

By: Representatives Gunn, Denny, Zuber,
Wilson, Chism, Hughes, Miles, Baker, Snowden,
Brown, Eubanks, Hopkins, Turner, Williams-
Barnes, Horne, McNeal, Dixon, Henley,
Monsour, Oliver, Sykes, Karriem

To: Rules

HOUSE BILL NO. 479
(As Passed the House)

1 AN ACT TO PROHIBIT THE PERSONAL USE OF CAMPAIGN CONTRIBUTIONS
2 BY ANY ELECTED PUBLIC OFFICE HOLDER OR ANY CANDIDATE FOR PUBLIC
3 OFFICE; TO SPECIFICALLY PROHIBIT CERTAIN PERSONAL USE
4 EXPENDITURES; TO PROVIDE THAT ANY EXPENSE THAT REASONABLY RELATES
5 TO GAINING OR HOLDING PUBLIC OFFICE, OR PERFORMING THE FUNCTIONS
6 AND DUTIES OF PUBLIC OFFICE, IS PERMITTED; TO PROVIDE FOR THE
7 DISPOSAL OF CAMPAIGN CONTRIBUTIONS ONCE A TERMINATION REPORT IS
8 FILED; TO PROVIDE PENALTIES; TO REQUIRE THE MISSISSIPPI ETHICS
9 COMMISSION TO ISSUE ADVISORY OPINIONS REGARDING THE USE OF
10 CAMPAIGN CONTRIBUTIONS; TO AMEND SECTION 23-15-801, MISSISSIPPI
11 CODE OF 1972, TO MAKE TECHNICAL CHANGES; TO AMEND SECTION
12 23-15-803, MISSISSIPPI CODE OF 1972, TO REVISE THE DEADLINE FOR
13 FILING A STATEMENT OF ORGANIZATION FOR A POLITICAL COMMITTEE TO 48
14 HOURS; TO REQUIRE THE DISCLOSURE OF THE NAME, ADDRESS, OFFICERS
15 AND MEMBERS OF A POLITICAL COMMITTEE, THE DESIGNATION OF THE CHAIR
16 AND THE CUSTODIAN OF FINANCIAL BOOKS AND RECORDS; TO ALLOW THE
17 MISSISSIPPI ETHICS COMMISSION TO ADMINISTRATIVELY FINE POLITICAL
18 COMMITTEES NOT MORE THAN \$5,000.00, PER VIOLATION, FOR FAILING TO
19 COMPLY WITH FILING REQUIREMENTS; TO AMEND SECTION 23-15-805,
20 MISSISSIPPI CODE OF 1972, TO ALLOW CANDIDATES TO FILE CAMPAIGN
21 FINANCE REPORTS DIRECTLY WITH THE SECRETARY OF STATE BY FAX,
22 EMAIL, POSTAL MAIL OR HAND DELIVERY; TO AMEND SECTION 23-15-807,
23 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNOPPOSED CANDIDATES ARE
24 NOT REQUIRED TO FILE PRE-ELECTION REPORTS BUT MUST FILE ALL OTHER
25 REPORTS; TO PROVIDE THAT THE REQUIRED DISCLOSURE OF AN EXPENDITURE
26 TO A CREDIT CARD ISSUER, FINANCIAL INSTITUTION OR BUSINESS
27 ALLOWING PAYMENTS AND MONEY TRANSFERS TO BE MADE OVER THE INTERNET
28 TO INCLUDE, EITHER BY DETAIL OR A SEPARATE ENTITY, MUST INCLUDE
29 THE AMOUNT OF THE FUNDS PASSING TO EACH PERSON, BUSINESS ENTITY OR
30 ORGANIZATION RECEIVING FUNDS FROM THE EXPENDITURE; TO AMEND
31 SECTION 23-15-811, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE
32 MISSISSIPPI ETHICS COMMISSION MAY BRING A MANDAMUS ACTION TO
33 COMPEL THE REQUIRED CAMPAIGN FINANCE DISCLOSURE REPORTS; TO AMEND
34 SECTION 23-15-813, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL



35 CHANGES; TO AMEND SECTION 23-15-817, MISSISSIPPI CODE OF 1972, TO
36 REQUIRE THAT THE LIST OF CANDIDATES WHO FAILED TO FILE CAMPAIGN
37 FINANCE REPORT BE PROVIDED TO THE MISSISSIPPI ETHICS COMMISSION;
38 TO BRING FORWARD SECTIONS 23-15-809 AND 23-15-815, MISSISSIPPI
39 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
40 RELATED PURPOSES.

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

42 **SECTION 1.** (1) The personal use of campaign contributions
43 by any elected public office holder or by any candidate for public
44 office is prohibited.

45 (a) For the purposes of this section, "personal use" is
46 defined as any use, other than expenditures related to gaining or
47 holding public office, or performing the functions and duties of
48 public office, for which the candidate for public office or
49 elected public official would be required to treat the amount of
50 the expenditure as gross income under Section 61 of the Internal
51 Revenue Code of 1986, 26 USCS Section 61, or any subsequent
52 corresponding Internal Revenue Code of the United States, as from
53 time to time amended. "Personal use" shall not include
54 donations * * * to a political organization, or to a political
55 action committee, or to another candidate.

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

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



63 (2) The expenditures that are specifically prohibited under
64 this section are as follows:

65 (a) Any residential or household items, supplies or
66 expenditures, including mortgage, rent or utility payments for any
67 part of any residential property of a candidate or officeholder or
68 a family member of the candidate or officeholder; however, this
69 does not include a residence maintained for the purpose of
70 performing official duties at the seat of government. Campaign
71 contributions used for a residence maintained for the purpose of
72 performing official duties at the seat of government shall not
73 exceed the amount necessary to pay the difference between the
74 actual rental or mortgage amount of the property and the per diem
75 earned by the candidate or office holder to maintain such
76 residence;

77 (b) Mortgage, rent or utility payments for any part of
78 any nonresidential property of a candidate or officeholder or a
79 family member of a candidate or officeholder that are used for
80 campaign purposes, to the extent the payments exceed the fair
81 market value of the property usage;

82 (c) Funeral, cremation or burial expenses *** within
83 the family of a candidate or officeholder;

84 (d) Clothing, other than items of *** nominal value
85 that are used for gaining or holding public office or performing
86 the functions and duties of public office;



87 (e) Automobiles, except for automobile rental expenses
88 and other automobile expenses related to gaining or holding public
89 office, or performing the functions and duties of public office;

90 (f) Tuition payments;

91 (g) Dues, fees or gratuities at a country club, health
92 club or recreational facility, unless they are part of a specific
93 fundraising event that takes place on the premises of the
94 facility;

95 (h) Salary payments to a family member of a candidate,
96 unless the family member is providing bona fide services to the
97 campaign. If a family member provides bona fide services to a
98 campaign, any salary payments in excess of the fair market value
99 of the services provided is personal use;

100 (i) Admission to a sporting event, concert, theater or
101 other form of entertainment, unless related to gaining or holding
102 public office, or performing the functions and duties of public
103 office;

104 (j) Nondocumented loans of any type, including loans to
105 candidates;

106 (k) Travel expenses except for travel expenses of a
107 candidate or officeholder for travel undertaken as an ordinary and
108 necessary expense of gaining or holding public office, or
109 performing the functions and duties of public office, or for
110 attending meetings or conferences of officials similar to the
111 office held or sought, or for an issue the candidate or office



112 holder is or will consider, or for attending a state or national
113 convention of any party. If a candidate or officeholder uses
114 campaign contributions to pay expenses associated with travel that
115 involves both personal activities and activities related to
116 gaining or holding public office, or performing the functions and
117 duties of public office, the incremental expenses that result from
118 the personal activities are personal use, unless the person(s)
119 benefiting from this use reimburse(s) the campaign account within
120 thirty (30) days for the amount of the incremental expenses; and

121 (1) Payment of any fines, fees or penalties assessed
122 pursuant to Mississippi law.

123 (3) Any expense that reasonably relates to gaining or
124 holding public office, or performing the functions and duties of
125 public office is a permitted use of campaign contributions. It is
126 the intent of the Legislature that such expenditures are not
127 considered personal use expenditures.

128 (4) Upon filing the termination report required under
129 Section 23-15-807, any campaign contributions not used to pay for
130 the expenses of gaining or holding public office or performing the
131 functions and duties of public office shall:

132 (a) Be maintained in a campaign account(s);

133 (b) Be donated to a political organization, or to a
134 political action committee, or to another candidate;



135 (c) Be transferred, in whole or in part, into a newly
136 established political action committee or ballot question
137 advocate;

138 (d) Be donated to a tax-exempt charitable organization
139 as that term is used in Section 501(c)(3) of the Internal Revenue
140 Code of 1986, 26 USCS Section 501, or any subsequent corresponding
141 Internal Revenue Code of the United States, as from time to time
142 amended;

143 (e) Be donated to the State of Mississippi; or

144 (f) Be returned to a donor or donors but not to the
145 candidate.

146 (5) Any candidate for public office or any elected official
147 who willfully violates this section shall be guilty of a
148 misdemeanor and punished by a fine of One Thousand Dollars
149 (\$1,000.00) and by a state assessment equal to the amount of
150 misappropriated campaign contributions. The state assessment
151 shall be deposited into the Public Employees' Retirement System.

152 (6) The Mississippi Ethics Commission shall issue advisory
153 opinions regarding any of the requirements set forth in this
154 section. When any officeholder or candidate requests an advisory
155 opinion, in writing, and has stated all of the facts to govern the
156 opinion, and the Ethics Commission has prepared and delivered the
157 opinion with references to the request, there shall be no civil or
158 criminal liability accruing to or against any officeholder or
159 candidate who, in good faith, follows the direction of the opinion



160 and acts in accordance with the opinion, unless a court of
161 competent jurisdiction, after a full hearing, judicially declares
162 that the opinion is manifestly wrong and without any substantial
163 support. No opinion shall be given or considered if the opinion
164 would be given after judicial proceedings have commenced.

165 All advisory opinions issued pursuant to the provisions of
166 this subsection (6) shall be made public and shall be issued
167 within ninety (90) days of written request. The request for an
168 advisory opinion shall be confidential as to the identity of the
169 individual making the request. The Ethics Commission shall, so
170 far as practicable and before making public, an advisory opinion
171 issued under the provisions of on this subsection (6), make such
172 deletions and changes thereto as may be necessary to ensure the
173 anonymity of the public official and any other person named in the
174 opinion.

175 **SECTION 2.** It is unlawful for the Governor, Lieutenant
176 Governor or any member of the Legislature or any candidates for
177 such offices to solicit or receive cash campaign contributions or
178 hold a political fundraising function during any Regular or
179 Special Legislative Session.

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

182 23-15-801. (a) "Election" * * * means a general, special,
183 primary or runoff election.



184 (b) "Candidate" * * * means an individual who seeks
185 nomination for election, or election, to any elective office other
186 than a federal elective office * * *. For purposes of this
187 article, an individual shall be deemed to seek nomination for
188 election, or election:

189 (i) If * * * the individual has received contributions
190 aggregating in excess of Two Hundred Dollars (\$200.00) or has made
191 expenditures aggregating in excess of Two Hundred Dollars
192 (\$200.00) or for a candidate for the Legislature or any statewide
193 or state district office, by the qualifying deadlines specified in
194 Sections 23-15-299 and 23-15-977, whichever occurs first; or

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

202 (c) "Political committee" * * * means any committee, party,
203 club, association, political action committee, campaign committee
204 or other groups of persons or affiliated organizations * * * that
205 receives contributions aggregating in excess of Two Hundred
206 Dollars (\$200.00) during a calendar year or * * * that makes
207 expenditures aggregating in excess of Two Hundred Dollars
208 (\$200.00) during a calendar year for the purpose of influencing or



209 attempting to influence the action of voters for or against the
210 nomination for election, or election, of one or more candidates,
211 or balloted measures * * *. Political committee shall, in
212 addition, include each political party registered with the
213 Secretary of State.

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

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

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

228 (iii) "Contribution to a political party" includes any
229 gift, subscription, loan, advance or deposit of money or anything
230 of value made by any person, political committee, or other
231 organization to a political party and to any committee,
232 subcommittee, campaign committee, political committee and other



233 groups of persons and affiliated organizations of the political
234 party * * *;

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

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

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

252 (iii) "Expenditure by a political party" includes 1.
253 any purchase, payment, distribution, loan, advance, deposit, gift
254 of money or anything of value, made by any political party and by
255 any contractor, subcontractor, agent, and consultant to the
256 political party; and 2. a written contract, promise, or agreement
257 to make such an expenditure.



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

259 (i) In the case of any individual, the name, the
260 mailing address, and the occupation of such individual, as well as
261 the name of his or her employer; and

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

264 (h) The term "political party" shall mean an association,
265 committee or organization which nominates a candidate for election
266 to any elective office whose name appears on the election ballot
267 as the candidate of * * * the association, committee or
268 organization.

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

271 (j) The term "independent expenditure" shall mean an
272 expenditure by a person expressly advocating the election or
273 defeat of a clearly identified candidate * * * that is made
274 without cooperation or consultation with any candidate or any
275 authorized committee or agent of * * * the candidate, and * * *
276 that is not made in concert with or at the request or suggestion
277 of any candidate or any authorized committee or agent of * * * the
278 candidate.

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

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

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

282 or



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

285 **SECTION 4.** Section 23-15-803, Mississippi Code of 1972, is
286 amended as follows:

287 23-15-803. (* * *1) * * * Each political committee shall
288 file a statement of organization which must be received by the
289 Secretary of State no later than * * * forty-eight (48) hours
290 after:

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

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

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

297 (* * *a) The name, * * * address, officers, and
298 members of the committee * * *;

299 (* * *b) The designation of a * * * chair of the * * *
300 organization and a custodian of the financial books, records and
301 accounts of the * * * organization, who shall be designated
302 treasurer; and

303 (* * *c) If the committee is authorized by a
304 candidate, then the name, address, office sought * * * and party
305 affiliation of the candidate.



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

309 (4) In addition to any other penalties provided by law, the
310 Mississippi Ethics Commission may impose administrative penalties
311 against any political committee that fails to comply with the
312 requirements of this section in an amount not to exceed Five
313 Thousand Dollars (\$5,000.00) per violation. The notice, hearing
314 and appeals provisions of Section 23-15-813 shall apply to any
315 action taken pursuant to this subsection (4). The Mississippi
316 Ethics Commission may pursue judicial enforcement of any penalties
317 issued pursuant to this section.

318 **SECTION 5.** Section 23-15-805, Mississippi Code of 1972, is
319 amended as follows:

320 23-15-805. (a) Candidates for state, state district, and
321 legislative district offices, and every political committee, which
322 makes reportable contributions to or expenditures in support of or
323 in opposition to a candidate for any such office or makes
324 reportable contributions to or expenditures in support of or in
325 opposition to a statewide ballot measure, shall file all reports
326 required under this article with the Office of the Secretary of
327 State.

328 (b) Candidates for county or county district office, and
329 every political committee which makes reportable contributions to
330 or expenditures in support of or in opposition to a candidate for



331 such office or makes reportable contributions to or expenditures
332 in support of or in opposition to a countywide ballot measure or a
333 ballot measure affecting part of a county, excepting a municipal
334 ballot measure, shall file all reports required by this section in
335 the office of the circuit clerk of the county in which the
336 election occurs, or directly to the Office of the Secretary of
337 State via facsimile, electronic mail, postal mail or hand
338 delivery. The circuit clerk shall forward copies of all reports
339 to the Office of the Secretary of State.

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

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

354 * * *



355 **SECTION 6.** Section 23-15-807, Mississippi Code of 1972, is
356 amended as follows:

357 23-15-807. (a) Each candidate or political committee shall
358 file reports of contributions and disbursements in accordance with
359 the provisions of this section. All candidates or political
360 committees required to report such contributions and disbursements
361 may terminate * * * the obligation to report only upon submitting
362 a final report that * * * contributions will no longer * * * be
363 received or * * * disbursements made and that * * * the candidate
364 or committee has no outstanding debts or obligations. The
365 candidate, treasurer or chief executive officer shall sign * * *
366 the report.

367 (b) Candidates * * * seeking election, or nomination for
368 election, and political committees * * * making expenditures * * *
369 to influence * * * or attempt to influence voters for or against
370 the nomination for election * * * of one or more candidates or
371 balloted measures at such election, shall file the following
372 reports:

373 (i) In any calendar year during which there is a
374 regularly scheduled election, a pre-election report * * * shall be
375 filed no later than the seventh day before any election in
376 which * * * the candidate or political committee has accepted
377 contributions or made expenditures and * * * shall be * * *
378 completed as of the tenth day before * * * the election;



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

383 (iii) In any calendar years except 1987 and except
384 every fourth year thereafter, a report covering the calendar
385 year * * * shall be filed no later than January 31 of the
386 following calendar year * * *; and

387 (iv) Except as otherwise provided in the requirements
388 of subparagraph (i) of this paragraph (b), unopposed candidates
389 are not required to file pre-election reports but must file all
390 other reports required by subparagraphs (ii) and (iii) of this
391 paragraph (b).

392 (c) All candidates for judicial office as defined in Section
393 23-15-975, or their political committees, shall file periodic
394 reports in the year in which they are to be elected * * * no later
395 than the tenth day after April 30, May 31, June 30, September 30
396 and December 31.

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

398 (i) For the reporting period and the calendar year, the
399 total amount of all contributions and the total amount of all
400 expenditures of the candidate or reporting committee * * *
401 including those required to be identified pursuant to * * *
402 subparagraph (ii) of this paragraph (d) as well as the total of
403 all other contributions and expenditures during the calendar year.



404 * * * The reports shall be cumulative during the calendar year to
405 which they relate;

406 (ii) The identification of:

407 1. Each person or political committee who makes a
408 contribution to the reporting candidate or political committee
409 during the reporting period, whose contribution or contributions
410 within the calendar year have an aggregate amount or value in
411 excess of Two Hundred Dollars (\$200.00) together with the date and
412 amount of any such contribution;

413 2. Each person or organization, candidate or
414 political committee who receives an expenditure, payment or other
415 transfer from the reporting candidate, political committee or its
416 agent, employee, designee, contractor, consultant or other person
417 or persons acting in its behalf during the reporting period when
418 the expenditure, payment or other transfer to * * * the person,
419 organization, candidate or political committee within the calendar
420 year have an aggregate value or amount in excess of Two Hundred
421 Dollars (\$200.00) together with the date and amount of * * * the
422 expenditure * * *;

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

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



428 1. Each person or political committee who makes a
429 contribution to a political party during the reporting period and
430 whose contribution or contributions to a political party within
431 the calendar year have an aggregate amount or value in excess of
432 Two Hundred Dollars (\$200.00), together with the date and amount
433 of the contribution;

434 2. Each person or organization who receives an
435 expenditure or expenditures by a political party * * * during the
436 reporting period when the expenditure or expenditures to the
437 person or organization within the calendar year have an aggregate
438 value or amount in excess of Two Hundred Dollars (\$200.00),
439 together with the date and amount of * * * the expenditure * * *;

440 (v) Disclosure required under this section of an
441 expenditure to a credit card issuer, financial institution or
442 business allowing payments and money transfers to be made over the
443 Internet must include, by way of detail or separate entry, the
444 amount of funds passing to each person, business entity or
445 organization receiving funds from the expenditure.

446 (e) The appropriate office specified in Section 23-15-805
447 must be in actual receipt of the reports specified in this article
448 by 5:00 p.m. on the dates specified in paragraph (b) of this
449 section. If the date specified in paragraph (b) of this section
450 shall fall on a weekend or legal holiday then the report shall be
451 due in the appropriate office at 5:00 p.m. on the first working
452 day before the date specified in paragraph (b) of this section.



453 The reporting candidate or reporting political committee shall
454 ensure that the reports are delivered to the appropriate office by
455 the filing deadline. The Secretary of State may approve specific
456 means of electronic transmission of completed campaign finance
457 disclosure reports, which may include, but not be limited to,
458 transmission by electronic facsimile (FAX) devices.

459 (f) (i) If any contribution of more than Two Hundred
460 Dollars (\$200.00) is received by a candidate or candidate's
461 political committee after the tenth day, but more than forty-eight
462 (48) hours before 12:01 a.m. of the day of the election, the
463 candidate or political committee shall notify the appropriate
464 office designated in Section 23-15-805, within forty-eight (48)
465 hours of receipt of the contribution. The notification shall
466 include:

- 467 1. The name of the receiving candidate;
- 468 2. The name of the receiving candidate's political
469 committee, if any;
- 470 3. The office sought by the candidate;
- 471 4. The identification of the contributor;
- 472 5. The date of receipt;
- 473 6. The amount of the contribution;
- 474 7. If the contribution is in-kind, a description
475 of the in-kind contribution; and
- 476 8. The signature of the candidate or the treasurer
477 or * * * chair of the candidate's political * * * organization.



478 (ii) The notification shall be in writing, and may be
479 transmitted by overnight mail, courier service, or other reliable
480 means, including electronic facsimile (FAX), but the candidate or
481 candidate's committee shall ensure that the notification shall in
482 fact be received in the appropriate office designated in Section
483 23-15-805 within forty-eight (48) hours of the contribution.

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

486 23-15-811. (a) Any candidate or any other person who * * *
487 willfully violates the provisions and prohibitions of this article
488 shall be guilty of a misdemeanor and upon conviction * * * shall
489 be punished by a fine in a sum not to exceed Three Thousand
490 Dollars (\$3,000.00) or imprisoned for not longer than six (6)
491 months or by both fine and imprisonment.

492 (b) In addition to the penalties provided in paragraph (a)
493 of this section and Chapter 13, Title 97, Mississippi Code of
494 1972, any candidate or political committee which is required to
495 file a statement or report * * * and fails to file * * * the
496 statement or report on the date * * * it is due may be compelled
497 to file * * * the statement or report by an action in the nature
498 of a mandamus brought by the Mississippi Ethics Commission.

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



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

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

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

514 23-15-813. (a) In addition to any other penalty permitted
515 by law, the * * * Mississippi Ethics Commission shall require any
516 candidate or political committee, as identified in Section
517 23-15-805(a), and any other political committee registered with
518 the Secretary of State, who fails to file a campaign finance
519 disclosure report as required under Sections 23-15-801 through
520 23-15-813, or Sections 23-17-47 through 23-17-53, or who shall
521 file a report * * * that fails to substantially comply with the
522 requirements of Sections 23-15-801 through 23-15-813, or Sections
523 23-17-47 through 23-17-53, to be assessed a civil penalty as
524 follows:

525 (i) Within five (5) calendar days after any deadline
526 for filing a report pursuant to Sections 23-15-801 through
527 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of



528 State shall compile a list of those candidates and political
529 committees who have failed to file a report. The list shall be
530 provided to the Mississippi Ethics Commission. The Secretary of
531 State shall provide each candidate or political committee, who has
532 failed to file a report, notice of the failure by first-class
533 mail.

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

549 (iii) Filing of the required report and payment of the
550 fine within ten (10) calendar days of notice by the Secretary of
551 State that a required statement has not been filed * * *



552 constitutes compliance with Sections 23-15-801 through 23-15-813,
553 or Sections 23-17-47 through 23-17-53.

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

558 (v) If any candidate or political committee is assessed
559 a civil penalty, and the penalty is not subsequently waived by
560 the * * * Mississippi Ethics Commission, the candidate or
561 political committee shall pay the fine to the * * * Commission
562 within ninety (90) days of the date of the assessment of the fine.
563 If, after one hundred twenty (120) days of the assessment of the
564 fine the payment for the entire amount of the assessed fine has
565 not been received by the * * * Commission, the * * * Commission
566 shall notify the Attorney General of the delinquency, and the
567 Attorney General shall file, where necessary, a suit to compel
568 payment of the civil penalty.

569 (b) (i) Upon the sworn application, made within sixty (60)
570 calendar days of the date upon which the required report is due,
571 of a candidate or political committee against whom a civil penalty
572 has been assessed pursuant to paragraph (a), the Secretary of
573 State shall forward the application to the State Board of Election
574 Commissioners. The State Board of Election Commissioners shall
575 appoint one or more hearing officers who shall be former
576 chancellors, circuit court judges, judges of the Court of Appeals



577 or justices of the Supreme Court, * * * to conduct hearings held
578 pursuant to this article. The hearing officer shall fix a time
579 and place for a hearing and shall cause a written notice
580 specifying the civil penalties that have been assessed against the
581 candidate or political committee and notice of the time and place
582 of the hearing to be served upon the candidate or political
583 committee at least twenty (20) calendar days before the hearing
584 date. The notice may be served by mailing a copy * * * of the
585 notice by certified mail, postage prepaid, to the last known
586 business address of the candidate or political committee.

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

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

596 (iv) At the hearing, the hearing officer shall
597 administer oaths as may be necessary for the proper conduct of the
598 hearing. All hearings shall be conducted by the hearing officer,
599 who shall not be bound by strict rules of procedure or by the laws
600 of evidence * * *, but the determination shall be based upon
601 sufficient evidence to sustain it. The scope of review at the



602 hearing shall be limited to making a determination of whether
603 failure to file a required report was due to an unforeseeable
604 mitigating circumstance.

605 (v) * * * In any proceeding before the hearing officer,
606 if any witness fails or refuses to attend upon a subpoena issued
607 by the commission, refuses to testify, or refuses to produce
608 any * * * documents called for by a subpoena, the attendance of
609 the witness, the giving of his or her testimony or the production
610 of the * * * documents shall be enforced by * * * a court of
611 competent jurisdiction of this state in the manner provided for
612 the enforcement of attendance and testimony of witnesses in civil
613 cases in the courts of this state.

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

620 (c) (i) The right to appeal from the decision of the
621 hearing officer in an administrative hearing concerning the
622 assessment of civil penalties authorized pursuant to this section
623 is granted. The appeal shall be to the Circuit Court of Hinds
624 County and shall include a verbatim transcript of the testimony at
625 the hearing. The appeal shall be taken within thirty (30)
626 calendar days after notice of the decision of the commission



627 following an administrative hearing. The appeal shall be
628 perfected upon filing notice of the appeal and * * * the
629 prepayment of all costs, including the cost of * * * preparing the
630 record of the proceedings by the hearing officer, and * * *
631 filing * * * a bond in the sum of Two Hundred Dollars (\$200.00),
632 conditioned that if the decision of the hearing officer * * * is
633 affirmed by the court, the candidate or political committee will
634 pay the costs of the appeal and the action in court. If the
635 decision is reversed by the court, the * * * Mississippi Ethics
636 Commission will pay the costs of the appeal and the action in
637 court.

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

650 (d) If, after forty-five (45) calendar days of the date of
651 the administrative hearing procedure set forth in paragraph (b),



652 the candidate or political committee identified in paragraph (a)
653 of this section fails to pay the monetary civil penalty imposed by
654 the hearing officer, the Secretary of State shall notify the
655 Attorney General of the delinquency. The Attorney General shall
656 investigate the offense in accordance with the provisions of this
657 chapter, and where necessary, file suit to compel payment of the
658 unpaid civil penalty.

659 (e) If, after twenty (20) calendar days of the date upon
660 which a campaign finance disclosure report is due, a candidate or
661 political committee identified in paragraph (a) of this section
662 shall not have filed a valid report with the Secretary of State,
663 the Secretary of State shall notify the Attorney General of those
664 candidates and political committees who have not filed a valid
665 report, and the Attorney General shall * * * prosecute the
666 delinquent candidates and political committees.

667 **SECTION 9.** Section 23-15-817, Mississippi Code of 1972, is
668 amended as follows:

669 23-15-817. The Secretary of State shall compile a list of
670 all candidates for the Legislature or any statewide office who
671 fail to file a campaign disclosure report by the dates specified
672 in Section 23-15-807(b) * * *. The list shall be provided to the
673 Mississippi Ethics Commission so that the commission may bring a
674 mandamus as provided in Section 23-15-811 or take any other
675 disciplinary action as provided in this chapter. The list shall
676 also be disseminated to the members of the Mississippi Press



677 Association within two (2) working days after such reports are due
678 and made available to the public.

679 **SECTION 10.** Section 23-15-809, Mississippi Code of 1972, is
680 brought forward as follows:

681 23-15-809. (a) Every person who makes independent
682 expenditures in an aggregate amount or value in excess of Two
683 Hundred Dollars (\$200.00) during a calendar year shall file a
684 statement containing the information required under Section
685 23-15-807. Such statement shall be filed with the appropriate
686 offices as provided for in Section 23-15-805, and such person
687 shall be considered a political committee for the purpose of
688 determining place of filing.

689 (b) Statements required to be filed by this subsection shall
690 include:

691 (i) Information indicating whether the independent
692 expenditure is in support of, or in opposition to, the candidate
693 involved;

694 (ii) Under penalty of perjury, a certification of
695 whether or not such independent expenditure is made in
696 cooperation, consultation or concert with, or at the request or
697 suggestion of, any candidate or any authorized committee or agent
698 of such candidate; and

699 (iii) The identification of each person who made a
700 contribution in excess of Two Hundred Dollars (\$200.00) to the



701 person filing such statement which was made for the purpose of
702 furthering an independent expenditure.

703 **SECTION 11.** Section 23-15-815, Mississippi Code of 1972, is
704 brought forward as follows:

705 23-15-815. (a) The Secretary of State shall prescribe and
706 make available forms and promulgate rules and regulations
707 necessary to implement this article.

708 (b) The Secretary of State, circuit clerks and municipal
709 clerks shall, within forty-eight (48) hours after the time of the
710 receipt by the appropriate office of reports and statements filed
711 with it, make them available for public inspection, and copying at
712 the expense of the person requesting such copying, and keep such
713 designations, reports and statements for a period of three (3)
714 years from the date of receipt.

715 **SECTION 12.** This act shall take effect and be in force from
716 and after * * * January 1, 2018.

