

By: Senator(s) Burton, Ross

To: Elections

SENATE BILL NO. 2387

1 AN ACT TO AMEND SECTION 23-15-807, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT CAMPAIGN FINANCE REPORTS SHALL INCLUDE CERTAIN  
 3 INFORMATION REGARDING LOANS OR OTHER EXTENSIONS OF CREDIT MADE TO  
 4 A CANDIDATE FOR USE IN SUCH CANDIDATE'S CAMPAIGN; TO AMEND SECTION  
 5 23-15-811, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A  
 6 CANDIDATE IS CHARGED WITH A CRIMINAL VIOLATION OF THE CAMPAIGN  
 7 FINANCE LAW, THE VIOLATION SHALL BE DEEMED TO HAVE BEEN COMMITTED  
 8 IN THE COUNTY IN WHICH THE CANDIDATE'S CAMPAIGN FINANCE REPORT WAS  
 9 PREPARED OR THE COUNTY OF RESIDENCE OF THE DEFENDANT; TO AMEND  
 10 SECTION 23-15-813, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
 11 HEARINGS HELD BY HEARING OFFICERS REGARDING IMPOSITION OF CIVIL  
 12 FINES UPON CANDIDATES UNDER THE CAMPAIGN FINANCE LAW SHALL BE HELD  
 13 IN THE COUNTY OF RESIDENCE OF THE CANDIDATE; TO PROVIDE THAT AN  
 14 APPEAL FROM THE DECISION OF THE HEARING OFFICER BY A CANDIDATE  
 15 SHALL BE TO THE CIRCUIT COURT OF THE COUNTY OF RESIDENCE OF THE  
 16 CANDIDATE; TO AMEND SECTION 97-13-15, MISSISSIPPI CODE OF 1972, TO  
 17 INCREASE TO \$2,000.00 THE AMOUNT THAT CORPORATIONS, INCORPORATED  
 18 COMPANIES OR INCORPORATED ASSOCIATIONS MAY ANNUALLY DONATE FOR THE  
 19 PURPOSE OF AIDING ANY POLITICAL PARTY OR ANY CANDIDATE FOR ANY  
 20 PUBLIC OFFICE, OR ANY CANDIDATE FOR ANY NOMINATION FOR ANY PUBLIC  
 21 OFFICE OF ANY POLITICAL PARTY TO INCLUDE LABOR UNIONS WITHIN SUCH  
 22 CONTRIBUTION LIMIT; TO REPEAL SECTION 23-15-1023, MISSISSIPPI CODE  
 23 OF 1972, WHICH PROVIDES THAT JUDICIAL CANDIDATES SHALL DISCLOSE  
 24 CERTAIN INFORMATION ABOUT CERTAIN LOANS; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** Section 23-15-807, Mississippi Code of 1972, is  
 27 amended as follows:

28 23-15-807. (1) Each candidate or political committee shall  
 29 file reports of contributions and disbursements in accordance with  
 30 the provisions of this section. All candidates or political  
 31 committees required to report may terminate its obligation to  
 32 report only upon submitting a final report that it will no longer  
 33 receive any contributions or make any disbursement and that such  
 34 candidate or committee has no outstanding debts or obligations.  
 35 The candidate, treasurer or chief executive officer shall sign  
 36 each such report.

37 (2) Candidates who are seeking election, or nomination for  
 38 election, and political committees that make expenditures for the

39 purpose of influencing or attempting to influence the action of  
40 voters for or against the nomination for election, or election, of  
41 one or more candidates or balloted measures at such election,  
42 shall file the following reports:

43         (a) In any calendar year during which there is a  
44 regularly scheduled election, a preelection report, which shall be  
45 filed no later than the seventh day before any election in which  
46 such candidate or political committee has accepted contributions  
47 or made expenditures and which shall be complete as of the tenth  
48 day before such election;

49         (b) In 1987 and every fourth year thereafter, periodic  
50 reports, which shall be filed no later than the tenth day after  
51 April 30, May 31, June 30, September 30 and December 31, and which  
52 shall be complete as of the last day of each period; and

53         (c) In any calendar years except 1987 and except every  
54 fourth year thereafter, a report covering the calendar year which  
55 shall be filed no later than January 31 of the following calendar  
56 year.

57         (3) All candidates for judicial office as defined in Section  
58 23-15-975, or their political committees, shall file in the year  
59 in which they are to be elected, periodic reports which shall be  
60 filed no later than the tenth day after April 30, May 31, June 30,  
61 September 30 and December 31.

62         (4) Contents of reports. Each report under this article  
63 shall disclose:

64         (a) For the reporting period and the calendar year, the  
65 total amount of all contributions and the total amount of all  
66 expenditures of the candidate or reporting committee which shall  
67 include those required to be identified pursuant to item (ii) of  
68 this paragraph as well as the total of all other contributions and  
69 expenditures during the calendar year. Such reports shall be  
70 cumulative during the calendar year to which they relate;

71         (b) The identification of:

72                   (i) Each person or political committee who makes a  
73 contribution to the reporting candidate or political committee  
74 during the reporting period, whose contribution or contributions  
75 within the calendar year have an aggregate amount or value in  
76 excess of Two Hundred Dollars (\$200.00) together with the date and  
77 amount of any such contribution;

78                   (ii) Each person or organization, candidate or  
79 political committee who receives an expenditure, payment or other  
80 transfer from the reporting candidate, political committee or its  
81 agent, employee, designee, contractor, consultant or other person  
82 or persons acting in its behalf during the reporting period when  
83 the expenditure, payment or other transfer to such person,  
84 organization, candidate or political committee within the calendar  
85 year have an aggregate value or amount in excess of Two Hundred  
86 Dollars (\$200.00) together with the date and amount of such  
87 expenditure;

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

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

93                   (i) Each person or political committee who makes a  
94 contribution to a political party during the reporting period and  
95 whose contribution or contributions to a political party within  
96 the calendar year have an aggregate amount or value in excess of  
97 Two Hundred Dollars (\$200.00), together with the date and amount  
98 of the contribution;

99                   (ii) Each person or organization who receives an  
100 expenditure by a political party or expenditures by a political  
101 party during the reporting period when the expenditure or  
102 expenditures to the person or organization within the calendar  
103 year have an aggregate value or amount in excess of Two Hundred

104 Dollars (\$200.00), together with the date and amount of the  
105 expenditure.

106       (5) The appropriate office specified in Section 23-15-805  
107 must be in actual receipt of the reports specified in this article  
108 by 5:00 p.m. on the dates specified in subsection (2) of this  
109 section. If the date specified in subsection (2) of this section  
110 shall fall on a weekend or legal holiday then the report shall be  
111 due in the appropriate office at 5:00 p.m. on the first working  
112 day before the date specified in subsection (2) of this section.  
113 The reporting candidate or reporting political committee shall  
114 ensure that the reports are delivered to the appropriate office by  
115 the filing deadline. The Secretary of State may approve specific  
116 means of electronic transmission of completed campaign finance  
117 disclosure reports, which may include, but not be limited to,  
118 transmission by electronic facsimile (FAX) devices.

119       (6) (a) If any contribution of more than Two Hundred  
120 Dollars (\$200.00) is received by a candidate or candidate's  
121 political committee after the tenth day, but more than forty-eight  
122 (48) hours before 12:01 a.m. of the day of the election, the  
123 candidate or political committee shall notify the appropriate  
124 office designated in Section 23-15-805, within forty-eight (48)  
125 hours of receipt of the contribution. The notification shall  
126 include:

127               (i) The name of the receiving candidate;  
128               (ii) The name of the receiving candidate's  
129 political committee, if any;  
130               (iii) The office sought by the candidate;  
131               (iv) The identification of the contributor;  
132               (v) The date of receipt;  
133               (vi) The amount of the contribution;  
134               (vii) If the contribution is in-kind, a  
135 description of the in-kind contribution; and

136                    (viii) The signature of the candidate or the  
137 treasurer or director of the candidate's political committee.

138                    (b) The notification shall be in writing, and may be  
139 transmitted by overnight mail, courier service, or other reliable  
140 means, including electronic facsimile (FAX), but the candidate or  
141 candidate's committee shall ensure that the notification shall in  
142 fact be received in the appropriate office designated in Section  
143 23-15-805 within forty-eight (48) hours of the contribution.

144                    (7) (a) In addition to the information required to be  
145 disclosed in subsection (4) of this section, candidates shall  
146 disclose:

147                    (i) The identity of any individual or entity from  
148 which the candidate receives a loan or other extension of credit  
149 for use in his campaign or in furtherance of any campaign  
150 activities;

151                    (ii) The identity of any individual or entity  
152 which assumes, in whole or in part, such loan or other extension  
153 of credit;

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

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

161                    (v) How such loan or other extension of credit was  
162 utilized; and

163                    (vi) All details concerning repayment of the loan  
164 or extension of credit, including, but not limited to, the time of  
165 the repayments, the method of repayments, the amount of repayments  
166 and sources of repayments and the identity of the individuals  
167 involved in the repayment.

168           (b) Candidates shall also file certified copies of all  
169 documents related to the loans, extensions of credit, assumptions,  
170 assignments or transactions required to be reported or identified  
171 by this subsection.

172           **SECTION 2.** Section 23-15-811, Mississippi Code of 1972, is  
173 amended as follows:

174           23-15-811. (1) Any candidate or any other person who shall  
175 willfully and deliberately and substantially violate the  
176 provisions and prohibitions of this article shall be guilty of a  
177 misdemeanor and upon conviction thereof shall be punished by a  
178 fine in a sum not to exceed Three Thousand Dollars (\$3,000.00) or  
179 imprisoned for not longer than six (6) months or by both fine and  
180 imprisonment.

181           (2) In addition to the penalties provided in subsection (1)  
182 of this section, any candidate or political committee which is  
183 required to file a statement or report which fails to file such  
184 statement or report on the date in which it is due may be  
185 compelled to file such statement or report by an action in the  
186 nature of a mandamus.

187           (3) No candidate shall be certified as nominated for  
188 election or as elected to office unless and until he files all  
189 reports required by this article due as of the date of  
190 certification.

191           (4) No candidate who is elected to office shall receive any  
192 salary or other remuneration for the office unless and until he  
193 files all reports required by this article due as of the date such  
194 salary or remuneration is payable.

195           (5) In the event that a candidate fails to timely file any  
196 report required pursuant to this article but subsequently files a  
197 report or reports containing all of the information required to be  
198 reported by him as of the date on which the sanctions of  
199 subsections (3) and (4) of this section would be applied to him,

200 such candidate shall not be subject to the sanctions of  
201 subsections (3) and (4) of this section.

202 (6) If a candidate is charged with a violation of this  
203 section, the violation shall be deemed to have been committed in:

204 (a) The county in which the statement or report of the  
205 candidate was prepared; or

206 (b) The county of residence of the candidate if  
207 paragraph (a) of this subsection is not appropriate.

208 **SECTION 3.** Section 23-15-813, Mississippi Code of 1972, is  
209 amended as follows:

210 23-15-813. (1) In addition to any other penalty permitted  
211 by law, the Secretary of State shall require any candidate or  
212 political committee, as identified in Section 23-15-805(a), and  
213 any other political committee registered with the Secretary of  
214 State, who fails to file a campaign finance disclosure report as  
215 required under Sections 23-15-801 through 23-15-813, or Sections  
216 23-17-47 through 23-17-53, or who shall file a report which fails  
217 to substantially comply with the requirements of Sections  
218 23-15-801 through 23-15-813, or Sections 23-17-47 through  
219 23-17-53, to be assessed a civil penalty as follows:

220 (a) Within five (5) calendar days after any deadline  
221 for filing a report pursuant to Sections 23-15-801 through  
222 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of  
223 State shall compile a list of those candidates and political  
224 committees who have failed to file a report. The Secretary of  
225 State shall provide each candidate or political committee, who has  
226 failed to file a report, notice of the failure by first-class  
227 mail.

228 (b) Beginning with the tenth calendar day after which  
229 any report shall be due, the Secretary of State shall assess the  
230 delinquent candidate and political committee a civil penalty of  
231 Fifty Dollars (\$50.00) for each day or part of any day until a  
232 valid report is delivered to the Secretary of State, up to a

233 maximum of ten (10) days. However, in the discretion of the  
234 Secretary of State, the assessing of the fine may be waived in  
235 whole or in part if the Secretary of State determines that  
236 unforeseeable mitigating circumstances, such as the health of the  
237 candidate, interfered with timely filing of a report. Failure of  
238 a candidate or political committee to receive notice of failure to  
239 file a report from the Secretary of State is not an unforeseeable  
240 mitigating circumstance, and failure to receive the notice shall  
241 not result in removal or reduction of any assessed civil penalty.

242         (c) Filing of the required report and payment of the  
243 fine within ten (10) calendar days of notice by the Secretary of  
244 State that a required statement has not been filed, constitutes  
245 compliance with Sections 23-15-801 through 23-15-813, or Sections  
246 23-17-47 through 23-17-53.

247         (d) Payment of the fine without filing the required  
248 report does not in any way excuse or exempt any person required to  
249 file from the filing requirements of Sections 23-15-801 through  
250 23-15-813, and Sections 23-17-47 through 23-17-53.

251         (e) If any candidate or political committee is assessed  
252 a civil penalty, and the penalty is not subsequently waived by the  
253 Secretary of State, the candidate or political committee shall pay  
254 the fine to the Secretary of State within ninety (90) days of the  
255 date of the assessment of the fine. If, after one hundred twenty  
256 (120) days of the assessment of the fine the payment for the  
257 entire amount of the assessed fine has not been received by the  
258 Secretary of State, the Secretary of State shall notify the  
259 Attorney General of the delinquency, and the Attorney General  
260 shall file, where necessary, a suit to compel payment of the civil  
261 penalty.

262         (2) (a) Upon the sworn application, made within sixty (60)  
263 calendar days of the date upon which the required report is due,  
264 of a candidate or political committee against whom a civil penalty  
265 has been assessed pursuant to subsection (1) of this section, the

266 Secretary of State shall forward the application to the State  
267 Board of Election Commissioners. The State Board of Election  
268 Commissioners shall appoint one or more hearing officers who shall  
269 be former chancellors, circuit court judges, judges of the Court  
270 of Appeals or justices of the Supreme Court, and who shall conduct  
271 hearings held pursuant to this article. The hearing officer shall  
272 fix a time and place for a hearing and shall cause a written  
273 notice specifying the civil penalties that have been assessed  
274 against the candidate or political committee and notice of the  
275 time and place of the hearing to be served upon the candidate or  
276 political committee at least twenty (20) calendar days before the  
277 hearing date. If the application is made by a candidate, the  
278 place of the hearing shall be located in the county of residence  
279 of the candidate. The notice may be served by mailing a copy  
280 thereof by certified mail, postage prepaid, to the last known  
281 business address of the candidate or political committee.

282 (b) The hearing officer may issue subpoenas for the  
283 attendance of witnesses and the production of books and papers at  
284 the hearing. Process issued by the hearing officer shall extend  
285 to all parts of the state and shall be served by any person  
286 designated by the hearing officer for the service.

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

291 (d) At the hearing, the hearing officer shall  
292 administer oaths as may be necessary for the proper conduct of the  
293 hearing. All hearings shall be conducted by the hearing officer,  
294 who shall not be bound by strict rules of procedure or by the laws  
295 of evidence in the conduct of the proceedings, but the  
296 determination shall be based upon sufficient evidence to sustain  
297 it. The scope of review at the hearing shall be limited to making

298 a determination of whether failure to file a required report was  
299 due to an unforeseeable mitigating circumstance.

300 (e) Where, in any proceeding before the hearing  
301 officer, any witness fails or refuses to attend upon a subpoena  
302 issued by the commission, refuses to testify, or refuses to  
303 produce any books and papers the production of which is called for  
304 by a subpoena, the attendance of the witness, the giving of his  
305 testimony or the production of the books and papers shall be  
306 enforced by any court of competent jurisdiction of this state in  
307 the manner provided for the enforcement of attendance and  
308 testimony of witnesses in civil cases in the courts of this state.

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

315 (3) (a) The right to appeal from the decision of the  
316 hearing officer in an administrative hearing concerning the  
317 assessment of civil penalties authorized pursuant to this section  
318 is granted. The appeal shall be to the Circuit Court of Hinds  
319 County and shall include a verbatim transcript of the testimony at  
320 the hearing; however, if the appeal is being made by a candidate,  
321 the appeal shall be to the circuit court of the county of  
322 residence of the candidate. The appeal shall be taken within  
323 thirty (30) calendar days after notice of the decision of  
324 the \* \* \* hearing officer. The appeal shall be perfected upon  
325 filing notice of the appeal and by the prepayment of all costs,  
326 including the cost of the preparation of the record of the  
327 proceedings by the hearing officer, and the filing of a bond in  
328 the sum of Two Hundred Dollars (\$200.00), conditioned that if the  
329 decision of the hearing officer be affirmed by the court, the  
330 candidate or political committee shall pay the costs of the appeal

331 and the action in court. If the decision is reversed by the  
332 court, the Secretary of State shall pay the costs of the appeal  
333 and the action in court.

334 (b) If there is an appeal, the appeal shall act as a  
335 supersedeas. The court shall dispose of the appeal and enter its  
336 decision promptly. The hearing on the appeal may be tried in  
337 vacation, in the court's discretion. The scope of review of the  
338 court shall be limited to a review of the record made before the  
339 hearing officer to determine if the action of the hearing officer  
340 is unlawful for the reason that it was:

341 (i) Not supported by substantial evidence;

342 (ii) Arbitrary or capricious;

343 (iii) Beyond the power of the hearing officer to  
344 make; or

345 (iv) In violation of some statutory or  
346 constitutional right of the appellant.

347 The decision of the court may be appealed to the Supreme  
348 Court in the manner provided by law.

349 (4) If, after forty-five (45) calendar days of the date of  
350 the administrative hearing procedure set forth in subsection (2)  
351 of this section, the candidate or political committee identified  
352 in subsection (1) of this section fails to pay the monetary civil  
353 penalty imposed by the hearing officer, the Secretary of State  
354 shall notify the Attorney General of the delinquency. The  
355 Attorney General shall investigate the offense in accordance with  
356 the provisions of this chapter, and where necessary, file suit to  
357 compel payment of the unpaid civil penalty.

358 (5) If, after twenty (20) calendar days of the date upon  
359 which a campaign finance disclosure report is due, a candidate or  
360 political committee identified in subsection (1) of this section  
361 shall not have filed a valid report with the Secretary of State,  
362 the Secretary of State shall notify the Attorney General of those  
363 candidates and political committees who have not filed a valid

364 report, and the Attorney General shall thereupon prosecute the  
365 delinquent candidates and political committees.

366 **SECTION 4.** Section 97-13-15, Mississippi Code of 1972, is  
367 amended as follows:

368 97-13-15. It shall be unlawful for any corporation,  
369 incorporated company, incorporated association or labor union, by  
370 whatever name it may be known, incorporated or organized under the  
371 laws of this state, or doing business in this state, or for any  
372 servant, agent, employee or officer thereof, to give, donate,  
373 appropriate or furnish directly or indirectly, any money,  
374 security, funds or property of such a corporation, incorporated  
375 company, incorporated association or labor union in excess of Two  
376 Thousand Dollars (\$2,000.00) per calendar year for the purpose of  
377 aiding any political party or any candidate for any public office,  
378 or any candidate for any nomination for any public office of any  
379 political party, or to give, donate, appropriate or furnish,  
380 directly or indirectly, any money, security, funds or property of  
381 such a corporation, incorporated company, association or labor  
382 union in excess of Two Thousand Dollars (\$2,000.00) to any  
383 committee or person as a contribution to the expense of any  
384 political party or any candidate, representative or committee of  
385 any political party or candidate for nomination by any political  
386 party, or any committee or other person acting in behalf of such  
387 candidate. The limit of Two Thousand Dollars (\$2,000.00) for  
388 contributions to political parties, candidates and committees or  
389 other persons acting in behalf of such candidates shall be an  
390 annual limitation applicable to each calendar year and shall not  
391 apply to contributions made by political committees.

392 **SECTION 5.** Section 23-15-1023, Mississippi Code of 1972,  
393 which provides that judicial candidates shall disclose information  
394 about certain loans, is repealed.

395 **SECTION 6.** The Attorney General of the State of Mississippi  
396 shall submit this act, immediately upon approval by the Governor,

397 or upon approval by the Legislature subsequent to a veto, to the  
398 Attorney General of the United States or to the United States  
399 District Court for the District of Columbia in accordance with the  
400 provisions of the Voting Rights Act of 1965, as amended and  
401 extended.

402       **SECTION 7.** This act shall take effect and be in force from  
403 and after the date it is effectuated under Section 5 of the Voting  
404 Rights Act of 1965, as amended and extended.