875 extended.

876 **SECTION 19.** This act shall take effect and be in force from
877 and after the date it is effectuated under Section 5 of the Voting
878 Rights Act of 1965, as amended and extended.

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

1 AN ACT TO CREATE NEW SECTION 23-15-802, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CONTRIBUTIONS TO NAMED CANDIDATE MADE TO A
3 POLITICAL COMMITTEE AUTHORIZED BY THE CANDIDATE TO ACCEPT
4 CONTRIBUTIONS SHALL BE CONSIDERED CONTRIBUTIONS TO THE CANDIDATE;
5 TO PROVIDE THAT EXPENDITURES MADE BY ANY PERSON IN CONCERT WITH A
6 CANDIDATE SHALL BE CONSIDERED TO BE A CONTRIBUTION MADE TO THE
7 CANDIDATE; TO PROVIDE THAT THE FINANCE OF THE DISSEMINATION OF
8 CAMPAIGN MATERIALS SHALL BE CONSIDERED TO BE AN EXPENDITURE FOR,
9 AND A CONTRIBUTION TO THE CANDIDATE; TO PROVIDE THAT DISBURSEMENTS
10 FOR ELECTIONEERING COMMUNICATIONS THAT ARE COORDINATED WITH A
11 CANDIDATE SHALL BE CONSIDERED A CONTRIBUTION TO THE CANDIDATE; TO
12 CREATE NEW SECTION 23-15-808, MISSISSIPPI CODE OF 1972, TO PROVIDE
13 THAT PERSONS WHO MAKE DISBURSEMENT FOR THE DIRECT COST OF
14 PRODUCING AND AIRING ELECTIONEERING COMMUNICATIONS IN AN AGGREGATE
15 AMOUNT IN EXCESS OF \$2,000.00 SHALL FILE A STATEMENT REGARDING
16 SUCH DISBURSEMENT WITHIN 48 HOURS OF THE DISCLOSURE DATE AND TO

17 PROVIDE FOR THE INFORMATION THAT MUST BE INCLUDED IN THE
18 STATEMENT; TO AMEND SECTIONS 23-15-801, 23-15-805, 23-15-807,
19 23-15-809, 23-15-811 AND 23-15-813, MISSISSIPPI CODE OF 1972, TO
20 DEFINE THE TERMS "ELECTIONEERING COMMUNICATION" AND "DISCLOSURE
21 DATE" AND REVISE THE DEFINITION OF CERTAIN TERMS IN THE CAMPAIGN
22 FINANCE DISCLOSURE LAWS; TO REQUIRE, FROM AND AFTER JANUARY 1,
23 2007, CERTAIN CANDIDATES TO FILE THE REPORTS REQUIRED TO BE FILED
24 WITH THE OFFICE OF THE SECRETARY OF STATE BY ELECTRONIC FORMAT; TO
25 CLARIFY THE INFORMATION REQUIRED TO BE INCLUDED IN CERTAIN
26 CAMPAIGN FINANCE REPORTS; TO PROVIDE THAT CAMPAIGN FINANCE REPORTS
27 SHALL INCLUDE CERTAIN INFORMATION REGARDING LOANS OR OTHER
28 EXTENSIONS OF CREDIT MADE TO A CANDIDATE FOR USE IN HIS CAMPAIGN;
29 TO REQUIRE STATEMENTS REGARDING CERTAIN INDEPENDENT CAMPAIGN
30 EXPENDITURES TO BE FILED WITHIN 48 HOURS AND TO REVISE THE
31 INFORMATION REQUIRED TO BE INCLUDED IN SUCH STATEMENTS; TO REVISE
32 THE ELEMENTS NECESSARY FOR A CONVICTION OF A VIOLATION OF THE
33 CAMPAIGN FINANCE LAWS; TO PROVIDE THAT PROSECUTIONS FOR VIOLATIONS
34 OF THE CAMPAIGN FINANCE LAW MAY BE CONDUCTED BY A DISTRICT
35 ATTORNEY OR THE ATTORNEY GENERAL; TO PROVIDE THAT THE ATTORNEY
36 GENERAL SHALL PROSECUTE SUCH VIOLATIONS UPON RECOMMENDATION OF THE
37 STATE BOARD OF ELECTION COMMISSIONERS; TO CLARIFY UPON WHOM
38 ADMINISTRATIVE PENALTIES UNDER THE CAMPAIGN FINANCE LAW MAY APPLY;
39 TO AMEND SECTION 97-13-15, MISSISSIPPI CODE OF 1972, TO INCREASE
40 TO \$2,000.00 THE AMOUNT THAT CORPORATIONS MAY CONTRIBUTED TO
41 POLITICAL CAMPAIGNS IN A CALENDAR YEAR AND TO PLACE INCORPORATED
42 ASSOCIATIONS, LIMITED PARTNERSHIPS, LIMITED LIABILITY PARTNERSHIPS
43 OR MANAGER-MANAGED LIMITED LIABILITY COMPANIES UNDER SUCH
44 RESTRICTION; TO AMEND SECTIONS 23-15-817 AND 97-13-17, MISSISSIPPI
45 CODE OF 1972, IN CONFORMITY THERETO; TO REQUIRE LABOR
46 ORGANIZATIONS TO MAKE EXPENDITURES FOR POLITICAL ACTIVITIES ONLY
47 FROM A SEGREGATED FUND ESTABLISHED FOR SUCH PURPOSES; TO REQUIRE
48 THAT ONLY VOLUNTARY CONTRIBUTIONS MAY BE SOLICITED TO FUND ANY
49 SUCH FUND; TO PROHIBIT THE USE OF UNION DUES FOR POLITICAL
50 ACTIVITIES AND TO PROHIBIT THE INTERMINGLING OF UNION DUES WITH
51 MONEY IN A FUND ESTABLISHED UNDER THIS ACT; TO MAKE IT UNLAWFUL
52 FOR A LABOR ORGANIZATION TO MAKE EXPENDITURES FOR POLITICAL
53 ACTIVITIES BY USING CONTRIBUTIONS SECURED BY PHYSICAL FORCE OR
54 CERTAIN THREATS OR FROM USING UNION DUES FOR POLITICAL ACTIVITIES;
55 TO MAKE IT UNLAWFUL FOR A LABOR ORGANIZATION IN SOLICITING
56 CONTRIBUTIONS FOR THE FUND TO FAIL TO INFORM EMPLOYEES IN WRITING
57 OF THE FUND'S POLITICAL PURPOSES AND OF THE EMPLOYEE'S RIGHT TO
58 REFUSE TO CONTRIBUTE WITHOUT PENALTY; TO PROHIBIT LABOR
59 ORGANIZATIONS FROM SOLICITING CONTRIBUTIONS FOR THE FUND FROM ANY
60 PERSON OTHER THAN ITS MEMBERS AND THEIR FAMILIES AND TO PROHIBIT
61 ANY FORM OF COMPENSATION TO A MEMBER FOR MAKING CONTRIBUTIONS TO
62 THE FUND; TO REPEAL SECTION 23-15-1023, MISSISSIPPI CODE OF 1972,
63 WHICH PROVIDES THAT JUDICIAL CANDIDATES SHALL DISCLOSE CERTAIN
64 INFORMATION ABOUT CERTAIN LOANS; AND FOR RELATED PURPOSES.

SS26\HB1244PS.J

John O. Gilbert
Secretary of the Senate