MISSISSIPPI LEGISLATURE

By: Representatives Wallace, Clarke, Huddleston, Montgomery (15th), Watson

To: Ways and Means

HOUSE BILL NO. 1755

AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE EXCISE TAX ON CIGARETTES AND OTHER TOBACCO PRODUCTS; TO SPECIFY THE AMOUNT OF THE DISCOUNT OR COMPENSATION ON THE ADDITIONAL FACE VALUE OF STAMPS PURCHASED BY DEALERS TO COMPLY WITH THE TAX INCREASE PROVIDED FOR BY THIS ACT; TO AMEND SECTION 27-69-75, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM THE TAX INCREASE PROVIDED FOR BY THIS ACT SHALL BE DEPOSITED INTO THE MEDICAID RECIPIENTS TOBACCO ILLNESS FUND IN THE STATE TREASURY; TO AMEND SECTION 27-69-31, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO CREATE THE MEDICAID RECIPIENTS TOBACCO ILLNESS FUND IN THE STATE TREASURY; TO PROVIDE THAT THE MONIES IN THE FUND SHALL BE EXPENDED BY THE DIVISION OF MEDICAID FOR MEDICAL ASSISTANCE FOR RECIPIENTS OF MEDICAID WHO HAVE AN ILLNESS OR AILMENT THAT IS RELATED TO THE RECIPIENTS' USE OF TOBACCO OR TOBACCO PRODUCTS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-69-13, Mississippi Code of 1972, is amended as follows:

27-69-13. (1) There is imposed, levied and assessed, to be collected and paid as hereinafter provided in this chapter, an excise tax on each person or dealer in cigarettes, cigars, stogies, snuff, chewing tobacco, and smoking tobacco, or substitutes therefor, upon the sale, use, consumption, handling or distribution in the State of Mississippi, as follows:

(a) On cigarettes, the rate of tax shall be Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette sold with a maximum length of one hundred twenty (120) millimeters; any cigarette in excess of this length shall be taxed as if it were two (2) or more cigarettes. However, if the federal tax rate on cigarettes in effect on July 1, 1985, is reduced, then the rate as provided in this paragraph (a) shall be increased by the amount of the federal tax reduction. That tax...
increase shall take effect on the first day of the month following
the effective date of the reduction in the federal tax rate.

(b) (i) In addition to the excise tax levied by

paragraph (a), there is levied an excise tax of Two and One-half
Cents (2-1/2¢) on each cigarette sold with a maximum length of one
hundred twenty (120) millimeters; any cigarette in excess of this
length shall be taxed as if it were two (2) or more cigarettes.

(ii) On or before the fifteenth of August 2002,
and each succeeding month thereafter, the revenue derived from the
excise tax on cigarettes that is levied by subparagraph (i) of
this paragraph shall be deposited into the Medicaid Recipients
Tobacco Illness Fund created in Section 4 of this act.

(c) On cigars, cheroots, stogies, snuff, chewing and
smoking tobacco and all other tobacco products except cigarettes,
the rate of tax shall be fifteen percent (15%) of the
manufacturer's list price.

(d) (i) In addition to the excise tax levied by

paragraph (c), there is levied an excise tax of Fifty Cents (50¢)
on each box, pack or container of cigars, cheroots, stogies,

snuff, chewing and smoking tobacco and all other tobacco products,

except cigarettes.

(ii) On or before the fifteenth day of August
2002, and each succeeding month thereafter, the revenue derived
from the excise tax on other tobacco products, except cigarettes,
that is levied by subparagraph (i) of this paragraph shall be
deposited into the Medicaid Recipients Tobacco Illness Fund
created in Section 4 of this act.

(2) No stamp evidencing the tax • • • levied on cigarettes
by this section shall be of a denomination of less than One Cent
(1¢), and whenever the tax computed at the rates • • • prescribed

on cigarettes in this section is a specified amount, plus a
fractional part of One Cent (1¢), the package shall be stamped for
the next full cent. However, (a) the additional face value of
stamps purchased to comply with taxes imposed by subsection (1)(a) and subsection (1)(c) of this section after June 1, 1985, shall be subject to a four percent (4%) discount or compensation to dealers for their services rather than the eight percent (8%) discount or compensation allowed by Section 27-69-31; and (b) the additional face value of stamps purchased to comply with taxes imposed by subsection (1)(b) and subsection (1)(d) of this section after July 1, 2002, shall be subject to a three percent (3%) discount or compensation to dealers for their services rather than the eight percent (8%) discount or compensation allowed by Section 27-69-31.

(3) Every wholesaler shall purchase stamps as provided in this chapter, and affix the same to all packages of cigarettes handled by him as provided in this section.

(4) The tax levied by this chapter is levied upon the sale, use, gift, possession, or consumption of tobacco within the State of Mississippi, and the impact of the tax levied by this chapter is declared to be on the vendee, user, consumer, or possessor of tobacco in this state. When the tax is paid by any other person, the payment shall be considered as an advance payment and shall thereafter be added to the price of the tobacco and recovered from the ultimate consumer or user.

SECTION 2. Section 27-69-75, Mississippi Code of 1972, is amended as follows:

27-69-75. (1) All taxes levied by this chapter shall be payable to the commissioner in cash, or by personal check, cashier's check, bank exchange, post-office money order or express money order, and shall be deposited by the commissioner in the State Treasury on the same day collected. No remittance other than cash shall be a final discharge of liability for the tax assessed and levied under this chapter, unless and until it has been paid in cash to the commissioner.

(2) The revenue derived from the taxes levied in Sections 27-69-13(b) and 27-69-13(d) shall be deposited into the Medicaid
Recipients Tobacco Illness Fund created in Section 4 of this act.

The revenue derived from all other tobacco taxes collected, including tobacco license taxes, shall be deposited into the State Treasury to the credit of the General Fund.

(3) Wholesalers who are entitled to purchase stamps at a discount, as provided by Section 27-69-31, may have consigned to them, without advance payment, those stamps, if and when the wholesaler * * * gives to the commissioner a good and sufficient bond executed by some surety company authorized to do business in this state, conditioned to secure the payment for the stamps so consigned. The commissioner shall require payment for those stamps not later than thirty (30) days from the date the stamps were consigned.

SECTION 3. Section 27-69-31, Mississippi Code of 1972, is amended as follows:

27-69-31. Dealers subject to the provisions of this chapter shall be allowed, as compensation for their services in affixing the stamps * * * required by this chapter, a sum equal to eight percent (8%) of the face value of the stamps purchased by them, except as otherwise provided in Section 27-69-13(2); however, the commission shall allow no discount on the purchase of stamps by wholesalers of an aggregate amount of less than One Hundred Dollars ($100.00), and by retailers of an aggregate amount of less than Fifty Dollars ($50.00) in any one order.

It is further provided that the commissioner may, in his discretion, either reduce the compensation allowed, or disallow any compensation for the affixing of stamps, for failure of the dealer to comply with any provisions of the law or rules and regulations promulgated by the commissioner.

SECTION 4. There is created in the State Treasury a special fund to be known as the Medicaid Recipients Tobacco Illness Fund, which shall be comprised of funds deposited as provided in Sections 27-69-13 and 27-69-75 and any other funds appropriated,
contributed or otherwise made available to the fund. The monies in the fund shall be expended by the Division of Medicaid for medical assistance for recipients of Medicaid who have an illness or ailment that is related to the recipients' use of tobacco or tobacco products, and may be expended only upon appropriation by the Legislature. Unexpended monies remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on monies in the fund shall be deposited to the credit of the fund.

SECTION 5. This act shall take effect and be in force from and after July 1, 2002.