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To: Finance

SENATE BILL NO. 2257

1 AN ACT TO AMEND SECTION 27-7-83, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE STATE AUDITOR AND HIS EMPLOYEES TO EXAMINE THE TAX  
3 RETURNS AS ARE NECESSARY FOR AUDITING BENEFITS ADMINISTERED UNDER  
4 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE  
5 UNITED STATES DEPARTMENT OF AGRICULTURE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 27-7-83, Mississippi Code of 1972, is  
8 amended as follows:

9 27-7-83. (1) Returns and return information filed or  
10 furnished under the provisions of this chapter shall be  
11 confidential, and except in accordance with proper judicial order,  
12 as otherwise authorized by this section, as authorized in Section  
13 27-4-3 or as authorized under Section 27-7-821, it shall be  
14 unlawful for the Commissioner of Revenue or any deputy, agent,  
15 clerk or other officer or employee of the Department of Revenue or  
16 the Mississippi Department of Information Technology Services, or  
17 any former employee thereof, to divulge or make known in any  
18 manner the amount of income or any particulars set forth or  
19 disclosed in any report or return required. The provisions of



20 this section shall apply fully to any federal return, a copy of  
21 any portion of a federal return, or any information reflected on a  
22 federal return which is attached to or made a part of the state  
23 tax return. Likewise, the provisions of this section shall apply  
24 to any federal return or portion thereof, or to any federal return  
25 information data which is acquired from the Internal Revenue  
26 Service for state tax administration purposes pursuant to the  
27 Federal-State Exchange Program cited at Section 6103, Federal  
28 Internal Revenue Code. The term "proper judicial order" as used  
29 in this section shall not include subpoenas or subpoenas duces  
30 tecum, but shall include only those orders entered by a court of  
31 record in this state after furnishing notice and a hearing to the  
32 taxpayer and the Department of Revenue. The court shall not  
33 authorize the furnishing of such information unless it is  
34 satisfied that the information is needed to pursue pending  
35 litigation wherein the return itself is in issue, or the judge is  
36 satisfied that the need for furnishing the information outweighs  
37 the rights of the taxpayer to have such information secreted.

38 (2) Returns and return information with respect to taxes  
39 imposed by this chapter shall be open to inspection by or  
40 disclosure to the Commissioner of the Internal Revenue Service of  
41 the United States, or the proper officer of any state imposing an  
42 income tax similar to that imposed by this chapter, or the  
43 authorized representatives of such agencies. Such inspection  
44 shall be permitted, or such disclosure made, only upon written



45 request by the head of such agencies, or the district director in  
46 the case of the Internal Revenue Service, and only to the  
47 representatives of such agencies designated in a written statement  
48 to the Commissioner of Revenue as the individuals who are to  
49 inspect or to receive the return or return information on behalf  
50 of such agency. The Commissioner of Revenue is authorized to  
51 enter into agreements with the Internal Revenue Service and with  
52 other states for the exchange of returns and return information  
53 data, or the disclosure of returns or return information data to  
54 such agencies, only to the extent that the statutes of the United  
55 States or of such other state, as the case may be, grant  
56 substantially similar privileges to the proper officer of this  
57 state charged with the administration of the tax laws of this  
58 state.

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

61 (i) In the case of the return of an individual,  
62 that individual;

63 (ii) In the case of an income tax return filed  
64 jointly, either of the individuals with respect to whom the return  
65 is filed;

66 (iii) In the case of the return of a partnership,  
67 any person who was a member of such partnership during any part of  
68 the period covered by the return;



69 (iv) In the case of the return of a corporation or  
70 a subsidiary thereof, any person designated by resolution of its  
71 board of directors or other similar governing body, or any officer  
72 or employee of such corporation upon written request signed by any  
73 principal officer and attested to by the secretary or other  
74 officer;

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

80 (vi) In the case of the return of a trust, the  
81 trustee or trustees, jointly or separately, and any beneficiary of  
82 such trust, but only to the extent that such beneficiary has a  
83 material interest which will be affected by information contained  
84 therein;

85 (vii) In the case of the return of an individual  
86 or a return filed jointly, any claimant agency or claimant local  
87 government seeking to collect a debt through the setoff procedure  
88 established in Sections 27-7-701 through 27-7-713, Sections  
89 27-7-501 through 27-7-519 and/or Sections 27-7-801 through  
90 27-7-823, as the case may be, from an individual with respect to  
91 whom the return is filed.

92 (b) If an individual described in paragraph (a) is  
93 legally incompetent, the applicable return shall, upon written



94 request, be open to inspection by or disclosure to the committee,  
95 trustee or guardian of his estate.

96 (c) If substantially all of the property of the person  
97 with respect to whom the return is filed is in the hands of a  
98 trustee in bankruptcy or receiver, such return or returns for  
99 prior years of such person shall, upon written request, be open to  
100 inspection by or disclosure to such trustee or receiver, but only  
101 if the Commissioner of Revenue finds that such receiver or  
102 trustee, in his fiduciary capacity, has a material interest which  
103 will be affected by information contained therein.

104 (d) Any return to which this section applies shall,  
105 upon written request, also be open to inspection by or disclosure  
106 to the attorney-in-fact duly authorized in writing by any of the  
107 persons described in paragraph (a) of this subsection to inspect  
108 the return or receive the information on his behalf, subject to  
109 the conditions provided in paragraph (a).

110 (e) Return information with respect to any taxpayer may  
111 be open to inspection by or disclosure to any person authorized by  
112 this subsection to inspect any return of such taxpayer if the  
113 Commissioner of Revenue determines that such disclosure would not  
114 seriously impair state tax administration.

115 (4) The State Auditor and the employees of his office shall  
116 have the right to examine only such tax returns as are necessary  
117 for auditing the Department of Revenue \* \* \* and auditing benefits  
118 administered under the United States Department of Health and



119 Human Services and the United States Department of Agriculture.

120 The same prohibitions against disclosure which apply to the  
121 Department of Revenue shall apply to the State Auditor and his  
122 employees or former employees.

123 (5) Officers and employees of the Mississippi Development  
124 Authority who execute a confidentiality agreement with the  
125 Department of Revenue shall be authorized to discuss and examine  
126 information to which this section applies at the offices of the  
127 Mississippi Department of Revenue. This disclosure is limited to  
128 information necessary to properly administer the programs under  
129 the jurisdiction of the Mississippi Development Authority. The  
130 Department of Revenue is authorized to disclose to officers and  
131 employees of the Mississippi Development Authority who execute a  
132 confidentiality agreement the information necessary under the  
133 circumstances. The same prohibitions against disclosure which  
134 apply to the Department of Revenue shall apply to the officers or  
135 employees of the Mississippi Development Authority.

136 (6) Information required by the University Research Center  
137 to prepare the analyses required by Sections 57-13-101 through  
138 57-13-109 shall be furnished to the University Research Center  
139 upon request. It shall be unlawful for any officer or employee of  
140 the University Research Center to divulge or make known in any  
141 manner the amount of income or any particulars set forth or  
142 disclosed in any information received by the center from the  
143 Department of Revenue other than as may be required by Sections



144 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
145 Sections 57-13-101 through 57-13-109.

146 (7) Information required by the Mississippi Development  
147 Authority to prepare the reports required by Section 57-1-12.2  
148 shall be furnished to the Mississippi Development Authority upon  
149 request. It shall be unlawful for any officer or employee of the  
150 Mississippi Development Authority to divulge or make known in any  
151 manner the amount of income or any particulars set forth or  
152 disclosed in any information received by the Mississippi  
153 Development Authority from the Department of Revenue other than as  
154 may be required by Section 57-1-12.2 in a report prepared pursuant  
155 to Section 57-1-12.2.

156 (8) Information necessary to comply with Chapter 13, Title  
157 85, may be furnished to financial institutions. It shall be  
158 unlawful for any officer or employee of the financial institution  
159 to divulge or make known in any manner the amount of income or any  
160 particulars set forth or disclosed in any information received by  
161 the financial institution from the Department of Revenue other  
162 than as may be authorized by Chapter 13, Title 85.

163 (9) Nothing in this section shall be construed to prohibit  
164 the publication of statistics, so classified as to prevent the  
165 identification of particular reports or returns and the items  
166 thereof, or the inspection by the Attorney General, or any other  
167 attorney representing the state, of the report or return of any  
168 taxpayer who shall bring action to set aside the tax thereon, or



169 against whom any action or proceeding has been instituted to  
170 recover any tax or penalty imposed.

171 (10) Nothing in this section shall prohibit the commissioner  
172 from making available information necessary to recover taxes owing  
173 the state pursuant to the authority granted in Section 27-75-16.

174 (11) Reports and returns required under the provisions of  
175 this chapter shall be preserved in accordance with approved  
176 records control schedules. No records, however, may be destroyed  
177 without the approval of the Director of the Department of Archives  
178 and History.

179 (12) The Department of Revenue is authorized to disclose to  
180 the Child Support Unit and to the Fraud Investigation Unit of the  
181 Department of Human Services without the need for a subpoena or  
182 proper judicial order the name, address, social security number,  
183 amount of income, source of income, assets and other relevant  
184 information, records and tax forms for individuals who are  
185 delinquent in the payment of any child support as defined in  
186 Section 93-11-101 or who are under investigation for fraud or  
187 abuse of any state or federal program or statute as provided in  
188 Section 43-1-23.

189 (13) Nothing in this section shall prohibit the Department  
190 of Revenue from exchanging information with the federal government  
191 that is necessary to offset income tax refund payment on debts  
192 owed to this state or the United States.





193           (14) Nothing in this section shall prohibit the department  
194 from making available information that is necessary to be  
195 disclosed for the administration and enforcement of Section  
196 27-7-87.

197           **SECTION 2.** This act shall take effect and be in force from  
198 and after its passage.

