

By: Representative Scott

To: Insurance; Ways and Means

HOUSE BILL NO. 311

1 AN ACT TO CREATE A SMALL BUSINESS HEALTH INSURANCE POOL; TO
 2 PROVIDE FOR EMPLOYER PREMIUM INCENTIVE PAYMENTS, EMPLOYEE PREMIUM
 3 ASSISTANCE PAYMENTS, AND TAX CREDITS TO BE ADMINISTERED BY THE
 4 COMMISSIONER OF INSURANCE FOR ELIGIBLE SMALL EMPLOYERS WHO PROVIDE
 5 CERTAIN GROUP HEALTH PLAN COVERAGE FOR THEIR ELIGIBLE EMPLOYEES;
 6 TO PROVIDE THAT CERTAIN ELIGIBLE SMALL EMPLOYERS MAY RECEIVE
 7 PREMIUM INCENTIVE PAYMENTS AND EMPLOYEES MAY RECEIVE ASSISTANCE
 8 FOR PAYING PREMIUMS FOR HEALTH INSURANCE PURCHASED THROUGH THE
 9 SMALL BUSINESS HEALTH INSURANCE POOL; TO ALLOW THE TAX CREDIT TO
 10 BE CLAIMED WHEN FILING TAX RETURNS; TO CREATE THE SMALL BUSINESS
 11 HEALTH INSURANCE POOL BOARD OF DIRECTORS AND ESTABLISHING ITS
 12 DUTIES; TO PROVIDE AUTHORITY TO THE BOARD TO ESTABLISH ELIGIBILITY
 13 REQUIREMENTS FOR RECEIVING THE PREMIUM INCENTIVE PAYMENTS, PREMIUM
 14 ASSISTANCE PAYMENTS, AND TAX CREDITS; TO PROVIDE RULEMAKING
 15 AUTHORITY TO THE COMMISSIONER TO IMPLEMENT THE PREMIUM INCENTIVE
 16 PAYMENTS, PREMIUM ASSISTANCE PAYMENTS, AND TAX CREDITS; TO PROVIDE
 17 PENALTIES FOR WRONGFULLY OBTAINING PREMIUM INCENTIVE PAYMENTS,
 18 PREMIUM ASSISTANCE PAYMENTS, OR THE TAX CREDIT; TO AUTHORIZE THE
 19 DIVISION OF MEDICAID TO PURSUE MEDICAID FUNDING FOR EMPLOYEE
 20 PREMIUM ASSISTANCE; TO BRING FORWARD SECTIONS 27-7-15, 27-69-13,
 21 27-69-75, 97-17-41 AND 97-17-43, MISSISSIPPI CODE OF 1972, FOR THE
 22 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

24 **SECTION 1. Establishment of small business health insurance**
 25 **pool -- intent.**

26 (1) There is established a nonprofit legal entity known as
 27 the small business health insurance pool, with participating



28 membership consisting of all employer members of the purchasing
29 pool.

30 (2) The small business health insurance pool is created as a
31 voluntary purchasing pool pursuant to the provisions contained in
32 Section 13 of this act.

33 (3) Subject to the conditions in Section 14 of this act, the
34 purchasing pool shall make group health plan coverage available
35 effective January 1, 2014.

36 (4) It is the intent of the Legislature that the board:

37 (a) Establish criteria that will allow the greatest
38 number of employees possible to be eligible for premium assistance
39 payments by not permitting eligibility for premium assistance
40 payments under Sections 1 through 9 of this act to employees who
41 continue to maintain enrollment in another comprehensive health
42 insurance coverage through a spouse, parent, or other person; and

43 (b) Allow eligible small employers to determine the
44 length of the waiting period that will apply to their employees,
45 as long as the waiting period:

46 (i) Is not more than twelve (12) months; and

47 (ii) Applies to all eligible employees within that
48 small group in the same manner.

49 (5) The PEER Committee shall conduct or have conducted, at
50 least once each biennium covering the prior two (2) fiscal years,
51 a financial compliance audit of the board and the purchasing pool.



52 The cost of the audit must be paid for by the purchasing pool as a
53 direct cost not subject to the cap on administrative expenses.

54 **SECTION 2. Small business health insurance pool --**
55 **definitions.**

56 As used in Sections 1 through 9 of this act, the following
57 definitions apply:

58 (1) "Board" means the board of directors of the small
59 business health insurance pool as provided for in Section 3 of
60 this act.

61 (2) "Commissioner" means the Commissioner of Insurance.

62 (3) "Dependent" means:

63 (a) A spouse;

64 (b) An unmarried child under twenty-five (25) years of
65 age:

66 (i) Who is not an employee eligible for coverage
67 under a group health plan offered by the child's employer for
68 which the child's premium contribution amount is no greater than
69 the premium amount for coverage as a dependent under a parent's
70 individual or group health plan;

71 (ii) Who is not a named subscriber, insured,
72 enrollee, or covered individual under any other individual health
73 insurance coverage, group health plan, government plan, church
74 plan, or group health insurance;

75 (iii) Who is not entitled to benefits under 42
76 USCS 1395, et seq.; and



77 (iv) For whom the parent has requested coverage;

78 (c) A child of any age who is disabled and dependent
79 upon the parent; or

80 (d) Any other individual defined as a dependent in the
81 health benefit plan covering the employee.

82 (4) "Eligible employee" means an employee who works on a
83 full-time basis with a normal work week of thirty (30) hours or
84 more, except that at the sole discretion of the employer, the term
85 may include an employee who works on a full-time basis with a
86 normal work week of between twenty (20) and forty (40) hours as
87 long as this eligibility criteria is applied uniformly among all
88 of the employer's employees. The term includes a sole proprietor,
89 a partner of a partnership, and an independent contractor if the
90 sole proprietor, partner, or independent contractor is included as
91 an employee under a health benefit plan of a small employer. The
92 term also includes those persons eligible for coverage under
93 Section 25-15-3(a). The term does not include an employee who
94 works on a part-time, temporary, or substitute basis.

95 (5) (a) "Eligible small employer" means an employer who is
96 sponsoring or will sponsor a group health plan and who employed at
97 least two (2) but not more than nine (9) employees during the
98 preceding calendar year and who employs at least two (2) but not
99 more than nine (9) employees on the first day of the plan year.

100 (b) The term includes small employers who obtain group
101 health plan coverage through a qualified association health plan.



102 (6) "Group health plan" means an employee welfare benefit
103 plan, as defined in 29 USCS 1002(1), to the extent that the plan
104 provides medical care and items and services paid for as medical
105 care to employees or their dependents, directly or through
106 insurance, reimbursement, or otherwise.

107 (7) "Premium" means the amount of money that a health
108 insurance issuer charges to provide coverage under a group health
109 plan.

110 (8) "Premium assistance payment" means a payment provided
111 for in Section 6 of this act on behalf of eligible employees who
112 qualify to be applied on a monthly basis to premiums paid for
113 group health plan coverage through the purchasing pool or through
114 qualified association health plans.

115 (9) "Premium incentive payment" means a payment provided for
116 in Section 7(1)(b) of this act to eligible small employers who
117 qualify under Section 7 of this act to be applied to premiums paid
118 on a monthly basis for group health plan coverage obtained through
119 the purchasing pool or through qualified association health plans.

120 (10) "Purchasing pool" means the small business health
121 insurance pool.

122 (11) "Qualified association health plan" means a plan
123 established by an association whose members consist of employers
124 who sponsor group health plans for their employees and purchase
125 that coverage through an association that qualifies as a bona fide
126 association or nonbona fide, as provided for in administrative



127 rule. For the purposes of this section, "bona fide association"
128 means an association that: (a) has been actively in existence for
129 at least five (5) years; (b) was formed and has been maintained in
130 good faith for purposes other than obtaining insurance; (c) does
131 not condition membership in the association on a health
132 status-related factor relating to an individual, including an
133 employee of an employer or a dependent of an employee; (d) makes
134 health insurance coverage offered through the association
135 available to a member regardless of a health status-related factor
136 relating to the member or an individual eligible for coverage
137 through a member; and (e) does not make health insurance coverage
138 offered through the association available other than in connection
139 with a member of the association. A qualified association health
140 plan is subject to applicable employer group health insurance law
141 and must receive approval from the commissioner to operate as a
142 qualified association health plan for the purposes of Sections 1
143 through 9 of this act.

144 (12) "Related employers" means persons having a relationship
145 as described in Section 267 of the Internal Revenue Code, 26 USCS
146 267.

147 (13) "Tax credit" means a refundable tax credit as provided
148 for in Section 8 of this act.

149 (14) "Tax year" means the taxpayer's tax year for federal
150 income tax purposes.



151 **SECTION 3. Board of directors – composition -- appointment –**
152 **compensation.**

153 (1) There is a board of directors of the small business
154 health insurance pool, consisting of seven (7) directors and two
155 (2) nonvoting members serving three-year staggered terms and
156 appointed in the following manner:

157 (a) Three (3) directors must be appointed by the
158 commissioner, one (1) of whom must be a person who has specialized
159 knowledge regarding health insurance, one (1) of whom must be a
160 consumer representing the small business community, and one (1) of
161 whom must be a consumer representing the public interest;

162 (b) Four (4) directors must be appointed by the
163 Governor, one (1) of whom must be a management-level individual
164 with knowledge of state employee health benefit plans, one (1) of
165 whom must be a management-level individual with knowledge of
166 Medicaid services, one (1) of whom must be a consumer representing
167 the public interest, and one (1) of whom must be a consumer
168 representing the small business community.

169 (2) Each director is entitled to one (1) vote on the board.

170 (3) The commissioner and the Governor shall each appoint a
171 representative from their respective staffs to participate in all
172 board meetings as nonvoting members.

173 (4) The directors must be compensated and receive travel
174 expenses in the same manner as members of the quasi-judicial
175 boards under Section 25-3-69. The costs of conducting the



176 meetings of the purchasing pool and the compensation for its board
177 of directors must be borne by the purchasing pool.

178 (5) A board director or member must be replaced in the same
179 manner as the original appointment if that board member is not
180 actively participating in the affairs of the board.

181 **SECTION 4. Powers and duties of board.**

182 (1) The board shall:

183 (a) Establish an operating plan that includes, but is
184 not limited to, administrative and accounting procedures for the
185 operation of the purchasing pool and a schedule for premium
186 incentive and premium assistance payments and that complies with
187 the powers and duties provided for in this section;

188 (b) Require employers and employees to reapply for
189 premium incentive payments or premium assistance payments on an
190 annual basis;

191 (c) Upon reapplication, give priority to employers and
192 their employees who are already receiving the premium incentive
193 payments and premium assistance payments;

194 (d) Upon reapplication, allow employers to retain
195 eligibility to receive premium incentive payments and premium
196 assistance payments on behalf of their eligible employees if the
197 number of their employees goes over the maximum number, not to
198 exceed nine (9) employees, established by the commissioner in
199 administrative rule;



200 (e) Renew purchasing pool group health plan coverage
201 for all employer groups, even if the employer group no longer
202 receives or is eligible for a premium incentive payment;

203 (f) Adopt a premium incentive payment amount that is
204 the same for all registered eligible small employers who join the
205 purchasing pool or obtain qualified association health plan
206 coverage;

207 (g) Adopt premium assistance payment amounts that, in
208 combination with the premium incentive payments, are consistent
209 with the amounts provided for in Sections 6 and 8 of this act or
210 with the assistance of the Division of Medicaid, adopt a premium
211 assistance payment schedule that is equitably proportional to the
212 income or wage level for eligible employees;

213 (h) Establish criteria for determining which employees
214 will be eligible for a premium assistance payment and the amount
215 that the employees will receive from among those eligible small
216 employer groups that have registered with the commissioner
217 pursuant to Section 8 of this act and applied for coverage under
218 the purchasing pool group health plan or qualified association
219 health plan. However, to the extent that federal funds are used
220 to make some premium assistance payments, criteria for those
221 payments must be consistent with any waiver requirements
222 determined by the Division of Medicaid pursuant to Section 10 of
223 this act. Eligibility for employees is not limited to the waiver
224 eligibility groups;



225 (i) Make appropriate changes to eligibility or other
226 elements in the operating plan as needed to reach the goal of
227 expending ninety percent (90%) of the funding dedicated to premium
228 incentive payments and premium assistance payments during the
229 current biennium;

230 (j) Limit the total amount of premium incentive
231 payments and premium assistance payments paid to the amount of
232 available state, federal and private funding;

233 (k) Approve no more than six (6) fully insured group
234 health plans with different benefit levels that will be offered to
235 employers participating in the purchasing pool;

236 (l) Prepare appropriate specifications and bid forms
237 and solicit bids from health insurance issuers authorized to do
238 business in this state;

239 (m) Contract with no more than three (3) health
240 insurance issuers to underwrite the group health plans that will
241 be offered through the purchasing pool;

242 (n) Request that the Division of Medicaid seek a
243 federal waiver for Medicaid matching funds for premium assistance
244 payments based on the department's analysis, as provided in
245 Section 10 of this act, if it is in the best interests of the
246 purchasing pool;

247 (o) Comply with the participation requirements provided
248 for in Section 16 of this act;

249 (p) Meet at least four (4) times annually; and



250 (q) Within two (2) years after the purchasing pool is
251 established and considered stable by the board, examine the
252 possibility of offering an opportunity for individual sole
253 proprietors without employees to purchase insurance from the
254 purchasing pool without premium incentive payments, premium
255 assistance payments, or tax credits.

256 (2) The board may:

257 (a) Borrow money;

258 (b) Enter into contracts with insurers, administrators,
259 or other persons;

260 (c) Hire employees to perform the administrative tasks
261 of the purchasing pool;

262 (d) Assess its members for costs associated with
263 administration of the purchasing pool and request that the
264 commissioner transfer funds, or request that the Division of
265 Medicaid transfer funds from the special fund created in Section
266 14 of this act, for that purpose;

267 (e) Set contribution levels for employers;

268 (f) Request that funds be transferred from the funds
269 appropriated for premium incentive payments and premium assistance
270 payments to the general fund to offset tax credits if the number
271 of eligible small employers seeking premium incentive payments and
272 employees receiving premium assistance payments is insufficient to
273 exhaust at least ninety percent (90%) of the appropriated funds



274 for the premium incentive and assistance payments during a
275 biennium;

276 (g) Seek other federal, state and private funding
277 sources;

278 (h) Accept all small employer groups who apply for
279 coverage under the small business health insurance pool group
280 health plan even if they are not eligible for any tax credit or
281 premium incentive payment and have not been registered by the
282 commissioner pursuant to Section 8 of this act;

283 (i) Receive from the commissioner's office or the
284 Division of Medicaid premium incentive payments on behalf of
285 eligible small employers and premium assistance payments on behalf
286 of eligible employees, collect the employer or employee premiums
287 from the employer or employees, and make premium payments to
288 insurers on behalf of the eligible small employers and employees;

289 (j) Request the commissioner to direct more than thirty
290 percent (30%) of the available funding for premium incentives and
291 premium assistance payments to qualified association health plan
292 coverage instead of purchasing pool coverage; and

293 (k) Pay appropriate commissions to licensed insurance
294 producers who market purchasing pool coverage.

295 **SECTION 5. Duties of commissioner – rulemaking authority.**

296 Subject to the conditions in Section 14 of this act, the
297 commissioner shall:



298 (1) Adopt rules regarding the implementation of Sections 1
299 through 9 of this act, including rules regarding the
300 administration of the premium incentive payments, premium
301 assistance payments, and tax credits, the approval of qualified
302 association health plans, and the registration process. The rules
303 regarding tax credits may not relate to the filing of tax returns
304 and claiming the tax credit on the tax returns;

305 (2) Supervise the creation of the purchasing pool within the
306 limits described in Sections 1 through 9 of this act;

307 (3) Approve or disapprove the operating plan for the
308 purchasing pool;

309 (4) If the board chooses to hire one, approve or disapprove
310 the selection of a third-party administrator to handle the
311 administration of the purchasing pool;

312 (5) With the assistance of the Division of Medicaid, approve
313 or disapprove the schedule of premium incentive payment or premium
314 assistance payment amounts adopted by the board as provided in
315 Section 4 of this act;

316 (6) Approve or disapprove any contracts between a health
317 insurance issuer and the purchasing pool;

318 (7) Approve or disapprove all group health plans being
319 offered by insurers through the purchasing pool;

320 (8) Conduct periodic audits of the financial transactions
321 conducted by the purchasing pool;



322 (9) Allow up to thirty percent (30%), or more if requested
323 by the board and approved by the commissioner, of the available
324 funding for the premium incentive payments and premium assistance
325 payments to be applied to small group health plan coverage
326 purchased through a qualified association health plan;

327 (10) Make applicable premium incentive payments or premium
328 assistance payments for qualified association health plan coverage
329 on behalf of eligible small employers and employees or direct the
330 purchasing pool to make the payments; and

331 (11) Approve or disapprove associations as qualified if
332 their members consist of employers who sponsor group health plan
333 coverage for their employees and purchase that coverage through an
334 association that qualifies as a bona fide association or nonbona
335 fide, as provided for in administrative rule. For the purposes of
336 this section, "bona fide association" means an association that:

337 (a) has been actively in existence for at least five (5) years;
338 (b) was formed and has been maintained in good faith for purposes
339 other than obtaining insurance; (c) does not condition membership
340 in the association on a health status-related factor relating to
341 an individual, including an employee of an employer or a dependent
342 of an employee; (d) makes health insurance coverage offered
343 through the association available to a member regardless of a
344 health status-related factor relating to the member or an
345 individual eligible for coverage through a member; and (e) does
346 not make health insurance coverage offered through the association



347 available other than in connection with a member of the
348 association. A qualified association health plan is subject to
349 applicable employer group health insurance law.

350 **SECTION 6. Premium incentive payments, premium assistance**
351 **payments, and tax credits for small employer health insurance**
352 **premiums paid -- eligibility for small group coverage -- amounts.**

353 (1) An employer is eligible to apply for premium incentive
354 payments and premium assistance payments or a tax credit under
355 Sections 1 through 9 of this act if the employer and any related
356 employers:

357 (a) Did not have more than the number of employees
358 established for eligibility by the commissioner at the time of
359 registering for premium incentive payments or premium assistance
360 payments or a tax credit under Section 8 of this act;

361 (b) Provide or will provide a group health plan for the
362 employer's and any related employer's employees;

363 (c) Do not have delinquent state income tax liability
364 owing to the Department of Revenue from previous years;

365 (d) Have been registered as eligible small employer
366 participants by the commissioner as provided in Section 8 of this
367 act; and

368 (e) Do not have any employees, not including an owner,
369 partner, or shareholder of the business, who received more than
370 Seventy-five Thousand Dollars (\$75,000.00) in gross compensation,



371 including bonuses and commissions, from the small employer or
372 related employer in the prior tax year.

373 (2) The commissioner shall establish, by rule, the maximum
374 number of employees that may be employed to qualify as a small
375 employer under subsection (1). However, the number may not be
376 less than two (2) employees or more than nine (9) employees. The
377 maximum number may be different for employers seeking premium
378 incentive payments and premium assistance payments than for
379 employers seeking a tax credit. The number must be set to
380 maximize the number of employees receiving coverage under Sections
381 1 through 9 of this act. The commissioner may not change the
382 maximum employee number more often than every six (6) months. If
383 the maximum number of allowable employees is changed, the change
384 does not disqualify registered employers with respect to the tax
385 year for which the employer has registered.

386 (3) Except as provided in subsection (4), an eligible small
387 employer may claim a tax credit in the following amounts:

388 (a) (i) Not more than One Hundred Dollars (\$100.00)
389 each month for each employee and One Hundred Dollars (\$100.00)
390 each month for each employee's spouse, if the employer covers the
391 employee's spouse, if the average age of the group is under
392 forty-five (45) years of age; or

393 (ii) Not more than One Hundred Twenty-five Dollars
394 (\$125.00) each month for each employee and One Hundred Dollars
395 (\$100.00) each month for each employee's spouse, if the employer



396 covers the employee's spouse, if the average age of the group is
397 forty-five (45) years of age or older; and

398 (b) Not more than Forty Dollars (\$40.00) each month for
399 each dependent, other than the employee's spouse, if the employer
400 is paying for coverage for the dependents, not to exceed two (2)
401 dependents of an employee in addition to the employee's spouse.

402 (4) An employer may not claim a tax credit:

403 (a) In excess of fifty percent (50%) of the total
404 premiums paid by the employer for the qualifying small group;

405 (b) For premiums paid from a medical care savings
406 account provided for in Chapter 9, Title 71, Mississippi Code of
407 1972; or

408 (c) For premiums for which a deduction is claimed under
409 Section 27-7-17.

410 (5) An employer may not claim a premium incentive payment in
411 excess of fifty percent (50%) of the total premiums paid by the
412 employer for the qualifying small group.

413 **SECTION 7. Filing for tax credit -- filing for premium**
414 **incentive payments and premium assistance payments.**

415 (1) An eligible small employer may:

416 (a) Apply the tax credit against taxes due for the
417 current tax year on a return filed pursuant to Chapter 7, Title
418 27, Mississippi Code of 1972; or

419 (b) If the eligible small employer did not sponsor a
420 group health plan for employees during the two (2) years prior to



421 the first tax year of registration for the premium incentive
422 payments or premium assistance payments or operates a new business
423 that is less than two (2) years old and has never sponsored a
424 group health plan, apply to receive monthly premium incentive
425 payments and premium assistance payments to be applied to coverage
426 obtained through the purchasing pool or qualified association
427 health plan coverage approved by the commissioner.

428 (2) An eligible small employer may not, in the same tax
429 year, apply the tax credit against taxes due for the current tax
430 year as provided for in subsection (1)(a) of this section and
431 receive premium incentive payments as provided for in subsection
432 (1)(b) of this section.

433 (3) The premium incentive payments and premium assistance
434 payments provided for in subsection (1)(b) of this section must be
435 paid pursuant to a plan of operation implemented by the board and
436 any applicable administrative rules.

437 (4) (a) If an eligible small employers' tax credit as
438 provided in subsection (1)(a) of this section exceeds the
439 employer's liability under Chapter 7, Title 27, Mississippi Code
440 of 1972, the amount of the excess must be refunded to the eligible
441 small employer. The tax credit may be claimed even if the
442 eligible small employer has no tax liability under Chapter 7,
443 Title 27, Mississippi Code of 1972.



444 (b) A tax credit is not allowed under Chapter 7, Title
445 27, Mississippi Code of 1972, with respect to any amount for which
446 a tax credit is allowed under Sections 1 through 9 of this act.

447 (5) The Department of Revenue or the commissioner may grant
448 a reasonable extension for filing a claim for premium incentive
449 payments or premium assistance payments or a tax credit whenever,
450 in the department's or the commissioner's judgment, good cause
451 exists. The Department of Revenue and the commissioner shall keep
452 a record of each extension and the reason for granting the
453 extension.

454 (6) (a) If an employer that would have a claim under
455 Sections 1 through 9 of this act ceases doing business before
456 filing the claim, the representative of the employer who files the
457 tax return or pays the premium may file the claim.

458 (b) If a corporation that would have a claim under
459 Sections 1 through 9 of this act merges with or is acquired by
460 another corporation and the merger or acquisition makes the
461 previously eligible corporation ineligible for the premium
462 incentive payments, premium assistance payments, or tax credit in
463 the future, the surviving or acquired corporation may file for the
464 premium incentive payments, premium assistance payments, or tax
465 credit for any claim period during which the former eligible
466 corporation remained eligible.

467 (c) If an employer that would have a claim under
468 Sections 1 through 9 of this act files for bankruptcy protection,



469 the receiver may file for the premium incentive payments, premium
470 assistance payments, or tax credit for any claim period during
471 which the employer was eligible.

472 **SECTION 8. Registration – funding limitations – transfers --**
473 **maximum number -- waiting list -- information transfer for tax**
474 **credits.**

475 (1) (a) Each eligible small employer that proposes to apply
476 for premium incentive payments and premium assistance payments or
477 a tax credit under Sections 1 through 9 of this act must be
478 registered each year with the commissioner. The commissioner
479 shall begin taking new applications for 2014 on October 1, 2013.

480 (b) An eligible small employer may submit a new
481 application for the premium incentive payments and premium
482 assistance payments or the tax credit anytime during the year, but
483 in order to maintain the employer's registration for the next
484 year, the registration application must be renewed each year.

485 (c) The commissioner shall begin accepting renewal
486 applications on October 1 of each year and stop accepting renewal
487 applications on October 31 of each year.

488 (d) The registration application must include the
489 number of individuals covered, as of the date of the registration
490 application, under the small group health plan for which the
491 employer is seeking premium incentive payments and premium
492 assistance payments or a tax credit. If, after the initial
493 registration, the number of individuals increases, the employer



494 may apply to register the additional individuals, but those
495 additional individuals may be added only at the discretion of the
496 commissioner, who shall limit enrollment based on available funds.

497 (e) A small employer is not eligible to apply for
498 premium incentive payments and premium assistance payments or a
499 tax credit for a number of employees, or the employees' spouses or
500 dependents, over the number that has been established in Section 6
501 of this act as the maximum number of employees an employer may
502 have in order to qualify for registration for the time period in
503 question.

504 (f) An employer's decision to apply for premium
505 incentive payments and premium assistance payments or a tax credit
506 is irrevocable for twelve (12) months or until the purchasing pool
507 group health plan or qualified association health plan renews its
508 registration, whichever time period is less. An employer may
509 choose to discontinue receiving any premium incentive payments and
510 premium assistance payments or tax credits at any time.

511 (2) The commissioner shall register qualifying eligible
512 small employers in the order in which applications are received
513 and according to whether or not the application is for premium
514 incentive payments and premium assistance payments or a tax
515 credit. Initially, sixty percent (60%) of the available funding
516 must be dedicated to provide and maintain premium incentive
517 payments and premium assistance payments for eligible small
518 employers who have not sponsored group health plans in the



519 previous two (2) years and who chose to join the purchasing pool
520 or a qualified association health plan and forty percent (40%) of
521 the available funding must be dedicated to tax credits for
522 eligible small employers who currently sponsor a small group
523 health plan. Funding may be transferred from the allocated fund
524 for premium incentive payments and premium assistance payments to
525 the general fund for tax credits if the board requests the
526 transfer as provided in Section 4 of this act and the commissioner
527 approves the request.

528 (3) (a) The maximum number of eligible small employers is
529 reached when the anticipated amount of claims for premium
530 incentive payments and premium assistance payments and tax credits
531 has reached ninety-five percent (95%) of the amount of money
532 allocated for premium incentive payments and premium assistance
533 payments and tax credits.

534 (b) The commissioner may establish a waiting list for
535 applicants that are otherwise qualified for registration but
536 cannot be registered because of a lack of money or because the
537 maximum number of eligible small employers has been reached.

538 (c) The commissioner shall mail to each employer
539 registered under this section a notice of registration containing
540 a unique registration number and indicating eligibility for either
541 premium incentive payments and premium assistance payments or a
542 tax credit. The commissioner shall also issue to each employer
543 that is eligible for premium incentive payments and premium



544 assistance payments or the tax credit a certificate, placard,
545 sticker, or other evidence of participation that may be publicly
546 posted.

547 (d) The commissioner shall notify all persons who
548 applied for registration and who were not accepted that they were
549 not registered and the reason that they were not registered.

550 (4) A prospective participant shall apply for registration
551 on a form provided by the commissioner. The prospective
552 participant shall:

553 (a) Provide the number of employees and whether the
554 employer qualifies under Section 6 of this act;

555 (b) Provide information that is necessary to estimate
556 the amount of the premium incentive payments and premium
557 assistance payments payable to the applicant or the amount of the
558 tax credit available to the applicant, such as the ages of
559 employees or dependents, relationships of employees' dependents,
560 and information required by the Division of Medicaid for
561 determination of eligibility for premium assistance payments
562 matched by federal funds;

563 (c) Indicate whether the prospective employer intends
564 to pursue the claim as a tax credit through the income tax process
565 or through premium incentive payments and premium assistance
566 payments to be applied toward purchasing pool or eligible
567 qualified association health plan coverage;



568 (d) Indicate whether or not the employer previously
569 sponsored a group health plan and, if so, when and for how long;
570 and

571 (e) Provide any additional information determined by
572 the commissioner to be necessary to support an application.

573 (5) Each year, small employer participants shall reregister
574 with the commissioner in order to determine the participant's
575 continued eligibility.

576 (6) The commissioner shall transmit to the Department of
577 Revenue, at least annually, a list of eligible small employers
578 that are taxpayers entitled to the tax credit and shall specify
579 the taxpayer's name and tax identification number, the tax year to
580 which the credit applies, the amount of the credit, and whether
581 the credit is to be applied against taxes due on the taxpayer's
582 return or paid as premium incentive payments or premium assistance
583 payments. Unless there has been a finding of fraud or
584 misrepresentation on the part of the taxpayer regarding issues
585 relating to eligibility for the tax credit, the Department of
586 Revenue may not redetermine or change the commissioner's
587 determination regarding the taxpayer's entitlement to and amount
588 of the tax credit.

589 (7) If the Division of Medicaid receives approval for a
590 Section 1115 waiver as provided in Section 10 of this act, the
591 commissioner shall work with the Division of Medicaid with regard



592 to eligibility determinations as required by federal law or waiver
593 conditions.

594 **SECTION 9. Penalties.**

595 (1) The commissioner may, after providing an opportunity for
596 a hearing pursuant to applicable law, impose up to a Twenty-five
597 Thousand Dollars (\$25,000.00) fine, not to exceed Five Thousand
598 Dollars (\$5,000.00) per violation upon insurance producers and
599 adjusters, for violations of Sections 1 through 9 of this act.
600 Failure to pay a fine under this section results in a lien upon
601 the assets and property of that person in this state and may be
602 recovered by suit by the commissioner and deposited in the special
603 fund created in Section 14 of this act.

604 (2) In addition to any penalty that the commissioner may
605 impose provided for in applicable law, the commissioner may
606 require a person violating Sections 1 through 9 of this act to
607 make full restitution to the state, including interest of ten
608 percent (10%) a year from the date of loss, if a violation of
609 Sections 1 through 9 of this act caused a premium incentive
610 payment or premium assistance payment to be paid or a tax credit
611 to be issued to a person who was not entitled to it.

612 (3) A person who purposely or knowingly violates Sections 1
613 through 9 of this act and receives a premium incentive payment or
614 premium assistance payment or tax credit that the person is not
615 entitled to commits the offense of larceny, which is punishable as
616 provided in Sections 97-17-41 and 97-17-43.



617 (4) A person who purposely or knowingly violates Sections 1
618 through 9 of this act and makes false statements, knowing those
619 statements are not true, commits the offense of false
620 representation to defraud the government, which is punishable as
621 provided in Section 97-7-10.

622 (5) Any fines or restitution collected pursuant to this
623 section must be deposited in the special fund created in Section
624 14 of this act and dedicated to the payment of premium incentive
625 payments and premium assistance payments or tax credits or funding
626 new programs to assist eligible small employers with the cost of
627 providing health insurance benefits.

628 **SECTION 10. Health insurance premium assistance –**
629 **legislative intent – application for Section 1115 waiver -- duties**
630 **of board of directors of small business health insurance pool,**
631 **Commissioner of Insurance, and Division of Medicaid.**

632 (1) It is the intent of the Legislature that the small
633 business health insurance pool board of directors, established in
634 Section 3 of this act, consider the option of funding a portion of
635 the premium incentive payments on behalf of eligible small
636 employers or premium assistance payments on behalf of eligible
637 employees under Sections 1 through 9 of this act to the extent
638 possible through a Section 1115 waiver demonstration project of
639 Medicaid coverage as authorized by Section 1115 of Title XI of the
640 Social Security Act, 42 USCS 1315.



641 (2) The department shall prepare an analysis of the Section
642 1115 waiver for the board for its consideration in deciding
643 whether to request that the department seek the Section 1115
644 waiver as provided in Section 4 of this act.

645 (3) (a) The department, as the designated single state
646 agency for the receipt of Medicaid, may seek, if requested by the
647 board, approval from the United States Department of Health and
648 Human Services for inclusion in a Section 1115 waiver for the
649 premium incentive payments and premium assistance payments to be
650 provided on behalf of employees eligible under Sections 1 through
651 9 of this act who meet the applicable income standard established
652 through the Section 1115 waiver.

653 (b) The commissioner and the board shall cooperate with
654 the department in obtaining approval for the inclusion of the
655 premium assistance payment coverage group in a Section 1115
656 waiver.

657 (4) Upon approval of a premium assistance payment coverage
658 group through a Section 1115 waiver:

659 (a) The eligibility of program participants for the
660 Section 1115 demonstration premium assistance coverage group must
661 be determined by the department. The commissioner shall provide
662 employee and other information to the department as necessary for
663 Section 1115 waiver eligibility determinations.

664 (b) The department may access confidential employee and
665 employer information necessary for administration of the premium



666 assistance payment coverage group. The commissioner shall provide
667 employee, employer, and other information to the department as
668 necessary for the administration of the Section 1115 waiver.

669 (c) The commissioner and the board shall provide to the
670 department the funds or certification necessary to provide the
671 state match for the Medicaid money to be expended on behalf of the
672 Section 1115 waiver premium incentive payment or premium
673 assistance payment coverage groups and for the administration of
674 the coverage groups by the department.

675 (d) The commissioner, the board, and the department
676 shall cooperate in the adoption of administrative rules necessary
677 for the implementation of the premium incentive payments and
678 premium assistance payments. The department shall adopt rules for
679 the implementation of Medicaid coverage for employees
680 participating in the program as provided in the conditions for the
681 waiver.

682 (e) The commissioner and the board shall cooperate with
683 the department to ensure that expenditures of Medicaid money are
684 made in accordance with the requirements of federal law and the
685 approval for the Section 1115 waiver.

686 (5) The department may coordinate or include the
687 authorization to seek the waiver granted by this section with any
688 other authority granted to the department in this part to seek
689 Section 1115 waivers.



690 **SECTION 11. Tax credit for health insurance premiums paid –**
691 **eligible small employers -- pass-through entities.**

692 (1) There is a tax credit, determined under Sections 1
693 through 9 of this act, for eligible small employers who are
694 individuals against the taxes imposed in Chapter 7, Title 27,
695 Mississippi Code of 1972, for qualifying premiums paid by the
696 eligible small employer for coverage of eligible employees and
697 eligible employees' spouses and dependents under a group health
698 plan as defined in Section 2 of this act.

699 (2) If the employer is an S corporation, the shareholders
700 may claim a pro rata share of the tax credit. If the employer is
701 a partnership, the credit may be claimed by the partners in the
702 same proportion used to report the partnership's income or loss
703 for Mississippi income tax purposes.

704 **SECTION 12. Tax credit for health insurance premiums paid –**
705 **eligible small employers – corporations.**

706 There is a tax credit, as determined under Sections 1 through
707 9 of this act, for eligible small employers against the taxes
708 imposed in Chapter 7, Title 27, Mississippi Code of 1972, for
709 qualifying premiums paid by the eligible small employer for
710 coverage of eligible employees and eligible employees' spouses and
711 dependents under a group health plan as defined in Section 2 of
712 this act.

713 **SECTION 13. Qualifications for voluntary purchasing pool.**



714 The small business health insurance purchasing pool may be
715 formed solely for the purpose of obtaining health insurance upon
716 compliance with the following provisions:

717 (1) (a) It contains at least fifty-one (51) eligible
718 employees.

719 (b) It establishes requirements for membership. The
720 small business health insurance purchasing pool shall accept for
721 membership any small employers and may accept for membership any
722 employers with at least fifty-one (51) eligible employees that
723 otherwise meet the requirements for membership. However, the
724 small business health insurance purchasing pool may not exclude
725 any small employers that otherwise meet the requirements for
726 membership on the basis of claim experience, occupation, or health
727 status.

728 (c) It holds an open enrollment period at least once a
729 year during which new members can join the small business health
730 insurance purchasing pool.

731 (d) It offers coverage to eligible employees of member
732 employers and to the employees' dependents. Coverage may not be
733 limited to certain employees of member small employers except such
734 a health benefit plan may exclude coverage for late enrollees for
735 eighteen (18) months or for an eighteen-month preexisting
736 condition exclusion, provided that if both a period of exclusion
737 from coverage and a preexisting condition exclusion are applicable
738 to a late enrollee, the combined period may not exceed eighteen



739 (18) months from the date on which the individual enrolls for
740 coverage under the health benefit plan.

741 (e) It does not assume any risk or form self-insurance
742 plans among its members.

743 (f) (i) Disability insurance policies, certificates,
744 or contracts offered through the small business health insurance
745 purchasing pool must rate the entire purchasing pool group as a
746 whole and charge each insured person based on a community rate
747 within the common group, adjusted for case characteristics as
748 permitted by the laws governing group disability insurance.

749 (ii) At its discretion, premiums may be paid to
750 the disability insurance policies, certificates, or contracts by
751 the small business health insurance purchasing pool or by member
752 employers.

753 (g) A person marketing disability insurance policies,
754 certificates, or contracts for the small business health insurance
755 purchasing pool must be licensed as an insurance producer.

756 (2) (a) Except as provided in paragraph (d) of this
757 subsection, on March 1 of each year, the small business health
758 insurance purchasing pool shall provide a report and financial
759 statement for the previous calendar year to the commissioner so
760 that the commissioner may determine:

761 (i) Whether the operation of the small business
762 health insurance purchasing pool is fiscally sound;



763 (ii) Whether the small business health insurance
764 purchasing pool is bearing any risk; and

765 (iii) The number of individuals covered.

766 (b) The annual report of the small business health
767 insurance purchasing pool must disclose its total administrative
768 cost.

769 (c) The small business health insurance purchasing pool
770 may choose to operate on a fiscal year other than on the calendar
771 year. If the small business health insurance purchasing pool
772 establishes a fiscal year that is other than the calendar year, it
773 shall provide the report required in paragraph (a) of this
774 subsection to the commissioner within sixty (60) days of the small
775 business health insurance purchasing pool's fiscal year end.

776 (d) The commissioner may exempt the small business
777 health insurance purchasing pool established in this act from the
778 reporting requirements under paragraph (a) of this subsection.

779 (3) (a) All insurance or premiums collected by the small
780 business health insurance purchasing pool on behalf of or for an
781 insurer and all return premiums received from the insurer are held
782 by the small business health insurance purchasing pool in a
783 fiduciary capacity. These funds must be remitted immediately to
784 the person entitled to them or must be deposited promptly in a
785 fiduciary bank account established and maintained by the
786 administrator of the small business health insurance purchasing
787 pool. If deposited charges or premiums are collected on behalf of



788 or for more than one (1) insurer, the small business health
789 insurance purchasing pool shall either keep or require the bank in
790 which the fiduciary account is maintained to keep records clearly
791 recording the deposits to and withdrawals from the account on
792 behalf of each insurer. The small business health insurance
793 purchasing pool shall promptly obtain and keep copies of all these
794 records and shall, upon request of an insurer, furnish the insurer
795 with copies of the records pertaining to deposits and withdrawals
796 on behalf of or for the insurer.

797 (b) The small business health insurance purchasing pool
798 may not pay a claim by withdrawals from the fiduciary account.
799 Withdrawals from the fiduciary account must be made, as provided
800 in the written agreement between the small business health
801 insurance purchasing pool and the insurer, for:

802 (i) Remittance to an insurer entitled to the
803 remittance;

804 (ii) Deposit in an account maintained in the name
805 of the insurer;

806 (iii) Payment to a group policyholder for
807 remittance to the insurer entitled to the payment; or

808 (iv) Remittance of return premiums to the person
809 entitled to the premium.

810 **SECTION 14.** (1) There is created in the State Treasury a
811 special fund that is made up of all monies deposited into the



812 fund. This account is to be administered by the Division of
813 Medicaid.

814 (2) This account may be used only to provide funding for:

815 (a) New programs to assist eligible small employers
816 with the costs of providing health insurance benefits to eligible
817 employees;

818 (b) The cost of administering the tax credit, the
819 purchasing pool and the premium incentive payments and premium
820 assistance payments, as provided in Sections 1 through 9 of this
821 act, not to exceed Six Hundred Dollars (\$600.00) in the first year
822 or five percent (5%) for each successive year of the appropriation
823 for the tax credit, the purchasing pool, and the premium incentive
824 payments and premium assistance payments; and

825 (c) To provide a state match for the Medicaid program
826 for premium incentive payments or premium assistance to the extent
827 that a waiver is granted by federal law as provided in Section 10
828 of this act.

829 (3) (a) The money appropriated for fiscal year 2013 for the
830 program in subsection (2) of this section may not be expended
831 until the Office of Budget and Program Planning has certified that
832 Twenty-five Million Dollars (\$25,000,000.00) has been deposited in
833 the account provided for in this section.

834 (b) For each succeeding fiscal year, on or before July
835 1, the Joint Legislative Budget Committee shall calculate a
836 balance required to sustain the program for each fiscal year of



837 the next biennium. If the Joint Legislative Budget Committee
838 certifies that the reserve balance will be sufficient, then the
839 commissioner may expend the revenue for the program as
840 appropriated. If the Joint Legislative Budget Committee
841 determines that the reserve balance of the revenue will not
842 support the level of appropriation, the budget director shall
843 notify the commissioner. Upon receipt of the notification, the
844 commissioner shall adjust the operating budget for the program to
845 reflect the available revenue as determined by the budget
846 director.

847 (4) The Division of Medicaid may adopt rules and regulations
848 necessary to implement this section.

849 **SECTION 15. Contingency on expenditure.**

850 Sections 1 through 9 may not be construed to require
851 implementation or ongoing operation of the programs in Section 14
852 of this act without a line item appropriation in the general
853 appropriations bill included for that purpose.

854 **SECTION 16. Availability of coverage -- required plans.**

855 (1) (a) As a condition of transacting business in this
856 state with small employers, each small employer carrier must have
857 approved for issuance to small employer groups at least two (2)
858 health benefit plans. One (1) plan must be a basic health benefit
859 plan, and one (1) plan must be a standard health benefit plan.

860 (b) (i) A small employer carrier shall issue all plans
861 marketed under Sections 1 through 9 of this act to any eligible



862 small employer that applies for a plan and agrees to make the
863 required premium payments and to satisfy the other reasonable
864 provisions of the health benefit plan not inconsistent with
865 Sections 1 through 9 of this act.

866 (ii) In the case of a small employer carrier that
867 establishes more than one (1) class of business pursuant to
868 Section 17 of this act, the small employer carrier shall maintain
869 and offer to eligible small employers all plans marketed under
870 Sections 1 through 9 of this act in each established class of
871 business. A small employer carrier may apply reasonable criteria
872 in determining whether to accept a small employer into a class of
873 business, provided that:

874 1. The criteria are not intended to
875 discourage or prevent acceptance of small employers applying for a
876 health benefit plan;

877 2. The criteria are not related to the health
878 status or claims experience of the small employers' employees;

879 3. The criteria are applied consistently to
880 all small employers that apply for coverage in that class of
881 business; and

882 4. The small employer carrier provides for
883 the acceptance of all eligible small employers into one or more
884 classes of business.

885 (iii) The provisions of subparagraph (ii) of this
886 paragraph may not be applied to a class of business into which the



887 small employer carrier is no longer enrolling new small
888 businesses.

889 (c) A small employer carrier that elects not to comply
890 with the requirements of paragraphs (a) and (b) of this subsection
891 may continue to provide coverage under health benefit plans
892 previously issued to small employers in this state for a period of
893 no more than seven (7) years from October 1, 2014, if the carrier:

894 (i) Complies with all other applicable provisions
895 of Sections 1 through 9 of this act, except subsections (2)
896 through (4) of this section;

897 (ii) Does not amend or alter the benefits and
898 coverages of the previously issued health benefit plans unless
899 required to do so by law or rule; and

900 (iii) Complies with all applicable provisions of
901 Public Law 104-91.

902 (2) (a) A small employer carrier shall, pursuant to Section
903 18 of this act, file the basic health benefit plans and the
904 standard health benefit plans to be used by the small employer
905 carrier.

906 (b) The commissioner may at any time, after providing
907 notice and an opportunity for a hearing to the small employer
908 carrier, disapprove the continued use by a small employer carrier
909 of a basic or standard health benefit plan on the grounds that the
910 plan does not meet the requirements of Sections 1 through 9 of
911 this act.



912 (3) Health benefit plans covering small employers must
913 comply with the following provisions:

914 (a) A health benefit plan may not:

915 (i) Because of a preexisting condition, deny,
916 exclude, or limit benefits for a covered individual for losses
917 incurred more than twelve (12) months following the individual's
918 enrollment date. A health benefit plan may not define a
919 preexisting condition exclusion more restrictively than a
920 limitation or exclusion of benefits relating to a condition based
921 on presence of a condition before the enrollment date coverage,
922 whether or not any medical advice, diagnosis, care, or treatment
923 was recommended or received before the enrollment date.

924 (ii) Use a preexisting condition exclusion more
925 restrictive than exclusions allowed under Section 19 of this act.

926 (b) A health benefit plan must waive any time period
927 applicable to a preexisting condition exclusion or limitation
928 period with respect to particular services for the period of time
929 that an individual was previously covered by creditable coverage
930 that provided benefits with respect to those services if the
931 creditable coverage was continuous to a date not more than
932 sixty-three (63) days prior to the submission of an application
933 for new coverage. A health benefit plan may determine waivers of
934 time periods applicable to preexisting condition exclusions or
935 limitations on the basis of prior coverage of benefits within each
936 of several classes or categories as specified in regulations



937 implementing Public Law 104-191, rather than as provided in this
938 paragraph (b). This paragraph (b) does not preclude application
939 of any waiting period applicable to all new enrollees under the
940 health benefit plan.

941 (c) A health benefit plan may exclude coverage for late
942 enrollees for eighteen (18) months or for an eighteen (18) month
943 preexisting condition exclusion, provided that if both a period of
944 exclusion from coverage and a preexisting condition exclusion are
945 applicable to a late enrollee, the combined period may not exceed
946 eighteen (18) months from the date on which the individual enrolls
947 for coverage under the health benefit plan.

948 (d) (i) Requirements used by a small employer carrier
949 in determining whether to provide coverage to a small employer,
950 including requirements for minimum participation of eligible
951 employees and minimum employer contributions, must be applied
952 uniformly among all small employers that have the same number of
953 eligible employees and that apply for coverage or receive coverage
954 from the small employer carrier. For the purpose of meeting
955 minimum participation requirements of groups of four (4) or more,
956 a small employer carrier may not consider employees who, because
957 they are covered under another health plan, waive coverage under
958 the small employer's plan as part of the group of eligible
959 employees. However, a small employer carrier may require at least
960 two (2) eligible employees to participate in a plan.



961 (ii) A small employer carrier may vary the
962 application of minimum participation requirements and minimum
963 employer contribution requirements only by the size of the small
964 employer group.

965 (e) (i) If a small employer carrier offers coverage to
966 a small employer, the small employer carrier shall offer coverage
967 to all of the eligible employees of a small employer and their
968 dependents. A small employer carrier may not offer coverage only
969 to certain individuals in a small employer group or only to part
970 of the group, except in the case of late enrollees as provided in
971 paragraph (c) of this subsection.

972 (ii) A small employer carrier may not modify a
973 plan marketed under Sections 1 through 9 of this act with respect
974 to a small employer or any eligible employee or dependent, through
975 riders, endorsements, or otherwise, to restrict or exclude
976 coverage for certain diseases or medical conditions otherwise
977 covered by the health benefit plan.

978 (iii) A small employer carrier shall secure a
979 waiver of coverage from each eligible employee who declines, at
980 the sole discretion of the eligible employee, an offer of coverage
981 under a health benefit plan provided by the small employer. The
982 waiver must be signed by the eligible employee and must certify
983 that the employee was informed of the availability of coverage
984 under the health benefit plan and of the penalties for late



985 enrollment. The waiver may not require the eligible employee to
986 disclose the reasons for declining coverage.

987 (iv) A small employer carrier may not issue
988 coverage to a small employer if the carrier or a producer for the
989 carrier has evidence that the small employer induced or pressured
990 an eligible employee to decline coverage due to the health status
991 or risk characteristics of the eligible employee or of the
992 dependents of the eligible employee.

993 (4) (a) A small employer carrier may not be required to
994 offer coverage or accept applications pursuant to subsection (1)
995 of this section in the case of the following:

996 (i) To an employer whose employees do not work or
997 reside within the small employer carrier's established geographic
998 service area for a network plan, defined as health insurance
999 coverage offered by a health insurance issuer under which the
1000 financing and delivery of medical care, including items and
1001 services paid for as medical care, are provided, in whole or in
1002 part, through a defined set of providers under contract with the
1003 issuer; or

1004 (ii) Within an area where the small employer
1005 carrier reasonably anticipates and demonstrates to the
1006 satisfaction of the commissioner that it will not have the
1007 capacity within its established geographic service area to deliver
1008 service adequately to the members of a group because of its
1009 obligations to existing group policyholders and enrollees. The



1010 small employer carrier may not deny coverage under this subsection
1011 unless the small employer carrier acts uniformly without regard to
1012 claims experience or health status-related factors of employers,
1013 employees, or dependents.

1014 (b) A small employer carrier may not be required to
1015 provide coverage to small employers pursuant to subsection (1) of
1016 this section for which the commissioner determines that the small
1017 employer carrier does not have the financial reserves necessary to
1018 underwrite additional coverage and that the small employer carrier
1019 has denied coverage of small employers uniformly throughout the
1020 state and without regard to the claims experience and health
1021 status-related factors of the applicant small employer groups.
1022 The small employer carrier exempted from providing coverage under
1023 this subsection may not offer coverage to small employer groups in
1024 this state for one hundred eighty (180) days after the date on
1025 which coverage is denied or until the small employer carrier has
1026 demonstrated to the commissioner that the small employer carrier
1027 has sufficient financial reserves to underwrite additional
1028 coverage, whichever is later.

1029 **SECTION 17. Establishment of classes of business.**

1030 (1) A small employer carrier may establish a separate class
1031 of business only to reflect substantial differences in expected
1032 claims experience or administrative costs that are related to the
1033 following reasons:



1034 (a) The small employer carrier uses more than one (1)
1035 type of system for the marketing and sale of health benefit plans
1036 to small employers.

1037 (b) The small employer carrier has acquired a class of
1038 business from another small employer carrier.

1039 (c) The small employer carrier provides coverage to one
1040 or more association groups, including labor unions, that have been
1041 organized and are maintained in good faith for purposes other than
1042 that of obtaining insurance or of insuring members, employees, or
1043 employees of members of the association for the benefit of persons
1044 other than the association or its officers or trustees. The term
1045 "employees" as used in this subsection may include retired
1046 employees.

1047 (2) A small employer carrier may establish up to nine (9)
1048 separate classes of business under subsection (1).

1049 (3) The commissioner shall adopt rules to provide for a
1050 period of transition in order for a small employer carrier to come
1051 into compliance with subsection (2) in the case of acquisition of
1052 an additional class of business from another small employer
1053 carrier.

1054 (4) The commissioner may approve the establishment of
1055 additional classes of business upon application to the
1056 commissioner and a finding by the commissioner that the action
1057 would enhance the fairness and efficiency of the small employer
1058 health insurance market.



1059 **SECTION 18. Filing of forms -- approval -- review of**
1060 **disapproval or withdrawal of approval -- application.**

1061 (1) (a) A health benefit plan may not be delivered or
1062 issued for delivery in Mississippi unless the form has been filed
1063 with and approved by the commissioner and, if required, the
1064 regulatory official of the state of domicile of the insurer. This
1065 provision does not apply to surety bonds or policies, riders,
1066 endorsements, or forms of unique character designed for and used
1067 with relation to insurance upon a particular subject or that
1068 relate to the manner of distribution of benefits or to the
1069 reservation of rights and benefits under life or disability
1070 insurance policies and are used at the request of the individual
1071 policyholder, contract holder, or certificate holder.

1072 (b) A filing required by paragraph (a) of this
1073 subsection must be submitted by an officer of the insurer with a
1074 certification in a form prescribed by the commissioner. The
1075 certification must state that to the best of the officer's
1076 knowledge and belief, the health benefit plan complies with the
1077 applicable provisions of Title 83, Mississippi Code of 1972.

1078 (c) The approval of a health benefit plan by the state
1079 of domicile may be waived by the commissioner if the commissioner
1080 considers the requirements of paragraph (a) of this subsection
1081 unnecessary for the protection of Mississippi insurance consumers.
1082 If the requirement is waived, an insurer shall notify the
1083 commissioner in writing within ten (10) days of disapproval,



1084 denial, or withdrawal of approval of a form by the state of
1085 domicile.

1086 (2) (a) The filing must be made not less than sixty (60)
1087 days before delivery and must be delivered by hand or sent by
1088 certified mail with a return receipt requested. The
1089 commissioner's office shall mark a filing with the date of receipt
1090 by the commissioner's office.

1091 (b) (i) If after sixty (60) days from the date of
1092 receipt by the commissioner's office the commissioner has not
1093 approved or disapproved the form by a notice pursuant to the
1094 provisions in subsection (4) of this section, the form is
1095 considered approved for all purposes, subject to paragraph (c) of
1096 this subsection.

1097 (ii) The running of the sixty-day period is tolled
1098 for a period commencing on the date that the commissioner notifies
1099 the insurer of problems or questions and requests additional
1100 information from the insurer concerning a form filed pursuant to
1101 paragraph (a) of subsection (1) of this section and ending on the
1102 date that the insurer submits its response to the commissioner.

1103 (iii) For purposes of tolling the sixty-day period
1104 as provided in subparagraph (ii) of this section, the
1105 commissioner's request notification may be made electronically.

1106 (c) In a letter separate from the original filing and
1107 delivered by hand or sent by certified mail with return receipt
1108 requested, the insurer shall notify the commissioner, at least ten



1109 (10) days before the use of the form in the market, that the
1110 insurer believes that:

1111 (i) The form has been or will be considered
1112 approved; and

1113 (ii) The insurer will begin marketing the form in
1114 Mississippi.

1115 (d) The commissioner's office shall mark a letter
1116 received pursuant to paragraph (c) of this subsection with the
1117 date of receipt by the commissioner's office.

1118 (3) Approval of a form by the commissioner constitutes a
1119 waiver of any unexpired portion of the waiting period.

1120 (4) The commissioner may at any time, after notice and for
1121 cause shown, withdraw any approval. Notice by the commissioner
1122 disapproving a form or withdrawing a previous approval must state
1123 the grounds for disapproval or withdrawal in sufficient detail to
1124 inform the insurer of the specific reason or reasons for and the
1125 legal authority supporting the disapproval or withdrawal of
1126 approval in whole or in part. The disapproval or withdrawal of
1127 approval does not take effect unless it is issued after the
1128 commissioner has reviewed the form and provided notice to the
1129 person who filed the form pursuant to this subsection.

1130 (5) After the date of the insurer's receipt of notice of
1131 disapproval or withdrawal of approval by the commissioner, the
1132 insurer may not deliver the form or issue the form for delivery in
1133 Mississippi.



1134 (6) The insurer may request a hearing for unresolved
1135 disputes regarding a disapproval or a withdrawal of approval by
1136 providing the commissioner with a written demand for a hearing.
1137 The written demand must specify the grounds relied upon as a basis
1138 for the relief sought at the hearing. If the commissioner does
1139 not issue an order granting a person's request for a hearing
1140 within thirty (30) days of receiving a request, the hearing is
1141 considered refused.

1142 (7) The commissioner may exempt from the requirements of
1143 this section, for so long as the commissioner considers proper, an
1144 insurance document, form, or type of document or form to which, in
1145 the commissioner's opinion, this section may not practicably be
1146 applied or the filing and approval of which are not desirable or
1147 necessary for the protection of the public.

1148 (8) This section applies to a form used by a domestic
1149 insurer for delivery in a jurisdiction outside Mississippi if the
1150 insurance supervisory official of the jurisdiction informs the
1151 commissioner that the form is not subject to approval or
1152 disapproval by the official and upon the commissioner's order
1153 requiring the form to be submitted to the commissioner for the
1154 purpose. The same standards apply to these forms as apply to
1155 forms for domestic use.

1156 (9) This section does not apply to:

1157 (a) Reinsurance;



1158 (b) Policies or contracts not issued for delivery in
1159 Mississippi or delivered in Mississippi, except as provided in
1160 subsection (8); and

1161 (c) Ocean marine and foreign trade insurances.

1162 (10) Except as otherwise provided by law, group certificates
1163 that are delivered or issued for delivery in Mississippi for group
1164 insurance policies effectuated and delivered outside Mississippi
1165 but covering persons who are residents in Mississippi must be
1166 filed with the commissioner upon request. The certificates must
1167 meet the minimum provisions mandated by Mississippi if Mississippi
1168 law prevails over conflicting provisions of other state law.

1169 **SECTION 19. Preexisting conditions relating to group market.**

1170 (1) In addition to the provisions of Section 83-9-49, a
1171 health benefit plan may not exclude coverage for a preexisting
1172 condition unless:

1173 (a) Medical advice, diagnosis, care, or treatment was
1174 recommended or received by the participant or beneficiary within
1175 the six-month period ending on the enrollment date;

1176 (b) Exclusion of coverage extends for a period of not
1177 more than twelve (12) months or eighteen (18) months in the case
1178 of a late enrollee; and

1179 (c) The period of the preexisting condition exclusion
1180 is reduced by the aggregate of the periods of creditable coverage
1181 applicable to the participant or beneficiary as of the enrollment
1182 date.



1183 (2) Genetic information may not be excluded as a preexisting
1184 condition in the absence of a diagnosis of the condition related
1185 to the genetic information.

1186 (3) Pregnancy may not be excluded as a preexisting
1187 condition.

1188 **SECTION 20.** Section 27-7-15, Mississippi Code of 1972, is
1189 brought forward as follows:

1190 27-7-15. (1) For the purposes of this article, except as
1191 otherwise provided, the term "gross income" means and includes the
1192 income of a taxpayer derived from salaries, wages, fees or
1193 compensation for service, of whatever kind and in whatever form
1194 paid, including income from governmental agencies and subdivisions
1195 thereof; or from professions, vocations, trades, businesses,
1196 commerce or sales, or renting or dealing in property, or
1197 reacquired property; also from annuities, interest, rents,
1198 dividends, securities, insurance premiums, reinsurance premiums,
1199 considerations for supplemental insurance contracts, or the
1200 transaction of any business carried on for gain or profit, or
1201 gains, or profits, and income derived from any source whatever and
1202 in whatever form paid. The amount of all such items of income
1203 shall be included in the gross income for the taxable year in
1204 which received by the taxpayer. The amount by which an eligible
1205 employee's salary is reduced pursuant to a salary reduction
1206 agreement authorized under Section 25-17-5 shall be excluded from
1207 the term "gross income" within the meaning of this article.



1208 (2) In determining gross income for the purpose of this
1209 section, the following, under regulations prescribed by the
1210 commissioner, shall be applicable:

1211 (a) **Dealers in property.** Federal rules, regulations
1212 and revenue procedures shall be followed with respect to
1213 installment sales unless a transaction results in the shifting of
1214 income from inside the state to outside the state.

1215 (b) **Casual sales of property.**

1216 (i) Prior to January 1, 2001, federal rules,
1217 regulations and revenue procedures shall be followed with respect
1218 to installment sales except they shall be applied and administered
1219 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
1220 106th Congress, had not been enacted. This provision will
1221 generally affect taxpayers, reporting on the accrual method of
1222 accounting, entering into installment note agreements on or after
1223 December 17, 1999. Any gain or profit resulting from the casual
1224 sale of property will be recognized in the year of sale.

1225 (ii) From and after January 1, 2001, federal
1226 rules, regulations and revenue procedures shall be followed with
1227 respect to installment sales except as provided in this
1228 subparagraph (ii). Gain or profit from the casual sale of
1229 property shall be recognized in the year of sale. When a taxpayer
1230 recognizes gain on the casual sale of property in which the gain
1231 is deferred for federal income tax purposes, a taxpayer may elect
1232 to defer the payment of tax resulting from the gain as allowed and



1233 to the extent provided under regulations prescribed by the
1234 commissioner. If the payment of the tax is made on a deferred
1235 basis, the tax shall be computed based on the applicable rate for
1236 the income reported in the year the payment is made. Except as
1237 otherwise provided in subparagraph (iii) of this paragraph (b),
1238 deferring the payment of the tax shall not affect the liability
1239 for the tax. If at any time the installment note is sold,
1240 contributed, transferred or disposed of in any manner and for any
1241 purpose by the original note holder, or the original note holder
1242 is merged, liquidated, dissolved or withdrawn from this state,
1243 then all deferred tax payments under this section shall
1244 immediately become due and payable.

1245 (iii) If the selling price of the property is
1246 reduced by any alteration in the terms of an installment note,
1247 including default by the purchaser, the gain to be recognized is
1248 recomputed based on the adjusted selling price in the same manner
1249 as for federal income tax purposes. The tax on this amount, less
1250 the previously paid tax on the recognized gain, is payable over
1251 the period of the remaining installments. If the tax on the
1252 previously recognized gain has been paid in full to this state,
1253 the return on which the payment was made may be amended for this
1254 purpose only. The statute of limitations in Section 27-7-49 shall
1255 not bar an amended return for this purpose.



1256 (c) **Reserves of insurance companies.** In the case of
1257 insurance companies, any amounts in excess of the legally required
1258 reserves shall be included as gross income.

1259 (d) **Affiliated companies or persons.** As regards sales,
1260 exchanges or payments for services from one to another of
1261 affiliated companies or persons or under other circumstances where
1262 the relation between the buyer and seller is such that gross
1263 proceeds from the sale or the value of the exchange or the payment
1264 for services are not indicative of the true value of the subject
1265 matter of the sale, exchange or payment for services, the
1266 commissioner shall prescribe uniform and equitable rules for
1267 determining the true value of the gross income, gross sales,
1268 exchanges or payment for services, or require consolidated returns
1269 of affiliates.

1270 (e) **Alimony and separate maintenance payments.** The
1271 federal rules, regulations and revenue procedures in determining
1272 the deductibility and taxability of alimony payments shall be
1273 followed in this state.

1274 (f) **Reimbursement for expenses of moving.** There shall
1275 be included in gross income (as compensation for services) any
1276 amount received or accrued, directly or indirectly, by an
1277 individual as a payment for or reimbursement of expenses of moving
1278 from one (1) residence to another residence which is attributable
1279 to employment or self-employment.



1280 (3) In the case of taxpayers other than residents, gross
1281 income includes gross income from sources within this state.

1282 (4) The words "gross income" do not include the following
1283 items of income which shall be exempt from taxation under this
1284 article:

1285 (a) The proceeds of life insurance policies and
1286 contracts paid upon the death of the insured. However, the income
1287 from the proceeds of such policies or contracts shall be included
1288 in the gross income.

1289 (b) The amount received by the insured as a return of
1290 premium or premiums paid by him under life insurance policies,
1291 endowment, or annuity contracts, either during the term or at
1292 maturity or upon surrender of the contract.

1293 (c) The value of property acquired by gift, bequest,
1294 devise or descent, but the income from such property shall be
1295 included in the gross income.

1296 (d) Interest upon the obligations of the United States
1297 or its possessions, or securities issued under the provisions of
1298 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
1299 War Finance Corporation, or obligations of the State of
1300 Mississippi or political subdivisions thereof.

1301 (e) The amounts received through accident or health
1302 insurance as compensation for personal injuries or sickness, plus
1303 the amount of any damages received for such injuries or such
1304 sickness or injuries, or through the War Risk Insurance Act, or



1305 any law for the benefit or relief of injured or disabled members
1306 of the military or naval forces of the United States.

1307 (f) Income received by any religious denomination or by
1308 any institution or trust for moral or mental improvements,
1309 religious, Bible, tract, charitable, benevolent, fraternal,
1310 missionary, hospital, infirmary, educational, scientific,
1311 literary, library, patriotic, historical or cemetery purposes or
1312 for two (2) or more of such purposes, if such income be used
1313 exclusively for carrying out one or more of such purposes.

1314 (g) Income received by a domestic corporation which is
1315 "taxable in another state" as this term is defined in this
1316 article, derived from business activity conducted outside this
1317 state. Domestic corporations taxable both within and without the
1318 state shall determine Mississippi income on the same basis as
1319 provided for foreign corporations under the provisions of this
1320 article.

1321 (h) In case of insurance companies, there shall be
1322 excluded from gross income such portion of actual premiums
1323 received from an individual policyholder as is paid back or
1324 credited to or treated as an abatement of premiums of such
1325 policyholder within the taxable year.

1326 (i) Income from dividends that has already borne a tax
1327 as dividend income under the provisions of this article, when such
1328 dividends may be specifically identified in the possession of the
1329 recipient.



1330 (j) Amounts paid by the United States to a person as
1331 added compensation for hazardous duty pay as a member of the Armed
1332 Forces of the United States in a combat zone designated by
1333 Executive Order of the President of the United States.

1334 (k) Amounts received as retirement allowances,
1335 pensions, annuities or optional retirement allowances paid under
1336 the federal Social Security Act, the Railroad Retirement Act, the
1337 Federal Civil Service Retirement Act, or any other retirement
1338 system of the United States government, retirement allowances paid
1339 under the Mississippi Public Employees' Retirement System,
1340 Mississippi Highway Safety Patrol Retirement System or any other
1341 retirement system of the State of Mississippi or any political
1342 subdivision thereof. The exemption allowed under this paragraph
1343 (k) shall be available to the spouse or other beneficiary at the
1344 death of the primary retiree.

1345 (l) Amounts received as retirement allowances,
1346 pensions, annuities or optional retirement allowances paid by any
1347 public or governmental retirement system not designated in
1348 paragraph (k) or any private retirement system or plan of which
1349 the recipient was a member at any time during the period of his
1350 employment. Amounts received as a distribution under a Roth
1351 Individual Retirement Account shall be treated in the same manner
1352 as provided under the Internal Revenue Code of 1986, as amended.
1353 The exemption allowed under this paragraph (l) shall be available



1354 to the spouse or other beneficiary at the death of the primary
1355 retiree.

1356 (m) National Guard or Reserve Forces of the United
1357 States compensation not to exceed the aggregate sum of Five
1358 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
1359 taxable year, and not to exceed the aggregate sum of Fifteen
1360 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

1361 (n) Compensation received for active service as a
1362 member below the grade of commissioned officer and so much of the
1363 compensation as does not exceed the maximum enlisted amount
1364 received for active service as a commissioned officer in the Armed
1365 Forces of the United States for any month during any part of which
1366 such members of the Armed Forces (i) served in a combat zone as
1367 designated by Executive Order of the President of the United
1368 States or a qualified hazardous duty area as defined by federal
1369 law, or both; or (ii) was hospitalized as a result of wounds,
1370 disease or injury incurred while serving in such combat zone. For
1371 the purposes of this paragraph (n), the term "maximum enlisted
1372 amount" means and has the same definition as that term has in 26
1373 USCS 112.

1374 (o) The proceeds received from federal and state
1375 forestry incentives programs.

1376 (p) The amount representing the difference between the
1377 increase of gross income derived from sales for export outside the
1378 United States as compared to the preceding tax year wherein gross



1379 income from export sales was highest, and the net increase in
1380 expenses attributable to such increased exports. In the absence
1381 of direct accounting the ratio of net profits to total sales may
1382 be applied to the increase in export sales. This paragraph (p)
1383 shall only apply to businesses located in this state engaging in
1384 the international export of Mississippi goods and services. Such
1385 goods or services shall have at least fifty percent (50%) of value
1386 added at a location in Mississippi.

1387 (q) Amounts paid by the federal government for the
1388 construction of soil conservation systems as required by a
1389 conservation plan adopted pursuant to 16 USCS 3801 et seq.

1390 (r) The amount deposited in a medical savings account,
1391 and any interest accrued thereon, that is a part of a medical
1392 savings account program as specified in the Medical Savings
1393 Account Act under Sections 71-9-1 through 71-9-9; provided,
1394 however, that any amount withdrawn from such account for purposes
1395 other than paying eligible medical expense or to procure health
1396 coverage shall be included in gross income.

1397 (s) Amounts paid by the Mississippi Soil and Water
1398 Conservation Commission from the Mississippi Soil and Water
1399 Cost-Share Program for the installation of water quality best
1400 management practices.

1401 (t) Dividends received by a holding corporation, as
1402 defined in Section 27-13-1, from a subsidiary corporation, as
1403 defined in Section 27-13-1.



1404 (u) Interest, dividends, gains or income of any kind on
1405 any account in the Mississippi Affordable College Savings Trust
1406 Fund, as established in Sections 37-155-101 through 37-155-125, to
1407 the extent that such amounts remain on deposit in the MACS Trust
1408 Fund or are withdrawn pursuant to a qualified withdrawal, as
1409 defined in Section 37-155-105.

1410 (v) Interest, dividends or gains accruing on the
1411 payments made pursuant to a prepaid tuition contract, as provided
1412 for in Section 37-155-17.

1413 (w) Income resulting from transactions with a related
1414 member where the related member subject to tax under this chapter
1415 was required to, and did in fact, add back the expense of such
1416 transactions as required by Section 27-7-17(2). Under no
1417 circumstances may the exclusion from income exceed the deduction
1418 add-back of the related member, nor shall the exclusion apply to
1419 any income otherwise excluded under this chapter.

1420 (x) Amounts that are subject to the tax levied pursuant
1421 to Section 27-7-901, and are paid to patrons by gaming
1422 establishments licensed under the Mississippi Gaming Control Act.

1423 (y) Amounts that are subject to the tax levied pursuant
1424 to Section 27-7-903, and are paid to patrons by gaming
1425 establishments not licensed under the Mississippi Gaming Control
1426 Act.

1427 (z) Interest, dividends, gains or income of any kind on
1428 any account in a qualified tuition program and amounts received as



1429 distributions under a qualified tuition program shall be treated
1430 in the same manner as provided under the United States Internal
1431 Revenue Code, as amended. For the purposes of this paragraph (z),
1432 the term "qualified tuition program" means and has the same
1433 definition as that term has in 26 USCS 529.

1434 (aa) The amount deposited in a health savings account,
1435 and any interest accrued thereon, that is a part of a health
1436 savings account program as specified in the Health Savings
1437 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
1438 any amount withdrawn from such account for purposes other than
1439 paying qualified medical expenses or to procure health coverage
1440 shall be included in gross income, except as otherwise provided by
1441 Sections 83-62-7 and 83-62-9.

1442 (bb) Amounts received as qualified disaster relief
1443 payments shall be treated in the same manner as provided under the
1444 United States Internal Revenue Code, as amended.

1445 (cc) Amounts received as a "qualified Hurricane Katrina
1446 distribution" as defined in the United States Internal Revenue
1447 Code, as amended.

1448 (dd) Amounts received by an individual which may be
1449 excluded from income as foreign earned income for federal income
1450 tax purposes.

1451 (ee) Amounts received by a qualified individual,
1452 directly or indirectly, from an employer or nonprofit housing
1453 organization that are qualified housing expenses associated with



1454 an employer-assisted housing program. For purposes of this
1455 paragraph (ee):

1456 (i) "Qualified individual" means any individual
1457 whose household income does not exceed one hundred twenty percent
1458 (120%) of the area median gross income (as defined by the United
1459 States Department of Housing and Urban Development), adjusted for
1460 household size, for the area in which the housing is located.

1461 (ii) "Nonprofit housing organization" means an
1462 organization that is organized as a not-for-profit organization
1463 under the laws of this state or another state and has as one (1)
1464 of its purposes:

1465 1. Home ownership education or counseling;
1466 2. The development of affordable housing; or
1467 3. The development or administration of
1468 employer-assisted housing programs.

1469 (iii) "Employer-assisted housing program" means a
1470 separate written plan of any employer (including, without
1471 limitation, tax-exempt organizations and public employers) for the
1472 exclusive benefit of the employer's employees to pay qualified
1473 housing expenses to assist the employer's employees in securing
1474 affordable housing.

1475 (iv) "Qualified housing expenses" means:

1476 1. With respect to rental assistance, an
1477 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the



1478 purpose of assisting employees with security deposits and rental
1479 subsidies; and

1480 2. With respect to home ownership assistance,
1481 an amount not to exceed the lesser of Ten Thousand Dollars
1482 (\$10,000.00) or six percent (6%) of the purchase price of the
1483 employee's principal residence that is paid for the purpose of
1484 assisting employees with down payments, payment of closing costs,
1485 reduced interest mortgages, mortgage guarantee programs, mortgage
1486 forgiveness programs, equity contribution programs, or
1487 contributions to home buyer education and/or home ownership
1488 counseling of eligible employees.

1489 (ff) For the 2010 taxable year and any taxable year
1490 thereafter, amounts converted in accordance with the United States
1491 Internal Revenue Code, as amended, from a traditional Individual
1492 Retirement Account to a Roth Individual Retirement Account. The
1493 exemption allowed under this paragraph (ff) shall be available to
1494 the spouse or other beneficiary at the death of the primary
1495 retiree.

1496 (5) Prisoners of war, missing in action-taxable status.

1497 (a) **Members of the Armed Forces.** Gross income does not
1498 include compensation received for active service as a member of
1499 the Armed Forces of the United States for any month during any
1500 part of which such member is in a missing status, as defined in
1501 paragraph (d) of this subsection, during the Vietnam Conflict as a
1502 result of such conflict.



1503 (b) **Civilian employees.** Gross income does not include
1504 compensation received for active service as an employee for any
1505 month during any part of which such employee is in a missing
1506 status during the Vietnam Conflict as a result of such conflict.

1507 (c) **Period of conflict.** For the purpose of this
1508 subsection, the Vietnam Conflict began February 28, 1961, and ends
1509 on the date designated by the President by Executive Order as the
1510 date of the termination of combatant activities in Vietnam. For
1511 the purpose of this subsection, an individual is in a missing
1512 status as a result of the Vietnam Conflict if immediately before
1513 such status began he was performing service in Vietnam or was
1514 performing service in Southeast Asia in direct support of military
1515 operations in Vietnam. "Southeast Asia," as used in this
1516 paragraph, is defined to include Cambodia, Laos, Thailand and
1517 waters adjacent thereto.

1518 (d) "Missing status" means the status of an employee or
1519 member of the Armed Forces who is in active service and is
1520 officially carried or determined to be absent in a status of (i)
1521 missing; (ii) missing in action; (iii) interned in a foreign
1522 country; (iv) captured, beleaguered or besieged by a hostile
1523 force; or (v) detained in a foreign country against his will; but
1524 does not include the status of an employee or member of the Armed
1525 Forces for a period during which he is officially determined to be
1526 absent from his post of duty without authority.



1527 (e) "Active service" means active federal service by an
1528 employee or member of the Armed Forces of the United States in an
1529 active duty status.

1530 (f) "Employee" means one who is a citizen or national
1531 of the United States or an alien admitted to the United States for
1532 permanent residence and is a resident of the State of Mississippi
1533 and is employed in or under a federal executive agency or
1534 department of the Armed Forces.

1535 (g) "Compensation" means (i) basic pay; (ii) special
1536 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
1537 basic allowance for subsistence; and (vi) station per diem
1538 allowances for not more than ninety (90) days.

1539 (h) If refund or credit of any overpayment of tax for
1540 any taxable year resulting from the application of subsection (5)
1541 of this section is prevented by the operation of any law or rule
1542 of law, such refund or credit of such overpayment of tax may,
1543 nevertheless, be made or allowed if claim therefor is filed with
1544 the State Tax Commission within three (3) years after the date of
1545 the enactment of this subsection.

1546 (i) The provisions of this subsection shall be
1547 effective for taxable years ending on or after February 28, 1961.

1548 (6) A shareholder of an S corporation, as defined in Section
1549 27-8-3(1)(g), shall take into account the income, loss, deduction
1550 or credit of the S corporation only to the extent provided in
1551 Section 27-8-7(2).



1552 **SECTION 21.** Section 27-69-13, Mississippi Code of 1972, is
1553 brought forward as follows:

1554 27-69-13. There is hereby imposed, levied and assessed, to
1555 be collected and paid as hereinafter provided in this chapter, an
1556 excise tax on each person or dealer in cigarettes, cigars,
1557 stogies, snuff, chewing tobacco, and smoking tobacco, or
1558 substitutes therefor, upon the sale, use, consumption, handling or
1559 distribution in the State of Mississippi, as follows:

1560 (a) On cigarettes, the rate of tax shall be Three and
1561 Four-tenths Cents (3.4¢) on each cigarette sold with a maximum
1562 length of one hundred twenty (120) millimeters; any cigarette in
1563 excess of this length shall be taxed as if it were two (2) or more
1564 cigarettes. Provided, however, if the federal tax rate on
1565 cigarettes in effect on June 1, 1985, is reduced, then the rate as
1566 provided herein shall be increased by the amount of the federal
1567 tax reduction. Such tax increase shall take effect on the first
1568 day of the month following the effective date of such reduction in
1569 the federal tax rate.

1570 (b) On cigars, cheroots, stogies, snuff, chewing and
1571 smoking tobacco and all other tobacco products except cigarettes,
1572 the rate of tax shall be fifteen percent (15%) of the
1573 manufacturer's list price.

1574 No stamp evidencing the tax herein levied on cigarettes shall
1575 be of a denomination of less than One Cent (1¢), and whenever the
1576 tax computed at the rates herein prescribed on cigarettes shall be



1577 a specified amount, plus a fractional part of One Cent (1¢), the
1578 package shall be stamped for the next full cent; however, the
1579 additional face value of stamps purchased to comply with taxes
1580 imposed by this section after June 1, 1985, shall be subject to a
1581 four percent (4%) discount or compensation to dealers for their
1582 services rather than the eight percent (8%) discount or
1583 compensation allowed by Section 27-69-31.

1584 Every wholesaler shall purchase stamps as provided in this
1585 chapter, and affix the same to all packages of cigarettes handled
1586 by him as herein provided.

1587 The above tax is levied upon the sale, use, gift, possession
1588 or consumption of tobacco within the State of Mississippi, and the
1589 impact of the tax levied by this chapter is hereby declared to be
1590 on the vendee, user, consumer or possessor of tobacco in this
1591 state; and when said tax is paid by any other person, such payment
1592 shall be considered as an advance payment and shall thereafter be
1593 added to the price of the tobacco and recovered from the ultimate
1594 consumer or user.

1595 **SECTION 22.** Section 27-69-75, Mississippi Code of 1972, is
1596 brought forward as follows:

1597 27-69-75. All taxes levied by this chapter shall be payable
1598 to the commissioner in cash, or by personal check, cashier's
1599 check, bank exchange, post office money order or express money
1600 order, and shall be deposited by the commissioner in the State
1601 Treasury on the same day collected. No remittance other than cash



1602 shall be a final discharge of liability for the tax herein
1603 assessed and levied, unless and until it has been paid in cash to
1604 the commissioner.

1605 All tobacco taxes collected, including tobacco license taxes,
1606 shall be deposited into the State Treasury to the credit of the
1607 General Fund.

1608 Wholesalers who are entitled to purchase stamps at a
1609 discount, as provided by Section 27-69-31, may have consigned to
1610 them, without advance payment, such stamps, if and when such
1611 wholesaler shall give to the commissioner a good and sufficient
1612 bond executed by some surety company authorized to do business in
1613 this state, conditioned to secure the payment for the stamps so
1614 consigned. The commissioner shall require payment for such stamps
1615 not later than thirty (30) days from the date the stamps were
1616 consigned.

1617 **SECTION 23.** Section 97-17-41, Mississippi Code of 1972, is
1618 brought forward as follows:

1619 97-17-41. (1) Every person who shall be convicted of taking
1620 and carrying away, feloniously, the personal property of another,
1621 of the value of Five Hundred Dollars (\$500.00) or more, shall be
1622 guilty of grand larceny, and shall be imprisoned in the
1623 Penitentiary for a term not exceeding ten (10) years; or shall be
1624 fined not more than Ten Thousand Dollars (\$10,000.00), or both.
1625 The total value of property taken and carried away by the person



1626 from a single victim shall be aggregated in determining the
1627 gravity of the offense.

1628 (2) Every person who shall be convicted of taking and
1629 carrying away, feloniously, the property of a church, synagogue,
1630 temple or other established place of worship, of the value of Five
1631 Hundred Dollars (\$500.00) or more, shall be guilty of grand
1632 larceny, and shall be imprisoned in the Penitentiary for a term
1633 not exceeding ten (10) years, or shall be fined not more than Ten
1634 Thousand Dollars (\$10,000.00), or both.

1635 **SECTION 24.** Section 97-17-43, Mississippi Code of 1972, is
1636 brought forward as follows:

1637 97-17-43. (1) If any person shall feloniously take, steal
1638 and carry away any personal property of another under the value of
1639 Five Hundred Dollars (\$500.00), he shall be guilty of petit
1640 larceny and, upon conviction, shall be punished by imprisonment in
1641 the county jail not exceeding six (6) months or by fine not
1642 exceeding One Thousand Dollars (\$1,000.00), or both. The total
1643 value of property taken, stolen or carried away by the person from
1644 a single victim shall be aggregated in determining the gravity of
1645 the offense.

1646 (2) If any person shall feloniously take, steal and carry
1647 away any property of a church, synagogue, temple or other
1648 established place of worship under the value of Five Hundred
1649 Dollars (\$500.00), he shall be guilty of petit larceny and, upon
1650 conviction, shall be punished by imprisonment in the county jail



1651 not exceeding one (1) year or by fine not exceeding Two Thousand
1652 Dollars (\$2,000.00), or both.

1653 (3) Any person who leaves the premises of an establishment
1654 at which motor fuel offered for retail sale was dispensed into the
1655 fuel tank of a motor vehicle by driving away in that motor vehicle
1656 without having made due payment or authorized charge for the motor
1657 fuel so dispensed, with intent to defraud the retail
1658 establishment, shall be guilty of petit larceny and punished as
1659 provided in subsection (1) of this section and, upon any second or
1660 subsequent such offense, the driver's license of the person shall
1661 be suspended as follows:

1662 (a) The person shall submit the driver's license to the
1663 court upon conviction and the court shall forward the driver's
1664 license to the Department of Public Safety.

1665 (b) The first suspension of a driver's license under
1666 this subsection shall be for a period of six (6) months.

1667 (c) A second or subsequent suspension of a driver's
1668 license under this subsection shall be for a period of one (1)
1669 year.

1670 (d) At the expiration of the suspension period, and
1671 upon payment of a restoration fee of Twenty-five Dollars (\$25.00),
1672 the suspension shall terminate and the Department of Public Safety
1673 shall return the person's driver's license to the person. The
1674 restoration fee shall be in addition to the fees provided for in



1675 Title 63, Chapter 1, and shall be deposited into the State General
1676 Fund in accordance with Section 45-1-23.

1677 **SECTION 25.** This act shall take effect and be in force from
1678 and after July 1, 2013.

