

By: Representative Mayo

To: Universities and
Colleges; Ways and Means

HOUSE BILL NO. 1365
(As Sent to Governor)

1 AN ACT TO CREATE THE ECONOMIC DEVELOPMENT PROGRAMS TAX
2 INCENTIVES EVALUATION ACT OF 2014; TO REQUIRE AN ANALYSIS OF
3 ECONOMIC DEVELOPMENT PROGRAMS AND TAX INCENTIVES TO BE PREPARED BY
4 THE UNIVERSITY RESEARCH CENTER IN CONSULTATION WITH THE DIRECTOR
5 OF THE MISSISSIPPI DEVELOPMENT AUTHORITY AND THE EXECUTIVE
6 DIRECTOR OF THE LEGISLATIVE BUDGET OFFICE; TO PROVIDE A SCHEDULE
7 FOR THE ANALYSIS OF ECONOMIC DEVELOPMENT PROGRAMS AND TAX
8 INCENTIVES; TO PROVIDE FOR THE CONTENTS OF SUCH ANALYSES; TO
9 REQUIRE ALL DEPARTMENTS, OFFICES, BOARDS, AND AGENCIES OF THE
10 STATE TO COOPERATE WITH THE UNIVERSITY RESEARCH CENTER AND PROVIDE
11 TO THE UNIVERSITY RESEARCH CENTER ANY RECORDS, INFORMATION, DATA,
12 AND DATA ANALYSIS AS MAY BE NECESSARY TO COMPLETE THE ANALYSES
13 REQUIRED BY THIS ACT; TO REQUIRE THE MISSISSIPPI DEVELOPMENT
14 AUTHORITY TO FILE AN ANNUAL REPORT REGARDING TAX CREDITS, LOANS
15 AND GRANTS MADE, APPROVED OR AWARDED TO ITS CLIENTS AS A RESULT OF
16 NEGOTIATIONS INVOLVING AN ECONOMIC DEVELOPMENT PROJECT; TO PROVIDE
17 THAT CERTAIN INFORMATION SHALL BE INCLUDED IN SUCH REPORT; TO
18 AMEND SECTIONS 57-13-47, 27-3-73, 27-7-83, 27-13-57, 27-65-81 AND
19 27-103-139, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND
20 FOR RELATED PURPOSES.

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

22 **SECTION 1.** Sections 1 through 6 of this act shall be known
23 and may be cited as the "Economic Development Programs and Tax
24 Incentives Evaluation Act of 2014."

25 **SECTION 2.** The Legislature finds and declares that:

26 (a) The State of Mississippi relies on a number of tax
27 incentives, including credits, exemptions, and deductions, and



28 economic development programs that utilize the proceeds of state
29 general obligation bonds to encourage businesses to locate, hire
30 employees, expand, invest, and/or remain in the state;

31 (b) These various tax incentives and economic
32 development programs are intended as a tool for economic
33 development, promoting new jobs and business growth in
34 Mississippi;

35 (c) The state needs a systematic approach for
36 evaluating whether incentives are fulfilling their intended
37 purposes in a cost-effective manner;

38 (d) In order to improve state government's
39 effectiveness in serving the residents of this state, the
40 Legislature finds it necessary to provide for the systematic and
41 comprehensive analysis of economic development tax incentives and
42 economic development programs, and for those analyses to be
43 incorporated into the budget and policymaking processes.

44 **SECTION 3.** (1) As used in Sections 1 through 6 of this act:

45 (a) "Economic development tax incentive" includes
46 those tax credits, deductions, exemptions, exclusions, and other
47 preferential tax benefits or incentives enacted before or after
48 the effective date of this act for the purpose of recruitment or
49 retention of businesses in the State of Mississippi.

50 (b) "Economic development program" includes those
51 statutory economic development programs that utilize the proceeds



52 of state general obligation bonds for the purpose of recruitment
53 or retention of businesses in the State of Mississippi.

54 (2) In determining whether a tax incentive or economic
55 development program is or was enacted for "the purpose of
56 recruitment or retention of businesses," the University Research
57 Center shall consider legislative intent, including legislative
58 statements of purpose and goals, and may also consider whether the
59 tax incentive or program is promoted as a business incentive by
60 the Mississippi Development Authority or other state agency.

61 **SECTION 4.** (1) In accordance with the following schedule,
62 the tax expenditure report produced by the University Research
63 Center pursuant to Section 57-13-47, shall include an additional
64 component, consistent with Section 5 of this act and produced in
65 consultation with the Director of the Mississippi Development
66 Authority containing the following:

67 (a) Analyses of economic development tax incentives and
68 economic development programs as enacted prior to July 1, 2014,
69 shall be completed by December 31, 2015, and no less than once
70 every four (4) years thereafter;

71 (b) Analyses of any economic development tax incentives
72 and economic development programs created after July 1, 2014,
73 shall be completed within five (5) years of taking effect, and no
74 less than once every four (4) years thereafter.

75 (2) Not later than the first of February each year beginning
76 with 2016, the Chairman of the Senate Finance Committee and the



77 Chairman of the House Ways and Means Committee shall consider the
78 tax expenditure report and hold at least one public hearing to
79 deliberate the results of the analysis required in this section.

80 **SECTION 5.** (1) The analysis of tax incentives as required
81 by Section 4 of this act shall include, but not be limited to:

82 (a) A baseline assessment of the tax incentive,
83 including, if applicable, the number of aggregate jobs committed
84 and created with the taxpayers receiving such tax incentive;

85 (b) The statutory and programmatic goals and intent of
86 the tax incentive, if the goals and intentions are included in the
87 incentive's enabling legislation;

88 (c) The number of taxpayers granted the tax incentive
89 during the previous twelve-month period;

90 (d) The value of the tax incentive granted, and
91 ultimately claimed, listed by the North American Industrial
92 Classification System (NAICS) Code associated with the taxpayers
93 receiving the benefit, if the NAICS Code is available;

94 (e) An estimate of the number of jobs that were the
95 direct and indirect result of the incentive;

96 (f) An estimate of the revenues that were the direct
97 and indirect result of the incentive;

98 (g) In the case of economic development tax incentives
99 where measuring the economic impact is significantly limited due
100 to data constraints, provide a description of the limitations on



101 the data used and whether any changes in statute would facilitate
102 data collection in a way that would allow for better analysis;

103 (h) The methodology and assumptions used in carrying
104 out the assessments, projections and analyses required pursuant to
105 this subsection.

106 (i) When an incentive comparative analysis is conducted
107 on behalf of the state, a final copy shall be submitted to the
108 Chairman of the Senate Finance Committee and Chairman of the House
109 Ways and Means Committee and also submitted with copies of this
110 report.

111 (2) The analysis of economic development programs as
112 required by Section 4 of this act shall include, but not be
113 limited to, an analysis of the impact of the program which shall
114 include a calculation of the costs related to the assistance
115 provided under the program and corresponding benefits to the state
116 derived from economic development related to the program,
117 including, but not limited to, capital investment, job creation,
118 job retention and/or increased tax revenue.

119 (3) All departments, offices, boards, and agencies of the
120 state shall cooperate with the University Research Center and
121 shall provide to the University Research Center any records,
122 information (documentary and otherwise), data and data analysis as
123 may be necessary to complete the analysis required by this
124 section.



125 **SECTION 6.** Section 57-13-47, Mississippi Code of 1972, is
126 amended as follows:

127 57-13-47. (1) For the purposes of this section the term
128 "tax expenditure provision" means any statutory provision or state
129 agency regulation which exempts, in whole or in part, any specific
130 class or classes of persons, income, goods, services or property
131 from the impact of established state taxes, including, but not
132 limited to, those provisions known as tax deductions, tax
133 allowances, tax exclusions, tax credits and tax exemptions.

134 (2) (a) The University Research Center shall annually
135 prepare a report detailing the approximate costs in foregone
136 revenue because of all state tax expenditure provisions, including
137 those incorporated by conformance with the Federal Internal
138 Revenue Code, in effect at the time of the report; however, the
139 report to be submitted by November 1, 1986, may include tax
140 expenditures only for sales taxes, use taxes and income taxes, and
141 subsequent reports shall include tax expenditures for all taxes.
142 The report shall also explain the policy purposes for each such
143 tax expenditure provision and may show any indicators of
144 effectiveness or ineffectiveness in achieving such policy
145 purposes. If the Director of the University Research Center
146 determines that preparation of such report shall adversely affect
147 in a material manner any work or projects of the center which are
148 being performed by staff persons preparing the report required by
149 this section, the director may request the Legislative Budget



150 Committee to reduce the requirements of this section as to the
151 contents of the report for one (1) year, but in no event shall the
152 report contain less than the dollar amount of each such tax
153 expenditure required to be included therein.

154 (b) The report shall include the analyses required by
155 Sections 1 through 6 of this act.

156 (3) The University Research Center shall, on or before
157 November 1 of each year, furnish five (5) copies of the report to
158 the Secretary of the Senate and to the Clerk of the House of
159 Representatives, two (2) copies to the Senate Finance and
160 Appropriations Committees and to the House Ways and Means and
161 Appropriations Committees, and a copy to each member of the State
162 Fiscal Management Board and the Legislative Budget Committee.
163 Each member of the Legislature shall be entitled to receive one
164 (1) copy of the report upon request.

165 (4) All state agencies and all political subdivisions of the
166 State of Mississippi, and the officers and employees thereof,
167 shall cooperate with the center in preparing such report and shall
168 provide any and all information, documents and materials requested
169 by the center.

170 **SECTION 7.** (1) The Mississippi Development Authority (MDA)
171 shall file an annual report with the Governor, Secretary of State,
172 Secretary of the Senate and the Clerk of the House of
173 Representatives not later than October 1 of each year regarding
174 all tax credits, loans, rebates and grants made, approved or



175 awarded by MDA as a result of negotiations involving an economic
176 development project. The report shall contain the following
177 information:

178 (a) The total amount of incentives approved or awarded;
179 (b) The total amount of loans made by MDA;
180 (c) The total amount of grants awarded by MDA; and
181 (d) A description of standard terms for each loan
182 program.

183 (2) With respect to each client that receives or is awarded
184 a tax credit, loan, rebate or grant referred to in subsection (1)
185 of this section, the report shall include:

186 (a) The name and county of operation of the recipient;
187 (b) The amount of the loan, rebate or grant;
188 (c) The purpose of the loan, rebate or grant;
189 (d) The number of employees that the client agreed to
190 hire, retain or train;

191 (e) The amount of the financial investment that the
192 client expects to make in this state as a result of the economic
193 development project; and

194 (f) A list of projects that have met contractual
195 requirements and have been closed out by MDA.

196 (3) The Department of Revenue shall provide MDA with the tax
197 information that is required to be included in this report.

198 **SECTION 8.** Section 27-3-73, Mississippi Code of 1972, is
199 amended as follows:



200 27-3-73. (1) Except in accordance with proper judicial
201 order or as otherwise provided in this section or as authorized in
202 Section 27-4-3, it shall be unlawful for the Commissioner of
203 Revenue, or any deputy, agent, clerk or other officer or employee
204 of the Department of Revenue, to divulge or make known in any
205 manner the amount of income or any particulars set forth or
206 disclosed in any report or return required on any taxes collected
207 by reports received by the Department of Revenue. This provision
208 relates to all taxes collected by the Department of Revenue and
209 not referred to in Sections 27-7-83, 27-13-57 and 27-65-81,
210 requiring confidentiality of income tax, franchise tax and sales
211 tax returns. All system edits, thresholds, and any other
212 automated system calculations used by the Department of Revenue in
213 the processing of returns or statistics or used to determine the
214 correct tax due for all taxes administered by the department shall
215 be considered confidential information and may not be divulged or
216 made known. Nothing in this section shall be construed to
217 prohibit the publication of statistics, so classified as to
218 prevent the identification of particular reports or returns and
219 the items thereof, or the inspection by the Attorney General, or
220 any other attorney representing the state, of the report or return
221 of any taxpayer who shall bring action to set aside the tax
222 thereon, or against whom an action or proceeding has been
223 instituted to recover any tax or penalty imposed. Additionally,
224 nothing in this section shall prohibit the Commissioner of Revenue



225 from making available information necessary to recover taxes owing
226 the state pursuant to the authority granted in Section 27-75-16.

227 The term "proper judicial order" as used in this section
228 shall not include subpoenas or subpoenas duces tecum but shall
229 include only those orders entered by a court of record in this
230 state after furnishing notice and a hearing to the taxpayer and
231 the Department of Revenue. The court shall not authorize the
232 furnishing of such information unless it is satisfied that the
233 information is needed to pursue pending litigation wherein the
234 return itself is in issue, or the judge is satisfied that the need
235 for furnishing the information outweighs the rights of the
236 taxpayer to have such information secreted.

237 However, information relating to possible tax liability to
238 other states or the federal government may be furnished to the
239 revenue departments of those states or the federal government when
240 the states or federal government grant a like comity to
241 Mississippi.

242 (2) The State Auditor and the employees of his office shall
243 have the right to examine only such tax returns as are necessary
244 for auditing the Department of Revenue, and the same prohibitions
245 against disclosure which apply to the Department of Revenue shall
246 apply to the State Auditor and his office.

247 (3) Officers and employees of the Mississippi Development
248 Authority who execute a confidentiality agreement with the
249 Department of Revenue shall be authorized to discuss and examine



250 information to which this section applies at the offices of the
251 Mississippi Department of Revenue. This disclosure is limited to
252 information necessary to properly administer the programs under
253 the jurisdiction of the Mississippi Development Authority. The
254 Department of Revenue is authorized to disclose to officers and
255 employees of the Mississippi Development Authority who execute a
256 confidentiality agreement the information necessary under the
257 circumstances. The same prohibitions against disclosure which
258 apply to the Department of Revenue shall apply to the officers or
259 employees of the Mississippi Development Authority.

260 (4) Information required by the University Research Center
261 to prepare the analyses required by Sections 1 through 6 of this
262 act shall be furnished to the University Research Center upon
263 request. It shall be unlawful for any officer or employee of the
264 University Research Center to divulge or make known in any manner
265 the amount of income or any particulars set forth or disclosed in
266 any information received by the center from the Department of
267 Revenue other than as may be required by Sections 1 through 6 of
268 this act in an analysis prepared pursuant to Sections 1 through 6
269 of this act.

270 (5) Information required by the Mississippi Development
271 Authority to prepare the reports required by Section 8 of this act
272 shall be furnished to the Mississippi Development Authority upon
273 request. It shall be unlawful for any officer or employee of the
274 Mississippi Development Authority to divulge or make known in any



275 manner the amount of income or any particulars set forth or
276 disclosed in any information received by the Mississippi
277 Development Authority from the Department of Revenue other than as
278 may be required by Section 8 of this act in a report prepared
279 pursuant to Section 8 of this act.

280 (* * *6) Any person who violates the provisions of this
281 section shall be guilty of a misdemeanor and, on conviction
282 thereof, shall be fined not more than One Thousand Dollars
283 (\$1,000.00) or imprisoned not more than six (6) months in the
284 county jail, or both.

285 (* * *7) The Commissioner of Revenue and the Department of
286 Revenue are authorized to disclose to the Child Support Unit and
287 to the Fraud Investigation Unit of the Department of Human
288 Services without the need for a subpoena or proper judicial order
289 the name, address, social security number, amount of income,
290 amount of sales tax, source of income, assets and other relevant
291 information, records and tax forms for individuals who are
292 delinquent in the payment of any child support as defined in
293 Section 93-11-101 or who are under investigation for fraud or
294 abuse of any state or federal program or statute as provided in
295 Section 43-1-23.

296 **SECTION 9.** Section 27-7-83, Mississippi Code of 1972, is
297 amended as follows:

298 27-7-83. (1) Returns and return information filed or
299 furnished under the provisions of this chapter shall be



300 confidential, and except in accordance with proper judicial order,
301 as otherwise authorized by this section or as authorized in
302 Section 27-4-3, it shall be unlawful for the Commissioner of
303 Revenue or any deputy, agent, clerk or other officer or employee
304 of the Department of Revenue or the Mississippi Department of
305 Information Technology Services, or any former employee thereof,
306 to divulge or make known in any manner the amount of income or any
307 particulars set forth or disclosed in any report or return
308 required. The provisions of this section shall apply fully to any
309 federal return, a copy of any portion of a federal return, or any
310 information reflected on a federal return which is attached to or
311 made a part of the state tax return. Likewise, the provisions of
312 this section shall apply to any federal return or portion thereof,
313 or to any federal return information data which is acquired from
314 the Internal Revenue Service for state tax administration purposes
315 pursuant to the Federal-State Exchange Program cited at Section
316 6103, Federal Internal Revenue Code. The term "proper judicial
317 order" as used in this section shall not include subpoenas or
318 subpoenas duces tecum, but shall include only those orders entered
319 by a court of record in this state after furnishing notice and a
320 hearing to the taxpayer and the Department of Revenue. The court
321 shall not authorize the furnishing of such information unless it
322 is satisfied that the information is needed to pursue pending
323 litigation wherein the return itself is in issue, or the judge is



324 satisfied that the need for furnishing the information outweighs
325 the rights of the taxpayer to have such information secreted.

326 (2) Returns and return information with respect to taxes
327 imposed by this chapter shall be open to inspection by or
328 disclosure to the Commissioner of the Internal Revenue Service of
329 the United States, or the proper officer of any state imposing an
330 income tax similar to that imposed by this chapter, or the
331 authorized representatives of such agencies. Such inspection
332 shall be permitted, or such disclosure made, only upon written
333 request by the head of such agencies, or the district director in
334 the case of the Internal Revenue Service, and only to the
335 representatives of such agencies designated in a written statement
336 to the Commissioner of Revenue as the individuals who are to
337 inspect or to receive the return or return information on behalf
338 of such agency. The Commissioner of Revenue is authorized to
339 enter into agreements with the Internal Revenue Service and with
340 other states for the exchange of returns and return information
341 data, or the disclosure of returns or return information data to
342 such agencies, only to the extent that the statutes of the United
343 States or of such other state, as the case may be, grant
344 substantially similar privileges to the proper officer of this
345 state charged with the administration of the tax laws of this
346 state.

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



349 (i) In the case of the return of an individual,
350 that individual;

351 (ii) In the case of an income tax return filed
352 jointly, either of the individuals with respect to whom the return
353 is filed;

354 (iii) In the case of the return of a partnership,
355 any person who was a member of such partnership during any part of
356 the period covered by the return;

357 (iv) In the case of the return of a corporation or
358 a subsidiary thereof, any person designated by resolution of its
359 board of directors or other similar governing body, or any officer
360 or employee of such corporation upon written request signed by any
361 principal officer and attested to by the secretary or other
362 officer;

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

368 (vi) In the case of the return of a trust, the
369 trustee or trustees, jointly or separately, and any beneficiary of
370 such trust, but only to the extent that such beneficiary has a
371 material interest which will be affected by information contained
372 therein;



373 (vii) In the case of the return of an individual
374 or a return filed jointly, any claimant agency seeking to collect
375 a debt through the set-off procedure established in Sections
376 27-7-701 through 27-7-713 and Sections 27-7-501 through 27-7-519,
377 from an individual with respect to whom the return is filed.

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

382 (c) If substantially all of the property of the person
383 with respect to whom the return is filed is in the hands of a
384 trustee in bankruptcy or receiver, such return or returns for
385 prior years of such person shall, upon written request, be open to
386 inspection by or disclosure to such trustee or receiver, but only
387 if the Commissioner of Revenue finds that such receiver or
388 trustee, in his fiduciary capacity, has a material interest which
389 will be affected by information contained therein.

390 (d) Any return to which this section applies shall,
391 upon written request, also be open to inspection by or disclosure
392 to the attorney-in-fact duly authorized in writing by any of the
393 persons described in paragraph (a) of this subsection to inspect
394 the return or receive the information on his behalf, subject to
395 the conditions provided in paragraph (a).

396 (e) Return information with respect to any taxpayer may
397 be open to inspection by or disclosure to any person authorized by



398 this subsection to inspect any return of such taxpayer if the
399 Commissioner of Revenue determines that such disclosure would not
400 seriously impair state tax administration.

401 (4) The State Auditor and the employees of his office shall
402 have the right to examine only such tax returns as are necessary
403 for auditing the Department of Revenue, and the same prohibitions
404 against disclosure which apply to the Department of Revenue shall
405 apply to the State Auditor and his employees or former employees.

406 (5) Officers and employees of the Mississippi Development
407 Authority who execute a confidentiality agreement with the
408 Department of Revenue shall be authorized to discuss and examine
409 information to which this section applies at the offices of the
410 Mississippi Department of Revenue. This disclosure is limited to
411 information necessary to properly administer the programs under
412 the jurisdiction of the Mississippi Development Authority. The
413 Department of Revenue is authorized to disclose to officers and
414 employees of the Mississippi Development Authority who execute a
415 confidentiality agreement the information necessary under the
416 circumstances. The same prohibitions against disclosure which
417 apply to the Department of Revenue shall apply to the officers or
418 employees of the Mississippi Development Authority.

419 (6) Information required by the University Research Center
420 to prepare the analyses required by Sections 1 through 6 of this
421 act shall be furnished to the University Research Center upon
422 request. It shall be unlawful for any officer or employee of the



423 University Research Center to divulge or make known in any manner
424 the amount of income or any particulars set forth or disclosed in
425 any information received by the center from the Department of
426 Revenue other than as may be required by Sections 1 through 6 of
427 this act in an analysis prepared pursuant to Sections 1 through 6
428 of this act.

429 (7) Information required by the Mississippi Development
430 Authority to prepare the reports required by Section 8 of this act
431 shall be furnished to the Mississippi Development Authority upon
432 request. It shall be unlawful for any officer or employee of the
433 Mississippi Development Authority to divulge or make known in any
434 manner the amount of income or any particulars set forth or
435 disclosed in any information received by the Mississippi
436 Development Authority from the Department of Revenue other than as
437 may be required by Section 8 of this act in a report prepared
438 pursuant to Section 8 of this act.

439 (* * *8) Nothing in this section shall be construed to
440 prohibit the publication of statistics, so classified as to
441 prevent the identification of particular reports or returns and
442 the items thereof, or the inspection by the Attorney General, or
443 any other attorney representing the state, of the report or return
444 of any taxpayer who shall bring action to set aside the tax
445 thereon, or against whom any action or proceeding has been
446 instituted to recover any tax or penalty imposed.



447 (* * *9) Nothing in this section shall prohibit the
448 commissioner from making available information necessary to
449 recover taxes owing the state pursuant to the authority granted in
450 Section 27-75-16.

451 (* * *10) Reports and returns required under the provisions
452 of this chapter shall be preserved in accordance with approved
453 records control schedules. No records, however, may be destroyed
454 without the approval of the Director of the Department of Archives
455 and History.

456 (* * *11) The Department of Revenue is authorized to
457 disclose to the Child Support Unit and to the Fraud Investigation
458 Unit of the Department of Human Services without the need for a
459 subpoena or proper judicial order the name, address, social
460 security number, amount of income, source of income, assets and
461 other relevant information, records and tax forms for individuals
462 who are delinquent in the payment of any child support as defined
463 in Section 93-11-101 or who are under investigation for fraud or
464 abuse of any state or federal program or statute as provided in
465 Section 43-1-23.

466 (* * *12) Nothing in this section shall prohibit the
467 Department of Revenue from exchanging information with the federal
468 government that is necessary to offset income tax refund payment
469 on debts owed to this state or the United States.

470 (* * *13) Nothing in this section shall prohibit the
471 department from making available information that is necessary to



472 be disclosed for the administration and enforcement of Section
473 27-7-87.

474 **SECTION 10.** Section 27-13-57, Mississippi Code of 1972, is
475 amended as follows:

476 27-13-57. (1) Except in accordance with the proper judicial
477 order, or as otherwise provided in this section or as authorized
478 in Section 27-4-3, it shall be unlawful for the Commissioner of
479 Revenue or any deputy, agent, clerk or other officer or employee
480 of the Department of Revenue to divulge or make known in any
481 manner any particulars set forth or disclosed in any report or
482 return required under this chapter. When a combined report or
483 return is filed as authorized by Section 27-13-17(5), each report
484 or return which composes the combined return shall be considered
485 separate for the purpose of any examinations authorized in this
486 section and only particulars relating to the specific return or
487 report set forth in the judicial order or as otherwise provided
488 shall be considered lawfully divulged. The term "proper judicial
489 order" as used in this section shall not include subpoenas or
490 subpoenas duces tecum, but shall include only those orders entered
491 by a court of record in this state after furnishing notice and a
492 hearing to the taxpayer and the Department of Revenue. The court
493 shall not authorize the furnishing of such information unless it
494 is satisfied that the information is needed to pursue pending
495 litigation wherein the return itself is in issue, or the judge is
496 satisfied that the need for furnishing the information outweighs



497 the rights of the taxpayer to have such information secreted.
498 Nothing in this section shall be construed to prohibit the
499 publication of statistics, so classified as to prevent the
500 identification of particular reports or returns and the items
501 thereof, or the inspection by the Attorney General or any other
502 attorney representing the state of the report or return of any
503 taxpayer who shall bring action to set aside or review the tax
504 based thereon, or against whom an action or proceeding has been
505 instituted to recover any tax or penalty imposed by this chapter.
506 Reports and returns shall be preserved in accordance with approved
507 records control schedules. No records, however, may be destroyed
508 without the approval of the Director of the Department of Archives
509 and History.

510 However, information relating to possible tax liability of
511 other states or the federal government may be furnished to the
512 revenue department of those states or the federal government when
513 those states or the federal government grant a like comity to
514 Mississippi.

515 (2) The State Auditor and the employees of his office shall
516 have the right to examine only such tax returns as are necessary
517 for auditing the Department of Revenue, and the same prohibitions
518 against disclosure which apply to the Department of Revenue shall
519 apply to the State Auditor and his office.

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



522 Department of Revenue shall be authorized to discuss and examine
523 information to which this section applies at the offices of the
524 Mississippi Department of Revenue. This disclosure is limited to
525 information necessary to properly administer the programs under
526 the jurisdiction of the Mississippi Development Authority. The
527 Department of Revenue is authorized to disclose to officers and
528 employees of the Mississippi Development Authority who execute a
529 confidentiality agreement the information necessary under the
530 circumstances. The same prohibitions against disclosure which
531 apply to the Department of Revenue shall apply to the officers or
532 employees of the Mississippi Development Authority.

533 (4) Information required by the University Research Center
534 to prepare the analyses required by Sections 1 through 6 of this
535 act shall be furnished to the University Research Center upon
536 request. It shall be unlawful for any officer or employee of the
537 University Research Center to divulge or make known in any manner
538 any particulars set forth or disclosed in any information received
539 by the center from the Department of Revenue other than as may be
540 required by Sections 1 through 6 of this act in an analysis
541 prepared pursuant to Sections 1 through 6 of this act.

542 (5) Information required by the Mississippi Development
543 Authority to prepare the reports required by Section 8 of this act
544 shall be furnished to the Mississippi Development Authority upon
545 request. It shall be unlawful for any officer or employee of the
546 Mississippi Development Authority to divulge or make known in any



547 manner the amount of income or any particulars set forth or
548 disclosed in any information received by the Mississippi
549 Development Authority from the Department of Revenue other than as
550 may be required by Section 8 of this act in a report prepared
551 pursuant to Section 8 of this act.

552 (* * *6) Nothing in this section shall prohibit the
553 Commissioner of Revenue from making available information
554 necessary to recover taxes owing the state pursuant to the
555 authority granted in Section 27-75-16, Mississippi Code of 1972.

556 (* * *7) Any person violating the provisions of this
557 section shall be guilty of a misdemeanor and, on conviction, shall
558 be punished by a fine of not exceeding Five Hundred Dollars
559 (\$500.00), or by imprisonment not exceeding one (1) year, or both,
560 at the discretion of the court, and if the offender be an officer
561 or employee of the state he shall be dismissed from office and be
562 incapable of holding any public office in this state for a period
563 of five (5) years thereafter.

564 **SECTION 11.** Section 27-65-81, Mississippi Code of 1972, is
565 amended as follows:

566 27-65-81. (1) Applications, returns and information
567 contained therein filed or furnished under this chapter shall be
568 confidential, and except in accordance with proper judicial order,
569 or as otherwise authorized by this section or as authorized by
570 Section 27-4-3, it shall be unlawful for the Commissioner of
571 Revenue or any deputy, agent, clerk or other officer or employee



572 of the Department of Revenue or Department of Information
573 Technology Services, or any former employee thereof, to divulge or
574 make known in any manner the amount of income or any particulars
575 set forth or disclosed on any application, report or return
576 required.

577 The term "proper judicial order" as used in this section
578 shall not include subpoenas or subpoenas duces tecum but shall
579 include only those orders entered by a court of record in this
580 state after furnishing notice and a hearing to the taxpayer and
581 the Department of Revenue. The court shall not authorize the
582 furnishing of such information unless it is satisfied that the
583 information is needed to pursue pending litigation wherein the
584 return itself is in issue, or the judge is satisfied that the need
585 for furnishing the information outweighs the rights of the
586 taxpayer to have such information secreted.

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

589 (a) Members and employees of the Department of Revenue
590 and the income tax department thereof, for the purpose of
591 checking, comparing and correcting returns;

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



595 (c) The revenue department of other states or the
596 federal government when said states or federal government grants a
597 like comity to Mississippi.

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

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

616 (5) Information required by the University Research Center
617 to prepare the analyses required by Sections 1 through 6 of this
618 act shall be furnished to the University Research Center upon
619 request. It shall be unlawful for any officer or employee of the



620 University Research Center to divulge or make known in any manner
621 the amount of income or any particulars set forth or disclosed in
622 any information received by the center from the Department of
623 Revenue other than as may be required by Sections 1 through 6 of
624 this act in an analysis prepared pursuant to Sections 1 through 6
625 of this act.

626 (6) Information required by the Mississippi Development
627 Authority to prepare the reports required by Section 8 of this act
628 shall be furnished to the Mississippi Development Authority upon
629 request. It shall be unlawful for any officer or employee of the
630 Mississippi Development Authority to divulge or make known in any
631 manner the amount of income or any particulars set forth or
632 disclosed in any information received by the Mississippi
633 Development Authority from the Department of Revenue other than as
634 may be required by Section 8 of this act in a report prepared
635 pursuant to Section 8 of this act.

636 (* * *7) Nothing in this section shall prohibit the
637 Commissioner of Revenue from making available information
638 necessary to recover taxes owing the state pursuant to the
639 authority granted in Section 27-75-16.

640 (* * *8) The Department of Revenue is authorized to
641 disclose to the Child Support Unit and to the Fraud Investigation
642 Unit of the Department of Human Services without the need for a
643 subpoena or proper judicial order the name, address, social
644 security number, amount of income, amount of sales tax, source of



645 income, assets and other relevant information, records and tax
646 forms for individuals who are delinquent in the payment of any
647 child support as defined in Section 93-11-101 or who are under
648 investigation for fraud or abuse of any state or federal program
649 or statute as provided in Section 43-1-23.

650 **SECTION 12.** Section 27-103-139, Mississippi Code of 1972, is
651 amended as follows:

652 27-103-139. On or before November 15 preceding each regular
653 session of the Legislature, except the first regular session of a
654 new term of office, the Governor shall submit to the members of
655 the Legislature, the Legislative Budget Office or the
656 members-elect, as the case may be, and to the executive head of
657 each state agency a balanced budget for the succeeding fiscal
658 year. The budget submitted shall be prepared in a format that
659 will include performance measurement data associated with the
660 various programs operated by each agency. The total proposed
661 expenditures in the balanced budget shall not exceed the amount of
662 estimated revenues that will be available for appropriation or use
663 during the succeeding fiscal year, including any balances that
664 will be on hand at the close of the then current fiscal year, as
665 determined by the revenue estimate jointly adopted by the Governor
666 and the Legislative Budget Committee. The total proposed
667 expenditures from the State General Fund in the balanced budget
668 shall not exceed ninety-eight percent (98%) of the amount of
669 general fund revenue estimate for the succeeding fiscal year, plus



670 any unencumbered balances in general funds that will be available
671 and on hand at the close of the then current fiscal year.
672 However, for fiscal years 2010, 2011 and 2012 only, the total
673 proposed expenditures from the State General Fund in the balanced
674 budget shall not exceed one hundred percent (100%) of the amount
675 of the general fund revenue estimate for the succeeding fiscal
676 year, plus any unencumbered balances in general funds that will be
677 available and on hand at the close of the then current fiscal
678 year. The general fund revenue estimate shall be the estimate
679 jointly adopted by the Governor and the Joint Legislative Budget
680 Committee. Unencumbered balances in general funds that will be
681 available and on hand at the close of the fiscal year shall not
682 include projected amounts required to be deposited into the
683 Working Cash-Stabilization Reserve Fund and the Education
684 Enhancement Fund under Section 27-103-203.

685 The budget submitted by the Governor shall include the
686 information and recommendations required by Section 6 of this act.

687 The revenues used in preparing the balanced budget shall be
688 only those revenues that will be available under the general laws
689 of the state as they exist when the balanced budget is prepared,
690 and shall not include any proposed revenues that would become
691 available only after the enactment of new legislation. If the
692 Governor has any recommendations for additional proposed
693 expenditures or proposed revenues that are not included in his
694 balanced budget, he shall submit those recommendations in a



695 supplement that is separate from his balanced budget, and whenever
696 the Governor recommends any such additional proposed expenditures,
697 he also shall recommend proposed revenues that are sufficient to
698 fund the additional proposed expenditures, providing specific
699 details regarding the sources and the total amount of those
700 proposed revenues.

701 The Governor may employ a budget officer for the purpose of
702 receiving information from the State Fiscal Officer and preparing
703 his recommendations on the budget. If the Governor determines
704 that information received from the State Fiscal Officer is not
705 sufficient to enable him to prepare his budget recommendations, he
706 may request an appropriation from the Legislature to provide
707 additional staff within the Governor's office for that purpose.
708 At the first regular session after his election for Governor, the
709 Governor shall submit any budget recommendations plus the required
710 revenue source recommendations no later than January 31 of that
711 year.

712 **SECTION 13.** This act shall take effect and be in force from
713 and after July 1, 2014.

