

By: Representative Baker

To: Judiciary A

HOUSE BILL NO. 944

1 AN ACT TO PROHIBIT SCHOOL DISTRICT PERSONNEL FROM ENGAGING IN
2 POLITICAL ACTIVITY WHILE IN PERFORMANCE OF OFFICIAL DUTIES AND
3 RESPONSIBILITIES; TO PROHIBIT THE USE OF DISTRICT TIME, PROPERTY,
4 EQUIPMENT, SUPPLIES OR PERSONNEL TO PRODUCE, DISTRIBUTE,
5 DISSEMINATE, CIRCULATE OR COMMUNICATE ANY MATERIAL OR INFORMATION
6 IN SUPPORT OR OPPOSITION OF POLITICAL ACTIVITY; TO PROHIBIT
7 SOLICITING OR ATTEMPTS TO SOLICIT FUNDS FROM SCHOOL DISTRICT
8 PERSONNEL ON BEHALF OF A POLITICAL ACTIVITY; TO PROHIBIT POLITICAL
9 ACTIVITY ON SCHOOL PROPERTY; TO PROVIDE THAT ANY LIMITATION
10 IMPOSED ON DISTRICT PERSONNEL ENGAGING IN POLITICAL ACTIVITY SHALL
11 NOT BE APPLICABLE TO SUCH PERSON ON THEIR PERSONAL TIME; TO
12 REQUIRE SCHOOL SUPERINTENDENTS AND SCHOOL BOARD MEMBERS TO REMAIN
13 NEUTRAL BY NOT ENGAGING IN POLITICAL ACTIVITIES ON SCHOOL PROPERTY
14 AND BY NOT PUBLICLY SUPPORTING OR OPPOSING ANY POLITICAL PARTY; TO
15 PRESCRIBE PENALTIES FOR VIOLATIONS OF THIS ACT; TO BRING FORWARD
16 SECTIONS 23-15-801, 23-15-871 AND 23-15-873, MISSISSIPPI CODE OF
17 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTION
18 7-7-211, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE
19 AUDITOR HAS THE AUTHORITY TO REQUEST INFORMATION FROM GOVERNMENTAL
20 AND NONGOVERNMENTAL AGENCIES; TO PROVIDE THAT IF THE REQUEST FOR
21 INFORMATION IS NOT RESPONDED TO OR REFUSED, THE STATE AUDITOR MAY
22 ISSUE A SUBPOENA TO RETRIEVE THE REQUESTED INFORMATION; TO
23 AUTHORIZE THE STATE AUDITOR TO CONDUCT AN AUDIT ON A NONPROFIT
24 CORPORATION THAT USES PUBLIC FUNDS; PROVIDE THE OFFICE OF THE
25 STATE AUDITOR WITH THE AUTHORITY TO PETITION THE COURT TO THE
26 IMPANELING OF A STATE GRAND JURY; TO CREATE THE MISSISSIPPI PUBLIC
27 CORRUPTION UNIT WITHIN THE OFFICE OF THE STATE AUDITOR AND
28 INSPECTOR GENERAL AND PRESCRIBE ITS DUTIES; TO BRING FORWARD
29 SECTIONS 7-7-215 AND 21-35-31, MISSISSIPPI CODE OF 1972, FOR THE
30 PURPOSE OF POSSIBLE AMENDMENT; TO PROVIDE AUTHORITY TO THE STATE
31 AUDITOR TO EMPLOY OUTSIDE COUNSEL FOR THE ENFORCEMENT OF THE
32 MISSISSIPPI PUBLIC CORRUPTION ACT; TO AMEND SECTION 7-7-1,
33 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM
34 STATE AUDITOR TO INCLUDE THE MEANING AS STATE INSPECTOR GENERAL;



35 TO BRING FORWARD SECTION 7-7-75, MISSISSIPPI CODE OF 1972, FOR THE
36 PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 13-7-3, 13-7-7,
37 13-7-11, 13-7-15, 13-7-21, 13-7-25, 13-7-29 AND 13-7-41,
38 MISSISSIPPI CODE OF 1972, TO REVISE PROVISIONS OF THE STATE GRAND
39 JURY ACT IN CONFORMITY TO THE PRECEDING PROVISIONS; TO PROHIBIT
40 THE INTRODUCTION INTO EVIDENCE OF ANY INFORMATION OBTAINED FROM A
41 WIRE OR ORAL COMMUNICATION INTERCEPTED IN VIOLATION OF THIS ACT;
42 TO ALLOW JUSTICES OF THE SUPREME COURT AND CIRCUIT COURT JUDGES TO
43 ISSUE ORDERS AUTHORIZING THE INTERCEPTION OF WIRE OR ORAL
44 COMMUNICATIONS IF THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
45 INTERCEPTION WILL PROVIDE EVIDENCE OF A VIOLATION OF THE
46 MISSISSIPPI PUBLIC CORRUPTION ACT; TO AUTHORIZE THE MISSISSIPPI
47 BUREAU OF INVESTIGATION TO OWN, POSSESS, INSTALL, OPERATE OR
48 MONITOR AN ELECTRONIC OR OTHER DEVICE USED IN THE INTERCEPTION OF
49 WIRE OR ORAL COMMUNICATIONS; TO AUTHORIZE THE DIRECTOR OF THE
50 BUREAU OF INVESTIGATION TO REQUEST THAT A DISTRICT ATTORNEY APPLY
51 FOR AN ORDER AUTHORIZING INTERCEPTION OF A WIRE OR ORAL
52 COMMUNICATION; TO REQUIRE APPLICATIONS FOR AN ORDER AUTHORIZING
53 INTERCEPTION OF A WIRE OR ORAL COMMUNICATION TO CONTAIN CERTAIN
54 INFORMATION; TO ALLOW THE ISSUANCE OF SUCH ORDERS ONLY AFTER THE
55 ISSUING JUDGE MAKES CERTAIN FINDINGS; TO REQUIRE THE ORDER TO
56 CONTAIN CERTAIN INFORMATION; TO PLACE CERTAIN RESTRICTIONS UPON
57 SUCH ORDERS; TO REQUIRE THE NOTIFICATION OF PERSONS WHOSE
58 COMMUNICATIONS ARE INTERCEPTED WITHIN 90 DAYS AFTER TERMINATION OF
59 THE ORDER; TO PLACE CERTAIN RESTRICTIONS UPON THE USE OF
60 INTERCEPTED COMMUNICATIONS AS EVIDENCE; TO REQUIRE CERTAIN
61 INFORMATION REGARDING THE ISSUANCE OR DENIAL OF AN ORDER TO BE
62 REPORTED TO THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS;
63 TO PROVIDE CERTAIN CIVIL PENALTIES IN FAVOR OF ANY PERSON WHOSE
64 COMMUNICATIONS ARE INTERCEPTED IN VIOLATION OF THIS ACT; TO
65 PROVIDE CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS OF THIS ACT; TO
66 AMEND SECTIONS 41-29-507 AND 41-29-509, MISSISSIPPI CODE OF 1972,
67 IN CONFORMITY TO THE PRECEDING PROVISIONS; TO BRING FORWARD
68 SECTION 41-29-513, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
69 POSSIBLE AMENDMENT; TO REPEAL SECTION 7-7-73, MISSISSIPPI CODE OF
70 1972, WHICH REQUIRES THE STATE AUDITOR TO NOTIFY THE GOVERNOR AND
71 THE PROPER DISTRICT ATTORNEY OF ANY REASONABLE BELIEF THAT A
72 PUBLIC OFFICER OR EMPLOYEE HAS EMBEZZLED ANY PUBLIC FUNDS,
73 REQUIRES HIS ATTENDANCE AT TRIAL AS THE STATE'S WITNESS; TO
74 PROVIDE THAT CERTAIN PROVISIONS OF THIS ACT AND OTHER STATUTORY
75 PROVISIONS UNDER CHAPTER 7, TITLE 7, MISSISSIPPI CODE OF 1972,
76 TOGETHER SHALL BE KNOWN AS THE "MISSISSIPPI PUBLIC CORRUPTION
77 ACT"; AND FOR RELATED PURPOSES.

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

79 **SECTION 1.** As used in this act, the following terms shall
80 have their meanings ascribed in this section, unless the context
81 clearly requires otherwise:



82 (a) "Political activity" includes any and all efforts
83 of individuals, individually or in concert with others, which are
84 done for the purpose of supporting or opposing any political
85 party, philosophy or issue in an election or done to affect the
86 outcome thereof, campaigning on behalf of a specific candidate or
87 issue or lobbying the Legislature for policy change.

88 (b) "School facilities" means any buildings and
89 grounds, owned, operated, controlled or maintained by the school
90 board, including, but not limited to, schools, ancillary
91 facilities, athletic facilities, and office complexes.

92 (c) "Political events" include any and all meetings,
93 fund raisers, gatherings, or other such events organized or
94 conducted for the purpose of supporting or opposing any candidate
95 for public office, any issue which is or may be scheduled to
96 appear on an election ballot, or any political party or
97 organization.

98 **SECTION 2.** (1) Each school board member, superintendent,
99 administrator, officer or employee retains all rights and
100 obligations of citizenship provided in the Constitution and Laws
101 of the State of Mississippi and the Constitution of the United
102 States. However, no school board member, superintendent,
103 administrator, officer or school district employee shall:

104 (a) Use school district time, property, equipment,
105 supplies or personnel to produce, distribute, disseminate,
106 circulate or communicate any material or information in support or



107 opposition of any political party, philosophy or issue in an
108 election or done to affect the outcome thereof, campaigning on
109 behalf of a specific candidate or issue or lobbying the
110 Legislature for policy change. For purpose of this paragraph
111 (a), "time" means the regularly scheduled hours of operation
112 designated by the school board for the performance of official
113 duties and responsibilities associated with the position for which
114 an individual is employed;

115 (b) Use his or her official position in any way to
116 influence or attempt to influence, district personnel to support
117 or oppose any political party, philosophy or issue in an election
118 or done to affect the outcome thereof, campaigning on behalf of a
119 specific candidate or issue or lobbying the Legislature for policy
120 change. Such prohibition shall include, but not be limited to,
121 any form of advocacy or opposition in a classroom or school
122 setting or other school related employment relationship;

123 (c) Participate in any political activity while in the
124 performance of his or her official duties;

125 (d) Attempt, either directly or indirectly, to coerce
126 political activity or political support from any other school
127 district personnel; or

128 (e) Solicit or attempt to solicit funds from school
129 district personnel on behalf of a candidate, party or issue, or
130 any campaign or lobbying effort. Nothing contained in this
131 section shall be interpreted to prohibit an employee from



132 suggesting to another employee, outside of normal work hours in a
133 noncoercive manner, that he or she may voluntarily contribute to a
134 fund which is administered by a party, committee, organization,
135 agency, person, labor union or other employee organization for
136 political purposes.

137 (2) The following forms of political activity shall be
138 prohibited at all times on school property:

139 (a) Distribution of campaign material, including cards,
140 brochures, and other items defined by law as political
141 advertising, to students or employees;

142 (b) Political signs, whether placed on or in the
143 building, or elsewhere on school property. "Political signs" as
144 used in this section shall not include advertising on items of
145 clothing, bumper stickers, sunshades or other signs permanently
146 affixed to a vehicle and which are legal for roadway traffic; and

147 (c) Solicitation, in any manner, of students or
148 employees to become engaged in political activity.

149 **SECTION 3.** (1) Each employee of a public school district
150 shall have the right to actively participate in political
151 activities on behalf of any candidate, party, or issue during the
152 time he or she is not scheduled to be on duty. That time shall
153 include authorized personal or vacation leave. However, the
154 employee may not, at any time:

155 (a) Solicit or attempt to solicit funds as prohibited
156 by Section 2(1)(e);



157 (b) Attempt to coerce other employees as prohibited by
158 Section 2(1)(d); or

159 (c) Misuse school district time, property, equipment,
160 supplies or personnel to produce, distribute, disseminate,
161 circulate or communicate any material or information, or misuse
162 his or her official position, as prohibited by Section 2(1)(a) and
163 (b).

164 (2) The school superintendent and school board members
165 holding office shall remain neutral by not engaging in political
166 activities on school property and by not publicly supporting or
167 opposing any political party, philosophy or issue in an election
168 or done to affect the outcome thereof, campaigning on behalf of a
169 specific candidate or issue, or lobbying the Legislature for
170 policy change, other than his or her own campaign.

171 **SECTION 4.** Any complaint filed by any state or local
172 oversight, enforcement or regulatory governmental entity stating
173 that any school board member, superintendent, administrator,
174 officer or other school district employee has violated the
175 provisions of this act shall be transferred to the Office of the
176 Secretary of State. If, after verification of the complaint, any
177 school board member, superintendent, administrator, officer or
178 other school district employee is found to be in violation of the
179 provisions of this act, the Office of the Secretary of State shall
180 issue the following fines against such persons:



181 (a) For the first offense, a civil fine of One Hundred
182 Dollars (\$100.00) for each violation; and

183 (b) For a second or subsequent violation, a civil fine
184 of Two Hundred Fifty Dollars (\$250.00) for each violation.

185 **SECTION 5.** Section 23-15-801, Mississippi Code of 1972, is
186 brought forward as follows:

187 23-15-801. (a) "Election" shall mean a general, special,
188 primary or runoff election.

189 (b) "Candidate" shall mean an individual who seeks
190 nomination for election, or election, to any elective office other
191 than a federal elective office and for purposes of this article,
192 an individual shall be deemed to seek nomination for election, or
193 election:

194 (i) If such individual has received contributions
195 aggregating in excess of Two Hundred Dollars (\$200.00) or has made
196 expenditures aggregating in excess of Two Hundred Dollars
197 (\$200.00) or for a candidate for the Legislature or any statewide
198 or state district office, by the qualifying deadlines specified in
199 Sections 23-15-299 and 23-15-977, whichever occurs first; or

200 (ii) If such individual has given his or her consent to
201 another person to receive contributions or make expenditures on
202 behalf of such individual and if such person has received such
203 contributions aggregating in excess of Two Hundred Dollars
204 (\$200.00) during a calendar year, or has made such expenditures



205 aggregating in excess of Two Hundred Dollars (\$200.00) during a
206 calendar year.

207 (c) "Political committee" shall mean any committee, party,
208 club, association, political action committee, campaign committee
209 or other groups of persons or affiliated organizations which
210 receives contributions aggregating in excess of Two Hundred
211 Dollars (\$200.00) during a calendar year or which makes
212 expenditures aggregating in excess of Two Hundred Dollars
213 (\$200.00) during a calendar year for the purpose of influencing or
214 attempting to influence the action of voters for or against the
215 nomination for election, or election, of one or more candidates,
216 or balloted measures and shall, in addition, include each
217 political party registered with the Secretary of State.

218 (d) "Affiliated organization" shall mean any organization
219 which is not a political committee, but which directly or
220 indirectly establishes, administers or financially supports a
221 political committee.

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

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



230 or for use by or on behalf of any political committee of a
231 political party;

232 (iii) "Contribution to a political party" includes any
233 gift, subscription, loan, advance or deposit of money or anything
234 of value made by any person, political committee, or other
235 organization to a political party and to any committee,
236 subcommittee, campaign committee, political committee and other
237 groups of persons and affiliated organizations of the political
238 party.

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

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

249 (ii) "Expenditure" shall not include any news story,
250 commentary or editorial distributed through the facilities of any
251 broadcasting station, newspaper, magazine, or other periodical
252 publication, unless such facilities are owned or controlled by any
253 political party, political committee, or candidate; or nonpartisan



254 activity designed to encourage individuals to vote or to register
255 to vote;

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

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

263 (i) In the case of any individual, the name, the
264 mailing address, and the occupation of such individual, as well as
265 the name of his or her employer; and

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

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

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

274 (j) The term "independent expenditure" shall mean an
275 expenditure by a person expressly advocating the election or
276 defeat of a clearly identified candidate which is made without
277 cooperation or consultation with any candidate or any authorized
278 committee or agent of such candidate, and which is not made in



279 concert with or at the request or suggestion of any candidate or
280 any authorized committee or agent of such candidate.

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

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

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

284 or

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

287 **SECTION 6.** Section 23-15-871, Mississippi Code of 1972, is
288 brought forward as follows:

289 23-15-871. It shall be unlawful for any corporation or any
290 officer or employee thereof, or any member of a firm, or trustee
291 or any member of any association, or any other employer, to direct
292 or coerce, directly or indirectly, any employee to vote or not to
293 vote for any particular person or group of persons in any
294 election, or to discharge or to threaten to discharge any such
295 employee, or to increase or decrease the salary or wages of an
296 employee, or otherwise promote or demote him, because of his vote
297 or failure to vote for any particular candidate or group of
298 candidates; and likewise it shall be unlawful for any employer, or
299 employee having the authority to employ or discharge other
300 employees, to make any statement public or private, or to give out
301 or circulate any report or statement, calculated to intimidate or
302 coerce or otherwise influence any employee as to his vote, and
303 when any such statement has obtained circulation, it shall be the



304 duty of such employer to publicly repudiate it, in the absence of
305 which repudiation the employer shall be deemed by way of
306 ratification to have made it himself. Nor shall any employee be
307 requested, directed or permitted to canvass for or against any
308 candidate or render any other services for or against any
309 candidate or group of candidates, during any of the hours within
310 which the salary of said employee as an employee is being paid or
311 agreed to be paid; nor shall any such employee be allowed any
312 vacation or leave of absence at the expense of the employer to
313 render any service or services for or against any candidate or
314 group of candidates, or to take any active part in any election
315 campaign whatsoever; nor shall any employee at the expense, in
316 whole or in part, of any employer take any part whatever in any
317 election campaign, except the necessary time to cast his vote. The
318 prohibitions of this section shall apply to all state, state
319 district, county and county district officers, and to any board or
320 commission and the members thereof by whatever name designated and
321 whether elective or appointive, and to each and every one of those
322 employed by them or any of them. And no state, state district,
323 county or county district officer, or any employee of any of them
324 who directly or indirectly has the control, or in any way the
325 power of control, or who asserts or pretends that he has such
326 power, over the expenditure of any public funds in this state,
327 whatever the purpose or object of said expenditure may be, shall
328 state, suggest or intimate, publicly or privately, or in any



329 manner or form, that any such expenditure shall in any wise depend
330 upon or be influenced by the vote of any person, group of persons,
331 or community or group of communities, whether for or against any
332 candidate or group of candidates at any election. This section
333 and every part of it shall apply also to all federal officers,
334 agents, employees, boards and commissions by whatever name known
335 and to each and every one of those employed by them or any of
336 them, as to any interference by them or any of them, contrary to
337 the provisions of this chapter, in the elections of this state.

338 **SECTION 7.** Section 23-15-873, Mississippi Code of 1972, is
339 brought forward as follows:

340 23-15-873. No person, whether an officer or not, shall, in
341 order to promote his own candidacy, or that of any other person,
342 to be a candidate for public office in this state, directly or
343 indirectly, himself or through another person, promise to appoint,
344 or promise to secure or assist in securing the appointment,
345 nomination or election of another person to any public position or
346 employment, or to secure or assist in securing any public contract
347 or the employment of any person under any public contractor, or to
348 secure or assist in securing the expenditure of any public funds
349 in the personal behalf of any particular person or group of
350 persons, except that the candidate may publicly announce what is
351 his choice or purpose in relation to an election in which he may
352 be called on to take part if elected. It shall be unlawful for
353 any person to directly or indirectly solicit or receive any



354 promise by this section prohibited. But this does not apply to a
355 sheriff, chancery clerk, circuit clerk, or any other person, of
356 the state or county when it comes to their office force.

357 **SECTION 8.** Section 7-7-211, Mississippi Code of 1972, is
358 amended as follows:

359 7-7-211. (1) The department shall have the power and it
360 shall be its duty:

361 (a) To identify and define for all public offices of
362 the state and its subdivisions generally accepted accounting
363 principles or other accounting principles as promulgated by
364 nationally recognized professional organizations and to consult
365 with the State Fiscal Officer in the prescription and
366 implementation of accounting rules and regulations;

367 (b) To provide best practices, for all public offices
368 of regional and local subdivisions of the state, systems of
369 accounting, budgeting and reporting financial facts relating to
370 said offices in conformity with legal requirements and with
371 generally accepted accounting principles or other accounting
372 principles as promulgated by nationally recognized professional
373 organizations; to assist such subdivisions in need of assistance
374 in the installation of such systems; to revise such systems when
375 deemed necessary, and to report to the Legislature at periodic
376 times the extent to which each office is maintaining such systems,
377 along with such recommendations to the Legislature for improvement
378 as seem desirable;



379 (c) To study and analyze existing managerial policies,
380 methods, procedures, duties and services of the various state
381 departments and institutions upon written request of the Governor,
382 the Legislature or any committee or other body empowered by the
383 Legislature to make such request to determine whether and where
384 operations can be eliminated, combined, simplified and improved;

385 (d) To postaudit each year and, when deemed necessary,
386 preaudit and investigate the financial affairs of the departments,
387 institutions, boards, commissions, or other agencies of state
388 government, as part of the publication of a comprehensive annual
389 financial report for the State of Mississippi, or as deemed
390 necessary by the State Auditor. In complying with the
391 requirements of this paragraph, the department shall have the
392 authority to conduct all necessary audit procedures on an interim
393 and year-end basis;

394 (e) To postaudit and, when deemed necessary, preaudit
395 and investigate separately the financial affairs of (i) the
396 offices, boards and commissions of county governments and any
397 departments and institutions thereof and therein; (ii) public
398 school districts, departments of education and junior college
399 districts; and (iii) any other local offices or agencies which
400 share revenues derived from taxes or fees imposed by the State
401 Legislature or receive grants from revenues collected by
402 governmental divisions of the state; the cost of such audits,
403 investigations or other services to be paid as follows: Such part



404 shall be paid by the state from appropriations made by the
405 Legislature for the operation of the State Department of Audit as
406 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
407 for the services of each staff person engaged in performing the
408 audit or other service plus the actual cost of any independent
409 specialist firm contracted by the State Auditor to assist in the
410 performance of the audit, which sum shall be paid by the county,
411 district, department, institution or other agency audited out of
412 its general fund or any other available funds from which such
413 payment is not prohibited by law. Costs paid for independent
414 specialists or firms contracted by the State Auditor shall be paid
415 by the audited entity through the State Auditor to the specialist
416 or firm conducting the postaudit.

417 Each school district in the state shall have its financial
418 records audited annually, at the end of each fiscal year, either
419 by the State Auditor or by a certified public accountant approved
420 by the State Auditor. Beginning with the audits of fiscal year
421 2010 activity, no certified public accountant shall be selected to
422 perform the annual audit of a school district who has audited that
423 district for three (3) or more consecutive years previously.
424 Certified public accountants shall be selected in a manner
425 determined by the State Auditor. The school district shall have
426 the responsibility to pay for the audit, including the review by
427 the State Auditor of audits performed by certified public
428 accountants;



429 (f) To postaudit and, when deemed necessary, preaudit
430 and investigate the financial affairs of the levee boards;
431 agencies created by the Legislature or by executive order of the
432 Governor; profit or nonprofit business entities administering
433 programs financed by funds flowing through the State Treasury or
434 through any of the agencies of the state, or its subdivisions; and
435 all other public bodies supported by funds derived in part or
436 wholly from public funds, except municipalities which annually
437 submit an audit prepared by a qualified certified public
438 accountant using methods and procedures prescribed by the
439 department;

440 (g) To make written demand, when necessary, for the
441 recovery of any amounts representing public funds improperly
442 withheld, misappropriated and/or otherwise illegally expended by
443 an officer, employee or administrative body of any state, county
444 or other public office, and/or for the recovery of the value of
445 any public property disposed of in an unlawful manner by a public
446 officer, employee or administrative body, such demands to be made
447 (i) upon the person or persons liable for such amounts and upon
448 the surety on official bond thereof, and/or (ii) upon any
449 individual, partnership, corporation or association to whom the
450 illegal expenditure was made or with whom the unlawful disposition
451 of public property was made, if such individual, partnership,
452 corporation or association knew or had reason to know through the
453 exercising of reasonable diligence that the expenditure was



454 illegal or the disposition unlawful. Such demand shall be
455 premised on competent evidence, which shall include at least one
456 (1) of the following: (i) sworn statements, (ii) written
457 documentation, (iii) physical evidence, or (iv) reports and
458 findings of government or other law enforcement agencies. Other
459 provisions notwithstanding, a demand letter issued pursuant to
460 this paragraph shall remain confidential by the State Auditor
461 until the individual against whom the demand letter is being filed
462 has been served with a copy of such demand letter. If, however,
463 such individual cannot be notified within fifteen (15) days using
464 reasonable means and due diligence, such notification shall be
465 made to the individual's bonding company, if he or she is bonded.
466 Each such demand shall be paid into the proper treasury of the
467 state, county or other public body through the office of the
468 department in the amount demanded within thirty (30) days from the
469 date thereof, together with interest thereon in the sum of one
470 percent (1%) per month from the date such amount or amounts were
471 improperly withheld, misappropriated and/or otherwise illegally
472 expended. In the event, however, such person or persons or such
473 surety shall refuse, neglect or otherwise fail to pay the amount
474 demanded and the interest due thereon within the allotted thirty
475 (30) days, the State Auditor shall have the authority and it shall
476 be his duty to institute suit, and the Attorney General shall
477 prosecute the same in any court of the state to the end that there
478 shall be recovered the total of such amounts from the person or



479 persons and surety on official bond named therein; and the amounts
480 so recovered shall be paid into the proper treasury of the state,
481 county or other public body through the State Auditor. In any
482 case where written demand is issued to a surety on the official
483 bond of such person or persons and the surety refuses, neglects or
484 otherwise fails within one hundred twenty (120) days to either pay
485 the amount demanded and the interest due thereon or to give the
486 State Auditor a written response with specific reasons for
487 nonpayment, then the surety shall be subject to a civil penalty in
488 an amount of twelve percent (12%) of the bond, not to exceed Ten
489 Thousand Dollars (\$10,000.00), to be deposited into the State
490 General Fund;

491 (h) To investigate any alleged or suspected violation
492 of the laws of the state by any officer or employee of the state,
493 county or other public office in the purchase, sale or the use of
494 any supplies, services, equipment or other property belonging
495 thereto; and in such investigation to do any and all things
496 necessary to procure evidence sufficient either to prove or
497 disprove the existence of such alleged or suspected violations.
498 The Department of Investigation of the State Department of Audit
499 may investigate, for the purpose of prosecution, any suspected
500 criminal violation of the provisions of this chapter. For the
501 purpose of administration and enforcement of this chapter, the
502 enforcement employees of the Department of Investigation of the
503 State Department of Audit have the powers of a law enforcement



504 officer of this state, and shall be empowered to make arrests and
505 to serve and execute search warrants and other valid legal process
506 anywhere within the State of Mississippi. All enforcement
507 employees of the Department of Investigation of the State
508 Department of Audit hired on or after July 1, 1993, shall be
509 required to complete the Law Enforcement Officers Training Program
510 and shall meet the standards of the program;

511 (i) To examine the documents, books, records, data,
512 papers, accounts, communications, information, vouchers or other
513 evidence and to conduct interviews without interference of any
514 state, county, municipal or other public entity, any
515 nongovernmental entity that receives public funds and any persons,
516 firms, corporations or any other entities insofar as such evidence
517 relates to dealings with any state, county, municipal or other
518 public entity. If the Office of the State Auditor issues a
519 request to receive the information listed in this subparagraph (i)
520 to an entity and the entity does not respond to the request for
521 information or provide the requested information within the time
522 provided in the request for information, the Office of the State
523 Auditor may, in its discretion, * * * issue subpoenas, with the
524 approval of, and returnable to, a judge of a chancery or circuit
525 court, in termtime or in vacation, to examine the documents,
526 books, records, data, papers, accounts, communications,
527 information, vouchers or other evidence and to conduct interviews
528 without interference of any state, county, municipal or other



529 public entity, any nongovernmental entity that receives public
530 funds and any persons, firms, corporations or any other entities
531 insofar as such evidence relates to dealings with any state,
532 county, municipal or other public entity. * * * The circuit or
533 chancery judge must serve the county in which the records,
534 documents or other evidence is located; or where all or part of
535 the transaction or transactions occurred which are the subject of
536 the subpoena;

537 (j) In any instances in which the State Auditor is or
538 shall be authorized or required to examine or audit, whether
539 preaudit or postaudit, any books, ledgers, accounts or other
540 records of the affairs of any public hospital owned or owned and
541 operated by one or more political subdivisions or parts thereof or
542 any combination thereof, or any school district, including
543 activity funds thereof, it shall be sufficient compliance
544 therewith, in the discretion of the State Auditor, that such
545 examination or audit be made from the report of any audit or other
546 examination certified by a certified public accountant and
547 prepared by or under the supervision of such certified public
548 accountant. Such audits shall be made in accordance with
549 generally accepted standards of auditing, with the use of an audit
550 program prepared by the State Auditor, and final reports of such
551 audits shall conform to the format prescribed by the State
552 Auditor. All files, working papers, notes, correspondence and all
553 other data compiled during the course of the audit shall be



554 available, without cost, to the State Auditor for examination and
555 abstracting during the normal business hours of any business day.
556 The expense of such certified reports shall be borne by the
557 respective hospital, or any available school district funds other
558 than minimum program funds, subject to examination or audit. The
559 State Auditor shall not be bound by such certified reports and
560 may, in his or their discretion, conduct such examination or audit
561 from the books, ledgers, accounts or other records involved as may
562 be appropriate and authorized by law;

563 (k) The State Auditor shall have the authority to
564 contract with qualified public accounting firms to perform
565 selected audits required in paragraphs (d), (e), (f) and (j) of
566 this section, if funds are made available for such contracts by
567 the Legislature, or if funds are available from the governmental
568 entity covered by paragraphs (d), (e), (f) and (j). Such audits
569 shall be made in accordance with generally accepted standards of
570 auditing. All files, working papers, notes, correspondence and
571 all other data compiled during the course of the audit shall be
572 available, without cost, to the State Auditor for examination and
573 abstracting during the normal business hours of any business day;

574 (l) The State Auditor shall have the authority to
575 establish training courses and programs for the personnel of the
576 various state and local governmental entities under the
577 jurisdiction of the Office of the State Auditor. The training
578 courses and programs shall include, but not be limited to, topics



579 on internal control of funds, property and equipment control and
580 inventory, governmental accounting and financial reporting, and
581 internal auditing. The State Auditor is authorized to charge a
582 fee from the participants of these courses and programs, which fee
583 shall be deposited into the Department of Audit Special Fund.
584 State and local governmental entities are authorized to pay such
585 fee and any travel expenses out of their general funds or any
586 other available funds from which such payment is not prohibited by
587 law;

588 (m) Upon written request by the Governor or any member
589 of the State Legislature, or as the State Auditor deems necessary
590 due to an entity's use of public funds, the State Auditor may
591 audit * * * the local, state * * * and federal funds received by
592 any nonprofit corporation incorporated under the laws of this
593 state;

594 (n) To conduct performance audits of personal or
595 professional service contracts by state agencies on a random
596 sampling basis, or upon request of the State Personal Service
597 Contract Review Board under Section 25-9-120(3); and

598 (o) At the discretion of the State Auditor, the Auditor
599 may conduct risk assessments, as well as performance and
600 compliance audits based on Generally Accepted Government Auditing
601 Standards (GAGAS) of any state-funded economic development program
602 authorized under Title 57, Mississippi Code of 1972. After risk
603 assessments or program audits, the State Auditor may conduct



604 audits of those projects deemed high-risk, specifically as they
605 identify any potential wrongdoing or noncompliance based on
606 objectives of the economic development program. The Auditor is
607 granted authority to gather, audit and review data and information
608 from the Mississippi Development Authority or any of its agents,
609 the Department of Revenue, and when necessary under this
610 paragraph, the recipient business or businesses or any other
611 private, public or nonprofit entity with information relevant to
612 the audit project. The maximum amount the State Auditor may bill
613 the oversight agency under this paragraph in any fiscal year is
614 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
615 and necessary expenses.

616 (p) When the State Inspector General considers it
617 necessary, and normal investigative or prosecutorial procedures
618 are not adequate, he may petition in writing to the senior circuit
619 court judge of any circuit court district in this state for an
620 order impaneling a state grand jury under the authority of Chapter
621 7, Title 13, Mississippi Code of 1972, for any crimes under which
622 the Mississippi Office of the State Auditor and Inspector General
623 has the authority to prosecute under the provisions of the
624 Mississippi Public Corruption Act enumerated in Chapter 7, Title
625 7, Mississippi Code of 1972, which arise out of a breach
626 of public trust and/or abuse of position by federal, state or
627 local officials and their private sector accomplices, or Sections
628 50 and 175 of the Mississippi Constitution of 1890.



629 (2) The Mississippi Public Corruption Unit is created within
630 the Mississippi Office of the State Auditor and Inspector General
631 to investigate and assist in the management of allegations of
632 participation in criminal activity resulting in a breach
633 of public trust and/or abuse of position by:

634 (a) An individual elected, appointed or employed to
635 serve as a peace officer for a federal, state or local
636 governmental entity or political subdivision of this state; or

637 (b) A federal law enforcement officer while performing
638 duties in this state.

639 (3) The Mississippi Public Corruption Unit shall:

640 (a) Assist the State Inspector General in the
641 investigation and prosecution of allegations described by
642 subsection (2) of this section;

643 (b) If requested by the Mississippi Office of the State
644 Auditor and State Inspector General, assist a state or local law
645 enforcement agency with the investigation of such allegations
646 against law enforcement officers in the agency;

647 (c) Assist the United States Department of Justice or
648 any other appropriate federal department or agency in the
649 investigation and prosecution of allegations described by
650 subsection (2) of this section;

651 (d) If requested by the Mississippi Office of the State
652 Auditor and State Inspector General, assist a federal law



653 enforcement agency with the investigation of such allegations
654 against law enforcement officers in the agency;

655 (e) Serve as a clearinghouse for information relating
656 to the investigation and prosecution of allegations described by
657 subsection (2) of this section; and

658 (f) Report to the State Auditor and Inspector General.

659 (4) On written approval of the State Inspector General or
660 his designee, the Mississippi Public Corruption Unit may initiate
661 an investigation of an allegation of participation in organized
662 criminal activity by a law enforcement officer described by
663 subsection (2) (a) of this section. Written approval under this
664 subsection must be based on probable cause.

665 (5) To the extent allowed by law, a state or local law
666 enforcement agency shall cooperate with the Mississippi Public
667 Corruption Unit by providing information requested by the unit as
668 necessary to carry out the purposes of this section. Information
669 described by these subsections (2) through (5) of this section is
670 excepted from required disclosure under the Mississippi Public
671 Records Act of 1983.

672 **SECTION 9.** Section 7-7-215, Mississippi Code of 1972, is
673 brought forward as follows:

674 7-7-215. (1) Upon the completion of each audit, the
675 department shall prepare a report which shall set forth the facts
676 of such audit in the most comprehensive form, and the original
677 copy of such report shall be filed in the office to which it



678 pertains, as a permanent record; one (1) copy thereof shall be
679 filed in the office of the department, subject to public
680 inspection, and one (1) copy shall be preserved for use by the
681 Governor and/or the Legislature. Other provisions
682 notwithstanding, all work papers associated with an audit shall be
683 confidential, but available to subsequent auditors engaged in
684 performing the entities' subsequent audit. The director shall
685 require such financial reports from every public office and taxing
686 body as he may deem necessary and for such period as he may
687 designate, and at the end of each fiscal year the State Auditor
688 and director shall prepare and publish a report of comparative
689 financial statistics covering all public offices of the state over
690 which the department has accounting and auditing supervision. The
691 Governor may direct the State Auditor and/or the director of the
692 department to make any special report on any subject under their
693 jurisdiction and make any special audit or investigation he may
694 desire, such directives to be issued in writing.

695 (2) All audits conducted by the department shall be in
696 accordance with generally accepted auditing standards, as
697 promulgated by nationally recognized professional organizations.
698 Audit and investigative reports, work papers and other evidence
699 and related supportive material shall be retained and filed
700 according to an agreement between the State Auditor and the
701 Department of Archives and History. In conducting audits pursuant
702 to this article, the department shall have access to all records,



703 documents, books, papers and other evidence relating to the
704 financial transactions of any governmental entity subject to audit
705 by the department.

706 **SECTION 10.** Section 21-35-31, Mississippi Code of 1972, is
707 brought forward as follows:

708 **[For municipal fiscal years commencing before October 1,**
709 **2009, this section shall read as follows:]**

710 21-35-31. The governing authorities of every municipality in
711 the state shall have their books audited annually, prior to the
712 close of the next succeeding fiscal year, either by a competent
713 accountant approved by the State Auditor or by a certified public
714 accountant, who has paid a privilege tax as such in this state,
715 and shall pay for same out of the General Fund. No advertisement
716 shall be necessary before entering into such contract, but same
717 shall be entered into as a private contract. Said audit shall be
718 made upon a uniform formula set up and promulgated by the State
719 Auditor, as the head of the State Department of Audit, or the
720 director thereof, appointed by him, as designated and defined in
721 Title 7, Chapter 7, of the Mississippi Code of 1972, or any office
722 or officers hereafter designated to replace or perform the duties
723 imposed by said chapter. Provided, however, any municipality with
724 a population of three thousand (3,000) or less may employ a
725 competent accountant or auditor, approved by the State Auditor, to
726 prepare annually a compilation report and a compliance letter, in
727 a format prescribed by the State Auditor, in lieu of an annual



728 audit when such audit will be a financial hardship on the
729 municipality. Two (2) copies of said audit or compilation shall
730 be mailed to the said State Auditor within thirty (30) days after
731 completion of said audit. Said State Auditor shall, at the end of
732 each fiscal year, submit to the Legislature a composite report
733 showing any information concerning municipalities in this state
734 that he might deem pertinent and necessary to the Legislature for
735 use in its deliberations. A synopsis of said audit, in a format
736 prescribed by the State Auditor, shall be published within thirty
737 (30) days by the governing authorities of such municipalities in a
738 newspaper published in such municipalities or, if no newspaper be
739 published in any such municipality, in any newspaper having a
740 general circulation published in the county wherein such
741 municipality is located. The publication of the audit may be made
742 as provided in Section 21-17-19, Mississippi Code of 1972. Such
743 publication shall be made one (1) time, and the governing
744 authorities of such municipalities shall be authorized to pay only
745 one-half (1/2) of the legal rate prescribed by law for such legal
746 publication.

747 **[For municipal fiscal years commencing on or after October 1,**
748 **2009, this section shall read as follows:]**

749 21-35-31. (1) The governing authority of every municipality
750 in the state shall have the municipal books audited annually,
751 before the close of the next succeeding fiscal year, in accordance
752 with procedures and reporting requirements prescribed by the State



753 Auditor. The municipality shall pay for the audit or report out
754 of its general fund. No advertisement shall be necessary before
755 entering into the contract, and it shall be entered into as a
756 private contract. The audit or report shall be made upon a
757 uniform formula set up and promulgated by the State Auditor, as
758 the head of the State Department of Audit, or the director
759 thereof, appointed by him, as designated and defined in Title 7,
760 Chapter 7, Mississippi Code of 1972, or any office or officers
761 hereafter designated to replace or perform the duties imposed by
762 said chapter. Two (2) copies of the audit or report shall be
763 mailed to the said State Auditor within thirty (30) days after
764 completion. The State Auditor, at the end of each fiscal year,
765 shall submit to the Legislature a composite report showing any
766 information concerning municipalities in this state that the
767 Auditor deems pertinent and necessary to the Legislature for use
768 in its deliberations. A synopsis of the audit or report, in a
769 format prescribed by the State Auditor, shall be published within
770 thirty (30) days by the governing authority of each municipality
771 in a newspaper published in the municipality or, if no newspaper
772 is published in a municipality, in any newspaper having a general
773 circulation published in the county wherein the municipality is
774 located. The publication of the audit or report may be made as
775 provided in Section 21-17-19. Publication shall be made one (1)
776 time, and the governing authority of each municipality shall be



777 authorized to pay only one-half (1/2) of the legal rate prescribed
778 by law for such legal publication.

779 (2) It shall be the duty of the State Auditor to determine
780 whether each municipality has complied with the requirements of
781 subsection (1) of this section. If upon examination the State
782 Auditor determines that a municipality has not initiated efforts
783 to comply with the requirements of subsection (1), the State
784 Auditor shall file a certified written notice with the clerk of
785 the municipality notifying the governing authority of the
786 municipality that a certificate of noncompliance will be issued to
787 the State Tax Commission and to the Attorney General thirty (30)
788 days immediately following the date of the filing of the notice
789 unless within that period the municipality substantially complies
790 with the requirements of subsection (1). If, after thirty (30)
791 days from the giving of the notice, the municipality, in the
792 opinion of the State Auditor, has not substantially initiated
793 efforts to comply with the requirements of subsection (1), the
794 State Auditor shall issue a certificate of noncompliance to the
795 clerk of the municipality, State Tax Commission and the Attorney
796 General. Thereafter, the State Tax Commission shall withhold from
797 all allocations and payments to the municipality that would
798 otherwise be payable the amount necessary to pay one hundred fifty
799 percent (150%) of the cost of preparing the required audit or
800 report as contracted for by the State Auditor. The cost shall be
801 determined by the State Auditor after receiving proposals for the



802 audit or report required in subsection (1) of this section. The
803 State Auditor shall notify the State Tax Commission of the amount
804 in writing, and the State Tax Commission shall transfer that
805 amount to the State Auditor. The State Auditor is authorized to
806 escalate, budget and expend these funds in accordance with rules
807 and regulations of the Department of Finance and Administration
808 consistent with the escalation of federal funds. All remaining
809 funds shall be retained by the State Auditor to offset the costs
810 of administering these contracts. The State Auditor shall not
811 unreasonably delay the issuance of a written notice of
812 cancellation of a certificate of noncompliance but shall promptly
813 issue a written notice of cancellation of certificate of
814 noncompliance upon an affirmative showing by the municipality that
815 it has come into substantial compliance.

816 **SECTION 11.** (1) The Mississippi Office of the State Auditor
817 and Inspector General may appoint and employ outside counsel on a
818 fee or contractual basis. The State Inspector General shall be the
819 sole judge of the compensation in such cases except as otherwise
820 provided in Section 13 of this act, and shall, in contractual
821 employment, stipulate the such outside counsel may be discharged
822 of his or her duty at the will and pleasure of the State Inspector
823 General.

824 (a) Any contract for services of outside counsel shall
825 require current and complete written time and expense records that
826 describe in detail the time, in increments of no greater than one



827 tenth (1/10) of an hour, and money spent each day in performance
828 of the contract.

829 (b) On conclusion of the matter for which the outside
830 legal services were obtained, outside counsel shall provide a
831 complete written statement of all fees and expenses, and the final
832 complete time and expense records.

833 (2) The State Inspector General may discharge outside
834 counsel at his pleasure, and may appoint and employ another in his
835 stead on a fee or contractual basis, as provided under subsection
836 (1) of this section. The outside counsel shall devote their
837 entire time and attention only to the duties pertaining to matters
838 of public corruption which shall be under the control and
839 supervision of the State Inspector General for investigation and
840 prosecution.

841 **SECTION 12.** (1) The Governor may engage outside counsel on
842 a noncontingent fee basis to assist the State Inspector General in
843 cases arising out of public corruption to which, in his opinion,
844 the interest of the state requires it, subject to the action of
845 the Legislature in providing compensation for such services not to
846 exceed recognized bar rates for similar services.

847 (2) (a) The State Inspector General is hereby authorized
848 and empowered to appoint and employ outside counsel, on a fee or
849 salary basis not to exceed recognized bar rates for similar
850 services, to assist the State Inspector General in the preparation
851 for, prosecution, or defense of any litigation in the state or



852 federal courts or before any federal commission or agency arising
853 out of public corruption in which the state has an interest.

854 (b) If the compensation agreed upon will be governed by
855 a contingency fee contract, that contract must conform with the
856 requirements of Section 13 of this act.

857 (3) The State Inspector General may also employ special
858 investigators on a per diem or salary basis, to be agreed upon at
859 the time of employment, for the purpose of interviewing witnesses,
860 ascertaining facts, or rendering any other services that may be
861 needed by the State Inspector General in the preparation for and
862 prosecution of suits by the State of Mississippi, or in suits in
863 which the State Inspector General is participating on account of
864 same being of statewide interest.

865 (4) The State Inspector General may pay travel and other
866 expenses of employees and appointees under this chapter in the
867 same manner and amount as authorized by law for the payment of
868 travel and expenses of state employees and officials.

869 (5) The compensation of appointees and employees under this
870 chapter shall be paid out of the Mississippi Office of the State
871 Auditor and State Inspector General's contingent fund, or out of
872 any other funds appropriated to the State Auditor and Inspector
873 General's office.

874 **SECTION 13.** (1) Before entering into a contingency fee
875 contract with outside counsel, the state, an arm or agency of the
876 state, or a statewide elected officer acting in his official



877 capacity must first make a written determination that contingency
878 fee representation is both cost-effective and in the public
879 interest. The required written determination shall include
880 specific findings for each of the following factors:

881 (a) Whether there exist sufficient and appropriate
882 legal and financial resources within the State Inspector General's
883 office to handle the matter;

884 (b) The time and labor required; the novelty,
885 complexity, and difficulty of the questions involved; and the
886 skill requisite to perform the attorney services properly;

887 (c) The geographic area where the attorney services are
888 to be provided; and

889 (d) The amount of experience desired for the particular
890 kind of attorney services to be provided and the nature of the
891 outside attorney's experience with similar issues or cases.

892 (2) (a) The state, an arm or agency of the state, or a
893 statewide elected officer acting in his official capacity may not
894 enter into a contingency fee contract that provides for the
895 outside attorney to receive a contingency fee, exclusive of
896 reasonable costs and expenses incurred in connection with the
897 case, which is in excess of the following:

898 (i) Twenty-five percent (25%) of any recovery of
899 up to Ten Million Dollars (\$10,000,000.00); plus



900 (ii) Twenty percent (20%) of any portion of such
901 recovery between Ten Million Dollars (\$10,000,000.00) and Fifteen
902 Million Dollars (\$15,000,000.00); plus

903 (iii) Fifteen percent (15%) of any portion of such
904 recovery between Fifteen Million Dollars (\$15,000,000.00) and
905 Twenty Million Dollars (\$20,000,000.00); plus

906 (iv) Ten percent (10%) of any portion of such
907 recovery between Twenty Million Dollars (\$20,000,000.00) and
908 Twenty-five Million Dollars (25,000,000.00); plus

909 (v) Five percent (5%) of any portion of such
910 recovery exceeding Twenty-five Million Dollars (\$25,000,000.00).

911 (b) Except as provided in subsection (3) of this
912 section, a contingency fee shall not exceed an aggregate of Fifty
913 Million Dollars (\$50,000,000.00), exclusive of reasonable costs
914 and expenses incurred in connection with the case, and
915 irrespective of the number of lawsuits filed or the number of
916 attorneys retained to achieve the recovery.

917 (c) A contingency fee shall not be based on penalties
918 or civil fines awarded or any amounts attributable to penalties or
919 civil fines.

920 (3) The limits on fees set forth in subsection (2) of this
921 section shall not apply if:

922 (a) The state, an arm or agency of the state, or a
923 statewide elected officer acting in his official capacity makes a
924 written determination stating the reasons why a greater fee is



925 necessary, proper, and in the best interests of the state in a
926 particular case; and

927 (b) The Outside Counsel Oversight Commission, created
928 under the provisions of Section 7-5-8(4), approves any terms of
929 the contingency contract that exceed the limits set forth in
930 subsection (2) of this section.

931 (4) (a) Copies of any executed contingency fee contract and
932 the applicable written determination to enter into a contingency
933 fee contract with the outside attorney shall be posted on the
934 State Inspector General's website for public inspection within
935 five (5) business days after the date the contract is executed
936 unless the state, arm or agency of the state, or statewide elected
937 officer retaining outside counsel makes a determination, subject
938 to the approval of the Outside Counsel Oversight Commission, that
939 to do so would negatively affect the state's interest, and shall
940 remain posted on the website for the duration of the contingency
941 fee contract, including any extensions or amendments to the
942 contract.

943 (b) If the determination is made and duly approved that
944 posting the contract will negatively affect the interests of the
945 state, the contract will be posted on the State Inspector
946 General's website within five (5) days of the occurrence of the
947 earliest of the following:

948 (i) Filing of the lawsuit for which the contract
949 was executed;



950 (ii) Entry of appearance for any pending matter
951 for which the contract was executed; or

952 (iii) From the time the outside attorney engages
953 in any substantive action on behalf of the state relative to the
954 subject matter for which the contract was executed.

955 (c) Any payment of contingency fees shall be posted on
956 the State Inspector General's website within fifteen (15) days
957 after the payment of the contingency fees to the outside attorney
958 and shall remain posted on the website for at least one (1) year
959 after the date payment is made.

960 (6) An outside attorney under contract to provide services
961 to the state on a contingency fee basis shall, from the inception
962 of the contract until not less than four (4) years after the
963 contract expires or is terminated, maintain detailed current
964 records, including documentation of all expenses, disbursements,
965 charges, credits, underlying receipts and invoices, and other
966 financial transactions that concern the providing of attorney
967 services. In addition, the outside attorney shall maintain
968 detailed contemporaneous time records for the attorneys and
969 paralegals working on the matter in increments of no greater than
970 one-tenth (1/10) of an hour, and shall promptly provide these
971 records to the State Inspector General upon request.

972 **SECTION 14.** The State Inspector General shall keep a docket
973 of all causes in which he is required to appear, whether through
974 his office or through outside counsel, which is a public record



975 and must show the full style of the case, the cause number of the
976 action, the county, district and court in which the causes have
977 been instituted and tried, and whether the case is civil or
978 criminal. If civil, the docket must show the nature of the
979 demand, the stage of the proceedings, the name and address of any
980 outside counsel, a description of the fee arrangement with any
981 outside counsel, a memorandum of the judgment when prosecuted to
982 judgment, any process issued thereon, whether satisfied or not,
983 and if not satisfied, the return of the sheriff. If criminal, the
984 docket must show the nature of the crime, the mode of prosecution,
985 the stage of the proceedings, a memorandum of the sentence when
986 prosecuted to a sentence, the execution thereof, if executed, and,
987 if not executed, the reasons of delay or prevention.

988 **SECTION 15.** Section 7-7-1, Mississippi Code of 1972, is
989 amended as follows:

990 7-7-1. (1) As used in this chapter, the terms "State
991 Auditor" and "Auditor" mean the Auditor of Public Accounts and
992 State Inspector General. Whenever these terms and the term
993 "Office of the State Auditor" appear in any other provisions of
994 law, it shall mean the Mississippi Office of the State Auditor and
995 Inspector General.

996 (2) As used in this chapter, the term "State Fiscal Officer"
997 means the official created in Section 27-104-5, acting through the
998 Bureau of Budget and Fiscal Management.



999 (3) "Agency" means any state board, commission, committee,
1000 council, department or unit thereof created by the Constitution or
1001 statutes if such board, commission, committee, council,
1002 department, unit or the head thereof is authorized to appoint
1003 subordinate staff by the Constitution or statute, except a
1004 legislative or judicial board, commission, committee, council,
1005 department or unit thereof.

1006 (4) For the purposes of Sections 7-7-1 through 7-7-65, the
1007 term "public funds" shall mean all funds which are received,
1008 collected by, or available for the support of or expenditure by
1009 any state department, institution or agency, whether such funds be
1010 derived from taxes or from fees collected by such state
1011 department, institution or agency or from some other source, and
1012 which should be included in the entity of the state under
1013 generally accepted accounting principles, although such funds may
1014 not be required by law to be deposited in the State Treasury.

1015 Funds such as endowment funds and research funds, special
1016 building and plant funds, funds of a proprietary function, and the
1017 like shall be excluded from the meaning of the term, unless
1018 specifically required by law to be handled through the State
1019 Treasury or unless deemed necessary by the State Fiscal Officer to
1020 be included.

1021 All funds of state departments, institutions and agencies
1022 within the contemplation of this section that are not required by
1023 law to be deposited in the State Treasury, or are not declared to



1024 be exempt from the provisions of Sections 7-7-1 through 7-7-65 by
1025 the State Fiscal Officer shall be reported to the State Fiscal
1026 Officer in reports of revenues, expenditures, assets, liabilities,
1027 encumbrances, fund balances and other financial statements, at
1028 such times and in the form required by the State Fiscal Officer.

1029 It is hereby declared to be the intent of this section to
1030 provide that all "public funds" necessary to present a complete
1031 and comprehensive statement of the fiscal operations of the state
1032 government shall be handled through the State Fiscal Officer,
1033 whether through State Fiscal Officer receipt warrants and
1034 disbursement warrants, as is generally provided, or through the
1035 method of reporting, as required herein.

1036 **SECTION 16.** Section 7-7-75, Mississippi Code of 1972, is
1037 brought forward as follows:

1038 7-7-75. All suits by the State Auditor under the provisions
1039 of Sections 7-7-67 through 7-7-79 shall be in his own name for the
1040 use of the state, county, municipality, levee board, or other
1041 taxing district interested; and he shall not be liable for costs,
1042 and may appeal without bond. Such suits may be tried at the
1043 return term and shall take precedence over other suits.

1044 **SECTION 17.** Section 13-7-3, Mississippi Code of 1972, is
1045 amended as follows:

1046 13-7-3. For purposes of this chapter:

1047 (a) The phrase "Attorney General or his designee" also
1048 includes:



1049 (i) The Attorney General or his designees;
1050 (ii) The Attorney General and his designee or
1051 designees.

1052 (b) The term "impaneling judge" means any senior
1053 circuit court judge of any circuit court district who, upon
1054 petition by the Attorney General, impanels a state grand jury
1055 under the provisions of this chapter and shall also include any
1056 successor to such judge as provided by law.

1057 (c) The phrase "State Inspector General or his
1058 designee" also includes:

1059 (i) The State Auditor or his designees;
1060 (ii) The State Auditor and his designee or
1061 designees.

1062 **SECTION 18.** Section 13-7-7, Mississippi Code of 1972, is
1063 amended as follows:

1064 13-7-7. (1) The jurisdiction of a state grand jury
1065 impaneled under this chapter extends throughout the state. The
1066 subject matter jurisdiction of a state grand jury in all cases is
1067 limited to offenses involving any and all conduct made unlawful by
1068 the Mississippi Uniform Controlled Substances Law or any other
1069 provision of law involving narcotics, dangerous drugs or
1070 controlled substances, or any crime arising out of or in
1071 connection with a crime involving narcotics, dangerous drugs or
1072 controlled substances, and crimes involving any attempt, aiding,
1073 abetting, solicitation * * *, conspiracy to commit any of the



1074 aforementioned crimes if the crimes occur within more than one (1)
1075 circuit court district or have transpired or are transpiring or
1076 have significance in more than one (1) circuit court district of
1077 this state; or any crimes under which the Mississippi Office of
1078 the State Auditor and Inspector General has the authority to
1079 prosecute under the provisions of the Mississippi Public
1080 Corruption Act enumerated in Chapter 7, Title 7, Mississippi Code
1081 of 1972, which arise out of a breach of public trust and/or abuse
1082 of position by federal, state or local officials and their private
1083 sector accomplices, or Sections 50 and 175 of the Mississippi
1084 Constitution of 1890.

1085 (2) Whenever the Attorney General or the State Inspector
1086 General, acting in their individual capacity, consider it
1087 necessary, and normal investigative or prosecutorial procedures
1088 are not adequate, the Attorney General or the State Inspector
1089 General may petition in writing to the senior circuit court judge
1090 of any circuit court district in this state for an order
1091 impaneling a state grand jury. For the purposes of this chapter,
1092 such judge shall be referred to as the impaneling judge. The
1093 petition must allege the following:

1094 (a) The type of offenses to be inquired into;

1095 (b) That the state grand jury has jurisdiction to
1096 consider such matters;

1097 (c) That the offenses to be inquired into have occurred
1098 within more than one (1) circuit court district or have transpired



1099 or are transpiring or have significance in more than one (1)
1100 circuit court district of this state;

1101 (d) That the Attorney General has conferred with the
1102 Commissioner of Public Safety and the Director of the Mississippi
1103 Bureau of Narcotics and that each of such officials join in the
1104 petition, or in cases of public corruption, the State Inspector
1105 General has conferred with the Commissioner of Public Safety and
1106 the Director of the Mississippi Bureau of Investigation and that
1107 each of such officials join in the petition; and

1108 (e) That the Attorney General or the State Inspector
1109 General has conferred with the appropriate district attorney for
1110 each jurisdiction in which the crime or crimes are alleged to have
1111 occurred.

1112 (3) The impaneling judge, after due consideration of the
1113 petition, may order the impanelment of a state grand jury in
1114 accordance with the petition for a term of twelve (12) calendar
1115 months. Upon petition by the Attorney General or the State
1116 Inspector General, the impaneling judge, by order, may extend the
1117 term of that state grand jury for a period of six (6) months, but
1118 the term of that state grand jury, including any extension
1119 thereof, shall not exceed two (2) years.

1120 (4) The impaneling judge shall preside over the state grand
1121 jury until its discharge.

1122 (5) The impaneling judge may discharge a state grand jury
1123 prior to the end of its original term or any extensions thereof,



1124 upon a determination that its business has been completed, or upon
1125 the request of the Attorney General or the State Inspector
1126 General.

1127 (6) If, at any time within the original term of any state
1128 grand jury or any extension thereof, the impaneling judge
1129 determines that the state grand jury is not conducting
1130 investigative activity within its jurisdiction or proper
1131 investigative activity, the impaneling judge may limit the
1132 investigations so that the investigation conforms with the
1133 jurisdiction of the state grand jury and existing law or he may
1134 discharge the state grand jury. An order issued pursuant to this
1135 subsection or under subsection (5) of this section shall not
1136 become effective less than ten (10) days after the date on which
1137 it is issued and actual notice given to the Attorney General or
1138 the State Inspector General, whichever having cause to file
1139 petition for impanelment, and the foreman of the state grand jury,
1140 and may be appealed by the Attorney General or the State Inspector
1141 General to the Supreme Court. If an appeal from the order is
1142 made, the state grand jury, except as otherwise ordered by the
1143 Supreme Court, shall continue to exercise its powers pending
1144 disposition of the appeal.

1145 **SECTION 19.** Section 13-7-11, Mississippi Code of 1972, is
1146 amended as follows:

1147 13-7-11. (1) After a judge impanels a state grand jury upon
1148 the petition of the Attorney General, the Attorney General or his



1149 designee shall attend sessions of a state grand jury and shall
1150 serve as its legal advisor. The Attorney General or his designee
1151 shall examine witnesses, present evidence, and draft indictments
1152 and reports upon the direction of a state grand jury.

1153 (2) After a judge impanels a state grand jury upon the
1154 petition of the State Inspector General, the State Inspector
1155 General or his designee shall attend sessions of a state grand
1156 jury and shall serve as a witness for the state, and if outside
1157 counsel is retained to aid in such prosecution, such counsel shall
1158 serve as its legal advisor. If retained, the outside counsel
1159 shall examine witnesses, present evidence and draft indictments
1160 and reports upon the direction of a state grand jury.

1161 **SECTION 20.** Section 13-7-15, Mississippi Code of 1972, is
1162 amended as follows:

1163 13-7-15. After the impaneling judge orders a term for the
1164 state grand jury on petition of the Attorney General or State
1165 Inspector General, the impaneling judge shall order that the
1166 circuit clerk for each county shall proceed to draw at random from
1167 the jury box as provided by Section 13-5-26, the name of one (1)
1168 voter of such county for each two thousand (2,000) voters or
1169 fraction thereof registered in such county and shall place these
1170 names on a list. The circuit clerk shall not disqualify or excuse
1171 any individual whose name is drawn. When the list is compiled,
1172 the clerk of the circuit court for each county shall forward the
1173 list to the clerk of the state grand jury. Upon receipt of all



1174 the lists from the clerks of the circuit courts, the clerk of the
1175 state grand jury shall place all the names so received upon a list
1176 which shall be known as the master list.

1177 The impaneling judge shall order the clerk of the state grand
1178 jury to produce the master list and shall direct the random
1179 drawing of the names of one hundred (100) persons from the master
1180 list. The names drawn shall be given to the clerk of the state
1181 grand jury who shall cause each person drawn for service to be
1182 served with a summons either personally by the sheriff of the
1183 county where the juror resides or by mail, addressed to the juror
1184 at his usual residence, business or post office address, requiring
1185 him to report for state grand jury service at a specified time and
1186 place as designated by the impaneling judge. From the one hundred
1187 (100) persons summoned, a state grand jury shall be drawn for that
1188 term consisting of twenty (20) persons. State grand jurors must
1189 be drawn in the same manner as jurors are drawn for service on the
1190 county grand jury.

1191 All qualified persons shall be liable to serve as state grand
1192 jurors, unless excused by the court for one (1) of the following
1193 causes:

1194 (a) When the juror is ill, or when on account of
1195 serious illness in the juror's family, the presence of the juror
1196 is required at home;

1197 (b) When the juror's attendance would cause a serious
1198 financial loss to the juror or to the juror's business; or



1199 (c) When the juror is under an emergency, fairly
1200 equivalent to those mentioned in the foregoing paragraphs (a) and
1201 (b).

1202 An excuse of illness under paragraph (a) may be made to the
1203 state grand jury clerk outside of open court by providing the
1204 clerk with either a certificate of a licensed physician or an
1205 affidavit of the juror, stating that the juror is ill or that
1206 there is a serious illness in the juror's family. The test of an
1207 excuse under paragraph (b) shall be whether, if the juror were
1208 incapacitated by illness or otherwise for a week, some other
1209 persons would be available or could reasonably be procured to
1210 carry on the business for the week, and the test of an excuse
1211 under paragraph (c) shall be such as to be the fair equivalent,
1212 under the circumstances of that prescribed under paragraph (b).
1213 In cases under paragraphs (b) and (c) the excuse must be made by
1214 the juror, in open court, under oath.

1215 It shall be unlawful for any employer or other person to
1216 persuade or attempt to persuade any juror to avoid jury service,
1217 or to intimidate or to threaten any juror in that respect. So to
1218 do shall be deemed an interference with the administration of
1219 justice and a contempt of court and punishable as such.

1220 Every citizen over sixty-five (65) years of age shall be
1221 exempt from service if he claims the privilege. No qualified
1222 juror shall be excluded because of such reason, but the same shall
1223 be a personal privilege to be claimed by any person selected for



1224 state grand jury duty. Any citizen over sixty-five (65) years of
1225 age may claim this personal privilege outside of open court by
1226 providing the clerk of court with information that allows the
1227 clerk to determine the validity of the claim.

1228 The state grand jurors shall be charged by the impaneling
1229 judge as to their authority and responsibility under the law and
1230 each juror shall be sworn pursuant to Section 13-5-45. Nothing in
1231 this section shall be construed as limiting the right of the
1232 Attorney General or his designee or the State Inspector General or
1233 his designee to request that a potential state grand juror be
1234 excused for cause. The jury selection process shall be conducted
1235 by the impaneling judge. Jurors of a state grand jury shall
1236 receive reimbursement for travel and mileage as provided for state
1237 employees by Section 25-3-41 and shall be paid per diem
1238 compensation in the amount provided by Section 25-3-69. All
1239 compensation and expenses for meals and lodging of state grand
1240 jurors shall be paid out of any available funds appropriated for
1241 that purpose.

1242 **SECTION 21.** Section 13-7-21, Mississippi Code of 1972, is
1243 amended as follows:

1244 13-7-21. The clerk of the state grand jury, upon request of
1245 the Attorney General or his designee, or upon the request of the
1246 State Inspector General or his designee, shall issue subpoenas, or
1247 subpoenas duces tecum to compel individuals, documents or other
1248 materials to be brought from anywhere in the state or another



1249 state to a state grand jury. In addition, a state grand jury may
1250 proceed in the same manner as is provided for by law in relation
1251 to the issuance of subpoenas and subpoenas duces tecum; however,
1252 the provisions of such law shall not be considered a limitation
1253 upon this section, but shall be supplemental thereto. The
1254 subpoenas and subpoenas duces tecum may be for investigative
1255 purposes and for the retention of documents or other materials so
1256 subpoenaed for proper criminal proceedings. Any investigator
1257 employed by the Attorney General, the State Inspector General or
1258 any law enforcement officer with appropriate jurisdiction is
1259 empowered to serve such subpoenas and subpoenas duces tecum and
1260 receive such documents and other materials for return to a state
1261 grand jury. Any person violating a subpoena or subpoena duces
1262 tecum issued pursuant to this chapter, or who fails to fully
1263 answer all questions put to him before proceedings of the state
1264 grand jury whenever the response thereto is not privileged or
1265 otherwise protected by law, including the granting of immunity as
1266 authorized by this chapter, or any other law, may be punished by
1267 the impaneling judge for contempt provided the response is not
1268 privileged or otherwise protected by law. The Attorney General or
1269 his designee, or the State Inspector General or his designee may
1270 petition the impaneling judge to compel compliance by the person
1271 alleged to have committed the violation or who has failed to
1272 answer. If the impaneling judge considers compliance is
1273 warranted, he may order compliance and may punish the individual



1274 for contempt, as provided in Section 9-1-17, where the compliance
1275 does not occur. The clerk of the state grand jury may also issue
1276 subpoenas and subpoenas duces tecum to compel individuals,
1277 documents or other materials to be brought from anywhere in the
1278 state to the trial of any indictment returned by a state grand
1279 jury or the trial of any civil forfeiture action arising out of an
1280 investigation conducted by a state grand jury.

1281 **SECTION 22.** Section 13-7-25, Mississippi Code of 1972, is
1282 amended as follows:

1283 13-7-25. A court reporter shall record either
1284 stenographically or by use of an electronic recording device, all
1285 state grand jury proceedings except when the state grand jury is
1286 deliberating or voting. Subject to the limitations of Section
1287 13-7-29 and any rule of court, a defendant has the right to review
1288 and to reproduce the stenographically or electronically recorded
1289 materials. Transcripts of the recorded testimony or proceedings
1290 must be made when requested by the Attorney General or his
1291 designee or by the State Inspector General or his designee. An
1292 unintentional failure of any recording to reproduce all or any
1293 portion of the testimony or proceeding shall not affect the
1294 validity of the prosecution. The recording or reporter's notes or
1295 any transcript prepared therefrom and all books, papers, records
1296 and correspondence produced before the state grand jury shall
1297 remain in the custody and control of the Attorney General or his



1298 designee or of the State Inspector General or his designee unless
1299 otherwise ordered by the court in a particular case.

1300 **SECTION 23.** Section 13-7-29, Mississippi Code of 1972, is
1301 amended as follows:

1302 13-7-29. (1) State grand jury proceedings are secret, and a
1303 state grand juror shall not disclose the nature or substance of
1304 the deliberations or vote of the state grand jury. The only
1305 persons who may be present in the state grand jury room when a
1306 state grand jury is in session, except for deliberations and
1307 voting, are the state grand jurors, the Attorney General or his
1308 designees, the State Inspector General or his designees, an
1309 interpreter if necessary and the witness testifying. A state grand
1310 juror, the Attorney General or his designees, the State Inspector
1311 General or his designees, any interpreter used and any person to
1312 whom disclosure is made pursuant to subsection (2) (b) of this
1313 section may not disclose the testimony of a witness examined
1314 before a state grand jury or other evidence received by it except
1315 when directed by a court for the purpose of:

1316 (a) Ascertaining whether it is consistent with the
1317 testimony given by the witness before the court in any subsequent
1318 criminal proceedings;

1319 (b) Determining whether the witness is guilty of
1320 perjury;



1321 (c) Assisting local, state or federal law enforcement
1322 or investigating agencies, including another grand jury, in
1323 investigating crimes under their investigative jurisdiction;

1324 (d) Providing the defendant the materials to which he
1325 is entitled pursuant to Section 13-7-25; or

1326 (e) Complying with constitutional, statutory or other
1327 legal requirements or to further justice.

1328 If the court orders disclosure of matters occurring before a
1329 state grand jury, the disclosure shall be made in that manner, at
1330 that time, and under those conditions as the court directs.

1331 (2) In addition, disclosure of testimony of a witness
1332 examined before a state grand jury or other evidence received by
1333 it may be made without being directed by a court to:

1334 (a) The Attorney General or his designees, or the State
1335 Inspector General or his designees for use in the performance of
1336 their duties; or

1337 (b) Those governmental personnel, including personnel
1338 of the state or its political subdivisions, as are considered
1339 necessary by the Attorney General or his designee or the State
1340 Inspector General or his designee to assist in the performance of
1341 their duties to enforce the criminal laws of the state; however,
1342 any person to whom matters are disclosed under this paragraph (b)
1343 shall not utilize the state grand jury material for purposes other
1344 than assisting the Attorney General or his designee or the State
1345 Inspector General or his designee in the performance of their



1346 duties to enforce the criminal laws of this state. The Attorney
1347 General or his designees or the State Inspector General or his
1348 designees shall promptly provide the impaneling judge the names of
1349 the persons to whom the disclosure has been made and shall certify
1350 that he has advised these persons of their obligations of secrecy
1351 under this section.

1352 (3) Nothing in this section affects the attorney-client
1353 relationship. A client has the right to communicate to his
1354 attorney any testimony given by the client to a state grand jury,
1355 any matters involving the client discussed in the client's
1356 presence before a state grand jury and evidence involving the
1357 client received by a proffer to a state grand jury in the client's
1358 presence.

1359 (4) Any person violating the provisions of this section is
1360 guilty of a misdemeanor and, upon conviction, shall be punished by
1361 a fine not exceeding Five Thousand Dollars (\$5,000.00), or by a
1362 term of imprisonment not exceeding one (1) year, or by both such
1363 fine and imprisonment.

1364 (5) State grand jurors, the Attorney General and his
1365 designee, the State Inspector General and his designee, any
1366 interpreter used and the clerk of the state grand jury shall be
1367 sworn to secrecy and also may be punished for criminal contempt
1368 for violations of this section.

1369 **SECTION 24.** Section 13-7-41, Mississippi Code of 1972, is
1370 amended as follows:



1371 13-7-41. The Attorney General shall make available suitable
1372 space for state grand juries to meet. The Mississippi Department
1373 of Public Safety, the Mississippi Bureau of Investigation and the
1374 Mississippi Bureau of Narcotics may provide such services as
1375 required by the Attorney General and the state grand juries.

1376 **SECTION 25.** As used in this act, the following terms shall
1377 have the meaning ascribed to them in this section unless the
1378 context requires otherwise:

1379 (a) "Aggrieved person" means a person who was a party
1380 to an intercepted wire, oral or other communication or a person
1381 against whom the interception was directed.

1382 (b) "Communication common carrier" has the meaning
1383 given the term "common carrier" by 47 USCS 153(h) and shall also
1384 mean a provider of communication services.

1385 (c) "Contents," when used with respect to a wire, oral
1386 or other communication, includes any information concerning the
1387 identity of the parties to the communication or the existence,
1388 substance, purport or meaning of that communication.

1389 (d) "Covert entry" means any entry into or onto
1390 premises which if made without a court order allowing such an
1391 entry under this article would be a violation of criminal law.

1392 (e) "Director" means the Director of the Bureau of
1393 Investigation or, if the director is absent or unable to serve,
1394 the Assistant Director of the Bureau of Investigation.



1395 (f) "Electronic, mechanical or other device" means a
1396 device or apparatus primarily designed or used for the
1397 nonconsensual interception of wire, oral or other communications.

1398 (g) "Intercept" means the aural or other acquisition of
1399 the contents of a wire, oral or other communication through the
1400 use of an electronic, mechanical or other device.

1401 (h) "Investigative or law enforcement officer" means an
1402 officer of this state or of a political subdivision of this state
1403 who is empowered by law to conduct investigations of, or to make
1404 arrests for, offenses enumerated in Section 41-29-505, an attorney
1405 authorized by law to prosecute or participate in the prosecution
1406 of such offenses, or a federal law enforcement officer designated
1407 by the director.

1408 (i) "Judge of competent jurisdiction" means a justice
1409 of the Supreme Court or a circuit court judge.

1410 (j) "Oral communication" means an oral communication
1411 uttered by a person exhibiting an expectation that the
1412 communication is not subject to interception under circumstances
1413 justifying that expectation.

1414 (k) "Other communication" means any transfer of an
1415 electronic or other signal, including fax signals, computer
1416 generated signals, other similar signals, or any scrambled or
1417 encrypted signal transferred via wire, radio, electromagnetic,
1418 photoelectric or photooptical system from one party to another in



1419 which the involved parties may reasonably expect the communication
1420 to be private.

1421 (l) "Prosecutor" means a district attorney with
1422 jurisdiction in the county in which the facility or place where
1423 the communication to be intercepted is located or a legal
1424 assistant to the district attorney if designated in writing by the
1425 district attorney on a case-by-case basis.

1426 (m) "Residence" means a structure or the portion of a
1427 structure used as a person's home or fixed place of habitation to
1428 which the person indicates an intent to return after any temporary
1429 absence.

1430 (n) "State Auditor" and "Auditor" mean the Auditor of
1431 Public Accounts and State Inspector General. Whenever these terms
1432 and the term "Office of the State Auditor" appear in any other
1433 provisions of law, it shall mean the Mississippi Office of the
1434 State Auditor and Inspector General.

1435 (o) "Wire communication" means a communication made, in
1436 whole or in part, through the use of facilities for the
1437 transmission of communications by the aid of wire, cable or other
1438 like connection between the point of origin and the point of
1439 reception furnished or operated by a person engaged as a common
1440 carrier in providing or operating the facilities for the
1441 transmission of communications and includes cordless telephones,
1442 voice pagers, cellular telephones, any mobile telephone, or any



1443 communication conducted through the facilities of a provider of
1444 communication services.

1445 SECTION 26. The contents of an intercepted wire, oral or
1446 other communication and evidence derived from an intercepted wire,
1447 oral or other communication may not be received in evidence in any
1448 trial, hearing or other proceeding in or before any court, grand
1449 jury, department, officer, agency, regulatory body, legislative
1450 committee, or other authority of the United States or of this
1451 state or a political subdivision of this state if the disclosure
1452 of that information would be in violation of this article. The
1453 contents of an intercepted wire, oral or other communication and
1454 evidence derived from an intercepted communication may be received
1455 in a civil trial, hearing or other proceeding only if the civil
1456 trial, hearing or other proceeding arises out of a violation of
1457 the criminal law of this state.

1458 SECTION 27. A judge of competent jurisdiction in the circuit
1459 court district of the location where the interception of wire,
1460 oral or other communications is sought, or a circuit court
1461 district contiguous to such circuit court district, may issue an
1462 order authorizing interception of wire, oral or other
1463 communications only if the prosecutor applying for the order shows
1464 probable cause to believe that the interception will provide
1465 evidence of the commission of a felony under the Mississippi
1466 Public Corruption Act.



1467 **SECTION 28.** Section 41-29-507, Mississippi Code of 1972, is
1468 amended as follows:

1469 41-29-507. (1) No person, agency of the state or political
1470 subdivision of the state, other than the Bureau of Narcotics and
1471 the Bureau of Investigation, is authorized by this article to own,
1472 possess, install, operate or monitor an electronic, mechanical or
1473 other device. The Bureau of Narcotics and the Bureau of
1474 Investigation may be assisted by an investigative or law
1475 enforcement officer in the operation and monitoring of an
1476 interception of wire, oral or other communications, provided that
1477 an agent of the Bureau of Narcotics is present at all times during
1478 investigations relating to violations of the Mississippi Uniform
1479 Controlled Substances Law, or an agent of the Bureau of
1480 Investigation is present at all times during investigations
1481 relating to violations of the Mississippi Public Corruption Act.

1482 (2) The director shall designate, in writing, the agents of
1483 the Bureau of Narcotics and the Bureau of Investigation who are
1484 responsible for the possession, installation, operation and
1485 monitoring of electronic, mechanical or other devices for the
1486 bureaus.

1487 **SECTION 29.** Section 41-29-509, Mississippi Code of 1972, is
1488 amended as follows:

1489 41-29-509. Prior to submitting a request for an order
1490 authorizing interception of wire, oral or other communications to
1491 a prosecutor, the director shall receive a written affidavit from



1492 one or more agents of the Bureau of Narcotics or one or more
1493 agents of the Bureau of Investigation setting forth the
1494 information required by Section 41-29-513(1). The director shall
1495 submit all information required by Section 41-29-513(1) to the
1496 prosecutor. Upon receipt of the request from the director, the
1497 prosecutor shall be authorized to submit an application to a court
1498 of competent jurisdiction requesting the court to issue an order
1499 authorizing interception of wire, oral or other communications as
1500 provided in Section 41-29-515.

1501 **SECTION 30.** (1) An investigative or law enforcement officer
1502 who, by any means authorized by this act, obtains knowledge of the
1503 contents of a wire, oral or other communication or evidence
1504 derived from such communication may disclose the contents or
1505 evidence to another investigative or law enforcement officer to
1506 the extent that the disclosure is appropriate to the proper
1507 performance of the official duties of the officer making or
1508 receiving the disclosure.

1509 (2) An investigative or law enforcement officer who, by any
1510 means authorized by this article, obtains knowledge of the
1511 contents of a wire, oral or other communication or evidence
1512 derived from such communication may use the contents or evidence
1513 to the extent the use is appropriate to the proper performance of
1514 his official duties.

1515 (3) A person who receives, by any means authorized by this
1516 article, information concerning a wire, oral or other



1517 communication or evidence derived from a wire, oral or other
1518 communication intercepted in accordance with the provisions of
1519 this article may disclose the contents of such communication or
1520 the evidence derived from such wire, oral or other communication
1521 while giving testimony under oath in any proceeding held under the
1522 authority of the United States, of this state, or of a political
1523 subdivision of this state.

1524 (4) An otherwise privileged wire, oral or other
1525 communication intercepted in accordance with, or in violation of,
1526 the provisions of this article does not lose its privileged
1527 character, and any evidence derived from such privileged
1528 communication against the party to the privileged communication
1529 shall be considered privileged also.

1530 (5) When an investigative or law enforcement officer, while
1531 engaged in intercepting wire, oral or other communications in a
1532 manner authorized by this article, intercepts wire, oral or other
1533 communications relating to offenses other than those specified in
1534 the order of authorization, the contents of and evidence derived
1535 from the communication may be disclosed or used as provided by
1536 subsections (1) and (2) of this section. Such contents and any
1537 evidence derived therefrom may be used under subsection (3) of
1538 this section when authorized by a judge of competent jurisdiction
1539 where the judge finds, upon subsequent application, that the
1540 contents were otherwise intercepted in accordance with the



1541 provisions of this article. The application shall be made as soon
1542 as practicable.

1543 **SECTION 31.** (1) Upon receipt of an application, the judge
1544 may enter an ex parte order, as requested or as modified,
1545 authorizing interception of wire, oral or other communications if
1546 the judge determines from the evidence submitted by the applicant
1547 that:

1548 (a) There is probable cause to believe that a person is
1549 committing, has committed, or is about to commit a particular
1550 offense enumerated in Section 27 of this act;

1551 (b) There is probable cause to believe that particular
1552 communications concerning that offense will be obtained through
1553 the interception;

1554 (c) Normal investigative procedures have been tried and
1555 have failed or reasonably appear to be unlikely to succeed or to
1556 be too dangerous if tried;

1557 (d) There is probable cause to believe that the
1558 facilities from which or the place where the wire, oral or other
1559 communications are to be intercepted are being used or are about
1560 to be used in connection with the commission of an offense or are
1561 leased to, listed in the name of, or commonly used by the person;
1562 and

1563 (e) A covert entry is or is not necessary to properly
1564 and safely install the electronic, mechanical or other device.



1565 (2) Each order authorizing the interception of a wire or
1566 oral communication shall specify:

1567 (a) The identity of the person, if known, whose
1568 communications are to be intercepted;

1569 (b) The nature and location of the communications
1570 facilities as to which or the place where authority to intercept
1571 is granted;

1572 (c) A particular description of the type of
1573 communication sought to be intercepted and a statement of the
1574 particular offense to which it relates;

1575 (d) A statement setting forth the identity of the
1576 prosecutor and stating that the director has requested the
1577 prosecutor to apply for the order authorizing the interception;

1578 (e) The time during which the interception is
1579 authorized, including a statement of whether or not the
1580 interception will automatically terminate when the described
1581 communication is first obtained; and

1582 (f) Whether or not a covert entry is necessary to
1583 properly and safely install wiretapping, electronic surveillance
1584 or eavesdropping equipment.

1585 (3) The order authorizing the interception of a wire, oral
1586 or other communication shall, upon request of the applicant,
1587 direct that a communication common carrier, landlord, custodian or
1588 other person furnish the applicant all information, facilities and
1589 technical assistance necessary to accomplish the interception



1590 unobtrusively and with a minimum of interference with the services
1591 that the carrier, landlord, custodian or other person is providing
1592 the person whose communications are to be intercepted. Any
1593 communication common carrier, landlord, custodian or other person
1594 furnishing facilities or technical assistance is entitled to
1595 compensation by the applicant for the facilities or assistance at
1596 the prevailing rates.

1597 (4) An order entered pursuant to this section may not
1598 authorize the interception of a wire, oral or other communication
1599 for longer than is necessary to achieve the objective of the
1600 authorization, and in no event may it authorize interception for
1601 more than thirty (30) days. The issuing judge may grant
1602 extensions of an order, but only upon application for an extension
1603 made in accordance with Section 41-29-513 and the court making the
1604 findings required by subsection (1) of this section. The period
1605 of extension may not be longer than the authorizing judge deems
1606 necessary to achieve the purposes for which it is granted, and in
1607 no event may the extension be for more than thirty (30) days. To
1608 be valid, each order and extension of an order shall provide that
1609 the authorization to intercept be executed as soon as practicable,
1610 be conducted in a way that minimizes the interception of
1611 communications not otherwise subject to interception under this
1612 article, and terminate on obtaining the authorized objective or
1613 within thirty (30) days, whichever occurs sooner.



1614 (5) An order entered pursuant to this section may not
1615 authorize a covert entry into a residence solely for the purpose
1616 of intercepting a wire communication.

1617 (6) An order entered pursuant to this section may not
1618 authorize a covert entry into or onto a premises for the purpose
1619 of intercepting an oral or other communication unless:

1620 (a) The judge, in addition to making the determinations
1621 required under subsection (1) of this section, determines that:

1622 (i) (A) The premises into or onto which the
1623 covert entry is authorized or the person whose communications are
1624 to be obtained has been the subject of a pen register previously
1625 authorized in connection with the same investigation; (B) the
1626 premises into or onto which the covert entry is authorized or the
1627 person whose communications are to be obtained has been the
1628 subject of an interception of wire communications previously
1629 authorized in connection with the same investigation; (C) that
1630 such procedures have failed; and (D) if the order is for the
1631 interception of other communications and requires covert entry, a
1632 court-ordered attempt to intercept the communications without
1633 using covert entry must have been made without success;

1634 (ii) That the procedures enumerated in item (i)
1635 reasonably appear to be unlikely to succeed or to be too dangerous
1636 if tried or are not feasible under the circumstances or exigencies
1637 of time; and



1638 (b) The order, in addition to the matters required to
1639 be specified under subsection (2) of this section, specifies that
1640 the covert entry is for the purpose of intercepting oral
1641 communications of two (2) or more persons and that there is
1642 probable cause to believe they are committing, have committed, or
1643 are about to commit a particular offense enumerated in Section 27
1644 of this act.

1645 (7) The judge of a court of competent jurisdiction may issue
1646 an order for the interception of wire, oral or other
1647 communications conducted within a vehicle, vessel, other mode of
1648 transportation or any location where a reasonable expectation of
1649 privacy might exist, provided the requirements of this section,
1650 where applicable, are met.

1651 (8) Whenever an order authorizing interception is entered
1652 pursuant to this article, the order may require reports to the
1653 judge who issued the order showing what progress has been made
1654 toward achievement of the authorized objective and the need for
1655 continued interception. Reports shall be made at any interval the
1656 judge requires.

1657 (9) A judge who issues an order authorizing the interception
1658 of a wire, oral or other communication may not hear a criminal
1659 prosecution in which evidence derived from the interception may be
1660 used or in which the order may be an issue.

1661 (10) An order issued pursuant to this section authorizing
1662 the interception of any cellular, portable, transportable or



1663 mobile telephone or communication instrument is valid throughout
1664 the State of Mississippi unless otherwise specified by the issuing
1665 judge.

1666 SECTION 32. (1) The contents of a wire, oral or other
1667 communication intercepted by means authorized by this article
1668 shall be recorded on tape, wire or other comparable device. The
1669 recording of the contents of a wire, oral or other communication
1670 under this subsection shall be done in a way that protects the
1671 recording from editing or other alterations.

1672 (2) Immediately on the expiration of the period of the order
1673 and all extensions, if any, the recordings shall be made available
1674 to the judge issuing the order and sealed under his directions.
1675 Custody of the recordings shall be wherever the judge orders. The
1676 recordings may not be destroyed until at least ten (10) years
1677 after the date of expiration of the order and the last extension,
1678 if any. A recording may be destroyed only by order of the judge
1679 of competent jurisdiction who authorized the interception, or his
1680 successor.

1681 (3) Duplicate recordings may be made for use or disclosure
1682 pursuant to subsections (1) and (2) of Section 30 of this act for
1683 investigations.

1684 (4) The presence of the seal required by subsection (2) of
1685 this section, or a satisfactory explanation of its absence, shall
1686 be a prerequisite for the use or disclosure of the contents of a



1687 wire, oral or other communication or evidence derived from the
1688 communication under subsection (3) of Section 30 of this act.

1689 **SECTION 33.** The judge shall seal each application made and
1690 order granted under this article. Custody of the applications and
1691 orders shall be wherever the judge directs. An application or
1692 order may be disclosed only upon a showing of good cause before a
1693 judge of competent jurisdiction, and may not be destroyed until at
1694 least ten (10) years after the date it is sealed. An application
1695 or order may be destroyed only by order of the judge of competent
1696 jurisdiction for the administrative judicial district in which it
1697 was made or granted.

1698 **SECTION 34.** A violation of Section 32 or Section 33 of this
1699 act shall be punished as contempt of court.

1700 **SECTION 35.** (1) Within a reasonable time but not later than
1701 ninety (90) days after the date an application for an order is
1702 denied or after the date an order or the last extension, if any,
1703 expires, the judge who granted or denied the application shall
1704 cause to be served upon the persons named in the order or the
1705 application and any other parties to intercepted communications
1706 deemed appropriate by the issuing judge, if any, an inventory,
1707 which shall include notice:

1708 (a) Of the entry of the order or the application;

1709 (b) Of the date of the entry and the period of
1710 authorized interception or the date of denial of the application;

1711 and



1712 (c) That during the authorized period wire, oral or
1713 other communications were or were not intercepted.

1714 (2) The judge, upon motion, may, in his discretion, make
1715 available for inspection to any person or persons whose oral
1716 communications have been intercepted, or their counsel, any
1717 portion of an intercepted communication, application or order that
1718 the judge determines is in the interest of justice to disclose to
1719 that person.

1720 (3) Upon an ex parte showing of good cause to the judge, the
1721 serving of the inventory required by this section may be
1722 postponed, but in no event may any evidence derived from an order
1723 under this article be disclosed in any trial until after such
1724 inventory has been served.

1725 **SECTION 36.** (1) The contents of an intercepted wire, oral
1726 or other communication or evidence derived from the communication
1727 may not be received in evidence or otherwise disclosed in a trial,
1728 hearing or other proceeding in a federal or state court unless
1729 each party has been furnished with a copy of the court order and
1730 application under which the interception was authorized or
1731 approved not less than ten (10) days before the date of the trial,
1732 hearing or other proceeding. The ten-day period may be waived by
1733 the judge if he finds that it is not possible to furnish the party
1734 with the information ten (10) days before the trial, hearing or
1735 proceeding and that the party will not be prejudiced by the delay
1736 in receiving the information.



1737 (2) An aggrieved person charged with an offense in a trial,
1738 hearing or proceeding in or before a court, department, officer,
1739 agency, regulatory body, or other authority of the United States
1740 or of this state or a political subdivision of this state, may
1741 move to suppress the contents of an intercepted wire, oral or
1742 other communication or evidence derived from the communication on
1743 the ground that:

1744 (a) The communication was unlawfully intercepted;

1745 (b) The order authorizing the interception is
1746 insufficient on its face; or

1747 (c) The interception was not made in conformity with
1748 the order.

1749 (3) The motion to suppress shall be made before the trial,
1750 hearing or proceeding unless there was no opportunity to make the
1751 motion before the trial, hearing or proceeding, or the person was
1752 not aware of the grounds of the motion before the trial, hearing
1753 or proceeding. The hearing on the motion shall be held in camera
1754 upon the written request of the aggrieved person. If the motion
1755 is granted, the contents of the intercepted wire, oral or other
1756 communication and evidence derived from the communication shall be
1757 treated as inadmissible evidence. The judge, on the filing of the
1758 motion by the aggrieved person, shall make available to the
1759 aggrieved person or his counsel for inspection any portion of the
1760 intercepted communication or evidence derived from the



1761 communication that the judge determines is in the interest of
1762 justice to make available.

1763 (4) Any circuit judge of this state, upon hearing a pretrial
1764 motion regarding conversations intercepted by wire pursuant to
1765 this article, or who otherwise becomes informed that there exists
1766 on such intercepted wire, oral or other communication
1767 identification of a specific individual who is not a party or
1768 suspect to the subject of interception:

1769 (a) Shall give notice and an opportunity to be heard on
1770 the matter of suppression of references to that person if
1771 identification is sufficient so as to give notice; or

1772 (b) Shall suppress references to that person if
1773 identification is sufficient to potentially cause embarrassment or
1774 harm which outweighs the probative value, if any, of the mention
1775 of such person, but insufficient to require the notice provided
1776 for in paragraph (a) of this subsection.

1777 **SECTION 37.** (1) Within thirty (30) days after the date an
1778 order or the last extension, if any, expires or after the denial
1779 of an order, the issuing or denying judge shall report to the
1780 Administrative Office of the United States Courts:

1781 (a) The fact that an order or extension was applied
1782 for;

1783 (b) The kind of order or extension applied for;

1784 (c) The fact that the order or extension was granted as
1785 applied for, was modified or was denied;



1786 (d) The period of interceptions authorized by the order
1787 and the number and duration of any extensions of the order;

1788 (e) The offense specified in the order or application
1789 or extension;

1790 (f) The identity of the officer making the request and
1791 the prosecutor making the application; and

1792 (g) The nature of the facilities from which or the
1793 place where communications were to be intercepted.

1794 (2) In January of each year each prosecutor shall report to
1795 the Administrative Office of the United States Courts the
1796 following information for the preceding calendar year:

1797 (a) The information required by subsection (1) of this
1798 section with respect to each application for an order or extension
1799 made;

1800 (b) A general description of the interceptions made
1801 under each order or extension, including the approximate nature
1802 and frequency of incriminating communications intercepted, the
1803 approximate nature and frequency of order communications
1804 intercepted, the approximate number of persons whose
1805 communications were intercepted, and the approximate nature,
1806 amount and cost of the manpower and other resources used in the
1807 interceptions;

1808 (c) The number of arrests resulting from interceptions
1809 made under each order or extension and the offenses for which
1810 arrests were made;



1811 (d) The number of trials resulting from interceptions;
1812 (e) The number of motions to suppress made with respect
1813 to interceptions and the number granted or denied;
1814 (f) The number of convictions resulting from
1815 interceptions, the offenses for which the convictions were
1816 obtained, and a general assessment of the importance of the
1817 interceptions; and
1818 (g) The information required by paragraphs (b) through
1819 (f) of this subsection with respect to orders or extensions
1820 obtained.
1821 (3) Any judge or prosecutor required to file a report with
1822 the Administrative Office of the United States Courts shall
1823 forward a copy of such report to the director. On or before
1824 January 5 of each year the director shall submit to the
1825 Mississippi Administrative Office of Courts a report of all
1826 intercepts, as defined in this subsection and as required by
1827 federal law which relates to statistical data only, conducted
1828 pursuant to this article and terminated during the preceding
1829 calendar year. Such report shall include:
1830 (a) The report of judges and prosecuting attorneys
1831 forwarded to the director as required by this section;
1832 (b) The number of Bureau of Investigation personnel
1833 authorized to possess, install or operate electronic, mechanical
1834 or other devices;



1835 (c) The number of Bureau of Investigation and other law
1836 enforcement personnel who participated or engaged in the seizure
1837 of intercepts pursuant to this article during the preceding
1838 calendar year; and

1839 (d) The total cost to the Bureau of Investigation of
1840 all activities and procedures relating to the seizure of
1841 intercepts during the preceding calendar year, including costs of
1842 equipment, manpower and expenses incurred as compensation for use
1843 of facilities or technical assistance provided by the bureau.

1844 **SECTION 38.** (1) A person whose wire, oral or other
1845 communication is intercepted, disclosed or used in violation of
1846 this article shall have a civil cause of action against any person
1847 who intercepts, discloses or uses or procures another person to
1848 intercept, disclose or use the communication, and is entitled to
1849 recover from the person:

1850 (a) Actual damages but not less than liquidated damages
1851 computed at a rate of One Hundred Dollars (\$100.00) a day for each
1852 day of violation or One Thousand Dollars (\$1,000.00), whichever is
1853 higher;

1854 (b) Punitive damages; and

1855 (c) A reasonable attorney's fee and other litigation
1856 costs reasonably incurred.

1857 (2) A good faith reliance on a court order is a complete
1858 defense to any civil or criminal action brought under this
1859 article.



1860 **SECTION 39.** This act shall not apply to:

1861 (a) An operator of a switchboard, or an officer,
1862 employee or agent of a communication common carrier whose
1863 facilities are used in the transmission of a wire communication,
1864 intercepts a communication, or who discloses or uses an
1865 intercepted communication in the normal course of employment while
1866 engaged in an activity that is a necessary incident to the
1867 rendition of service or to the protection of the rights or
1868 property of the carrier of the communication;

1869 (b) An officer, employee or agent of a communication
1870 common carrier who employs or uses any equipment or device which
1871 may be attached to any telephonic equipment of any subscriber
1872 which permits the interception and recording of any telephonic
1873 communications solely for the purposes of business service
1874 improvements;

1875 (c) An officer, employee or agent of a communication
1876 common carrier who provides information, facilities or technical
1877 assistance to an investigative or law enforcement officer who is
1878 authorized as provided by this article to intercept a wire, oral
1879 or other communication;

1880 (d) A person acting under color of law who intercepts a
1881 wire, oral or other communication if the person is a party to the
1882 communication, or if one (1) of the parties to the communication
1883 has given prior consent to the interception; or



1884 (e) A person not acting under color of law who
1885 intercepts a wire, oral or other communication if the person is a
1886 party to the communication, or if one (1) of the parties to the
1887 communication has given prior consent to the interception unless
1888 the communication is intercepted for the purpose of committing any
1889 criminal or tortious act in violation of the Constitution or laws
1890 of the United States or of this state, or for the purpose of
1891 committing any other injurious act.

1892 **SECTION 40.** (1) Any person who knowingly and intentionally
1893 possesses, installs, operates or monitors an electronic,
1894 mechanical or other device in violation of this article shall be
1895 guilty of a misdemeanor and, upon conviction thereof, shall be
1896 sentenced to not more than one (1) year in the county jail or
1897 fined not more than Ten Thousand Dollars (\$10,000.00), or both.

1898 (2) Any person who violates the provisions of Section 30 of
1899 this act shall be guilty of a felony and, upon conviction thereof,
1900 shall be sentenced to not more than five (5) years in the State
1901 Penitentiary and fined not more than Ten Thousand Dollars
1902 (\$10,000.00).

1903 **SECTION 41.** This act shall not apply to a person who is a
1904 subscriber to a telephone operated by a communication common
1905 carrier and who intercepts a communication on a telephone to which
1906 he subscribes. This article shall not apply to persons who are
1907 members of the household of the subscriber who intercept
1908 communications on a telephone in the home of the subscriber.



1909 **SECTION 42.** Section 41-29-513, Mississippi Code of 1972, is
1910 brought forward as follows:

1911 41-29-513. (1) To be valid, an application for an order
1912 authorizing the interception of a wire, oral or other
1913 communication must be made in writing under oath to a judge of
1914 competent jurisdiction in the circuit court district of the
1915 location where the interception of wire, oral or other
1916 communications is sought, or a circuit court district contiguous
1917 to such circuit court district, and must state the applicant's
1918 authority to make the application. An applicant must include the
1919 following information in the application:

1920 (a) A statement that the application has been requested
1921 by the director and the identity of the prosecutor making the
1922 application;

1923 (b) A full and complete statement of the facts and
1924 circumstances relied on by the applicant to justify his belief
1925 that an order should be issued including:

1926 (i) Details about the particular offense that has
1927 been, is being, or is about to be committed;

1928 (ii) A particular description of the nature and
1929 location of the facilities from which or the place where the
1930 communication is to be intercepted;

1931 (iii) A particular description of the type of
1932 communication sought to be intercepted; and



1933 (iv) The identity of the person, if known,
1934 committing the offense and whose communications are to be
1935 intercepted;

1936 (c) A full and complete statement as to whether or not
1937 other investigative procedures have been tried and failed or why
1938 they reasonably appear to be unlikely to succeed or to be too
1939 dangerous if tried;

1940 (d) A statement of the period of time for which the
1941 interception is required to be maintained and, if the nature of
1942 the investigation is such that the authorization for interception
1943 should not automatically terminate when the described type of
1944 communication is first obtained, a particular description of the
1945 facts establishing probable cause to believe that additional
1946 communications of the same type will occur after the described
1947 type of communication is obtained;

1948 (e) A statement whether a covert entry will be
1949 necessary to properly and safely install the wiretapping or
1950 electronic surveillance or eavesdropping equipment and, if a
1951 covert entry is requested, a statement as to why such an entry is
1952 necessary and proper under the facts of the particular
1953 investigation, including a full and complete statement as to
1954 whether other investigative techniques have been tried and have
1955 failed or why they reasonably appear to be unlikely to succeed or
1956 to be too dangerous if tried or are not feasible under the
1957 circumstances or exigencies of time;



1958 (f) A full and complete statement of the facts
1959 concerning all applications known to the prosecutor making the
1960 application that have been previously made to a judge for
1961 authorization to intercept wire, oral or other communications
1962 involving any of the persons, facilities or places specified in
1963 the application and of the action taken by the judge on each
1964 application; and

1965 (g) If the application is for the extension of an
1966 order, a statement setting forth the results already obtained from
1967 the interception or a reasonable explanation of the failure to
1968 obtain results.

1969 (2) The judge may, in an ex parte in camera hearing, require
1970 additional testimony or documentary evidence in support of the
1971 application, and such testimony or documentary evidence shall be
1972 preserved as part of the application.

1973 **SECTION 43.** Section 7-7-73, Mississippi Code of 1972, which
1974 requires the State Auditor to notify the Governor and the proper
1975 district attorney of any reasonable belief that a public officer
1976 or employee has embezzled any public funds, requires his
1977 attendance at trial as the state's witness, is repealed.

1978 **SECTION 44.** Sections 7-7-69 through 7-7-225, Mississippi
1979 Code of 1972, together with Sections 25 through 27 and Sections 30
1980 through 41 of this act, may be cited and shall be known as the
1981 "Mississippi Public Corruption Act."



1982 **SECTION 45.** This act shall take effect and be in force from
1983 and after July 1, 2016.

