

By: Representatives Robinson, Stevens,  
Weathersby, Johnson, Dedeaux

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1220

1 AN ACT TO CREATE THE MISSISSIPPI HEALTH BENEFIT EXCHANGE ACT;  
2 TO PROVIDE THE PURPOSE AND INTENT OF THE ACT; TO PROVIDE  
3 DEFINITIONS FOR THE ACT; TO ESTABLISH THE EXCHANGE; TO PROVIDE THE  
4 REQUIREMENTS FOR THE EXCHANGE; TO ALLOW THE EXCHANGE TO CHARGE  
5 ASSESSMENTS OR USER FEES TO HEALTH CARRIERS TO GENERATE FUNDING  
6 NECESSARY TO SUPPORT THE EXCHANGE; TO AUTHORIZE THE MISSISSIPPI  
7 INSURANCE DEPARTMENT TO PROMULGATE REGULATIONS FOR THE  
8 IMPLEMENTATION AND ENFORCEMENT OF THE ACT; TO AMEND SECTION  
9 5-3-53, MISSISSIPPI CODE OF 1972, TO INCLUDE THE EXCHANGE  
10 ESTABLISHED BY THIS ACT IN THE DEFINITION OF "AGENCY" UNDER THE  
11 LAWS REGARDING THE JOINT LEGISLATIVE COMMITTEE ON PERFORMANCE  
12 EVALUATION AND EXPENDITURE REVIEW; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** This act shall be known and may be cited as the  
15 "Mississippi Health Benefit Exchange Act."

16 **SECTION 2.** The purpose of this act is to provide for the  
17 establishment of the Mississippi Health Benefit Exchange to  
18 facilitate the purchase and sale of health plans in the individual  
19 market in this state and to provide for the establishment of a  
20 Small Employer Exchange to assist qualified small employers in  
21 this state in facilitating the enrollment of their employees in  
22 qualified health plans offered in the small group market. The  
23 intent of this act is to reduce the number of uninsured, provide a  
24 transparent consumer driven marketplace and assist individuals  
25 with access to programs, premium assistance tax credits and  
26 cost-sharing reductions.

27 **SECTION 3.** For the purposes of this act:

28 (a) "Board" means the Board of Directors of the  
29 Mississippi Health Benefit Exchange.

30 (b) "Commissioner" means the Commissioner of Insurance.



31 (c) "Department" means the Mississippi Insurance  
32 Department.

33 (d) "Educated health care consumer" means an individual  
34 who is knowledgeable about the health care system, and has  
35 background or experience in making informed decisions regarding  
36 health, medical and scientific matters.

37 (e) "Exchange" means the Mississippi Health Benefit  
38 Exchange established under Section 4 of this act.

39 (f) "Federal act" means the federal Patient Protection  
40 and Affordable Care Act (Public Law 111-148), as amended by the  
41 federal Health Care and Education Reconciliation Act of 2010  
42 (Public Law 111-152), and any amendments thereto, or regulations  
43 issued under those acts.

44 (g) (i) "Health benefit plan" means a policy,  
45 contract, certificate or agreement offered or issued by a health  
46 carrier to provide, deliver, arrange for, pay for or reimburse any  
47 of the costs of health care services.

48 (ii) "Health benefit plan" does not include:

- 49 1. Coverage only for accident, or disability  
50 income insurance, or any combination thereof;
- 51 2. Coverage issued as supplement to liability  
52 insurance;
- 53 3. Liability insurance, including general  
54 liability insurance and automobile liability insurance;
- 55 4. Workers' compensation or similar  
56 insurance;
- 57 5. Automobile medical payment insurance;
- 58 6. Credit-only insurance;
- 59 7. Coverage for on-site medical clinics; or
- 60 8. Other similar insurance coverage,  
61 specified in federal regulations issued pursuant to Public Law  
62 104-191, under which benefits for health care services are  
63 secondary or incidental to other insurance benefits.



64 (iii) "Health benefit plan" does not include the  
65 following benefits if they are provided under a separate policy,  
66 certificate or contract of insurance or are otherwise not an  
67 integral part of the plan:

68 1. Limited scope dental or vision benefits;

69 2. Benefits for long-term care, nursing home  
70 care, home health care, community-based care, or any combination  
71 thereof; or

72 3. Other similar, limited benefits specified  
73 in federal regulations issued pursuant to Public Law 104-191.

74 (iv) "Health benefit plan" does not include the  
75 following benefits if the benefits are provided under a separate  
76 policy, certificate or contract of insurance, there is no  
77 coordination between the provision of the benefits and any  
78 exclusion of benefits under any group health plan maintained by  
79 the same plan sponsor, and the benefits are paid with respect to  
80 an event without regard to whether benefits are provided with  
81 respect to such an event under any group health plan maintained by  
82 the same plan sponsor:

83 1. Coverage only for a specified disease or  
84 illness; or

85 2. Hospital indemnity or other fixed  
86 indemnity insurance.

87 (v) "Health benefit plan" does not include the  
88 following if offered as a separate policy, certificate or contract  
89 of insurance:

90 1. Medicare supplemental health insurance as  
91 defined under Section 1882(g)(1) of the Social Security Act;

92 2. Coverage supplemental to the coverage  
93 provided under Chapter 55 of Title 10, United States Code

94 (Civilian Health and Medical Program of the Uniformed  
95 Services(CHAMPUS)); or



96                   3. Similar supplemental coverage provided to  
97 coverage under a group health plan.

98                   (h) "Health carrier" or "carrier" means an entity  
99 subject to the insurance laws and regulations of this state, or  
100 subject to the jurisdiction of the department, that contracts or  
101 offers to contract to provide, deliver, arrange for, pay for, or  
102 reimburse any of the costs of health care services, including a  
103 sickness and accident insurance company, a health maintenance  
104 organization, a nonprofit hospital and health service corporation,  
105 or any other entity providing a plan of health insurance, health  
106 benefits or health services.

107                   (i) "Qualified dental plan" means a limited scope  
108 dental plan that has been certified by the exchange.

109                   (j) "Qualified employer" means a small employer that  
110 elects to make its full-time employees eligible for one or more  
111 qualified health plans offered through the Small Employer  
112 Exchange, and at the option of the employer, some or all of its  
113 part-time employees, provided that the employer:

114                   (i) Has its principal place of business in the  
115 State of Mississippi and elects to provide coverage through the  
116 Small Employer Exchange to all of its eligible employees, wherever  
117 employed; or

118                   (ii) Elects to provide coverage through the Small  
119 Employee Exchange to all of its eligible employees who are  
120 principally employed in this state.

121                   (k) "Qualified health plan" means a health benefit plan  
122 that has in effect a certification that the plan meets the  
123 criteria for certification described in Section 1311(c) of the  
124 federal act and Section 6 of this act.

125                   (l) "Qualified individual" means an individual,  
126 including a minor, who:

127                   (i) Is seeking to enroll in a qualified health  
128 plan offered to individuals through the exchange;



129 (ii) Resides in the State of Mississippi;

130 (iii) At the time of enrollment, is not

131 incarcerated, other than incarceration pending the disposition of

132 charges; and

133 (iv) Is, and is reasonably expected to be for the

134 entire period for which enrollment is sought, a citizen or

135 national of the United States or an alien lawfully present in the

136 United States.

137 (m) "Secretary" means the Secretary of the United

138 States Department of Health and Human Services.

139 (n) (i) "Small employer" means an employer that

140 employed an average of not more than fifty (50) employees during

141 the preceding calendar year.

142 (ii) Beginning on January 1, 2016, "small

143 employer" means an employer that employed an average of not more

144 than one hundred (100) employees during the preceding calendar

145 year.

146 (iii) For purposes of this subsection:

147 1. All persons treated as a single employer

148 under subsection (b), (c), (m) or (o) of Section 414 of the

149 Internal Revenue Code of 1986 shall be treated as a single

150 employer;

151 2. An employer and any predecessor employer

152 shall be treated as a single employer;

153 3. All employees shall be counted, including

154 part-time employees and employees who are not eligible for

155 coverage through the employer;

156 4. If an employer was not in existence

157 throughout the preceding calendar year, the determination of

158 whether that employer is a small employer shall be based on the

159 average number of employees that it is reasonably expected that

160 employer will employ on business days in the current calendar

161 year; and



162                   5. An employer that makes enrollment in  
163 qualified health plans available to its employees through the  
164 Small Employer Exchange, and would cease to be a small employer by  
165 reason of an increase in the number of its employees, shall  
166 continue to be treated as a small employer for purposes of this  
167 act as long as it continuously makes enrollment through the Small  
168 Employer Exchange available to its employees.

169           SECTION 4. (1) There is chartered and established by the  
170 State of Mississippi, the Mississippi Health Benefit Exchange  
171 ("exchange") as a body corporate and an independent  
172 instrumentality of the State of Mississippi, created to effectuate  
173 the public purposes provided for in this act, but with a legal  
174 existence separate from that of the State of Mississippi.

175           (2) The Mississippi Health Benefit Exchange is recognized as  
176 a not-for-profit corporation in accordance with the provisions of  
177 Section 79-11-101 et seq., and shall seek recognition of the same  
178 status by the United States Treasury in accordance with the  
179 provisions of the United States Internal Revenue Code (26 USCS,  
180 Section 501(6)).

181           (3) The exchange shall operate subject to the supervision  
182 and approval of a board of directors which shall consist of  
183 sixteen (16) members, as follows:

184                   (a) The Mississippi Commissioner of Insurance, or his  
185 designee, in an ex officio capacity;

186                   (b) The Director of the Division of Medicaid, or his  
187 designee, in an ex officio capacity;

188                   (c) The Chairman of the Mississippi House of  
189 Representatives Insurance Committee, or his designee, in an ex  
190 officio capacity;

191                   (d) The Chairman of the Mississippi Senate Insurance  
192 Committee, or his designee, in an ex officio capacity;

193                   (e) The Attorney General, or his designee, in an ex  
194 officio capacity;



195 (f) One (1) representative of an assessable insurance  
196 company, appointed by the Speaker of the House of Representatives,  
197 which company must hold less than five percent (5%) of the market  
198 share of health insurance in Mississippi;

199 (g) One (1) member who is an insurance producer,  
200 appointed by the Mississippi Health Underwriters Association and  
201 approved by the Lieutenant Governor, who is duly licensed in  
202 accordance with Section 83-17-75 and who has experience in the  
203 health insurance industry;

204 (h) One (1) member who is an insurance producer,  
205 appointed by the Independent Insurance Agents of Mississippi and  
206 approved by the Governor, who is duly licensed in accordance with  
207 Section 83-17-75 and who has experience in the health insurance  
208 industry;

209 (i) One (1) consumer advocate appointed by the American  
210 Association of Retired Persons and approved by the Governor;

211 (j) One (1) business owner appointed by the National  
212 Federation of Independent Business and approved by the Governor;

213 (k) One (1) representative from the Mississippi Head  
214 Start Association who shall be appointed by the Governor;

215 (l) One (1) health care provider appointed by the  
216 Mississippi State Medical Association and approved by the Speaker  
217 of the House of Representatives;

218 (m) One (1) health care provider appointed by the  
219 Mississippi Medical and Surgical Association and approved by the  
220 commissioner;

221 (n) One (1) member appointed by the Mississippi Primary  
222 Health Care Association and approved by the Lieutenant Governor;

223 (o) One (1) member appointed by the Mississippi  
224 Hospital Association and approved by the commissioner; and

225 (p) One (1) actuary appointed by the commissioner from  
226 a list of candidates provided by the American Academy of  
227 Actuaries.



228 (4) The initial term for all members shall be for three (3)  
229 years and shall commence on the date of enactment of this act.  
230 Following this initial term, all appointed members shall serve one  
231 (1) additional term as follows:

232 (a) The representative of an assessable insurance  
233 company shall serve a term of one (1) year;

234 (b) One (1) representative of an insurance producer  
235 shall serve a term of two (2) years and one (1) representative of  
236 an insurance producer shall serve a term of three (3) years as  
237 determined by the commissioner at the time of initial appointment;

238 (c) The consumer advocate shall serve a term of three  
239 (3) years;

240 (d) The business owner shall serve a term of two (2)  
241 years;

242 (e) The representative from the Mississippi Head Start  
243 Association shall serve a term of three (3) years;

244 (f) One (1) health care provider shall serve a term of  
245 two (2) years and one (1) health care provider shall serve a term  
246 of three (3) years as determined by the commissioner at the time  
247 of initial appointment;

248 (g) The member appointed from the Mississippi Primary  
249 Health Care Association shall serve a term of three (3) years;

250 (h) The member appointed from the Mississippi Hospital  
251 Association shall serve a term of two (2) years; and

252 (i) The actuary shall serve a term of three (3) years.

253 (5) Following the second term, all appointed members may be  
254 appointed for subsequent terms of three (3) years at the will and  
255 pleasure of the appointing authority. During each term, appointed  
256 members may be dismissed from the board and replaced by the  
257 appointing authority for good cause shown.

258 (6) Individual board members acting within the scope of the  
259 authority granted to them under this act shall be presumed to be  
260 acting in good faith.





261 (7) Board members may be reimbursed from monies of the  
262 exchange for actual and necessary expenses incurred by them as  
263 members in the manner and amount provided in Section 25-3-41 but  
264 shall not otherwise be compensated for their services.

265 (8) The board shall elect from its membership a chairman of  
266 the board, who shall serve as the presiding officer of the board,  
267 and a vice chairman of the board. All ex officio members of the  
268 board shall serve the board in a nonvoting capacity. The board  
269 shall adopt rules governing times and places for meetings and the  
270 manner of conducting its business. The board shall not meet less  
271 frequently than once each quarter and at such other times as  
272 determined to be necessary. The first meeting of the initial  
273 members of the board shall be called by the commissioner within  
274 sixty (60) days of the date of enactment of this act.

275 (9) The board shall adopt a plan in accordance with this act  
276 and submit its articles, bylaws and operating rules to the  
277 department for approval within ninety (90) days after the  
278 appointment of the board.

279 (10) The department may regulate the exchange and, in  
280 accordance with the Mississippi Administrative Procedures Law, may  
281 promulgate regulations necessary for the implementation and  
282 operation of the exchange and may enforce any state or federal law  
283 or regulation concerning the exchange. Further, the department  
284 may investigate the affairs of the exchange, examine the  
285 properties and records of the exchange and require the exchange to  
286 provide periodic reporting to the department in relation to the  
287 activities undertaken by the exchange.

288 (11) The board may apply for and expend any state, federal  
289 or private grant funds available to assist with the implementation  
290 and operation of the exchange. The board may elect to allow the  
291 department to apply for and expend federal grants on its behalf  
292 and the department may apply for and expend those funds at the  
293 direction of, and on behalf of, the exchange.



294 (12) The board may contract with any vendors necessary to  
295 assist with the implementation and operation of the exchange.

296 (13) (a) The board shall appoint an executive director who  
297 shall:

298 (i) Be an employee of the exchange;

299 (ii) Administer all of the exchange's activities  
300 and contracts;

301 (iii) Supervise the staff of the exchange;

302 (iv) Advise the board on all matters related to  
303 the exchange; and

304 (v) Serve at the will and pleasure of the board.

305 (b) The board shall determine the appropriate  
306 compensation to be paid to the executive director and shall  
307 approve all compensation to be paid to any other employees of the  
308 exchange.

309 (14) The exchange shall:

310 (a) Implement procedures for the certification,  
311 recertification and decertification of health benefit plans as  
312 qualified health plans;

313 (b) Provide for the operation of a toll-free telephone  
314 hotline to respond to requests for assistance;

315 (c) Provide for enrollment periods;

316 (d) Maintain an Internet website through which  
317 enrollees and prospective enrollees of qualified health plans may  
318 obtain standardized comparative information on such plans and  
319 enroll in such plans;

320 (e) Assign a rating to each qualified health plan  
321 offered through the exchange in accordance with the criteria  
322 developed by the secretary under Section 1311(c)(3) of the federal  
323 act, and determine each qualified health plan's level of coverage  
324 in accordance with regulations issued by the secretary under  
325 Section 1302(d)(2)(A) of the federal act;



326 (f) Use a standardized format for presenting health  
327 benefit options in the exchange;

328 (g) Inform individuals of eligibility requirements for  
329 the Medicaid program under Title XIX of the Social Security Act,  
330 the Children's Health Insurance Program under Title XXI of the  
331 Social Security Act or any applicable state or local public  
332 program and if through screening of the application by the  
333 exchange, the exchange determines that any individual is eligible  
334 for any such program, shall refer that individual to that program  
335 so that he or she may be enrolled in the program;

336 (h) Establish and make available by electronic means a  
337 calculator to determine the actual cost of coverage after  
338 application of any premium tax credit under Section 36B of the  
339 Internal Revenue Code of 1986 and any state or federal  
340 cost-sharing reduction;

341 (i) Facilitate the purchase and sale of qualified  
342 health plans;

343 (j) Establish a Small Employer Exchange through which  
344 qualified employers may access coverage for their employees, which  
345 shall enable any qualified employer to specify a level of coverage  
346 so that any of its employees may enroll in any qualified health  
347 plan offered through the Small Employer Exchange at the specified  
348 level of coverage;

349 (k) Review the rate of premium growth within the  
350 exchange and outside the exchange;

351 (l) Receive and process any federal or state tax  
352 credits or other premium support payments for health insurance, as  
353 may be established by law;

354 (m) If deemed necessary by the board, create advisory  
355 committees to the board consisting of stakeholders relevant to  
356 carrying out the activities required under this act;

357 (n) Select entities qualified to serve as navigators in  
358 accordance with Section 1311(i) of the federal act, and standards



359 developed by the secretary, and award grants to enable navigators  
360 to:

361 (i) Conduct public education activities to raise  
362 awareness of the availability of qualified health plans;

363 (ii) Distribute fair and impartial information  
364 concerning enrollment in qualified health plans, and the  
365 availability of premium tax credits under Section 36B of the  
366 Internal Revenue Code of 1986 and any cost-sharing reductions;

367 (iii) Facilitate enrollment in qualified health  
368 plans; however, no person shall receive any form of compensation  
369 as consideration for the facilitation of enrollment of any person  
370 in a qualified health plan through the exchange unless that person  
371 is an insurance producer that is duly licensed by the department  
372 under Section 83-17-75;

373 (iv) Provide referrals to duly licensed insurance  
374 producers to facilitate enrollment in qualified health plans;

375 (v) Provide referrals to any applicable office of  
376 health insurance consumer assistance or health insurance ombudsman  
377 or any other appropriate state agency or agencies, for any  
378 enrollee with a grievance, complaint or question regarding their  
379 health benefit plan, coverage or a determination under that plan  
380 or coverage; and

381 (vi) Provide information in a manner that is  
382 culturally and linguistically appropriate to the needs of the  
383 population being served by the exchange;

384 (o) Meet the requirements of this act and fully comply  
385 with any and all requirements set by state and federal statutory  
386 and regulatory law.

387 (15) The exchange may contract with an eligible entity to  
388 perform any of its functions described in this act. An eligible  
389 entity includes, but is not limited to, an entity that has  
390 experience in individual and small group health insurance, benefit  
391 administration or other experience relevant to the



392 responsibilities to be assumed by the entity, but a health carrier  
393 or an affiliate of a health carrier is not an eligible entity.

394 (16) The exchange may enter into information-sharing  
395 agreements with federal and state agencies and other state  
396 exchanges to carry out its responsibilities under this act,  
397 provided the agreements include adequate protections with respect  
398 to the confidentiality of the information to be shared and comply  
399 with all state and federal laws and regulations.

400 (17) The exchange must meet the following financial  
401 integrity requirements:

402 (a) Keep an accurate accounting of all activities,  
403 receipts and expenditures and annually submit to the Governor, the  
404 commissioner and the Legislature a written report concerning the  
405 accountings by December 1 of each year; and

406 (b) In carrying out its activities under this act, not  
407 use any funds intended for the administrative and operational  
408 expenses of the exchange for staff retreats, promotional  
409 giveaways, excessive executive compensation or promotion of state  
410 legislative and regulatory modifications.

411 **SECTION 5.** (1) The exchange shall make qualified health  
412 plans available to qualified individuals and qualified employers  
413 beginning with effective dates on or before January 1, 2014.

414 (2) (a) The exchange shall not make available any health  
415 benefit plan that is not a qualified health plan.

416 (b) The exchange may allow a health carrier to offer a  
417 plan that provides limited scope dental benefits meeting the  
418 requirements of Section 9832(c)(2)(A) of the Internal Revenue Code  
419 of 1986 through the exchange, either separately or in conjunction  
420 with a qualified health plan, if the plan provides pediatric  
421 dental benefits meeting the requirements of state law and  
422 department regulations.



423 (3) Neither the exchange nor a carrier offering health  
424 benefit plans through the exchange may charge an individual a fee  
425 or penalty for termination of coverage.

426 (4) A health carrier offering a health benefit plan outside  
427 of the exchange may not offer only a bronze or catastrophic plan.

428 **SECTION 6.** (1) The exchange shall be self-sustaining by  
429 January 1, 2015.

430 (2) The exchange may charge assessments or user fees to  
431 health carriers to generate funding necessary to support its  
432 operation provided under this act.

433 (3) The exchange shall publish the average costs of  
434 licensing, regulatory fees and other payments required by the  
435 exchange, and the administrative costs of the exchange, on an  
436 Internet website to educate consumers on such costs. This  
437 information shall include information on monies lost to waste,  
438 fraud and abuse.

439 **SECTION 7.** The department may promulgate regulations to  
440 implement and enforce the provisions of this act.

441 **SECTION 8.** Nothing in this act, and no action taken by the  
442 exchange pursuant to this act, shall be construed to preempt or  
443 supersede the authority of the commissioner to regulate the  
444 business of insurance within this state. Except as expressly  
445 provided to the contrary in this act, all health carriers offering  
446 qualified health plans in this state shall comply fully with all  
447 applicable health insurance laws of this state and regulations  
448 adopted and orders issued by the department.

449 **SECTION 9.** Section 5-3-53, Mississippi Code of 1972, is  
450 amended as follows:

451 5-3-53. For purposes of Sections 5-3-51 through 5-3-69, the  
452 following words and phrases have the following meanings unless the  
453 context otherwise requires:

454 (a) "Performance evaluation" shall mean an examination  
455 of the effectiveness of the administration, its sufficiency and



456 its adequacy in terms of the programs of the agency authorized by  
457 law to be performed. Such examinations shall include, but not be  
458 limited to:

459           (i) How effectively the programs are administered.

460           (ii) Benefits of each program in relation to the  
461 expenditures.

462           (iii) Goals of programs.

463           (iv) Development of indicators by which the  
464 success or failure of a program may be gauged.

465           (v) Review conformity of programs with legislative  
466 intent.

467           (vi) Assist interim committee dealing with  
468 specific programs.

469           (vii) Impact of federal grant-in-aid programs on  
470 agency programs.

471           (b) "Agency" shall mean an agency, department, bureau,  
472 division, authority, commission, office or institution,  
473 educational or otherwise, of the State of Mississippi, or any  
474 political subdivision thereof which shall include all county  
475 governments and agencies thereof, all city governments and  
476 agencies thereof, and all public school districts and agencies  
477 thereof. "Agency" shall also mean the Mississippi Health Benefit  
478 Exchange established under Section 4 of this act.

479           (c) "Expenditure review" shall mean an examination made  
480 at some point after the completion of a transaction or group of  
481 transactions.

482           **SECTION 10.** This act shall take effect and be in force from  
483 and after its passage.

