

By: Representatives Creekmore IV, Foster

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1638

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO  
2 SUBMIT CERTAIN DEBTS OWED TO IT TO THE DEPARTMENT OF REVENUE FOR  
3 COLLECTION THROUGH A SETOFF AGAINST A DEBTOR'S MISSISSIPPI INCOME  
4 TAX REFUND; TO PROVIDE THE AMOUNT OF THE DEBT AND INCOME TAX  
5 REFUNDS TO WHICH THIS ACT APPLIES; TO PROVIDE FOR NOTICE TO A  
6 DEBTOR AND AN OPPORTUNITY FOR THE DEBTOR TO CONTEST AND APPEAL THE  
7 SETOFF; TO PROVIDE FOR THE DUTIES OF THE DEPARTMENT OF REVENUE  
8 UNDER THIS ACT; TO AUTHORIZE THE EXCHANGE OF INFORMATION BETWEEN  
9 THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF HUMAN SERVICES  
10 CLAIMANT AGENCY THAT IS NECESSARY TO ACCOMPLISH AND EFFECTUATE THE  
11 INTENT OF THIS ACT; TO PROVIDE THAT INFORMATION OBTAINED FROM THE  
12 DEPARTMENT OF REVENUE SHALL RETAIN ITS CONFIDENTIALITY AND TO  
13 PROVIDE PENALTIES FOR THE UNLAWFUL DISCLOSURE OF SUCH INFORMATION;  
14 TO AMEND SECTION 27-7-83, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
15 THERETO; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) For the purposes of this section, the  
18 following terms shall have the meanings ascribed by this section  
19 unless the context clearly indicates otherwise:

20 (a) "Claimant agency" means the Mississippi Department  
21 of Human Services.

22 (b) "Debtor" means any individual, corporation or  
23 partnership owing money or having a delinquent account with the  
24 claimant agency, which obligation has not been adjudicated



25 satisfied by court order, set aside by court order, or discharged  
26 in bankruptcy.

27 (c) "Debt" means any sum due and owing the claimant  
28 agency for any overpayment under the Supplemental Nutrition  
29 Assistance Program, the Temporary Assistance for Needy Families  
30 Program and/or the Child Care and Development Fund Program.

31 (d) "Refund" means the Mississippi income tax refund  
32 which the department determines to be due any individual taxpayer,  
33 corporation taxpayer or partnership taxpayer.

34 (2) The collection remedy authorized by this section is in  
35 addition to and is not substitution for any other remedy available  
36 by law.

37 (3) (a) The claimant agency may submit debts in excess of  
38 One Hundred Twenty-five Dollars (\$125.00) owed to it to the  
39 department for collection through setoff, under the procedure  
40 established by this section, except in cases where the validity of  
41 the debt is legitimately in dispute, an alternate means of  
42 collection is pending and believed to be adequate, or such  
43 collection would result in a loss of federal funds or federal  
44 assistance.

45 (b) Upon the request of the claimant agency, the  
46 department shall set off any refund against the sum certified by  
47 the claimant agency as provided in this section.

48 (4) (a) Within the time frame specified by the department,  
49 the claimant agency seeking to collect a debt through setoff shall



50 supply the information necessary to identify each debtor whose  
51 refund is sought to be set off and certify the amount of debt or  
52 debts owed by each such debtor.

53 (b) If a debtor identified by the claimant agency is  
54 determined by the department to be entitled to a refund of at  
55 least Twenty-five Dollars (\$25.00), the department shall transfer  
56 an amount equal to the refund owed, not to exceed the amount of  
57 the claimed debt certified, to the claimant agency. The  
58 department shall send the excess amount to the debtor within a  
59 reasonable time after such excess is determined. At the time of  
60 the transfer of funds to the claimant agency pursuant to  
61 this paragraph (b), the department shall notify the taxpayer or  
62 taxpayers whose refund is sought to be set off that the transfer  
63 has been made. Such notice shall clearly set forth the name of  
64 the debtor, the manner in which the debt arose, the amount of the  
65 claimed debt, the transfer of funds to the claimant agency  
66 pursuant to this paragraph (b) and the intention to set off the  
67 refund against the debt, the amount of the refund in excess of the  
68 claimed debt, the taxpayer's opportunity to give written notice to  
69 contest the setoff within thirty (30) days of the date of mailing  
70 of the notice, the name and mailing address of the claimant agency  
71 to which the application for such a hearing must be sent, and the  
72 fact that the failure to apply for such a hearing, in writing,  
73 within the thirty-day period will be deemed a waiver of the  
74 opportunity to contest the setoff. In the case of a joint return



75 or a joint refund, the notice shall also state the name of the  
76 taxpayer named in the return, if any, against whom no debt is  
77 claimed, the fact that a debt is not claimed against such  
78 taxpayer, the fact that such taxpayer is entitled to receive a  
79 refund if it is due him or her regardless of the debt asserted  
80 against his or her spouse, and that in order to obtain a refund  
81 due him or her such taxpayer must apply in writing for a hearing  
82 with the claimant agency named in the notice within thirty (30)  
83 days of the date of the mailing of the notice. If a taxpayer  
84 fails to apply in writing for such a hearing within thirty (30)  
85 days of the mailing of such notice, he or she will have waived his  
86 or her opportunity to contest the setoff.

87 (c) The claimant agency shall pay the department a fee  
88 not to exceed Seventeen Dollars (\$17.00) in each case in which a  
89 tax refund is identified as being available for set off. Such  
90 fees shall be deposited by the department into a special fund  
91 hereby created in the State Treasury, out of which the Legislature  
92 shall appropriate monies to defray expenses of the department in  
93 employing personnel to administer the provisions of this section.

94 (5) (a) When the claimant agency receives a protest or an  
95 application in writing from a taxpayer within thirty (30) days of  
96 the notice issued by the department, the claimant agency shall set  
97 a date to hear the protest and give notice to the taxpayer through  
98 the United States Postal Service or electronic digital transfer of  
99 the date so set. The time and place of such hearing shall be



100 designated in such notice and the date set shall not be less than  
101 fifteen (15) days from the date of such notice. If, at the  
102 hearing, the sum asserted as due and owing is found not to be  
103 correct, an adjustment to the claim may be made. The claimant  
104 agency shall give notice to the debtor of its final determination  
105 as provided in paragraph (c) of this subsection.

106 (b) No issues shall be reconsidered at the hearing  
107 which have been previously litigated.

108 (c) If any debtor is dissatisfied with the final  
109 determination made at the hearing by the claimant agency, he or  
110 she may appeal the final determination to the circuit court of the  
111 county in which the main office of the claimant agency is located  
112 by filing notice of appeal, within thirty (30) days from the date  
113 the notice of final determination was given by the claimant  
114 agency, with the administrative head of the claimant agency and  
115 with the clerk of the circuit court of the county in which the  
116 appeal shall be taken.

117 (6) Upon final determination of the amount of the debt due  
118 and owing by means of hearing or by the taxpayer's default through  
119 failure to comply with timely request for review, the claimant  
120 agency shall finally recoup the amount of the debt due and owing  
121 and credit such amount to the debtor's obligation.

122 (7) (a) Pursuant to Section 27-7-83, the department may  
123 provide to the claimant agency all information necessary to  
124 accomplish and effectuate the intent of this section.



125 (b) The information obtained by the claimant agency  
126 from the department in accordance with the provisions of this  
127 section shall retain its confidentiality and shall only be used by  
128 the claimant agency in the pursuit of its debt collection duties  
129 and practices; and any employee or prior employee of the claimant  
130 agency who unlawfully discloses any such information for any other  
131 purpose, except as specifically authorized by law, shall be  
132 subject to the same penalties specified by law for unauthorized  
133 confidential information by an agent or employee of the  
134 department.

135 **SECTION 2.** Section 27-7-83, Mississippi Code of 1972, is  
136 amended as follows:

137 27-7-83. (1) Returns and return information filed or  
138 furnished under the provisions of this chapter shall be  
139 confidential, and except in accordance with proper judicial order,  
140 as otherwise authorized by this section, as authorized in Section  
141 27-4-3 \* \* \*, as authorized under Section 27-7-821 or as  
142 authorized in Section 1 of this act, it shall be unlawful for the  
143 Commissioner of Revenue or any deputy, agent, clerk or other  
144 officer or employee of the Department of Revenue or the  
145 Mississippi Department of Information Technology Services, or any  
146 former employee thereof, to divulge or make known in any manner  
147 the amount of income or any particulars set forth or disclosed in  
148 any report or return required. The provisions of this section  
149 shall apply fully to any federal return, a copy of any portion of



150 a federal return, or any information reflected on a federal return  
151 which is attached to or made a part of the state tax return.  
152 Likewise, the provisions of this section shall apply to any  
153 federal return or portion thereof, or to any federal return  
154 information data which is acquired from the Internal Revenue  
155 Service for state tax administration purposes pursuant to the  
156 Federal-State Exchange Program cited at Section 6103, Federal  
157 Internal Revenue Code. The term "proper judicial order" as used  
158 in this section shall not include subpoenas or subpoenas duces  
159 tecum, but shall include only those orders entered by a court of  
160 record in this state after furnishing notice and a hearing to the  
161 taxpayer and the Department of Revenue. The court shall not  
162 authorize the furnishing of such information unless it is  
163 satisfied that the information is needed to pursue pending  
164 litigation wherein the return itself is in issue, or the judge is  
165 satisfied that the need for furnishing the information outweighs  
166 the rights of the taxpayer to have such information secreted.

167 (2) Returns and return information with respect to taxes  
168 imposed by this chapter shall be open to inspection by or  
169 disclosure to the Commissioner of the Internal Revenue Service of  
170 the United States, or the proper officer of any state imposing an  
171 income tax similar to that imposed by this chapter, or the  
172 authorized representatives of such agencies. Such inspection  
173 shall be permitted, or such disclosure made, only upon written  
174 request by the head of such agencies, or the district director in



175 the case of the Internal Revenue Service, and only to the  
176 representatives of such agencies designated in a written statement  
177 to the Commissioner of Revenue as the individuals who are to  
178 inspect or to receive the return or return information on behalf  
179 of such agency. The Commissioner of Revenue is authorized to  
180 enter into agreements with the Internal Revenue Service and with  
181 other states for the exchange of returns and return information  
182 data, or the disclosure of returns or return information data to  
183 such agencies, only to the extent that the statutes of the United  
184 States or of such other state, as the case may be, grant  
185 substantially similar privileges to the proper officer of this  
186 state charged with the administration of the tax laws of this  
187 state.

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

190 (i) In the case of the return of an individual,  
191 that individual;

192 (ii) In the case of an income tax return filed  
193 jointly, either of the individuals with respect to whom the return  
194 is filed;

195 (iii) In the case of the return of a partnership,  
196 any person who was a member of such partnership during any part of  
197 the period covered by the return;

198 (iv) In the case of the return of a corporation or  
199 a subsidiary thereof, any person designated by resolution of its





200 board of directors or other similar governing body, or any officer  
201 or employee of such corporation upon written request signed by any  
202 principal officer and attested to by the secretary or other  
203 officer;

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

209 (vi) In the case of the return of a trust, the  
210 trustee or trustees, jointly or separately, and any beneficiary of  
211 such trust, but only to the extent that such beneficiary has a  
212 material interest which will be affected by information contained  
213 therein;

214 (vii) In the case of the return of an individual  
215 or a return filed jointly, any claimant agency or claimant local  
216 government seeking to collect a debt through the setoff procedure  
217 established in Sections 27-7-701 through 27-7-713, Sections  
218 27-7-501 through 27-7-519 \* \* \*, Sections 27-7-801 through  
219 27-7-823 and/or Section 1 of this act, as the case may be, from an  
220 individual with respect to whom the return is filed.

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



225 (c) If substantially all of the property of the person  
226 with respect to whom the return is filed is in the hands of a  
227 trustee in bankruptcy or receiver, such return or returns for  
228 prior years of such person shall, upon written request, be open to  
229 inspection by or disclosure to such trustee or receiver, but only  
230 if the Commissioner of Revenue finds that such receiver or  
231 trustee, in his fiduciary capacity, has a material interest which  
232 will be affected by information contained therein.

233 (d) Any return to which this section applies shall,  
234 upon written request, also be open to inspection by or disclosure  
235 to the attorney-in-fact duly authorized in writing by any of the  
236 persons described in paragraph (a) of this subsection to inspect  
237 the return or receive the information on his behalf, subject to  
238 the conditions provided in paragraph (a).

239 (e) Return information with respect to any taxpayer may  
240 be open to inspection by or disclosure to any person authorized by  
241 this subsection to inspect any return of such taxpayer if the  
242 Commissioner of Revenue determines that such disclosure would not  
243 seriously impair state tax administration.

244 (4) The State Auditor and the employees of his office shall  
245 have the right to examine only such tax returns as are necessary  
246 for auditing the Department of Revenue and auditing benefits  
247 administered under the United States Department of Health and  
248 Human Services and the United States Department of Agriculture.  
249 The State Auditor and the employees of his office may make



250 information related to auditing such benefits available to and may  
251 exchange the information with state agencies responsible for the  
252 administration of the benefits. Except as otherwise provided in  
253 this subsection (4), the same prohibitions against disclosure  
254 which apply to the Department of Revenue shall apply to the State  
255 Auditor and his employees or former employees.

256 (5) Officers and employees of the Mississippi Development  
257 Authority who execute a confidentiality agreement with the  
258 Department of Revenue shall be authorized to discuss and examine  
259 information to which this section applies at the offices of the  
260 Mississippi Department of Revenue. This disclosure is limited to  
261 information necessary to properly administer the programs under  
262 the jurisdiction of the Mississippi Development Authority. The  
263 Department of Revenue is authorized to disclose to officers and  
264 employees of the Mississippi Development Authority who execute a  
265 confidentiality agreement the information necessary under the  
266 circumstances. The same prohibitions against disclosure which  
267 apply to the Department of Revenue shall apply to the officers or  
268 employees of the Mississippi Development Authority.

269 (6) Information required by the University Research Center  
270 to prepare the analyses required by Sections 57-13-101 through  
271 57-13-109 shall be furnished to the University Research Center  
272 upon request. It shall be unlawful for any officer or employee of  
273 the University Research Center to divulge or make known in any  
274 manner the amount of income or any particulars set forth or



275 disclosed in any information received by the center from the  
276 Department of Revenue other than as may be required by Sections  
277 57-13-101 through 57-13-109 in an analysis prepared pursuant to  
278 Sections 57-13-101 through 57-13-109.

279 (7) Information required by the Mississippi Development  
280 Authority to prepare the reports required by Section 57-1-12.2  
281 shall be furnished to the Mississippi Development Authority upon  
282 request. It shall be unlawful for any officer or employee of the  
283 Mississippi Development Authority to divulge or make known in any  
284 manner the amount of income or any particulars set forth or  
285 disclosed in any information received by the Mississippi  
286 Development Authority from the Department of Revenue other than as  
287 may be required by Section 57-1-12.2 in a report prepared pursuant  
288 to Section 57-1-12.2.

289 (8) Information necessary to comply with Chapter 13, Title  
290 85, may be furnished to financial institutions. It shall be  
291 unlawful for any officer or employee of the financial institution  
292 to divulge or make known in any manner the amount of income or any  
293 particulars set forth or disclosed in any information received by  
294 the financial institution from the Department of Revenue other  
295 than as may be authorized by Chapter 13, Title 85.

296 (9) The Commissioner of Revenue and the Department of  
297 Revenue are authorized to discuss with and provide the Attorney  
298 General or his designated representative with information related  
299 to an offer to compromise and settle any doubtful claim regarding



300 a finally determined tax liability as authorized by Section  
301 31-19-30. It shall be unlawful for the Attorney General or any  
302 officer or employee of the Attorney General to divulge or make  
303 known in any manner the amount of income or any particulars set  
304 forth or disclosed in any information received by the Attorney  
305 General's office from the Commissioner of Revenue or Department of  
306 Revenue other than as may be required by Section 31-19-30.

307 (10) Nothing in this section shall be construed to prohibit  
308 the publication of statistics, so classified as to prevent the  
309 identification of particular reports or returns and the items  
310 thereof, or the inspection by the Attorney General, or any other  
311 attorney representing the state, of the report or return of any  
312 taxpayer who shall bring action to set aside the tax thereon, or  
313 against whom any action or proceeding has been instituted to  
314 recover any tax or penalty imposed.

315 (11) Nothing in this section shall prohibit the commissioner  
316 from making available information necessary to recover taxes owing  
317 the state pursuant to the authority granted in Section 27-75-16.

318 (12) Reports and returns required under the provisions of  
319 this chapter shall be preserved in accordance with approved  
320 records control schedules. No records, however, may be destroyed  
321 without the approval of the Director of the Department of Archives  
322 and History.

323 (13) The Department of Revenue is authorized to disclose to  
324 the Child Support Unit and to the Fraud Investigation Unit of the



325 Department of Human Services without the need for a subpoena or  
326 proper judicial order the name, address, social security number,  
327 amount of income, source of income, assets and other relevant  
328 information, records and tax forms for individuals who are  
329 delinquent in the payment of any child support as defined in  
330 Section 93-11-101 or who are under investigation for fraud or  
331 abuse of any state or federal program or statute as provided in  
332 Section 43-1-23.

333 (14) Nothing in this section shall prohibit the Department  
334 of Revenue from exchanging information with the federal government  
335 that is necessary to offset income tax refund payment on debts  
336 owed to this state or the United States.

337 (15) Nothing in this section shall prohibit the department  
338 from making available information that is necessary to be  
339 disclosed for the administration and enforcement of Section  
340 27-7-87.

341 **SECTION 3.** Section 1 of this act shall be codified as a new  
342 section in Chapter 7, Title 27, Mississippi Code of 1972.

343 **SECTION 4.** This act shall take effect and be in force from  
344 and after July 1, 2024.

