

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2445  
(As Passed the Senate)

1 AN ACT TO REQUIRE THE COMMISSIONER OF REVENUE TO DEVELOP AND  
2 OPERATE AN AUTOMATED DATA MATCH SYSTEM FOR THE PURPOSE OF  
3 IDENTIFYING AND SEIZING THE ASSETS HELD BY FINANCIAL INSTITUTIONS  
4 OF PERSONS AGAINST WHOM A JUDGMENT FOR A FINALLY DETERMINED TAX  
5 LIABILITY HAS BEEN ENROLLED IN THE UNIFORM STATE TAX LIEN  
6 REGISTRY; TO PROVIDE THAT CERTAIN INFORMATION MAY BE PROVIDED TO  
7 FINANCIAL INSTITUTIONS TO IDENTIFY OBLIGORS; TO REQUIRE FINANCIAL  
8 INSTITUTIONS AGREEING TO USE THE DATA MATCH SYSTEM TO TAKE CERTAIN  
9 ACTIONS UPON RECEIPT OF SUCH INFORMATION; TO PROVIDE PROCEDURES  
10 FOR SERVING A LEVY TO THE FINANCIAL INSTITUTION IF THE  
11 COMMISSIONER OF REVENUE DETERMINES IT IS APPROPRIATE; TO PROVIDE  
12 THAT THE INFORMATION PROVIDED TO THE FINANCIAL INSTITUTION SHALL  
13 NOT BE DISCLOSED TO ANYONE EXCEPT AS AUTHORIZED UNDER THIS ACT; TO  
14 PROVIDE THAT A FINANCIAL INSTITUTION SHALL BE IMMUNE FROM ANY  
15 LIABILITY FOR DISCLOSURE OF ANY INFORMATION AS AUTHORIZED UNDER  
16 THIS ACT OR FOR THE SURRENDER OF ANY ASSETS AS AUTHORIZED UNDER  
17 THIS ACT; TO PROVIDE THAT A FINANCIAL INSTITUTION SHALL NOT BE  
18 LIABLE FOR AN ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE  
19 REQUIREMENTS OF THIS ACT; TO AMEND SECTIONS 27-3-33, 27-3-73,  
20 27-7-83, 27-13-57 AND 27-65-81, MISSISSIPPI CODE OF 1972, IN  
21 CONFORMITY THERETO; TO AMEND SECTION 11-35-23, MISSISSIPPI CODE OF  
22 1972, TO PROVIDE THAT IF A GARNISHEE IS A BANK OR OTHER FINANCIAL  
23 INSTITUTION AND ITS INDEBTEDNESS TO THE DEFENDANT CONSISTS OF  
24 FUNDS ON DEPOSIT WITH SUCH INSTITUTION AT THE TIME OF SERVICE OF  
25 THE WRIT OF GARNISHMENT, THEN THE GARNISHEE SHALL BE HELD TO  
26 ACCOUNT FOR ONLY SUCH FUNDS ON DEPOSIT BETWEEN THE TIME OF SERVICE  
27 OF THE WRIT AND THE TIME OF SERVICE OF ITS ANSWER TO THE WRIT AND  
28 THE GARNISHEE SHALL HAVE NO OBLIGATION TO ACCOUNT FOR ADDITIONAL  
29 DEPOSITS AFTER THE TIME OF SERVICE OF THE ANSWER; TO PROVIDE THAT  
30 THE FINANCIAL INSTITUTION MAY SUBMIT ITS ANSWER AT ANYTIME WITHIN  
31 THE 30 DAYS ALLOWED FOR RESPONSE; TO AMEND SECTION 11-35-27,  
32 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
33 PURPOSES.



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

35 **SECTION 1.** As used in this act:

36 (a) "Commissioner" means the Commissioner of Revenue of  
37 the Mississippi Department of Revenue.

38 (b) "Department" means the Mississippi Department of  
39 Revenue.

40 (c) "Finally determined tax liabilities" means any  
41 state tax, fee, penalty, and/or interest owed by a person to the  
42 department where the assessment of the liability is not subject to  
43 any further timely filed administrative or judicial review.

44 (d) "Person" means a natural person, partnership,  
45 limited partnership, corporation, limited liability company,  
46 estate, trust, association, joint venture, other legal entity or  
47 other group or combination acting as a unit, and includes the  
48 plural as well as the singular in number.

49 (e) "Financial institution" means a bank, trust  
50 company, mutual savings bank, savings and loan association or  
51 credit union authorized to do business and accept deposits in this  
52 state under state or federal law.

53 (f) "Account" means any money held in the name of an  
54 account owner, individually or jointly with another, including,  
55 but not limited to, a deposit account, demand account, savings  
56 account, negotiable order of withdrawal account, share account,  
57 member account, time certificate of deposit, or money market  
58 account. "Account" shall not include money held by a financial



59 institution where the obligor is listed in a capacity other than  
60 the owner, including, but not limited to, an authorized signer  
61 only, custodian, payable on death beneficiary or agent.

62 (g) "Obligor" means any person against whom a tax  
63 judgment for a finally determined tax liability has been enrolled  
64 in the Uniform State Tax Lien Registry for which collection of the  
65 tax debt is enforceable as provided by law.

66 (h) "Levy" means a Distress Warrant for the Levy Of  
67 Monies Owed To Taxpayer(s) which is an instrument of the  
68 commissioner that bind monies held by the garnishee and owed to  
69 the obligor.

70 (i) "Identifying information" means an obligor's social  
71 security number or federal tax identification number.

72 **SECTION 2.** (1) The commissioner shall develop, maintain and  
73 operate an automated data match system for the purpose of  
74 identifying and seizing the financial assets of obligors as  
75 identified by the department.

76 (2) The commissioner may provide financial institutions a  
77 quarterly, electronic inquiry file containing names and  
78 identifying information of obligors. Within thirty (30) days of  
79 receipt of the inquiry file, the financial institution agreeing to  
80 use the data match system shall match the file against its own  
81 records for the purpose of identifying whether an account for an  
82 obligor is held by the financial institution and notify the  
83 department of its findings. When a match is identified, the



84 financial institution shall provide the department the names and  
85 identifying numbers on record for the accounts, account numbers,  
86 and the account balances as of the date of response back to the  
87 department.

88 (3) A financial institution may request an extension of time  
89 to file the information required. Extensions of time are not  
90 automatically granted and the reporting institution must  
91 demonstrate good cause for requesting the extension. An extension  
92 of time for filing the required information may be granted if the  
93 request for extension is filed with the commissioner by the date  
94 on which the reports are due.

95 (4) Upon receiving the information from the financial  
96 institution and pursuant to the provisions of Section 27-3-33, the  
97 commissioner shall review such account information to determine if  
98 the department should serve a levy to the financial institution.  
99 The levy shall be served either by mail or by delivery by an agent  
100 of the commissioner. Not more than twenty-five (25) levies per  
101 day shall be served on a financial institution that participated  
102 in the data match system. The levy shall require the financial  
103 institution to encumber or surrender assets held by the  
104 institution on behalf of the obligor. For a financial institution  
105 participating in the data match program, the answer shall be made  
106 at any time within thirty (30) days after the service of the levy  
107 in the form and manner determined by the commissioner. Any amount



108 encumbered and forwarded by the financial institution under this  
109 act shall not exceed the amount of the warrant.

110 (5) The financial institution agreeing to use the data match  
111 system shall be held to account for only the funds on deposit  
112 between the time of service of the levy and the time of its  
113 answer, and shall have no obligation to account for additional  
114 deposits accruing after the time of its answer to the department.  
115 The financial institution may serve its answer within a reasonable  
116 time not to exceed thirty (30) days and shall not be held to  
117 account for any indebtedness that arises subsequent to service of  
118 its answer or property that may come into its hands subsequent to  
119 the service of the levy.

120 (6) The commissioner may develop and provide a system  
121 wherein the levy may be delivered and responded to electronically  
122 by a financial institution, and the response may include, but  
123 shall not require, the electronic transfer of funds.

124 (7) The commissioner shall adopt a regulation establishing  
125 the procedures and requirements for conducting automated data  
126 matches with financial institutions pursuant to this act as soon  
127 as practicable after July 1, 2017.

128 **SECTION 3.** (1) If a financial institution has a current  
129 data match system used in compliance with the child support data  
130 match system provided for in Section 43-19-48, the financial  
131 institution may use that system to comply with the provisions of  
132 this act. The department shall not require a financial



133 institution to change the file format established with the  
134 Department of Human Services in order to comply with this act.

135 (2) A financial institution, including its directors,  
136 officers, employees, attorneys, accountants or other agents, is  
137 immune from any liability under any law or regulation to any  
138 person for the disclosure of information pursuant to this act and  
139 for the encumbrance, seizure, or surrender of any assets held by  
140 the financial institution in response to a levy issued by the  
141 department. A financial institution is not liable for any action  
142 taken in good faith to comply with the requirements of this  
143 section

144 (3) Except as otherwise provided in this subsection, a  
145 financial institution furnishing a report or providing information  
146 to the commissioner is prohibited from disclosing to a depositor  
147 or an account holder that the name of the person has been received  
148 from or furnished to the commissioner; however, financial  
149 institutions may, but are not required to, disclose to their  
150 depositors or account holders that the department has the  
151 authority to request and receive certain identifying information  
152 provided for under this act for state tax collection purposes.  
153 Financial institutions may, but are not required to, notify a  
154 depositor or account holder of the receipt of a levy and  
155 imposition of a hold on the depositor's or holder's account.

156 (4) An authorized agent transmitting data electronically on  
157 behalf of financial institutions is subject to the same terms,



158 conditions, and confidentiality provisions that apply to such  
159 institutions, as set forth in this act.

160 (5) If a financial institution or any employee of the  
161 financial institution willfully violates the provisions of this  
162 act, the financial institution is liable for the lesser of the  
163 amount in the account of the depositor or account holder on the  
164 date of submittal of the answer by the financial institution or  
165 the dollar amount listed on the levy.

166 (6) A financial institution may not disclose any information  
167 contained in a request for information by the commissioner except  
168 to authorized employees, agents or attorneys of the financial  
169 institution engaged in complying with the reporting requirements  
170 of this act or to authorized employees of the department.

171 Employees of the financial institution may use the information  
172 only as required in performing their duties and may not otherwise  
173 copy, reproduce, retain, or store any information except as  
174 instructed in writing by the commissioner. Any electronic media  
175 files or other information acquired by the financial institutions  
176 from the commissioner will remain the property of the department  
177 and must be returned to the commissioner at the time the  
178 information reports are due, or at any other time designated by  
179 the commissioner.

180 (7) The department and the financial institution shall not  
181 be liable for any applicable early withdrawal penalties and/or any  
182 nonsufficient funds (NSF) fees on the obligor's account(s).



183 (8) Notwithstanding any other law or rule to the contrary,  
184 the financial institution participating in the data match system  
185 may recover the costs associated with responding to a levy served  
186 upon it from the account of the depositor, per contractual  
187 agreement, and shall deduct this amount from the account of the  
188 depositor prior to transfer to the department.

189 (9) To support a data match, the department may disclose  
190 certain information relating to taxpayers against whom the  
191 department has filed a lien. The information includes the name  
192 and address of the taxpayer, the amount of the lien, and the  
193 person's identification numbers, including the social security  
194 number and/or the Employers Identification Number (EIN).

195 (10) The department may use the information received from a  
196 financial institution under this act only for the purpose of  
197 enforcing the collection of taxes, fees, penalties and/or interest  
198 administered by the department. The department shall keep all  
199 information received from the financial institutions pursuant to  
200 this act confidential, and any employee, agent, or representative  
201 of the department is prohibited from disclosing that information  
202 to any other third party.

203 **SECTION 4.** Section 27-3-33, Mississippi Code of 1972, is  
204 amended as follows:

205 27-3-33. (1) The Commissioner of Revenue shall have the  
206 power, authority and duty to direct that proceedings, actions and  
207 prosecutions be instituted to enforce the laws relating to the





208 penalties, liabilities, and punishment of all persons, officers or  
209 agents or corporations, or others required by law to make returns  
210 of taxable property, for failure or neglect to comply with such  
211 provisions of the tax law; and to cause complaints to be made  
212 against assessors, boards of supervisors, and other officers,  
213 whose duties concern assessments, in any court of competent  
214 jurisdiction for their removal for official misconduct or neglect  
215 of such duty, as provided by law in such cases.

216 (2) The Commissioner of Revenue shall have the power,  
217 authority and duty to proceed by suit in the chancery court of the  
218 residence of the taxpayer or, in the case of a nonresident, in the  
219 Chancery Court of the First Judicial District of Hinds County,  
220 against all persons, corporations, companies and associations of  
221 persons for all past due and unpaid taxes, together with any  
222 penalties, damages and interest due thereon, of any kind whatever,  
223 either of the state or any county, municipality, drainage, levee,  
224 or other taxing district, or any subdivision thereof, and for all  
225 past due obligations and indebtedness of any character due and  
226 owing to them or any of them; but not, however, including  
227 penalties for the violation of the antitrust laws; and, provided  
228 that the duty and obligation of the Commissioner of Revenue  
229 hereunder accrues only at such time as the tax collector of the  
230 county, municipality, drainage, levee, or other taxing district,  
231 or any subdivision thereof, primarily responsible for the



232 collection of taxes for the district has exhausted all legal  
233 remedies provided by the laws of this state.

234 (3) All suits by the Commissioner of Revenue under the  
235 provisions of this section, or under the provisions of Section  
236 27-3-37 or Section 27-3-39, shall be in his official capacity for  
237 the use of the state, county, municipality, levee board or other  
238 taxing district interested; and he shall not be liable for costs,  
239 and may appeal without bond. Such suits may be tried at the  
240 return term and shall take precedence over other suits.

241 (4) All warrants issued by the Commissioner of Revenue for  
242 the collection of any taxes imposed by statute and collected by  
243 the Department of Revenue shall be used to levy on salaries,  
244 compensation or other monies due the delinquent taxpayer. The  
245 warrants shall be served by mail or by delivery by an agent of the  
246 Department of Revenue on the person or entity responsible or  
247 liable for the payment of the monies to the delinquent taxpayer.  
248 Once served, the employer or other person owing compensation due  
249 the delinquent taxpayer shall pay the monies over to the  
250 Department of Revenue in complete or partial satisfaction of the  
251 tax liability. Except as otherwise provided in Section 2 of this  
252 act, an answer shall be made within thirty (30) days after service  
253 of the warrant in the form and manner determined satisfactory by  
254 the commissioner. Failure to pay the money over to the Department  
255 of Revenue as required by this section shall result in the served  
256 party being personally liable for the full amount of the monies



257 owed and the levy and collection process may be issued against the  
258 party in the same manner as other taxes. Except as otherwise  
259 provided by this section, the answer, the amount payable under the  
260 warrant and the obligation of the payor to continue payment shall  
261 be governed by the garnishment laws of this state but shall be  
262 payable to the Department of Revenue.

263 **SECTION 5.** Section 27-3-73, Mississippi Code of 1972, is  
264 amended as follows:

265 27-3-73. (1) Except in accordance with proper judicial  
266 order or as otherwise provided in this section or as authorized in  
267 Section 27-4-3, it shall be unlawful for the Commissioner of  
268 Revenue, or any deputy, agent, clerk or other officer or employee  
269 of the Department of Revenue, to divulge or make known in any  
270 manner the amount of income or any particulars set forth or  
271 disclosed in any report or return required on any taxes collected  
272 by reports received by the Department of Revenue. This provision  
273 relates to all taxes collected by the Department of Revenue and  
274 not referred to in Sections 27-7-83, 27-13-57 and 27-65-81,  
275 requiring confidentiality of income tax, franchise tax and sales  
276 tax returns. All system edits, thresholds, and any other  
277 automated system calculations used by the Department of Revenue in  
278 the processing of returns or statistics or used to determine the  
279 correct tax due for all taxes administered by the department shall  
280 be considered confidential information and may not be divulged or  
281 made known. Nothing in this section shall be construed to



282 prohibit the publication of statistics, so classified as to  
283 prevent the identification of particular reports or returns and  
284 the items thereof, or the inspection by the Attorney General, or  
285 any other attorney representing the state, of the report or return  
286 of any taxpayer who shall bring action to set aside the tax  
287 thereon, or against whom an action or proceeding has been  
288 instituted to recover any tax or penalty imposed. Additionally,  
289 nothing in this section shall prohibit the Commissioner of Revenue  
290 from making available information necessary to recover taxes owing  
291 the state pursuant to the authority granted in Section 27-75-16.

292       The term "proper judicial order" as used in this section  
293 shall not include subpoenas or subpoenas duces tecum but shall  
294 include only those orders entered by a court of record in this  
295 state after furnishing notice and a hearing to the taxpayer and  
296 the Department of Revenue. The court shall not authorize the  
297 furnishing of such information unless it is satisfied that the  
298 information is needed to pursue pending litigation wherein the  
299 return itself is in issue, or the judge is satisfied that the need  
300 for furnishing the information outweighs the rights of the  
301 taxpayer to have such information secreted.

302       However, information relating to possible tax liability to  
303 other states or the federal government may be furnished to the  
304 revenue departments of those states or the federal government when  
305 the states or federal government grant a like comity to  
306 Mississippi.



307           (2) The State Auditor and the employees of his office shall  
308 have the right to examine only such tax returns as are necessary  
309 for auditing the Department of Revenue, and the same prohibitions  
310 against disclosure which apply to the Department of Revenue shall  
311 apply to the State Auditor and his office.

312           (3) Officers and employees of the Mississippi Development  
313 Authority who execute a confidentiality agreement with the  
314 Department of Revenue shall be authorized to discuss and examine  
315 information to which this section applies at the offices of the  
316 Mississippi Department of Revenue. This disclosure is limited to  
317 information necessary to properly administer the programs under  
318 the jurisdiction of the Mississippi Development Authority. The  
319 Department of Revenue is authorized to disclose to officers and  
320 employees of the Mississippi Development Authority who execute a  
321 confidentiality agreement the information necessary under the  
322 circumstances. The same prohibitions against disclosure which  
323 apply to the Department of Revenue shall apply to the officers or  
324 employees of the Mississippi Development Authority.

325           (4) Information required by the University Research Center  
326 to prepare the analyses required by Sections 57-13-101 through  
327 57-13-109 shall be furnished to the University Research Center  
328 upon request. It shall be unlawful for any officer or employee of  
329 the University Research Center to divulge or make known in any  
330 manner the amount of income or any particulars set forth or  
331 disclosed in any information received by the center from the



332 Department of Revenue other than as may be required by Sections  
333 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
334 Sections 57-13-101 through 57-13-109.

335 (5) Information required by the Mississippi Development  
336 Authority to prepare the reports required by Section 57-1-12.2  
337 shall be furnished to the Mississippi Development Authority upon  
338 request. It shall be unlawful for any officer or employee of the  
339 Mississippi Development Authority to divulge or make known in any  
340 manner the amount of income or any particulars set forth or  
341 disclosed in any information received by the Mississippi  
342 Development Authority from the Department of Revenue other than as  
343 may be required by Section 57-1-12.2 in a report prepared pursuant  
344 to Section 57-1-12.2.

345 (6) Information necessary to comply with Sections 1 through  
346 3 of this act may be furnished to financial institutions. It  
347 shall be unlawful for any officer or employee of the financial  
348 institution to divulge or make known in any manner the amount of  
349 income or any particulars set forth or disclosed in any  
350 information received by the financial institution from the  
351 Department of Revenue other than as may be authorized by Sections  
352 1 through 3 of this act.

353 ( \* \* \*7) Any person who violates the provisions of this  
354 section shall be guilty of a misdemeanor and, on conviction  
355 thereof, shall be fined not more than One Thousand Dollars



356 (\$1,000.00) or imprisoned not more than six (6) months in the  
357 county jail, or both.

358 ( \* \* \*8) The Commissioner of Revenue and the Department of  
359 Revenue are authorized to disclose to the Child Support Unit and  
360 to the Fraud Investigation Unit of the Department of Human  
361 Services without the need for a subpoena or proper judicial order  
362 the name, address, social security number, amount of income,  
363 amount of sales tax, source of income, assets and other relevant  
364 information, records and tax forms for individuals who are  
365 delinquent in the payment of any child support as defined in  
366 Section 93-11-101 or who are under investigation for fraud or  
367 abuse of any state or federal program or statute as provided in  
368 Section 43-1-23.

369 **SECTION 6.** Section 27-7-83, Mississippi Code of 1972, is  
370 amended as follows:

371 27-7-83. (1) Returns and return information filed or  
372 furnished under the provisions of this chapter shall be  
373 confidential, and except in accordance with proper judicial order,  
374 as otherwise authorized by this section or as authorized in  
375 Section 27-4-3, it shall be unlawful for the Commissioner of  
376 Revenue or any deputy, agent, clerk or other officer or employee  
377 of the Department of Revenue or the Mississippi Department of  
378 Information Technology Services, or any former employee thereof,  
379 to divulge or make known in any manner the amount of income or any  
380 particulars set forth or disclosed in any report or return



381 required. The provisions of this section shall apply fully to any  
382 federal return, a copy of any portion of a federal return, or any  
383 information reflected on a federal return which is attached to or  
384 made a part of the state tax return. Likewise, the provisions of  
385 this section shall apply to any federal return or portion thereof,  
386 or to any federal return information data which is acquired from  
387 the Internal Revenue Service for state tax administration purposes  
388 pursuant to the Federal-State Exchange Program cited at Section  
389 6103, Federal Internal Revenue Code. The term "proper judicial  
390 order" as used in this section shall not include subpoenas or  
391 subpoenas duces tecum, but shall include only those orders entered  
392 by a court of record in this state after furnishing notice and a  
393 hearing to the taxpayer and the Department of Revenue. The court  
394 shall not authorize the furnishing of such information unless it  
395 is satisfied that the information is needed to pursue pending  
396 litigation wherein the return itself is in issue, or the judge is  
397 satisfied that the need for furnishing the information outweighs  
398 the rights of the taxpayer to have such information secreted.

399 (2) Returns and return information with respect to taxes  
400 imposed by this chapter shall be open to inspection by or  
401 disclosure to the Commissioner of the Internal Revenue Service of  
402 the United States, or the proper officer of any state imposing an  
403 income tax similar to that imposed by this chapter, or the  
404 authorized representatives of such agencies. Such inspection  
405 shall be permitted, or such disclosure made, only upon written





406 request by the head of such agencies, or the district director in  
407 the case of the Internal Revenue Service, and only to the  
408 representatives of such agencies designated in a written statement  
409 to the Commissioner of Revenue as the individuals who are to  
410 inspect or to receive the return or return information on behalf  
411 of such agency. The Commissioner of Revenue is authorized to  
412 enter into agreements with the Internal Revenue Service and with  
413 other states for the exchange of returns and return information  
414 data, or the disclosure of returns or return information data to  
415 such agencies, only to the extent that the statutes of the United  
416 States or of such other state, as the case may be, grant  
417 substantially similar privileges to the proper officer of this  
418 state charged with the administration of the tax laws of this  
419 state.

420 (3) (a) The return of a person shall, upon written request,  
421 be open to inspection by or disclosure to:

422 (i) In the case of the return of an individual,  
423 that individual;

424 (ii) In the case of an income tax return filed  
425 jointly, either of the individuals with respect to whom the return  
426 is filed;

427 (iii) In the case of the return of a partnership,  
428 any person who was a member of such partnership during any part of  
429 the period covered by the return;



430 (iv) In the case of the return of a corporation or  
431 a subsidiary thereof, any person designated by resolution of its  
432 board of directors or other similar governing body, or any officer  
433 or employee of such corporation upon written request signed by any  
434 principal officer and attested to by the secretary or other  
435 officer;

436 (v) In the case of the return of an estate, the  
437 administrator, executor or trustee of such estate, and any heir at  
438 law, next of kin or beneficiary under the will, of the decedent,  
439 but only to the extent that such latter persons have a material  
440 interest which will be affected by information contained therein;

441 (vi) In the case of the return of a trust, the  
442 trustee or trustees, jointly or separately, and any beneficiary of  
443 such trust, but only to the extent that such beneficiary has a  
444 material interest which will be affected by information contained  
445 therein;

446 (vii) In the case of the return of an individual  
447 or a return filed jointly, any claimant agency seeking to collect  
448 a debt through the setoff procedure established in Sections  
449 27-7-701 through 27-7-713 and Sections 27-7-501 through 27-7-519,  
450 from an individual with respect to whom the return is filed.

451 (b) If an individual described in paragraph (a) is  
452 legally incompetent, the applicable return shall, upon written  
453 request, be open to inspection by or disclosure to the committee,  
454 trustee or guardian of his estate.



455           (c) If substantially all of the property of the person  
456 with respect to whom the return is filed is in the hands of a  
457 trustee in bankruptcy or receiver, such return or returns for  
458 prior years of such person shall, upon written request, be open to  
459 inspection by or disclosure to such trustee or receiver, but only  
460 if the Commissioner of Revenue finds that such receiver or  
461 trustee, in his fiduciary capacity, has a material interest which  
462 will be affected by information contained therein.

463           (d) Any return to which this section applies shall,  
464 upon written request, also be open to inspection by or disclosure  
465 to the attorney-in-fact duly authorized in writing by any of the  
466 persons described in paragraph (a) of this subsection to inspect  
467 the return or receive the information on his behalf, subject to  
468 the conditions provided in paragraph (a).

469           (e) Return information with respect to any taxpayer may  
470 be open to inspection by or disclosure to any person authorized by  
471 this subsection to inspect any return of such taxpayer if the  
472 Commissioner of Revenue determines that such disclosure would not  
473 seriously impair state tax administration.

474           (4) The State Auditor and the employees of his office shall  
475 have the right to examine only such tax returns as are necessary  
476 for auditing the Department of Revenue, and the same prohibitions  
477 against disclosure which apply to the Department of Revenue shall  
478 apply to the State Auditor and his employees or former employees.



479           (5) Officers and employees of the Mississippi Development  
480 Authority who execute a confidentiality agreement with the  
481 Department of Revenue shall be authorized to discuss and examine  
482 information to which this section applies at the offices of the  
483 Mississippi Department of Revenue. This disclosure is limited to  
484 information necessary to properly administer the programs under  
485 the jurisdiction of the Mississippi Development Authority. The  
486 Department of Revenue is authorized to disclose to officers and  
487 employees of the Mississippi Development Authority who execute a  
488 confidentiality agreement the information necessary under the  
489 circumstances. The same prohibitions against disclosure which  
490 apply to the Department of Revenue shall apply to the officers or  
491 employees of the Mississippi Development Authority.

492           (6) Information required by the University Research Center  
493 to prepare the analyses required by Sections 57-13-101 through  
494 57-13-109 shall be furnished to the University Research Center  
495 upon request. It shall be unlawful for any officer or employee of  
496 the University Research Center to divulge or make known in any  
497 manner the amount of income or any particulars set forth or  
498 disclosed in any information received by the center from the  
499 Department of Revenue other than as may be required by Sections  
500 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
501 Sections 57-13-101 through 57-13-109.

502           (7) Information required by the Mississippi Development  
503 Authority to prepare the reports required by Section 57-1-12.2



504 shall be furnished to the Mississippi Development Authority upon  
505 request. It shall be unlawful for any officer or employee of the  
506 Mississippi Development Authority to divulge or make known in any  
507 manner the amount of income or any particulars set forth or  
508 disclosed in any information received by the Mississippi  
509 Development Authority from the Department of Revenue other than as  
510 may be required by Section 57-1-12.2 in a report prepared pursuant  
511 to Section 57-1-12.2.

512       (8) Information necessary to comply with Sections 1 through  
513 3 of this act may be furnished to financial institutions. It  
514 shall be unlawful for any officer or employee of the financial  
515 institution to divulge or make known in any manner the amount of  
516 income or any particulars set forth or disclosed in any  
517 information received by the financial institution from the  
518 Department of Revenue other than as may be authorized by Sections  
519 1 through 3 of this act.

520       ( \* \* \*9) Nothing in this section shall be construed to  
521 prohibit the publication of statistics, so classified as to  
522 prevent the identification of particular reports or returns and  
523 the items thereof, or the inspection by the Attorney General, or  
524 any other attorney representing the state, of the report or return  
525 of any taxpayer who shall bring action to set aside the tax  
526 thereon, or against whom any action or proceeding has been  
527 instituted to recover any tax or penalty imposed.



528 ( \* \* \*10) Nothing in this section shall prohibit the  
529 commissioner from making available information necessary to  
530 recover taxes owing the state pursuant to the authority granted in  
531 Section 27-75-16.

532 ( \* \* \*11) Reports and returns required under the provisions  
533 of this chapter shall be preserved in accordance with approved  
534 records control schedules. No records, however, may be destroyed  
535 without the approval of the Director of the Department of Archives  
536 and History.

537 ( \* \* \*12) The Department of Revenue is authorized to  
538 disclose to the Child Support Unit and to the Fraud Investigation  
539 Unit of the Department of Human Services without the need for a  
540 subpoena or proper judicial order the name, address, social  
541 security number, amount of income, source of income, assets and  
542 other relevant information, records and tax forms for individuals  
543 who are delinquent in the payment of any child support as defined  
544 in Section 93-11-101 or who are under investigation for fraud or  
545 abuse of any state or federal program or statute as provided in  
546 Section 43-1-23.

547 ( \* \* \*13) Nothing in this section shall prohibit the  
548 Department of Revenue from exchanging information with the federal  
549 government that is necessary to offset income tax refund payment  
550 on debts owed to this state or the United States.

551 ( \* \* \*14) Nothing in this section shall prohibit the  
552 department from making available information that is necessary to



553 be disclosed for the administration and enforcement of Section  
554 27-7-87.

555         **SECTION 7.** Section 27-13-57, Mississippi Code of 1972, is  
556 amended as follows:

557         27-13-57. (1) Except in accordance with the proper judicial  
558 order, or as otherwise provided in this section or as authorized  
559 in Section 27-4-3, it shall be unlawful for the Commissioner of  
560 Revenue or any deputy, agent, clerk or other officer or employee  
561 of the Department of Revenue to divulge or make known in any  
562 manner any particulars set forth or disclosed in any report or  
563 return required under this chapter. When a combined report or  
564 return is filed as authorized by Section 27-13-17(5), each report  
565 or return which composes the combined return shall be considered  
566 separate for the purpose of any examinations authorized in this  
567 section and only particulars relating to the specific return or  
568 report set forth in the judicial order or as otherwise provided  
569 shall be considered lawfully divulged. The term "proper judicial  
570 order" as used in this section shall not include subpoenas or  
571 subpoenas duces tecum, but shall include only those orders entered  
572 by a court of record in this state after furnishing notice and a  
573 hearing to the taxpayer and the Department of Revenue. The court  
574 shall not authorize the furnishing of such information unless it  
575 is satisfied that the information is needed to pursue pending  
576 litigation wherein the return itself is in issue, or the judge is  
577 satisfied that the need for furnishing the information outweighs



578 the rights of the taxpayer to have such information secreted.  
579 Nothing in this section shall be construed to prohibit the  
580 publication of statistics, so classified as to prevent the  
581 identification of particular reports or returns and the items  
582 thereof, or the inspection by the Attorney General or any other  
583 attorney representing the state of the report or return of any  
584 taxpayer who shall bring action to set aside or review the tax  
585 based thereon, or against whom an action or proceeding has been  
586 instituted to recover any tax or penalty imposed by this chapter.  
587 Reports and returns shall be preserved in accordance with approved  
588 records control schedules. No records, however, may be destroyed  
589 without the approval of the Director of the Department of Archives  
590 and History.

591         However, information relating to possible tax liability of  
592 other states or the federal government may be furnished to the  
593 revenue department of those states or the federal government when  
594 those states or the federal government grant a like comity to  
595 Mississippi.

596         (2) The State Auditor and the employees of his office shall  
597 have the right to examine only such tax returns as are necessary  
598 for auditing the Department of Revenue, and the same prohibitions  
599 against disclosure which apply to the Department of Revenue shall  
600 apply to the State Auditor and his office.

601         (3) Officers and employees of the Mississippi Development  
602 Authority who execute a confidentiality agreement with the





603 Department of Revenue shall be authorized to discuss and examine  
604 information to which this section applies at the offices of the  
605 Mississippi Department of Revenue. This disclosure is limited to  
606 information necessary to properly administer the programs under  
607 the jurisdiction of the Mississippi Development Authority. The  
608 Department of Revenue is authorized to disclose to officers and  
609 employees of the Mississippi Development Authority who execute a  
610 confidentiality agreement the information necessary under the  
611 circumstances. The same prohibitions against disclosure which  
612 apply to the Department of Revenue shall apply to the officers or  
613 employees of the Mississippi Development Authority.

614 (4) Information required by the University Research Center  
615 to prepare the analyses required by Sections 57-13-101 through  
616 57-13-109 shall be furnished to the University Research Center  
617 upon request. It shall be unlawful for any officer or employee of  
618 the University Research Center to divulge or make known in any  
619 manner any particulars set forth or disclosed in any information  
620 received by the center from the Department of Revenue other than  
621 as may be required by Sections 57-13-101 through 57-13-109 in an  
622 analysis prepared pursuant to Sections 57-13-101 through  
623 57-13-109.

624 (5) Information required by the Mississippi Development  
625 Authority to prepare the reports required by Section 57-1-12.2  
626 shall be furnished to the Mississippi Development Authority upon  
627 request. It shall be unlawful for any officer or employee of the



628 Mississippi Development Authority to divulge or make known in any  
629 manner the amount of income or any particulars set forth or  
630 disclosed in any information received by the Mississippi  
631 Development Authority from the Department of Revenue other than as  
632 may be required by Section 57-1-12.2 in a report prepared pursuant  
633 to Section 57-1-12.2.

634       (6) Information necessary to comply with Sections 1 through  
635 3 of this act may be furnished to financial institutions. It  
636 shall be unlawful for any officer or employee of the financial  
637 institution to divulge or make known in any manner the amount of  
638 income or any particulars set forth or disclosed in any  
639 information received by the financial institution from the  
640 Department of Revenue other than as may be authorized by Sections  
641 1 through 3 of this act.

642       ( \* \* \*7) Nothing in this section shall prohibit the  
643 Commissioner of Revenue from making available information  
644 necessary to recover taxes owing the state pursuant to the  
645 authority granted in Section 27-75-16, Mississippi Code of 1972.

646       ( \* \* \*8) Any person violating the provisions of this  
647 section shall be guilty of a misdemeanor and, on conviction, shall  
648 be punished by a fine of not exceeding Five Hundred Dollars  
649 (\$500.00), or by imprisonment not exceeding one (1) year, or both,  
650 at the discretion of the court, and if the offender be an officer  
651 or employee of the state he shall be dismissed from office and be



652 incapable of holding any public office in this state for a period  
653 of five (5) years thereafter.

654         **SECTION 8.** Section 27-65-81, Mississippi Code of 1972, is  
655 amended as follows:

656         27-65-81. (1) Applications, returns and information  
657 contained therein filed or furnished under this chapter shall be  
658 confidential, and except in accordance with proper judicial order,  
659 or as otherwise authorized by this section or as authorized by  
660 Section 27-4-3, it shall be unlawful for the Commissioner of  
661 Revenue or any deputy, agent, clerk or other officer or employee  
662 of the Department of Revenue or Department of Information  
663 Technology Services, or any former employee thereof, to divulge or  
664 make known in any manner the amount of income or any particulars  
665 set forth or disclosed on any application, report or return  
666 required.

667         The term "proper judicial order" as used in this section  
668 shall not include subpoenas or subpoenas duces tecum but shall  
669 include only those orders entered by a court of record in this  
670 state after furnishing notice and a hearing to the taxpayer and  
671 the Department of Revenue. The court shall not authorize the  
672 furnishing of such information unless it is satisfied that the  
673 information is needed to pursue pending litigation wherein the  
674 return itself is in issue, or the judge is satisfied that the need  
675 for furnishing the information outweighs the rights of the  
676 taxpayer to have such information secreted.



677           (2) Such information contained on the application, returns  
678 or reports may be furnished to:

679                 (a) Members and employees of the Department of Revenue  
680 and the income tax department thereof, for the purpose of  
681 checking, comparing and correcting returns;

682                 (b) The Attorney General, or any other attorney  
683 representing the state in any action in respect to the amount of  
684 tax under the provisions of this chapter;

685                 (c) The revenue department of other states or the  
686 federal government when said states or federal government grants a  
687 like comity to Mississippi.

688           (3) The State Auditor and the employees of his office shall  
689 have the right to examine only such tax returns as are necessary  
690 for auditing the Department of Revenue, and the same prohibitions  
691 against disclosure which apply to the Department of Revenue shall  
692 apply to the State Auditor and his office.

693           (4) Officers and employees of the Mississippi Development  
694 Authority who execute a confidentiality agreement with the  
695 Department of Revenue shall be authorized to discuss and examine  
696 information to which this section applies at the offices of the  
697 Mississippi Department of Revenue. This disclosure is limited to  
698 information necessary to properly administer the programs under  
699 the jurisdiction of the Mississippi Development Authority. The  
700 Department of Revenue is authorized to disclose to officers and  
701 employees of the Mississippi Development Authority who execute a



702 confidentiality agreement the information necessary under the  
703 circumstances. The same prohibitions against disclosure which  
704 apply to the Department of Revenue shall apply to the officers or  
705 employees of the Mississippi Development Authority.

706 (5) Information required by the University Research Center  
707 to prepare the analyses required by Sections 57-13-101 through  
708 57-13-109 shall be furnished to the University Research Center  
709 upon request. It shall be unlawful for any officer or employee of  
710 the University Research Center to divulge or make known in any  
711 manner the amount of income or any particulars set forth or  
712 disclosed in any information received by the center from the  
713 Department of Revenue other than as may be required by Sections  
714 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
715 Sections 57-13-101 through 57-13-109.

716 (6) Information required by the Mississippi Development  
717 Authority to prepare the reports required by Section 57-1-12.2  
718 shall be furnished to the Mississippi Development Authority upon  
719 request. It shall be unlawful for any officer or employee of the  
720 Mississippi Development Authority to divulge or make known in any  
721 manner the amount of income or any particulars set forth or  
722 disclosed in any information received by the Mississippi  
723 Development Authority from the Department of Revenue other than as  
724 may be required by Section 57-1-12.2 in a report prepared pursuant  
725 to Section 57-1-12.2.



726           (7) Information necessary to comply with Sections 1 through  
727 3 of this act may be furnished to financial institutions. It  
728 shall be unlawful for any officer or employee of the financial  
729 institution to divulge or make known in any manner the amount of  
730 income or any particulars set forth or disclosed in any  
731 information received by the financial institution from the  
732 Department of Revenue other than as may be authorized by Sections  
733 1 through 3 of this act.

734           ( \* \* \*8) Nothing in this section shall prohibit the  
735 Commissioner of Revenue from making available information  
736 necessary to recover taxes owing the state pursuant to the  
737 authority granted in Section 27-75-16.

738           ( \* \* \*9) The Department of Revenue is authorized to  
739 disclose to the Child Support Unit and to the Fraud Investigation  
740 Unit of the Department of Human Services without the need for a  
741 subpoena or proper judicial order the name, address, social  
742 security number, amount of income, amount of sales tax, source of  
743 income, assets and other relevant information, records and tax  
744 forms for individuals who are delinquent in the payment of any  
745 child support as defined in Section 93-11-101 or who are under  
746 investigation for fraud or abuse of any state or federal program  
747 or statute as provided in Section 43-1-23.

748           **SECTION 9.** Section 81-5-55, Mississippi Code of 1972, is  
749 amended as follows:



750           81-5-55. (1) In no instance shall the name of any  
751 depositor, or the amount of his deposit, be disclosed to anyone,  
752 except to report to approved parties, such as credit bureaus,  
753 account verification services and others, the forcible closure of  
754 a deposit account due to misuse, such as fraud, kiting or chronic  
755 bad check writing or when required to be done in legal  
756 proceedings, for verification of public assistance in cases in  
757 which the Department of Human Services or the Division of Medicaid  
758 certifies that it has on file an effective written authorization  
759 from the depositor authorizing the disclosure of that information,  
760 for verification of the financial exploitation of a vulnerable  
761 person in cases in which the Attorney General submits a written  
762 authorization, or in case of insolvency of banks. The parties  
763 referred to in this section must be approved by the Commissioner  
764 of Banking and Consumer Finance and must satisfactorily  
765 demonstrate their reliability and credibility of their activities.  
766 Disclosure of depositor information to any affiliate or agent  
767 providing services on behalf of the bank shall not be considered  
768 disclosure of depositor information within the meaning of this  
769 section. The term "affiliate" means a corporation or business  
770 entity that controls, is controlled by or is under common control  
771 with the bank. The term "agent" means anyone who has an  
772 agreement, arrangement or understanding to transact business for  
773 the bank by the authority and on account of the bank, provided  
774 that the agreement binds the agent to the same degree of



775 confidentiality of disclosure of bank records as the bank. Any  
776 violation of this provision shall be considered a misdemeanor and,  
777 upon conviction thereof, in any court of competent jurisdiction,  
778 the person shall be punished by a fine of not more than One  
779 Thousand Dollars (\$1,000.00) or imprisoned in the county jail not  
780 more than six (6) months, or both, and in addition thereto, shall  
781 be liable upon his bond to any person damaged thereby.

782 (2) This section shall not be construed to prohibit the  
783 disclosure to the State Treasurer, State Auditor, Legislative  
784 Budget Office, Joint Legislative Committee on Performance  
785 Evaluation and Expenditure Review or the Department of Finance and  
786 Administration, of any information about any type of account or  
787 investment, including certificates of deposit, owned by any public  
788 entity of the State of Mississippi.

789 (3) \* \* \* This section shall not be construed to prohibit,  
790 or to impose liability for, the disclosure of information to:

791 (a) The Department of Human Services, the Child Support  
792 Unit of the Department of Human Services, the Division of  
793 Medicaid, or their contractors or agents, pursuant to Chapter 13  
794 or Chapter 19, \* \* \* Title 43, Mississippi Code of 1972 \* \* \*; or

795 (b) The Department of Revenue pursuant to Sections 1  
796 through 3 of this act.

797 **SECTION 10.** Section 11-35-23, Mississippi Code of 1972, is  
798 amended as follows:





799           11-35-23. (1) (a) Except for wages, salary or other  
800 compensation, all property in the hands of the garnishee belonging  
801 to the defendant at the time of the service of the writ of  
802 garnishment shall be bound by and subject to the lien of the  
803 judgment, decree or attachment on which the writ shall have been  
804 issued. If the garnishee shall surrender such property to the  
805 sheriff or other officer serving the writ, the officer shall  
806 receive the same and, in case the garnishment issued on a judgment  
807 or decree, shall make sale thereof as if levied on by virtue of an  
808 execution, and return the money arising therefrom to satisfy the  
809 judgment; and if the garnishment issued on an attachment, the  
810 officer shall dispose of the property as if it were levied upon by  
811 a writ of attachment. And any indebtedness of the garnishee to  
812 the defendant, except for wages, salary or other compensation,  
813 shall be bound from the time of the service of the writ of  
814 garnishment, and be appropriable to the satisfaction of the  
815 judgment or decree, or liable to be condemned in the attachment.

816           (b) If the garnishee is a bank or other financial  
817 institution and its indebtedness to the defendant consists of  
818 funds that the defendant has on deposit with the bank or other  
819 financial institution at the time of service of the writ of  
820 garnishment, then the garnishee shall be held to account for only  
821 such funds on deposit between the time of service of the writ of  
822 garnishment and the time of service of its answer to such writ,  
823 and the garnishee shall have no obligation to account for



824 additional deposits accruing after the time of service of its  
825 answer. If the bank or other financial institution is not  
826 indebted to the defendant at the time of service of the writ of  
827 garnishment or does not have possession of property of the  
828 defendant at the time of service of such writ, then the bank or  
829 other financial institution may serve its answer and thereafter  
830 shall not be held to account for any indebtedness that arises  
831 subsequent to service of its answer or property that may come into  
832 its hands subsequent to such service. The financial institution  
833 may submit its Answer of Indebtedness at any time within the  
834 thirty (30) days allowed for response.

835 (2) The court issuing any writ of garnishment shall show  
836 thereon the amount of the claim of the plaintiff and the court  
837 costs in the proceedings and should at any time during the  
838 pendency of said proceedings in the court a judgment be rendered  
839 for a different amount, then the court shall notify the garnishee  
840 of the correct amount due by the defendant under said writ.

841 (3) (a) Except for judgments, liens, attachments, fees or  
842 charges owed to the state or its political subdivisions; wages,  
843 salary or other compensation in the hands of the garnishee  
844 belonging to the defendant at the time of the service of the writ  
845 of garnishment shall not be bound by nor subject to the lien of  
846 the judgment, decree or attachment on which the writ shall have  
847 been issued when the writ of garnishment is issued on a judgment



848 based upon a claim or debt that is less than One Hundred Dollars  
849 (\$100.00), excluding court costs.

850 (b) If the garnishee be indebted or shall become  
851 indebted to the defendant for wages, salary or other compensation  
852 during the first thirty (30) days after service of a proper writ  
853 of garnishment, the garnishee shall pay over to the employee all  
854 of such indebtedness, and thereafter, the garnishee shall retain  
855 and the writ shall bind the nonexempt percentage of disposable  
856 earnings, as provided by Section 85-3-4, for such period of time  
857 as is necessary to accumulate a sum equal to the amount shown on  
858 the writ as due, even if such period of time extends beyond the  
859 return day of the writ. Unless the court otherwise authorizes the  
860 garnishee to make earlier payments or releases and except as  
861 otherwise provided in this section, the garnishee shall retain all  
862 sums collected pursuant to the writ and make only one (1) payment  
863 into court at such time as the total amount shown due on the writ  
864 has been accumulated, provided that, at least one (1) payment per  
865 year shall be made to the court of the amount that has been  
866 withheld during the preceding year. Should the employment of the  
867 defendant for any reason be terminated with the garnishee, then  
868 the garnishee shall not later than fifteen (15) days after the  
869 termination of such employment, report such termination to the  
870 court and pay into the court all sums as have been withheld from  
871 the defendant's disposable earnings. If the plaintiff in  
872 garnishment contest the answer of the garnishee, as now provided



873 by law in such cases, and proves to the court the deficiency or  
874 untruth of the garnishee's answer, then the court shall render  
875 judgment against the garnishee for such amount as would have been  
876 subject to the writ had the said sum not been released to the  
877 defendant; provided, however, any garnishee who files a timely and  
878 complete answer shall not be liable for any error made in good  
879 faith in determining or withholding the amount of wages, salary or  
880 other compensation of a defendant which are subject to the writ.

881 (4) Wages, salaries or other compensation as used in this  
882 section shall mean wages, salaries, commissions, bonuses or other  
883 compensation paid for employment purposes only.

884 (5) The circuit clerk may, in his or her discretion, spread  
885 on the minutes of the county or circuit court, as the case may be,  
886 an instruction that all garnishment defendants shall send all  
887 garnishment monies to the attorney of record or in the case where  
888 there is more than one (1) attorney of record, then to the  
889 first-named attorney of record, and not to the clerk. The payment  
890 schedule shall be the same as subsection (3) (b) of this section.

891 (6) All payments made pursuant to a garnishment issued out  
892 of the justice court shall be made directly to the plaintiff or to  
893 the plaintiff's attorney as indicated by the plaintiff in his or  
894 her suggestion for writ of garnishment. The employer shall notify  
895 the court and the plaintiff or the plaintiff's attorney when a  
896 judgment is satisfied or when the employee is no longer employed  
897 by the employer.



898 (7) If the plaintiff in a garnishment is the Department of  
899 Employment Security, the garnishee shall make monthly payments to  
900 the department until such time as the total amount shown due on  
901 the writ has been accumulated.

902 **SECTION 11.** Section 11-35-27, Mississippi Code of 1972, is  
903 amended as follows:

904 11-35-27. Except as otherwise provided in Section 11-35-23,  
905 garnishees shall, in all cases in the circuit or chancery court,  
906 answer on the first day of the return term, and, in the courts of  
907 justices of the peace, they shall answer by noon on the return day  
908 of the writ, unless the court, for cause shown, shall grant  
909 further time; and, if upon the answer of any garnishee, it appear  
910 that there is any estate of the defendant in the hands of any  
911 person not summoned, an alias writ may at once be issued, to be  
912 levied on the property in the hands of such person, or he may be  
913 summoned as garnishee.

914 **SECTION 12.** This act shall take effect and be in force from  
915 and after July 1, 2017, and shall be repealed from and after June  
916 30, 2017.

