

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 1195**

**By Senator(s) Committee**

8        **Amend by striking all after the enacting clause and inserting**  
9 **in lieu thereof the following:**

10

11        SECTION 1. The following shall be codified as Section  
12 25-15-107, Mississippi Code of 1972:

13        25-15-107. With regard to any self-insured and pooled risks  
14 health insurance plans authorized under Section 25-15-101:

15            (a) If medical assistance is provided to an employee or  
16 dependent under this article for injuries, disease or sickness  
17 caused under circumstances creating a cause of action in favor of  
18 the employee or eligible dependent against any person, firm or  
19 corporation, then the political subdivision or its designees shall  
20 be entitled to recover all proceeds that may result from the  
21 exercise of any rights of recovery which the employee or dependent  
22 may have against any such person, firm or corporation to the  
23 extent of the actual amount of the medical payments made by the  
24 plan on behalf of the employee or dependent. However, any  
25 benefits received by the employee or the dependent from uninsured  
26 motorist insurance coverage are exempted from the subrogation  
27 rights of the political subdivision provided herein. The employee  
28 or dependent shall execute and deliver instruments and papers to  
29 do whatever is necessary to secure such rights and shall do  
30 nothing after the medical assistance is provided to prejudice the

31subrogation rights of the political subdivision. The political  
32subdivision or its designee may compromise or settle any such  
33claim and execute a release of any claim it has by virtue of this  
34section.

35           (b) The acceptance of medical assistance under this  
36article or making of a claim thereunder shall not affect the right  
37of the employee, dependent or his legal representative to recover  
38the medical assistance payments made by the plan as an element of  
39special or general damages in any action at law or as part of any  
40settlement in favor of the employee or eligible dependent against  
41any person, firm or corporation. However, if an action at law is  
42pursued, a copy of the pleadings shall be mailed certified to the  
43political subdivision or its designee at the time of the  
44institution of suit, and proof of such notice shall be filed of  
45record in such action. The political subdivision, at any time  
46before the trial on the facts, may join in such action or may  
47intervene therein. Any amount recovered by an employee, dependent  
48or legal representative through settlement or an action at law  
49shall be applied in the following order:

50           (i) The reasonable cost of the collection incurred  
51by the plan or its designee, including attorney's fees.

52           (ii) The remainder of the recovery shall be  
53divided equally between the employee, dependent or legal  
54representative and the plan, subject to recovery of the maximum  
55expenditure by the plan.

56           (c) No compromise of any claim by the employee,  
57dependent or his legal representative shall be binding upon or  
58affect the rights of the political subdivision against the third  
59party unless the political subdivision or its designee has entered  
60into the compromise. Any compromise effected by the employee,  
61dependent or legal representative with the third party in the  
62absence of advance notification to and approval by the political  
63subdivision or its designee shall constitute conclusive evidence  
64of the liability of the third party, and the political subdivision  
65or its designee in litigating its claim against the third party

66shall be required only to prove the amount and correctness of its  
67claim relating to such injury, disease or sickness. It is further  
68provided that should the employee, dependent or his legal  
69representative fail to notify the political subdivision or its  
70designee of the institution of legal proceedings against a third  
71party for which the political subdivision has a cause of action,  
72the facts relating to negligence and the liability of the third  
73party, if judgment is rendered for the employee or dependent,  
74shall constitute conclusive evidence of liability in a subsequent  
75action maintained by the political subdivision or its designee and  
76only the amount and correctness of the political subdivision's  
77claim relating to the injuries, disease or sickness shall be tried  
78before the court. The political subdivision shall be authorized  
79in bringing such action against the third party and his insurer  
80jointly or against the insurer alone.

81 (d) The third party or insurer of the third party may  
82inquire directly with the political subdivision, or its designee,  
83on the status or existence of any relevant subrogation lien.

84 (e) Nothing herein shall be construed to diminish or  
85otherwise restrict the subrogation right of the political  
86subdivision against a third party for medical assistance paid by  
87the plan on behalf of the employee or dependent as a result of  
88injuries, disease or sickness caused under circumstances creating  
89a cause of action in favor of the employee or dependent against  
90such a third party.

91 SECTION 2. This act shall take effect and be in force  
92retroactively from and after March 18, 1999.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION  
225-15-107, MISSISSIPPI CODE OF 1972, TO PROVIDE SUBROGATION RIGHTS  
3UNDER SELF-INSURED AND POOLED RISKS HEALTH INSURANCE PLANS FOR  
4POLITICAL SUBDIVISIONS OF THE STATE; TO EXEMPT THE BENEFITS OF ANY  
5UNINSURED MOTORIST INSURANCE COVERAGE FROM THE SUBROGATION RIGHTS  
6PROVIDED IN THIS ACT; AND FOR RELATED PURPOSES.