

House Amendments to Senate Bill No. 2257

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

9 **SECTION 1.** Section 27-7-83, Mississippi Code of 1972, is
10 amended as follows:
11 27-7-83. (1) Returns and return information filed or
12 furnished under the provisions of this chapter shall be
13 confidential, and except in accordance with proper judicial order,
14 as otherwise authorized by this section, as authorized in Section
15 27-4-3 or as authorized under Section 27-7-821, it shall be
16 unlawful for the Commissioner of Revenue or any deputy, agent,
17 clerk or other officer or employee of the Department of Revenue or
18 the Mississippi Department of Information Technology Services, or
19 any former employee thereof, to divulge or make known in any
20 manner the amount of income or any particulars set forth or
21 disclosed in any report or return required. The provisions of
22 this section shall apply fully to any federal return, a copy of
23 any portion of a federal return, or any information reflected on a
24 federal return which is attached to or made a part of the state
25 tax return. Likewise, the provisions of this section shall apply

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

40 (2) Returns and return information with respect to taxes
41 imposed by this chapter shall be open to inspection by or
42 disclosure to the Commissioner of the Internal Revenue Service of
43 the United States, or the proper officer of any state imposing an
44 income tax similar to that imposed by this chapter, or the
45 authorized representatives of such agencies. Such inspection
46 shall be permitted, or such disclosure made, only upon written
47 request by the head of such agencies, or the district director in
48 the case of the Internal Revenue Service, and only to the
49 representatives of such agencies designated in a written statement
50 to the Commissioner of Revenue as the individuals who are to
51 inspect or to receive the return or return information on behalf

52 of such agency. The Commissioner of Revenue is authorized to
53 enter into agreements with the Internal Revenue Service and with
54 other states for the exchange of returns and return information
55 data, or the disclosure of returns or return information data to
56 such agencies, only to the extent that the statutes of the United
57 States or of such other state, as the case may be, grant
58 substantially similar privileges to the proper officer of this
59 state charged with the administration of the tax laws of this
60 state.

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

63 (i) In the case of the return of an individual,
64 that individual;

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

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

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

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

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

87 (vii) In the case of the return of an individual
88 or a return filed jointly, any claimant agency or claimant local
89 government seeking to collect a debt through the setoff procedure
90 established in Sections 27-7-701 through 27-7-713, Sections
91 27-7-501 through 27-7-519 and/or Sections 27-7-801 through
92 27-7-823, as the case may be, from an individual with respect to
93 whom the return is filed.

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

98 (c) If substantially all of the property of the person
99 with respect to whom the return is filed is in the hands of a
100 trustee in bankruptcy or receiver, such return or returns for
101 prior years of such person shall, upon written request, be open to
102 inspection by or disclosure to such trustee or receiver, but only

103 if the Commissioner of Revenue finds that such receiver or
104 trustee, in his fiduciary capacity, has a material interest which
105 will be affected by information contained therein.

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

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

117 (4) The State Auditor and the employees of his office shall
118 have the right to examine only such tax returns as are necessary
119 for auditing the Department of Revenue * * * and auditing benefits
120 administered under the United States Department of Health and
121 Human Services and the United States Department of Agriculture.
122 The State Auditor and the employees of his office may make
123 information related to auditing such benefits available to and may
124 exchange the information with state agencies responsible for the
125 administration of the benefits. Except as otherwise provided in
126 this subsection (4), the same prohibitions against disclosure
127 which apply to the Department of Revenue shall apply to the State
128 Auditor and his employees or former employees.

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

142 (6) Information required by the University Research Center
143 to prepare the analyses required by Sections 57-13-101 through
144 57-13-109 shall be furnished to the University Research Center
145 upon request. It shall be unlawful for any officer or employee of
146 the University Research Center to divulge or make known in any
147 manner the amount of income or any particulars set forth or
148 disclosed in any information received by the center from the
149 Department of Revenue other than as may be required by Sections
150 57-13-101 through 57-13-109 in an analysis prepared pursuant to
151 Sections 57-13-101 through 57-13-109.

152 (7) Information required by the Mississippi Development
153 Authority to prepare the reports required by Section 57-1-12.2
154 shall be furnished to the Mississippi Development Authority upon

155 request. It shall be unlawful for any officer or employee of the
156 Mississippi Development Authority to divulge or make known in any
157 manner the amount of income or any particulars set forth or
158 disclosed in any information received by the Mississippi
159 Development Authority from the Department of Revenue other than as
160 may be required by Section 57-1-12.2 in a report prepared pursuant
161 to Section 57-1-12.2.

162 (8) Information necessary to comply with Chapter 13, Title
163 85, may be furnished to financial institutions. It shall be
164 unlawful for any officer or employee of the financial institution
165 to divulge or make known in any manner the amount of income or any
166 particulars set forth or disclosed in any information received by
167 the financial institution from the Department of Revenue other
168 than as may be authorized by Chapter 13, Title 85.

169 (9) Nothing in this section shall be construed to prohibit
170 the publication of statistics, so classified as to prevent the
171 identification of particular reports or returns and the items
172 thereof, or the inspection by the Attorney General, or any other
173 attorney representing the state, of the report or return of any
174 taxpayer who shall bring action to set aside the tax thereon, or
175 against whom any action or proceeding has been instituted to
176 recover any tax or penalty imposed.

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

180 (11) Reports and returns required under the provisions of
181 this chapter shall be preserved in accordance with approved
182 records control schedules. No records, however, may be destroyed
183 without the approval of the Director of the Department of Archives
184 and History.

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

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

199 (14) Nothing in this section shall prohibit the department
200 from making available information that is necessary to be
201 disclosed for the administration and enforcement of Section
202 27-7-87.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 TO MAKE INFORMATION
6 RELATED TO THE AUDITS AVAILABLE TO STATE AGENCIES RESPONSIBLE FOR
7 THE ADMINISTRATION OF SUCH BENEFITS; AND FOR RELATED PURPOSES.

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Andrew Ketchings
Clerk of the House of Representatives