

By: Senator(s) Flowers

To: Elections

SENATE BILL NO. 2923

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 23-15-813, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HEARINGS HELD
 6 BY HEARING OFFICERS REGARDING IMPOSITION OF CIVIL FINES UPON
 7 CANDIDATES UNDER THE CAMPAIGN FINANCE LAW SHALL BE HELD IN THE
 8 COUNTY OF RESIDENCE OF THE CANDIDATE; TO PROVIDE THAT AN APPEAL
 9 FROM THE DECISION OF THE HEARING OFFICER BY A CANDIDATE SHALL BE
 10 TO THE CIRCUIT COURT OF THE COUNTY OF RESIDENCE OF THE CANDIDATE;
 11 TO AMEND SECTION 97-13-15, MISSISSIPPI CODE OF 1972, TO INCREASE
 12 TO \$2,000.00 THE AMOUNT THAT CORPORATIONS, INCORPORATED COMPANIES
 13 OR INCORPORATED ASSOCIATIONS MAY ANNUALLY DONATE FOR THE PURPOSE
 14 OF AIDING ANY POLITICAL PARTY OR ANY CANDIDATE FOR ANY PUBLIC
 15 OFFICE, OR ANY CANDIDATE FOR ANY NOMINATION FOR ANY PUBLIC OFFICE
 16 OF ANY POLITICAL PARTY TO INCLUDE LABOR UNIONS WITHIN SUCH
 17 CONTRIBUTION LIMIT; TO REPEAL SECTION 23-15-1023, MISSISSIPPI CODE
 18 OF 1972, WHICH PROVIDES THAT JUDICIAL CANDIDATES SHALL DISCLOSE
 19 CERTAIN INFORMATION ABOUT CERTAIN LOANS; AND FOR RELATED PURPOSES.

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

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

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

32 (2) Candidates who are seeking election, or nomination for
 33 election, and political committees that make expenditures for the
 34 purpose of influencing or attempting to influence the action of
 35 voters for or against the nomination for election, or election, of

36 one or more candidates or balloted measures at such election,
37 shall file the following reports:

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

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

48 (c) In any calendar years except 1987 and except every
49 fourth year thereafter, a report covering the calendar year which
50 shall be filed no later than January 31 of the following calendar
51 year.

52 (3) All candidates for judicial office as defined in Section
53 23-15-975, or their political committees, shall file in the year
54 in which they are to be elected, periodic reports which shall be
55 filed no later than the tenth day after April 30, May 31, June 30,
56 September 30 and December 31.

57 (4) Contents of reports. Each report under this article
58 shall disclose:

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

66 (b) The identification of:

67 (i) Each person or political committee who makes a
68 contribution to the reporting candidate or political committee

69 during the reporting period, whose contribution or contributions
70 within the calendar year have an aggregate amount or value in
71 excess of Two Hundred Dollars (\$200.00) together with the date and
72 amount of any such contribution;

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

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

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

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

94 (ii) Each person or organization who receives an
95 expenditure by a political party or expenditures by a political
96 party during the reporting period when the expenditure or
97 expenditures to the person or organization within the calendar
98 year have an aggregate value or amount in excess of Two Hundred
99 Dollars (\$200.00), together with the date and amount of the
100 expenditure.

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

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

- 122 (i) The name of the receiving candidate;
123 (ii) The name of the receiving candidate's
124 political committee, if any;
125 (iii) The office sought by the candidate;
126 (iv) The identification of the contributor;
127 (v) The date of receipt;
128 (vi) The amount of the contribution;
129 (vii) If the contribution is in-kind, a
130 description of the in-kind contribution; and
131 (viii) The signature of the candidate or the
132 treasurer or director of the candidate's political committee.

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

139 (7) (a) In addition to the information required to be
140 disclosed in subsection (4) of this section, candidates shall
141 disclose:

142 (i) The identity of any individual or entity from
143 which the candidate receives a loan or other extension of credit
144 for use in his campaign or in furtherance of any campaign
145 activities;

146 (ii) The identity of any individual or entity
147 which assumes, in whole or in part, such loan or other extension
148 of credit;

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

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

156 (v) How such loan or other extension of credit was
157 utilized; and

158 (vi) All details concerning repayment of the loan
159 or extension of credit, including, but not limited to, the time of
160 the repayments, the method of repayments, the amount of repayments
161 and sources of repayments and the identity of the individuals
162 involved in the repayment.

163 (b) Candidates shall also file certified copies of all
164 documents related to the loans, extensions of credit, assumptions,

165 assignments or transactions required to be reported or identified
166 by this subsection.

167 **SECTION 2.** Section 23-15-813, Mississippi Code of 1972, is
168 amended as follows:

169 23-15-813. (1) In addition to any other penalty permitted
170 by law, the Secretary of State shall require any candidate or
171 political committee, as identified in Section 23-15-805(a), and
172 any other political committee registered with the Secretary of
173 State, who fails to file a campaign finance disclosure report as
174 required under Sections 23-15-801 through 23-15-813, or Sections
175 23-17-47 through 23-17-53, or who shall file a report which fails
176 to substantially comply with the requirements of Sections
177 23-15-801 through 23-15-813, or Sections 23-17-47 through
178 23-17-53, to be assessed a civil penalty as follows:

179 (a) Within five (5) calendar days after any deadline
180 for filing a report pursuant to Sections 23-15-801 through
181 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
182 State shall compile a list of those candidates and political
183 committees who have failed to file a report. The Secretary of
184 State shall provide each candidate or political committee, who has
185 failed to file a report, notice of the failure by first-class
186 mail.

187 (b) Beginning with the tenth calendar day after which
188 any report shall be due, the Secretary of State shall assess the
189 delinquent candidate and political committee a civil penalty of
190 Fifty Dollars (\$50.00) for each day or part of any day until a
191 valid report is delivered to the Secretary of State, up to a
192 maximum of ten (10) days. However, in the discretion of the
193 Secretary of State, the assessing of the fine may be waived in
194 whole or in part if the Secretary of State determines that
195 unforeseeable mitigating circumstances, such as the health of the
196 candidate, interfered with timely filing of a report. Failure of
197 a candidate or political committee to receive notice of failure to

198 file a report from the Secretary of State is not an unforeseeable
199 mitigating circumstance, and failure to receive the notice shall
200 not result in removal or reduction of any assessed civil penalty.

201 (c) Filing of the required report and payment of the
202 fine within ten (10) calendar days of notice by the Secretary of
203 State that a required statement has not been filed, constitutes
204 compliance with Sections 23-15-801 through 23-15-813, or Sections
205 23-17-47 through 23-17-53.

206 (d) Payment of the fine without filing the required
207 report does not in any way excuse or exempt any person required to
208 file from the filing requirements of Sections 23-15-801 through
209 23-15-813, and Sections 23-17-47 through 23-17-53.

210 (e) If any candidate or political committee is assessed
211 a civil penalty, and the penalty is not subsequently waived by the
212 Secretary of State, the candidate or political committee shall pay
213 the fine to the Secretary of State within ninety (90) days of the
214 date of the assessment of the fine. If, after one hundred twenty
215 (120) days of the assessment of the fine the payment for the
216 entire amount of the assessed fine has not been received by the
217 Secretary of State, the Secretary of State shall notify the
218 Attorney General of the delinquency, and the Attorney General
219 shall file, where necessary, a suit to compel payment of the civil
220 penalty.

221 (2) (a) Upon the sworn application, made within sixty (60)
222 calendar days of the date upon which the required report is due,
223 of a candidate or political committee against whom a civil penalty
224 has been assessed pursuant to subsection (1) of this section, the
225 Secretary of State shall forward the application to the State
226 Board of Election Commissioners. The State Board of Election
227 Commissioners shall appoint one or more hearing officers who shall
228 be former chancellors, circuit court judges, judges of the Court
229 of Appeals or justices of the Supreme Court, and who shall conduct
230 hearings held pursuant to this article. The hearing officer shall

231 fix a time and place for a hearing and shall cause a written
232 notice specifying the civil penalties that have been assessed
233 against the candidate or political committee and notice of the
234 time and place of the hearing to be served upon the candidate or
235 political committee at least twenty (20) calendar days before the
236 hearing date. If the application is made by a candidate, the
237 place of the hearing shall be located in the county of residence
238 of the candidate. The notice may be served by mailing a copy
239 thereof by certified mail, postage prepaid, to the last known
240 business address of the candidate or political committee.

241 (b) The hearing officer may issue subpoenas for the
242 attendance of witnesses and the production of books and papers at
243 the hearing. Process issued by the hearing officer shall extend
244 to all parts of the state and shall be served by any person
245 designated by the hearing officer for the service.

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

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

259 (e) Where, in any proceeding before the hearing
260 officer, any witness fails or refuses to attend upon a subpoena
261 issued by the commission, refuses to testify, or refuses to
262 produce any books and papers the production of which is called for
263 by a subpoena, the attendance of the witness, the giving of his

264 testimony or the production of the books and papers shall be
265 enforced by any court of competent jurisdiction of this state in
266 the manner provided for the enforcement of attendance and
267 testimony of witnesses in civil cases in the courts of this state.

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

274 (3) (a) The right to appeal from the decision of the
275 hearing officer in an administrative hearing concerning the
276 assessment of civil penalties authorized pursuant to this section
277 is granted. The appeal shall be to the Circuit Court of Hinds
278 County and shall include a verbatim transcript of the testimony at
279 the hearing; however, if the appeal is being made by a candidate,
280 the appeal shall be to the circuit court of the county of
281 residence of the candidate. The appeal shall be taken within
282 thirty (30) calendar days after notice of the decision of
283 the * * * hearing officer. The appeal shall be perfected upon
284 filing notice of the appeal and by the prepayment of all costs,
285 including the cost of the preparation of the record of the
286 proceedings by the hearing officer, and the filing of a bond in
287 the sum of Two Hundred Dollars (\$200.00), conditioned that if the
288 decision of the hearing officer be affirmed by the court, the
289 candidate or political committee shall pay the costs of the appeal
290 and the action in court. If the decision is reversed by the
291 court, the Secretary of State shall pay the costs of the appeal
292 and the action in court.

293 (b) If there is an appeal, the appeal shall act as a
294 supersedeas. The court shall dispose of the appeal and enter its
295 decision promptly. The hearing on the appeal may be tried in
296 vacation, in the court's discretion. The scope of review of the

297 court shall be limited to a review of the record made before the
298 hearing officer to determine if the action of the hearing officer
299 is unlawful for the reason that it was:

300 (i) Not supported by substantial evidence;

301 (ii) Arbitrary or capricious;

302 (iii) Beyond the power of the hearing officer to
303 make; or

304 (iv) In violation of some statutory or
305 constitutional right of the appellant.

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

308 (4) If, after forty-five (45) calendar days of the date of
309 the administrative hearing procedure set forth in subsection (2)
310 of this section, the candidate or political committee identified
311 in subsection (1) of this section fails to pay the monetary civil
312 penalty imposed by the hearing officer, the Secretary of State
313 shall notify the Attorney General of the delinquency. The
314 Attorney General shall investigate the offense in accordance with
315 the provisions of this chapter, and where necessary, file suit to
316 compel payment of the unpaid civil penalty.

317 (5) If, after twenty (20) calendar days of the date upon
318 which a campaign finance disclosure report is due, a candidate or
319 political committee identified in subsection (1) of this section
320 shall not have filed a valid report with the Secretary of State,
321 the Secretary of State shall notify the Attorney General of those
322 candidates and political committees who have not filed a valid
323 report, and the Attorney General shall thereupon prosecute the
324 delinquent candidates and political committees.

325 **SECTION 3.** Section 97-13-15, Mississippi Code of 1972, is
326 amended as follows:

327 97-13-15. It shall be unlawful for any corporation,
328 incorporated company, incorporated association or labor union, by
329 whatever name it may be known, incorporated or organized under the

330 laws of this state, or doing business in this state, or for any
331 servant, agent, employee or officer thereof, to give, donate,
332 appropriate or furnish directly or indirectly, any money,
333 security, funds or property of such a corporation, incorporated
334 company, incorporated association or labor union in excess of Two
335 Thousand Dollars (\$2,000.00) per calendar year for the purpose of
336 aiding any political party or any candidate for any public office,
337 or any candidate for any nomination for any public office of any
338 political party, or to give, donate, appropriate or furnish,
339 directly or indirectly, any money, security, funds or property of
340 such a corporation, incorporated company, association or labor
341 union in excess of Two Thousand Dollars (\$2,000.00) to any
342 committee or person as a contribution to the expense of any
343 political party or any candidate, representative or committee of
344 any political party or candidate for nomination by any political
345 party, or any committee or other person acting in behalf of such
346 candidate. The limit of Two Thousand Dollars (\$2,000.00) for
347 contributions to political parties, candidates and committees or
348 other persons acting in behalf of such candidates shall be an
349 annual limitation applicable to each calendar year.

350 **SECTION 4.** Section 23-15-1023, Mississippi Code of 1972,
351 which provides that judicial candidates shall disclose information
352 about certain loans, is repealed.

353 **SECTION 5.** The Attorney General of the State of Mississippi
354 shall submit this act, immediately upon approval by the Governor,
355 or upon approval by the Legislature subsequent to a veto, to the
356 Attorney General of the United States or to the United States
357 District Court for the District of Columbia in accordance with the
358 provisions of the Voting Rights Act of 1965, as amended and
359 extended.

360 **SECTION 6.** This act shall take effect and be in force from
361 and after the date it is effectuated under Section 5 of the Voting
362 Rights Act of 1965, as amended and extended.