

By: Representative Scott

To: Insurance

HOUSE BILL NO. 522

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 ESTABLISH ITS DUTIES;
 12 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.** (1) There is established a nonprofit legal
 25 entity known as the small business health insurance pool, with
 26 participating membership consisting of all employer members of the
 27 purchasing pool.



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

31 (3) Subject to the conditions in Section 14 of this act, the
32 purchasing pool shall make group health plan coverage available
33 effective January 1, 2019.

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

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

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

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

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

47 (5) The PEER Committee shall conduct or have conducted, at
48 least once each biennium covering the prior two (2) fiscal years,
49 a financial compliance audit of the board and the purchasing pool.
50 The cost of the audit must be paid for by the purchasing pool as a
51 direct cost not subject to the cap on administrative expenses.



52 **SECTION 2.** As used in Sections 1 through 9 of this act, the
53 following definitions apply:

54 (a) "Board" means the board of directors of the small
55 business health insurance pool as provided for in Section 3 of
56 this act.

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

58 (c) "Dependent" means:

59 (i) A spouse;

60 (ii) An unmarried child under twenty-five (25)
61 years of age:

62 1. Who is not an employee eligible for
63 coverage under a group health plan offered by the child's employer
64 for which the child's premium contribution amount is no greater
65 than the premium amount for coverage as a dependent under a
66 parent's individual or group health plan;

67 2. Who is not a named subscriber, insured,
68 enrollee, or covered individual under any other individual health
69 insurance coverage, group health plan, government plan, church
70 plan, or group health insurance;

71 3. Who is not entitled to benefits under 42
72 USCS 1395, et seq.; and

73 4. For whom the parent has requested
74 coverage;

75 (iii) A child of any age who is disabled and
76 dependent upon the parent; or



77 (iv) Any other individual defined as a dependent
78 in the health benefit plan covering the employee.

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

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

98 (ii) The term includes small employers who obtain
99 group health plan coverage through a qualified association health
100 plan.



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

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

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

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

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

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

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

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



151 **SECTION 3.** (1) There is a board of directors of the small
152 business health insurance pool, consisting of seven (7) directors
153 and two (2) nonvoting members serving three-year staggered terms
154 and appointed in the following manner:

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

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

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

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

171 (4) The directors must be compensated and receive travel
172 expenses in the same manner as members of the quasi-judicial
173 boards under Section 25-3-69. The costs of conducting the
174 meetings of the purchasing pool and the compensation for its board
175 of directors must be borne by the purchasing pool.



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

179 **SECTION 4.** (1) The board shall:

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

185 (b) Require employers and employees to reapply for
186 premium incentive payments or premium assistance payments on an
187 annual basis;

188 (c) Upon reapplication, give priority to employers and
189 their employees who are already receiving the premium incentive
190 payments and premium assistance payments;

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

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



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

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

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

222 (i) Make appropriate changes to eligibility or other
223 elements in the operating plan as needed to reach the goal of
224 expending ninety percent (90%) of the funding dedicated to premium



225 incentive payments and premium assistance payments during the
226 current biennium;

227 (j) Limit the total amount of premium incentive
228 payments and premium assistance payments paid to the amount of
229 available state, federal and private funding;

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

233 (l) Prepare appropriate specifications and bid forms
234 and solicit bids from health insurance issuers authorized to do
235 business in this state;

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

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

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

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

247 (q) Within two (2) years after the purchasing pool is
248 established and considered stable by the board, examine the
249 possibility of offering an opportunity for individual sole



250 proprietors without employees to purchase insurance from the
251 purchasing pool without premium incentive payments, premium
252 assistance payments, or tax credits.

253 (2) The board may:

254 (a) Borrow money;

255 (b) Enter into contracts with insurers, administrators,
256 or other persons;

257 (c) Hire employees to perform the administrative tasks
258 of the purchasing pool;

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

264 (e) Set contribution levels for employers;

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

273 (g) Seek other federal, state and private funding
274 sources;



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

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

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

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

292 **SECTION 5.** Subject to the conditions in Section 14 of this
293 act, the commissioner shall:

294 (a) Adopt rules regarding the implementation of
295 Sections 1 through 9 of this act, including rules regarding the
296 administration of the premium incentive payments, premium
297 assistance payments, and tax credits, the approval of qualified
298 association health plans, and the registration process. The rules



299 regarding tax credits may not relate to the filing of tax returns
300 and claiming the tax credit on the tax returns;

301 (b) Supervise the creation of the purchasing pool
302 within the limits described in Sections 1 through 9 of this act;

303 (c) Approve or disapprove the operating plan for the
304 purchasing pool;

305 (d) If the board chooses to hire one, approve or
306 disapprove the selection of a third-party administrator to handle
307 the administration of the purchasing pool;

308 (e) With the assistance of the Division of Medicaid,
309 approve or disapprove the schedule of premium incentive payment or
310 premium assistance payment amounts adopted by the board as
311 provided in Section 4 of this act;

312 (f) Approve or disapprove any contracts between a
313 health insurance issuer and the purchasing pool;

314 (g) Approve or disapprove all group health plans being
315 offered by insurers through the purchasing pool;

316 (h) Conduct periodic audits of the financial
317 transactions conducted by the purchasing pool;

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



323 (j) Make applicable premium incentive payments or
324 premium assistance payments for qualified association health plan
325 coverage on behalf of eligible small employers and employees or
326 direct the purchasing pool to make the payments; and

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

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

346 **SECTION 6.** (1) An employer is eligible to apply for premium
347 incentive payments and premium assistance payments or a tax credit



348 under Sections 1 through 9 of this act if the employer and any
349 related employers:

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

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

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

358 (d) Have been registered as eligible small employer
359 participants by the commissioner as provided in Section 8 of this
360 act; and

361 (e) Do not have any employees, not including an owner,
362 partner, or shareholder of the business, who received more than
363 Seventy-five Thousand Dollars (\$75,000.00) in gross compensation,
364 including bonuses and commissions, from the small employer or
365 related employer in the prior tax year.

366 (2) The commissioner shall establish, by rule, the maximum
367 number of employees that may be employed to qualify as a small
368 employer under subsection (1). However, the number may not be
369 less than two (2) employees or more than nine (9) employees. The
370 maximum number may be different for employers seeking premium
371 incentive payments and premium assistance payments than for
372 employers seeking a tax credit. The number must be set to



373 maximize the number of employees receiving coverage under Sections
374 1 through 9 of this act. The commissioner may not change the
375 maximum employee number more often than every six (6) months. If
376 the maximum number of allowable employees is changed, the change
377 does not disqualify registered employers with respect to the tax
378 year for which the employer has registered.

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

381 (a) (i) Not more than One Hundred Dollars (\$100.00)
382 each month for each employee and One Hundred Dollars (\$100.00)
383 each month for each employee's spouse, if the employer covers the
384 employee's spouse, if the average age of the group is under
385 forty-five (45) years of age; or

386 (ii) Not more than One Hundred Twenty-five Dollars
387 (\$125.00) each month for each employee and One Hundred Dollars
388 (\$100.00) each month for each employee's spouse, if the employer
389 covers the employee's spouse, if the average age of the group is
390 forty-five (45) years of age or older; and

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

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

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



398 (b) For premiums paid from a medical care savings
399 account provided for in Chapter 9, Title 71, Mississippi Code of
400 1972; or

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

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

406 **SECTION 7.** (1) An eligible small employer may:

407 (a) Apply the tax credit against taxes due for the
408 current tax year on a return filed pursuant to Chapter 7, Title
409 27, Mississippi Code of 1972; or

410 (b) If the eligible small employer did not sponsor a
411 group health plan for employees during the two (2) years prior to
412 the first tax year of registration for the premium incentive
413 payments or premium assistance payments or operates a new business
414 that is less than two (2) years old and has never sponsored a
415 group health plan, apply to receive monthly premium incentive
416 payments and premium assistance payments to be applied to coverage
417 obtained through the purchasing pool or qualified association
418 health plan coverage approved by the commissioner.

419 (2) An eligible small employer may not, in the same tax
420 year, apply the tax credit against taxes due for the current tax
421 year as provided for in subsection (1)(a) of this section and



422 receive premium incentive payments as provided for in subsection
423 (1)(b) of this section.

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

428 (4) (a) If an eligible small employers' tax credit as
429 provided in subsection (1)(a) of this section exceeds the
430 employer's liability under Chapter 7, Title 27, Mississippi Code
431 of 1972, the amount of the excess must be refunded to the eligible
432 small employer. The tax credit may be claimed even if the
433 eligible small employer has no tax liability under Chapter 7,
434 Title 27, Mississippi Code of 1972.

435 (b) A tax credit is not allowed under Chapter 7, Title
436 27, Mississippi Code of 1972, with respect to any amount for which
437 a tax credit is allowed under Sections 1 through 9 of this act.

438 (5) The Department of Revenue or the commissioner may grant
439 a reasonable extension for filing a claim for premium incentive
440 payments or premium assistance payments or a tax credit whenever,
441 in the department's or the commissioner's judgment, good cause
442 exists. The Department of Revenue and the commissioner shall keep
443 a record of each extension and the reason for granting the
444 extension.

445 (6) (a) If an employer that would have a claim under
446 Sections 1 through 9 of this act ceases doing business before



447 filing the claim, the representative of the employer who files the
448 tax return or pays the premium may file the claim.

449 (b) If a corporation that would have a claim under
450 Sections 1 through 9 of this act merges with or is acquired by
451 another corporation and the merger or acquisition makes the
452 previously eligible corporation ineligible for the premium
453 incentive payments, premium assistance payments, or tax credit in
454 the future, the surviving or acquired corporation may file for the
455 premium incentive payments, premium assistance payments, or tax
456 credit for any claim period during which the former eligible
457 corporation remained eligible.

458 (c) If an employer that would have a claim under
459 Sections 1 through 9 of this act files for bankruptcy protection,
460 the receiver may file for the premium incentive payments, premium
461 assistance payments, or tax credit for any claim period during
462 which the employer was eligible.

463 **SECTION 8.** (1) (a) Each eligible small employer that
464 proposes to apply for premium incentive payments and premium
465 assistance payments or a tax credit under Sections 1 through 9 of
466 this act must be registered each year with the commissioner. The
467 commissioner shall begin taking new applications for 2019 on
468 October 1, 2018.

469 (b) An eligible small employer may submit a new
470 application for the premium incentive payments and premium
471 assistance payments or the tax credit anytime during the year, but



472 in order to maintain the employer's registration for the next
473 year, the registration application must be renewed each year.

474 (c) The commissioner shall begin accepting renewal
475 applications on October 1 of each year and stop accepting renewal
476 applications on October 31 of each year.

477 (d) The registration application must include the
478 number of individuals covered, as of the date of the registration
479 application, under the small group health plan for which the
480 employer is seeking premium incentive payments and premium
481 assistance payments or a tax credit. If, after the initial
482 registration, the number of individuals increases, the employer
483 may apply to register the additional individuals, but those
484 additional individuals may be added only at the discretion of the
485 commissioner, who shall limit enrollment based on available funds.

486 (e) A small employer is not eligible to apply for
487 premium incentive payments and premium assistance payments or a
488 tax credit for a number of employees, or the employees' spouses or
489 dependents, over the number that has been established in Section 6
490 of this act as the maximum number of employees an employer may
491 have in order to qualify for registration for the time period in
492 question.

493 (f) An employer's decision to apply for premium
494 incentive payments and premium assistance payments or a tax credit
495 is irrevocable for twelve (12) months or until the purchasing pool
496 group health plan or qualified association health plan renews its



497 registration, whichever time period is less. An employer may
498 choose to discontinue receiving any premium incentive payments and
499 premium assistance payments or tax credits at any time.

500 (2) The commissioner shall register qualifying eligible
501 small employers in the order in which applications are received
502 and according to whether or not the application is for premium
503 incentive payments and premium assistance payments or a tax
504 credit. Initially, sixty percent (60%) of the available funding
505 must be dedicated to provide and maintain premium incentive
506 payments and premium assistance payments for eligible small
507 employers who have not sponsored group health plans in the
508 previous two (2) years and who chose to join the purchasing pool
509 or a qualified association health plan and forty percent (40%) of
510 the available funding must be dedicated to tax credits for
511 eligible small employers who currently sponsor a small group
512 health plan. Funding may be transferred from the allocated fund
513 for premium incentive payments and premium assistance payments to
514 the general fund for tax credits if the board requests the
515 transfer as provided in Section 4 of this act and the commissioner
516 approves the request.

517 (3) (a) The maximum number of eligible small employers is
518 reached when the anticipated amount of claims for premium
519 incentive payments and premium assistance payments and tax credits
520 has reached ninety-five percent (95%) of the amount of money



521 allocated for premium incentive payments and premium assistance
522 payments and tax credits.

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

527 (c) The commissioner shall mail to each employer
528 registered under this section a notice of registration containing
529 a unique registration number and indicating eligibility for either
530 premium incentive payments and premium assistance payments or a
531 tax credit. The commissioner shall also issue to each employer
532 that is eligible for premium incentive payments and premium
533 assistance payments or the tax credit a certificate, placard,
534 sticker, or other evidence of participation that may be publicly
535 posted.

536 (d) The commissioner shall notify all persons who
537 applied for registration and who were not accepted that they were
538 not registered and the reason that they were not registered.

539 (4) A prospective participant shall apply for registration
540 on a form provided by the commissioner. The prospective
541 participant shall:

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

544 (b) Provide information that is necessary to estimate
545 the amount of the premium incentive payments and premium



546 assistance payments payable to the applicant or the amount of the
547 tax credit available to the applicant, such as the ages of
548 employees or dependents, relationships of employees' dependents,
549 and information required by the Division of Medicaid for
550 determination of eligibility for premium assistance payments
551 matched by federal funds;

552 (c) Indicate whether the prospective employer intends
553 to pursue the claim as a tax credit through the income tax process
554 or through premium incentive payments and premium assistance
555 payments to be applied toward purchasing pool or eligible
556 qualified association health plan coverage;

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

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

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

565 (6) The commissioner shall transmit to the Department of
566 Revenue, at least annually, a list of eligible small employers
567 that are taxpayers entitled to the tax credit and shall specify
568 the taxpayer's name and tax identification number, the tax year to
569 which the credit applies, the amount of the credit, and whether
570 the credit is to be applied against taxes due on the taxpayer's



571 return or paid as premium incentive payments or premium assistance
572 payments. Unless there has been a finding of fraud or
573 misrepresentation on the part of the taxpayer regarding issues
574 relating to eligibility for the tax credit, the Department of
575 Revenue may not redetermine or change the commissioner's
576 determination regarding the taxpayer's entitlement to and amount
577 of the tax credit.

578 (7) If the Division of Medicaid receives approval for a
579 Section 1115 waiver as provided in Section 10 of this act, the
580 commissioner shall work with the Division of Medicaid with regard
581 to eligibility determinations as required by federal law or waiver
582 conditions.

583 **SECTION 9.** (1) The commissioner may, after providing an
584 opportunity for a hearing pursuant to applicable law, impose up to
585 a Twenty-five Thousand Dollars (\$25,000.00) fine, not to exceed
586 Five Thousand Dollars (\$5,000.00) per violation upon insurance
587 producers and adjusters, for violations of Sections 1 through 9 of
588 this act. Failure to pay a fine under this section results in a
589 lien upon the assets and property of that person in this state and
590 may be recovered by suit by the commissioner and deposited in the
591 special fund created in Section 14 of this act.

592 (2) In addition to any penalty that the commissioner may
593 impose provided for in applicable law, the commissioner may
594 require a person violating Sections 1 through 9 of this act to
595 make full restitution to the state, including interest of ten



596 percent (10%) a year from the date of loss, if a violation of
597 Sections 1 through 9 of this act caused a premium incentive
598 payment or premium assistance payment to be paid or a tax credit
599 to be issued to a person who was not entitled to it.

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

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

610 (5) Any fines or restitution collected pursuant to this
611 section must be deposited in the special fund created in Section
612 14 of this act and dedicated to the payment of premium incentive
613 payments and premium assistance payments or tax credits or funding
614 new programs to assist eligible small employers with the cost of
615 providing health insurance benefits.

616 **SECTION 10.** (1) It is the intent of the Legislature that
617 the small business health insurance pool board of directors,
618 established in Section 3 of this act, consider the option of
619 funding a portion of the premium incentive payments on behalf of
620 eligible small employers or premium assistance payments on behalf



621 of eligible employees under Sections 1 through 9 of this act to
622 the extent possible through a Section 1115 waiver demonstration
623 project of Medicaid coverage as authorized by Section 1115 of
624 Title XI of the Social Security Act, 42 USCS 1315.

625 (2) The department shall prepare an analysis of the Section
626 1115 waiver for the board for its consideration in deciding
627 whether to request that the department seek the Section 1115
628 waiver as provided in Section 4 of this act.

629 (3) (a) The department, as the designated single state
630 agency for the receipt of Medicaid, may seek, if requested by the
631 board, approval from the United States Department of Health and
632 Human Services for inclusion in a Section 1115 waiver for the
633 premium incentive payments and premium assistance payments to be
634 provided on behalf of employees eligible under Sections 1 through
635 9 of this act who meet the applicable income standard established
636 through the Section 1115 waiver.

637 (b) The commissioner and the board shall cooperate with
638 the department in obtaining approval for the inclusion of the
639 premium assistance payment coverage group in a Section 1115
640 waiver.

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

643 (a) The eligibility of program participants for the
644 Section 1115 demonstration premium assistance coverage group must
645 be determined by the department. The commissioner shall provide



646 employee and other information to the department as necessary for
647 Section 1115 waiver eligibility determinations.

648 (b) The department may access confidential employee and
649 employer information necessary for administration of the premium
650 assistance payment coverage group. The commissioner shall provide
651 employee, employer, and other information to the department as
652 necessary for the administration of the Section 1115 waiver.

653 (c) The commissioner and the board shall provide to the
654 department the funds or certification necessary to provide the
655 state match for the Medicaid money to be expended on behalf of the
656 Section 1115 waiver premium incentive payment or premium
657 assistance payment coverage groups and for the administration of
658 the coverage groups by the department.

659 (d) The commissioner, the board, and the department
660 shall cooperate in the adoption of administrative rules necessary
661 for the implementation of the premium incentive payments and
662 premium assistance payments. The department shall adopt rules for
663 the implementation of Medicaid coverage for employees
664 participating in the program as provided in the conditions for the
665 waiver.

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



670 (5) The department may coordinate or include the
671 authorization to seek the waiver granted by this section with any
672 other authority granted to the department in this part to seek
673 Section 1115 waivers.

674 **SECTION 11.** (1) There is a tax credit, determined under
675 Sections 1 through 9 of this act, for eligible small employers who
676 are individuals against the taxes imposed in Chapter 7, Title 27,
677 Mississippi Code of 1972, for qualifying premiums paid by the
678 eligible small employer for coverage of eligible employees and
679 eligible employees' spouses and dependents under a group health
680 plan as defined in Section 2 of this act.

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

686 **SECTION 12.** There is a tax credit, as determined under
687 Sections 1 through 9 of this act, for eligible small employers
688 against the taxes imposed in Chapter 7, Title 27, Mississippi Code
689 of 1972, for qualifying premiums paid by the eligible small
690 employer for coverage of eligible employees and eligible
691 employees' spouses and dependents under a group health plan as
692 defined in Section 2 of this act.



693 **SECTION 13.** The small business health insurance purchasing
694 pool may be formed solely for the purpose of obtaining health
695 insurance upon compliance with the following provisions:

696 (1) (a) It contains at least fifty-one (51) eligible
697 employees.

698 (b) It establishes requirements for membership. The
699 small business health insurance purchasing pool shall accept for
700 membership any small employers and may accept for membership any
701 employers with at least fifty-one (51) eligible employees that
702 otherwise meet the requirements for membership. However, the
703 small business health insurance purchasing pool may not exclude
704 any small employers that otherwise meet the requirements for
705 membership on the basis of claim experience, occupation, or health
706 status.

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

710 (d) It offers coverage to eligible employees of member
711 employers and to the employees' dependents. Coverage may not be
712 limited to certain employees of member small employers except such
713 a health benefit plan may exclude coverage for late enrollees for
714 eighteen (18) months or for an eighteen-month preexisting
715 condition exclusion, provided that if both a period of exclusion
716 from coverage and a preexisting condition exclusion are applicable
717 to a late enrollee, the combined period may not exceed eighteen



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

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

722 (f) (i) Disability insurance policies, certificates,
723 or contracts offered through the small business health insurance
724 purchasing pool must rate the entire purchasing pool group as a
725 whole and charge each insured person based on a community rate
726 within the common group, adjusted for case characteristics as
727 permitted by the laws governing group disability insurance.

728 (ii) At its discretion, premiums may be paid to
729 the disability insurance policies, certificates, or contracts by
730 the small business health insurance purchasing pool or by member
731 employers.

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

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

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



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

744 (iii) The number of individuals covered.

745 (b) The annual report of the small business health
746 insurance purchasing pool must disclose its total administrative
747 cost.

748 (c) The small business health insurance purchasing pool
749 may choose to operate on a fiscal year other than on the calendar
750 year. If the small business health insurance purchasing pool
751 establishes a fiscal year that is other than the calendar year, it
752 shall provide the report required in paragraph (a) of this
753 subsection to the commissioner within sixty (60) days of the small
754 business health insurance purchasing pool's fiscal year end.

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

758 (3) (a) All insurance or premiums collected by the small
759 business health insurance purchasing pool on behalf of or for an
760 insurer and all return premiums received from the insurer are held
761 by the small business health insurance purchasing pool in a
762 fiduciary capacity. These funds must be remitted immediately to
763 the person entitled to them or must be deposited promptly in a
764 fiduciary bank account established and maintained by the
765 administrator of the small business health insurance purchasing
766 pool. If deposited charges or premiums are collected on behalf of



767 or for more than one (1) insurer, the small business health
768 insurance purchasing pool shall either keep or require the bank in
769 which the fiduciary account is maintained to keep records clearly
770 recording the deposits to and withdrawals from the account on
771 behalf of each insurer. The small business health insurance
772 purchasing pool shall promptly obtain and keep copies of all these
773 records and shall, upon request of an insurer, furnish the insurer
774 with copies of the records pertaining to deposits and withdrawals
775 on behalf of or for the insurer.

776 (b) The small business health insurance purchasing pool
777 may not pay a claim by withdrawals from the fiduciary account.
778 Withdrawals from the fiduciary account must be made, as provided
779 in the written agreement between the small business health
780 insurance purchasing pool and the insurer, for:

781 (i) Remittance to an insurer entitled to the
782 remittance;

783 (ii) Deposit in an account maintained in the name
784 of the insurer;

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

787 (iv) Remittance of return premiums to the person
788 entitled to the premium.

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



791 fund. This account is to be administered by the Division of
792 Medicaid.

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

794 (a) New programs to assist eligible small employers
795 with the costs of providing health insurance benefits to eligible
796 employees;

797 (b) The cost of administering the tax credit, the
798 purchasing pool and the premium incentive payments and premium
799 assistance payments, as provided in Sections 1 through 9 of this
800 act, not to exceed Six Hundred Dollars (\$600.00) in the first year
801 or five percent (5%) for each successive year of the appropriation
802 for the tax credit, the purchasing pool, and the premium incentive
803 payments and premium assistance payments; and

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

808 (3) (a) The money appropriated for fiscal year 2018 for the
809 program in subsection (2) of this section may not be expended
810 until the Office of Budget and Program Planning has certified that
811 Twenty-five Million Dollars (\$25,000,000.00) has been deposited in
812 the account provided for in this section.

813 (b) For each succeeding fiscal year, on or before July
814 1, the Joint Legislative Budget Committee shall calculate a
815 balance required to sustain the program for each fiscal year of



816 the next biennium. If the Joint Legislative Budget Committee
817 certifies that the reserve balance will be sufficient, then the
818 commissioner may expend the revenue for the program as
819 appropriated. If the Joint Legislative Budget Committee
820 determines that the reserve balance of the revenue will not
821 support the level of appropriation, the budget director shall
822 notify the commissioner. Upon receipt of the notification, the
823 commissioner shall adjust the operating budget for the program to
824 reflect the available revenue as determined by the budget
825 director.

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

828 **SECTION 15.** Sections 1 through 9 may not be construed to
829 require implementation or ongoing operation of the programs in
830 Section 14 of this act without a line item appropriation in the
831 general appropriations bill included for that purpose.

832 **SECTION 16.** (1) (a) As a condition of transacting business
833 in this state with small employers, each small employer carrier
834 must have approved for issuance to small employer groups at least
835 two (2) health benefit plans. One (1) plan must be a basic health
836 benefit plan, and one (1) plan must be a standard health benefit
837 plan.

838 (b) (i) A small employer carrier shall issue all plans
839 marketed under Sections 1 through 9 of this act to any eligible
840 small employer that applies for a plan and agrees to make the



841 required premium payments and to satisfy the other reasonable
842 provisions of the health benefit plan not inconsistent with
843 Sections 1 through 9 of this act.

844 (ii) In the case of a small employer carrier that
845 establishes more than one (1) class of business pursuant to
846 Section 17 of this act, the small employer carrier shall maintain
847 and offer to eligible small employers all plans marketed under
848 Sections 1 through 9 of this act in each established class of
849 business. A small employer carrier may apply reasonable criteria
850 in determining whether to accept a small employer into a class of
851 business, provided that:

852 1. The criteria are not intended to
853 discourage or prevent acceptance of small employers applying for a
854 health benefit plan;

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

857 3. The criteria are applied consistently to
858 all small employers that apply for coverage in that class of
859 business; and

860 4. The small employer carrier provides for
861 the acceptance of all eligible small employers into one or more
862 classes of business.

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



865 small employer carrier is no longer enrolling new small
866 businesses.

867 (c) A small employer carrier that elects not to comply
868 with the requirements of paragraphs (a) and (b) of this subsection
869 may continue to provide coverage under health benefit plans
870 previously issued to small employers in this state for a period of
871 no more than seven (7) years from October 1, 2017, if the carrier:

872 (i) Complies with all other applicable provisions
873 of Sections 1 through 9 of this act, except subsections (2)
874 through (4) of this section;

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

878 (iii) Complies with all applicable provisions of
879 Public Law 104-91.

880 (2) (a) A small employer carrier shall, pursuant to Section
881 18 of this act, file the basic health benefit plans and the
882 standard health benefit plans to be used by the small employer
883 carrier.

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



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

892 (a) A health benefit plan may not:

893 (i) Because of a preexisting condition, deny,
894 exclude, or limit benefits for a covered individual for losses
895 incurred more than twelve (12) months following the individual's
896 enrollment date. A health benefit plan may not define a
897 preexisting condition exclusion more restrictively than a
898 limitation or exclusion of benefits relating to a condition based
899 on presence of a condition before the enrollment date coverage,
900 whether or not any medical advice, diagnosis, care, or treatment
901 was recommended or received before the enrollment date.

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

904 (b) A health benefit plan must waive any time period
905 applicable to a preexisting condition exclusion or limitation
906 period with respect to particular services for the period of time
907 that an individual was previously covered by creditable coverage
908 that provided benefits with respect to those services if the
909 creditable coverage was continuous to a date not more than
910 sixty-three (63) days prior to the submission of an application
911 for new coverage. A health benefit plan may determine waivers of
912 time periods applicable to preexisting condition exclusions or
913 limitations on the basis of prior coverage of benefits within each
914 of several classes or categories as specified in regulations



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

919 (c) A health benefit plan may exclude coverage for late
920 enrollees for eighteen (18) months or for an eighteen (18) month
921 preexisting condition exclusion, provided that if both a period of
922 exclusion from coverage and a preexisting condition exclusion are
923 applicable to a late enrollee, the combined period may not exceed
924 eighteen (18) months from the date on which the individual enrolls
925 for coverage under the health benefit plan.

926 (d) (i) Requirements used by a small employer carrier
927 in determining whether to provide coverage to a small employer,
928 including requirements for minimum participation of eligible
929 employees and minimum employer contributions, must be applied
930 uniformly among all small employers that have the same number of
931 eligible employees and that apply for coverage or receive coverage
932 from the small employer carrier. For the purpose of meeting
933 minimum participation requirements of groups of four (4) or more,
934 a small employer carrier may not consider employees who, because
935 they are covered under another health plan, waive coverage under
936 the small employer's plan as part of the group of eligible
937 employees. However, a small employer carrier may require at least
938 two (2) eligible employees to participate in a plan.



939 (ii) A small employer carrier may vary the
940 application of minimum participation requirements and minimum
941 employer contribution requirements only by the size of the small
942 employer group.

943 (e) (i) If a small employer carrier offers coverage to
944 a small employer, the small employer carrier shall offer coverage
945 to all of the eligible employees of a small employer and their
946 dependents. A small employer carrier may not offer coverage only
947 to certain individuals in a small employer group or only to part
948 of the group, except in the case of late enrollees as provided in
949 paragraph (c) of this subsection.

950 (ii) A small employer carrier may not modify a
951 plan marketed under Sections 1 through 9 of this act with respect
952 to a small employer or any eligible employee or dependent, through
953 riders, endorsements, or otherwise, to restrict or exclude
954 coverage for certain diseases or medical conditions otherwise
955 covered by the health benefit plan.

956 (iii) A small employer carrier shall secure a
957 waiver of coverage from each eligible employee who declines, at
958 the sole discretion of the eligible employee, an offer of coverage
959 under a health benefit plan provided by the small employer. The
960 waiver must be signed by the eligible employee and must certify
961 that the employee was informed of the availability of coverage
962 under the health benefit plan and of the penalties for late



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

965 (iv) A small employer carrier may not issue
966 coverage to a small employer if the carrier or a producer for the
967 carrier has evidence that the small employer induced or pressured
968 an eligible employee to decline coverage due to the health status
969 or risk characteristics of the eligible employee or of the
970 dependents of the eligible employee.

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

974 (i) To an employer whose employees do not work or
975 reside within the small employer carrier's established geographic
976 service area for a network plan, defined as health insurance
977 coverage offered by a health insurance issuer under which the
978 financing and delivery of medical care, including items and
979 services paid for as medical care, are provided, in whole or in
980 part, through a defined set of providers under contract with the
981 issuer; or

982 (ii) Within an area where the small employer
983 carrier reasonably anticipates and demonstrates to the
984 satisfaction of the commissioner that it will not have the
985 capacity within its established geographic service area to deliver
986 service adequately to the members of a group because of its
987 obligations to existing group policyholders and enrollees. The



988 small employer carrier may not deny coverage under this subsection
989 unless the small employer carrier acts uniformly without regard to
990 claims experience or health status-related factors of employers,
991 employees, or dependents.

992 (b) A small employer carrier may not be required to
993 provide coverage to small employers pursuant to subsection (1) of
994 this section for which the commissioner determines that the small
995 employer carrier does not have the financial reserves necessary to
996 underwrite additional coverage and that the small employer carrier
997 has denied coverage of small employers uniformly throughout the
998 state and without regard to the claims experience and health
999 status-related factors of the applicant small employer groups.
1000 The small employer carrier exempted from providing coverage under
1001 this subsection may not offer coverage to small employer groups in
1002 this state for one hundred eighty (180) days after the date on
1003 which coverage is denied or until the small employer carrier has
1004 demonstrated to the commissioner that the small employer carrier
1005 has sufficient financial reserves to underwrite additional
1006 coverage, whichever is later.

1007 **SECTION 17.** (1) A small employer carrier may establish a
1008 separate class of business only to reflect substantial differences
1009 in expected claims experience or administrative costs that are
1010 related to the following reasons:



1011 (a) The small employer carrier uses more than one (1)
1012 type of system for the marketing and sale of health benefit plans
1013 to small employers.

1014 (b) The small employer carrier has acquired a class of
1015 business from another small employer carrier.

1016 (c) The small employer carrier provides coverage to one
1017 or more association groups, including labor unions, that have been
1018 organized and are maintained in good faith for purposes other than
1019 that of obtaining insurance or of insuring members, employees, or
1020 employees of members of the association for the benefit of persons
1021 other than the association or its officers or trustees. The term
1022 "employees" as used in this subsection may include retired
1023 employees.

1024 (2) A small employer carrier may establish up to nine (9)
1025 separate classes of business under subsection (1).

1026 (3) The commissioner shall adopt rules to provide for a
1027 period of transition in order for a small employer carrier to come
1028 into compliance with subsection (2) in the case of acquisition of
1029 an additional class of business from another small employer
1030 carrier.

1031 (4) The commissioner may approve the establishment of
1032 additional classes of business upon application to the
1033 commissioner and a finding by the commissioner that the action
1034 would enhance the fairness and efficiency of the small employer
1035 health insurance market.



1036 **SECTION 18.** (1) (a) A health benefit plan may not be
1037 delivered or issued for delivery in Mississippi unless the form
1038 has been filed with and approved by the commissioner and, if
1039 required, the regulatory official of the state of domicile of the
1040 insurer. This provision does not apply to surety bonds or
1041 policies, riders, endorsements, or forms of unique character
1042 designed for and used with relation to insurance upon a particular
1043 subject or that relate to the manner of distribution of benefits
1044 or to the reservation of rights and benefits under life or
1045 disability insurance policies and are used at the request of the
1046 individual policyholder, contract holder, or certificate holder.

1047 (b) A filing required by paragraph (a) of this
1048 subsection must be submitted by an officer of the insurer with a
1049 certification in a form prescribed by the commissioner. The
1050 certification must state that to the best of the officer's
1051 knowledge and belief, the health benefit plan complies with the
1052 applicable provisions of Title 83, Mississippi Code of 1972.

1053 (c) The approval of a health benefit plan by the state
1054 of domicile may be waived by the commissioner if the commissioner
1055 considers the requirements of paragraph (a) of this subsection
1056 unnecessary for the protection of Mississippi insurance consumers.
1057 If the requirement is waived, an insurer shall notify the
1058 commissioner in writing within ten (10) days of disapproval,
1059 denial, or withdrawal of approval of a form by the state of
1060 domicile.



1061 (2) (a) The filing must be made not less than sixty (60)
1062 days before delivery and must be delivered by hand or sent by
1063 certified mail with a return receipt requested. The
1064 commissioner's office shall mark a filing with the date of receipt
1065 by the commissioner's office.

1066 (b) (i) If after sixty (60) days from the date of
1067 receipt by the commissioner's office the commissioner has not
1068 approved or disapproved the form by a notice pursuant to the
1069 provisions in subsection (4) of this section, the form is
1070 considered approved for all purposes, subject to paragraph (c) of
1071 this subsection.

1072 (ii) The running of the sixty-day period is tolled
1073 for a period commencing on the date that the commissioner notifies
1074 the insurer of problems or questions and requests additional
1075 information from the insurer concerning a form filed pursuant to
1076 paragraph (a) of subsection (1) of this section and ending on the
1077 date that the insurer submits its response to the commissioner.

1078 (iii) For purposes of tolling the sixty-day period
1079 as provided in subparagraph (ii) of this section, the
1080 commissioner's request notification may be made electronically.

1081 (c) In a letter separate from the original filing and
1082 delivered by hand or sent by certified mail with return receipt
1083 requested, the insurer shall notify the commissioner, at least ten
1084 (10) days before the use of the form in the market, that the
1085 insurer believes that:



1086 (i) The form has been or will be considered
1087 approved; and

1088 (ii) The insurer will begin marketing the form in
1089 Mississippi.

1090 (d) The commissioner's office shall mark a letter
1091 received pursuant to paragraph (c) of this subsection with the
1092 date of receipt by the commissioner's office.

1093 (3) Approval of a form by the commissioner constitutes a
1094 waiver of any unexpired portion of the waiting period.

1095 (4) The commissioner may at any time, after notice and for
1096 cause shown, withdraw any approval. Notice by the commissioner
1097 disapproving a form or withdrawing a previous approval must state
1098 the grounds for disapproval or withdrawal in sufficient detail to
1099 inform the insurer of the specific reason or reasons for and the
1100 legal authority supporting the disapproval or withdrawal of
1101 approval in whole or in part. The disapproval or withdrawal of
1102 approval does not take effect unless it is issued after the
1103 commissioner has reviewed the form and provided notice to the
1104 person who filed the form pursuant to this subsection.

1105 (5) After the date of the insurer's receipt of notice of
1106 disapproval or withdrawal of approval by the commissioner, the
1107 insurer may not deliver the form or issue the form for delivery in
1108 Mississippi.

1109 (6) The insurer may request a hearing for unresolved
1110 disputes regarding a disapproval or a withdrawal of approval by



1111 providing the commissioner with a written demand for a hearing.
1112 The written demand must specify the grounds relied upon as a basis
1113 for the relief sought at the hearing. If the commissioner does
1114 not issue an order granting a person's request for a hearing
1115 within thirty (30) days of receiving a request, the hearing is
1116 considered refused.

1117 (7) The commissioner may exempt from the requirements of
1118 this section, for so long as the commissioner considers proper, an
1119 insurance document, form, or type of document or form to which, in
1120 the commissioner's opinion, this section may not practicably be
1121 applied or the filing and approval of which are not desirable or
1122 necessary for the protection of the public.

1123 (8) This section applies to a form used by a domestic
1124 insurer for delivery in a jurisdiction outside Mississippi if the
1125 insurance supervisory official of the jurisdiction informs the
1126 commissioner that the form is not subject to approval or
1127 disapproval by the official and upon the commissioner's order
1128 requiring the form to be submitted to the commissioner for the
1129 purpose. The same standards apply to these forms as apply to
1130 forms for domestic use.

1131 (9) This section does not apply to:

1132 (a) Reinsurance;

1133 (b) Policies or contracts not issued for delivery in
1134 Mississippi or delivered in Mississippi, except as provided in
1135 subsection (8); and



1136 (c) Ocean marine and foreign trade insurances.
1137 (10) Except as otherwise provided by law, group certificates
1138 that are delivered or issued for delivery in Mississippi for group
1139 insurance policies effectuated and delivered outside Mississippi
1140 but covering persons who are residents in Mississippi must be
1141 filed with the commissioner upon request. The certificates must
1142 meet the minimum provisions mandated by Mississippi if Mississippi
1143 law prevails over conflicting provisions of other state law.

1144 **SECTION 19.** (1) In addition to the provisions of Section
1145 83-9-49, a health benefit plan may not exclude coverage for a
1146 preexisting condition unless:

1147 (a) Medical advice, diagnosis, care, or treatment was
1148 recommended or received by the participant or beneficiary within
1149 the six-month period ending on the enrollment date;

1150 (b) Exclusion of coverage extends for a period of not
1151 more than twelve (12) months or eighteen (18) months in the case
1152 of a late enrollee; and

1153 (c) The period of the preexisting condition exclusion
1154 is reduced by the aggregate of the periods of creditable coverage
1155 applicable to the participant or beneficiary as of the enrollment
1156 date.

1157 (2) Genetic information may not be excluded as a preexisting
1158 condition in the absence of a diagnosis of the condition related
1159 to the genetic information.



1160 (3) Pregnancy may not be excluded as a preexisting
1161 condition.

1162 **SECTION 20.** Section 27-7-15, Mississippi Code of 1972, is
1163 brought forward as follows:

1164 27-7-15. (1) For the purposes of this article, except as
1165 otherwise provided, the term "gross income" means and includes the
1166 income of a taxpayer derived from salaries, wages, fees or
1167 compensation for service, of whatever kind and in whatever form
1168 paid, including income from governmental agencies and subdivisions
1169 thereof; or from professions, vocations, trades, businesses,
1170 commerce or sales, or renting or dealing in property, or
1171 reacquired property; also from annuities, interest, rents,
1172 dividends, securities, insurance premiums, reinsurance premiums,
1173 considerations for supplemental insurance contracts, or the
1174 transaction of any business carried on for gain or profit, or
1175 gains, or profits, and income derived from any source whatever and
1176 in whatever form paid. The amount of all such items of income
1177 shall be included in the gross income for the taxable year in
1178 which received by the taxpayer. The amount by which an eligible
1179 employee's salary is reduced pursuant to a salary reduction
1180 agreement authorized under Section 25-17-5 shall be excluded from
1181 the term "gross income" within the meaning of this article.

1182 (2) In determining gross income for the purpose of this
1183 section, the following, under regulations prescribed by the
1184 commissioner, shall be applicable:



1185 (a) **Dealers in property.** Federal rules, regulations
1186 and revenue procedures shall be followed with respect to
1187 installment sales unless a transaction results in the shifting of
1188 income from inside the state to outside the state.

1189 (b) **Casual sales of property.**

1190 (i) Prior to January 1, 2001, federal rules,
1191 regulations and revenue procedures shall be followed with respect
1192 to installment sales except they shall be applied and administered
1193 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
1194 106th Congress, had not been enacted. This provision will
1195 generally affect taxpayers, reporting on the accrual method of
1196 accounting, entering into installment note agreements on or after
1197 December 17, 1999. Any gain or profit resulting from the casual
1198 sale of property will be recognized in the year of sale.

1199 (ii) From and after January 1, 2001, federal
1200 rules, regulations and revenue procedures shall be followed with
1201 respect to installment sales except as provided in this
1202 subparagraph (ii). Gain or profit from the casual sale of
1203 property shall be recognized in the year of sale. When a taxpayer
1204 recognizes gain on the casual sale of property in which the gain
1205 is deferred for federal income tax purposes, a taxpayer may elect
1206 to defer the payment of tax resulting from the gain as allowed and
1207 to the extent provided under regulations prescribed by the
1208 commissioner. If the payment of the tax is made on a deferred
1209 basis, the tax shall be computed based on the applicable rate for



1210 the income reported in the year the payment is made. Except as
1211 otherwise provided in subparagraph (iii) of this paragraph (b),
1212 deferring the payment of the tax shall not affect the liability
1213 for the tax. If at any time the installment note is sold,
1214 contributed, transferred or disposed of in any manner and for any
1215 purpose by the original note holder, or the original note holder
1216 is merged, liquidated, dissolved or withdrawn from this state,
1217 then all deferred tax payments under this section shall
1218 immediately become due and payable.

1219 (iii) If the selling price of the property is
1220 reduced by any alteration in the terms of an installment note,
1221 including default by the purchaser, the gain to be recognized is
1222 recomputed based on the adjusted selling price in the same manner
1223 as for federal income tax purposes. The tax on this amount, less
1224 the previously paid tax on the recognized gain, is payable over
1225 the period of the remaining installments. If the tax on the
1226 previously recognized gain has been paid in full to this state,
1227 the return on which the payment was made may be amended for this
1228 purpose only. The statute of limitations in Section 27-7-49 shall
1229 not bar an amended return for this purpose.

1230 (c) **Reserves of insurance companies.** In the case of
1231 insurance companies, any amounts in excess of the legally required
1232 reserves shall be included as gross income.

1233 (d) **Affiliated companies or persons.** As regards sales,
1234 exchanges or payments for services from one to another of



1235 affiliated companies or persons or under other circumstances where
1236 the relation between the buyer and seller is such that gross
1237 proceeds from the sale or the value of the exchange or the payment
1238 for services are not indicative of the true value of the subject
1239 matter of the sale, exchange or payment for services, the
1240 commissioner shall prescribe uniform and equitable rules for
1241 determining the true value of the gross income, gross sales,
1242 exchanges or payment for services, or require consolidated returns
1243 of affiliates.

1244 (e) **Alimony and separate maintenance payments.** The
1245 federal rules, regulations and revenue procedures in determining
1246 the deductibility and taxability of alimony payments shall be
1247 followed in this state.

1248 (f) **Reimbursement for expenses of moving.** There shall
1249 be included in gross income (as compensation for services) any
1250 amount received or accrued, directly or indirectly, by an
1251 individual as a payment for or reimbursement of expenses of moving
1252 from one (1) residence to another residence which is attributable
1253 to employment or self-employment.

1254 (3) In the case of taxpayers other than residents, gross
1255 income includes gross income from sources within this state.

1256 (4) The words "gross income" do not include the following
1257 items of income which shall be exempt from taxation under this
1258 article:



1259 (a) The proceeds of life insurance policies and
1260 contracts paid upon the death of the insured. However, the income
1261 from the proceeds of such policies or contracts shall be included
1262 in the gross income.

1263 (b) The amount received by the insured as a return of
1264 premium or premiums paid by him under life insurance policies,
1265 endowment, or annuity contracts, either during the term or at
1266 maturity or upon surrender of the contract.

1267 (c) The value of property acquired by gift, bequest,
1268 devise or descent, but the income from such property shall be
1269 included in the gross income.

1270 (d) Interest upon the obligations of the United States
1271 or its possessions, or securities issued under the provisions of
1272 the Federal Farm Loan Act of 1916, or bonds issued by the War
1273 Finance Corporation, or obligations of the State of Mississippi or
1274 political subdivisions thereof.

1275 (e) The amounts received through accident or health
1276 insurance as compensation for personal injuries or sickness, plus
1277 the amount of any damages received for such injuries or such
1278 sickness or injuries, or through the War Risk Insurance Act, or
1279 any law for the benefit or relief of injured or disabled members
1280 of the military or naval forces of the United States.

1281 (f) Income received by any religious denomination or by
1282 any institution or trust for moral or mental improvements,
1283 religious, Bible, tract, charitable, benevolent, fraternal,



1284 missionary, hospital, infirmary, educational, scientific,
1285 literary, library, patriotic, historical or cemetery purposes or
1286 for two (2) or more of such purposes, if such income be used
1287 exclusively for carrying out one or more of such purposes.

1288 (g) Income received by a domestic corporation which is
1289 "taxable in another state" as this term is defined in this
1290 article, derived from business activity conducted outside this
1291 state. Domestic corporations taxable both within and without the
1292 state shall determine Mississippi income on the same basis as
1293 provided for foreign corporations under the provisions of this
1294 article.

1295 (h) In case of insurance companies, there shall be
1296 excluded from gross income such portion of actual premiums
1297 received from an individual policyholder as is paid back or
1298 credited to or treated as an abatement of premiums of such
1299 policyholder within the taxable year.

1300 (i) Income from dividends that has already borne a tax
1301 as dividend income under the provisions of this article, when such
1302 dividends may be specifically identified in the possession of the
1303 recipient.

1304 (j) Amounts paid by the United States to a person as
1305 added compensation for hazardous duty pay as a member of the Armed
1306 Forces of the United States in a combat zone designated by
1307 Executive Order of the President of the United States.



1308 (k) Amounts received as retirement allowances,
1309 pensions, annuities or optional retirement allowances paid under
1310 the federal Social Security Act, the Railroad Retirement Act, the
1311 Federal Civil Service Retirement Act, or any other retirement
1312 system of the United States government, retirement allowances paid
1313 under the Mississippi Public Employees' Retirement System,
1314 Mississippi Highway Safety Patrol Retirement System or any other
1315 retirement system of the State of Mississippi or any political
1316 subdivision thereof. The exemption allowed under this paragraph
1317 (k) shall be available to the spouse or other beneficiary at the
1318 death of the primary retiree.

1319 (l) Amounts received as retirement allowances,
1320 pensions, annuities or optional retirement allowances paid by any
1321 public or governmental retirement system not designated in
1322 paragraph (k) or any private retirement system or plan of which
1323 the recipient was a member at any time during the period of his
1324 employment. Amounts received as a distribution under a Roth
1325 Individual Retirement Account shall be treated in the same manner
1326 as provided under the Internal Revenue Code of 1986, as amended.
1327 The exemption allowed under this paragraph (l) shall be available
1328 to the spouse or other beneficiary at the death of the primary
1329 retiree.

1330 (m) National Guard or Reserve Forces of the United
1331 States compensation not to exceed the aggregate sum of Five
1332 Thousand Dollars (\$5,000.00) for any taxable year through the 2005



1333 taxable year, and not to exceed the aggregate sum of Fifteen
1334 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

1335 (n) Compensation received for active service as a
1336 member below the grade of commissioned officer and so much of the
1337 compensation as does not exceed the maximum enlisted amount
1338 received for active service as a commissioned officer in the Armed
1339 Forces of the United States for any month during any part of which
1340 such members of the Armed Forces (i) served in a combat zone as
1341 designated by Executive Order of the President of the United
1342 States or a qualified hazardous duty area as defined by federal
1343 law, or both; or (ii) was hospitalized as a result of wounds,
1344 disease or injury incurred while serving in such combat zone. For
1345 the purposes of this paragraph (n), the term "maximum enlisted
1346 amount" means and has the same definition as that term has in 26
1347 USCS 112.

1348 (o) The proceeds received from federal and state
1349 forestry incentive programs.

1350 (p) The amount representing the difference between the
1351 increase of gross income derived from sales for export outside the
1352 United States as compared to the preceding tax year wherein gross
1353 income from export sales was highest, and the net increase in
1354 expenses attributable to such increased exports. In the absence
1355 of direct accounting, the ratio of net profits to total sales may
1356 be applied to the increase in export sales. This paragraph (p)
1357 shall only apply to businesses located in this state engaging in



1358 the international export of Mississippi goods and services. Such
1359 goods or services shall have at least fifty percent (50%) of value
1360 added at a location in Mississippi.

1361 (q) Amounts paid by the federal government for the
1362 construction of soil conservation systems as required by a
1363 conservation plan adopted pursuant to 16 USCS 3801 et seq.

1364 (r) The amount deposited in a medical savings account,
1365 and any interest accrued thereon, that is a part of a medical
1366 savings account program as specified in the Medical Savings
1367 Account Act under Sections 71-9-1 through 71-9-9; provided,
1368 however, that any amount withdrawn from such account for purposes
1369 other than paying eligible medical expense or to procure health
1370 coverage shall be included in gross income.

1371 (s) Amounts paid by the Mississippi Soil and Water
1372 Conservation Commission from the Mississippi Soil and Water
1373 Cost-Share Program for the installation of water quality best
1374 management practices.

1375 (t) Dividends received by a holding corporation, as
1376 defined in Section 27-13-1, from a subsidiary corporation, as
1377 defined in Section 27-13-1.

1378 (u) Interest, dividends, gains or income of any kind on
1379 any account in the Mississippi Affordable College Savings Trust
1380 Fund, as established in Sections 37-155-101 through 37-155-125, to
1381 the extent that such amounts remain on deposit in the MACS Trust



1382 Fund or are withdrawn pursuant to a qualified withdrawal, as
1383 defined in Section 37-155-105.

1384 (v) Interest, dividends or gains accruing on the
1385 payments made pursuant to a prepaid tuition contract, as provided
1386 for in Section 37-155-17.

1387 (w) Income resulting from transactions with a related
1388 member where the related member subject to tax under this chapter
1389 was required to, and did in fact, add back the expense of such
1390 transactions as required by Section 27-7-17(2). Under no
1391 circumstances may the exclusion from income exceed the deduction
1392 add-back of the related member, nor shall the exclusion apply to
1393 any income otherwise excluded under this chapter.

1394 (x) Amounts that are subject to the tax levied pursuant
1395 to Section 27-7-901, and are paid to patrons by gaming
1396 establishments licensed under the Mississippi Gaming Control Act.

1397 (y) Amounts that are subject to the tax levied pursuant
1398 to Section 27-7-903, and are paid to patrons by gaming
1399 establishments not licensed under the Mississippi Gaming Control
1400 Act.

1401 (z) Interest, dividends, gains or income of any kind on
1402 any account in a qualified tuition program and amounts received as
1403 distributions under a qualified tuition program shall be treated
1404 in the same manner as provided under the United States Internal
1405 Revenue Code, as amended. For the purposes of this paragraph (z),



1406 the term "qualified tuition program" means and has the same
1407 definition as that term has in 26 USCS 529.

1408 (aa) The amount deposited in a health savings account,
1409 and any interest accrued thereon, that is a part of a health
1410 savings account program as specified in the Health Savings
1411 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
1412 any amount withdrawn from such account for purposes other than
1413 paying qualified medical expenses or to procure health coverage
1414 shall be included in gross income, except as otherwise provided by
1415 Sections 83-62-7 and 83-62-9.

1416 (bb) Amounts received as qualified disaster relief
1417 payments shall be treated in the same manner as provided under the
1418 United States Internal Revenue Code, as amended.

1419 (cc) Amounts received as a "qualified Hurricane Katrina
1420 distribution" as defined in the United States Internal Revenue
1421 Code, as amended.

1422 (dd) Amounts received by an individual which may be
1423 excluded from income as foreign earned income for federal income
1424 tax purposes.

1425 (ee) Amounts received by a qualified individual,
1426 directly or indirectly, from an employer or nonprofit housing
1427 organization that are qualified housing expenses associated with
1428 an employer-assisted housing program. For purposes of this
1429 paragraph (ee):



1430 (i) "Qualified individual" means any individual
1431 whose household income does not exceed one hundred twenty percent
1432 (120%) of the area median gross income (as defined by the United
1433 States Department of Housing and Urban Development), adjusted for
1434 household size, for the area in which the housing is located.

1435 (ii) "Nonprofit housing organization" means an
1436 organization that is organized as a not-for-profit organization
1437 under the laws of this state or another state and has as one of
1438 its purposes:

1439 1. Homeownership education or counseling;
1440 2. The development of affordable housing; or
1441 3. The development or administration of
1442 employer-assisted housing programs.

1443 (iii) "Employer-assisted housing program" means a
1444 separate written plan of any employer (including, without
1445 limitation, tax-exempt organizations and public employers) for the
1446 exclusive benefit of the employer's employees to pay qualified
1447 housing expenses to assist the employer's employees in securing
1448 affordable housing.

1449 (iv) "Qualified housing expenses" means:

1450 1. With respect to rental assistance, an
1451 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the
1452 purpose of assisting employees with security deposits and rental
1453 subsidies; and



1454 2. With respect to homeownership assistance,
1455 an amount not to exceed the lesser of Ten Thousand Dollars
1456 (\$10,000.00) or six percent (6%) of the purchase price of the
1457 employee's principal residence that is paid for the purpose of
1458 assisting employees with down payments, payment of closing costs,
1459 reduced interest mortgages, mortgage guarantee programs, mortgage
1460 forgiveness programs, equity contribution programs, or
1461 contributions to homebuyer education and/or homeownership
1462 counseling of eligible employees.

1463 (ff) For the 2010 taxable year and any taxable year
1464 thereafter, amounts converted in accordance with the United States
1465 Internal Revenue Code, as amended, from a traditional Individual
1466 Retirement Account to a Roth Individual Retirement Account. The
1467 exemption allowed under this paragraph (ff) shall be available to
1468 the spouse or other beneficiary at the death of the primary
1469 retiree.

1470 (gg) Amounts received for the performance of disaster
1471 or emergency-related work as defined in Section 27-113-5.

1472 (hh) The amount deposited in a catastrophe savings
1473 account established under Sections 27-7-1001 through 27-7-1007,
1474 interest income earned on the catastrophe savings account, and
1475 distributions from the catastrophe savings account; however, any
1476 amount withdrawn from a catastrophe savings account for purposes
1477 other than paying qualified catastrophe expenses shall be included



1478 in gross income, except as otherwise provided by Sections
1479 27-7-1001 through 27-7-1007.

1480 (ii) Interest, dividends, gains or income of any kind
1481 on any account in the Mississippi Achieving a Better Life
1482 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
1483 43, to the extent that such amounts remain on deposit in the ABLE
1484 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
1485 defined in Section 43-28-11.

1486 (jj) Subject to the limitations provided under Section
1487 27-7-1103, amounts deposited into a first-time homebuyer savings
1488 account and any interest or other income earned attributable to an
1489 account and monies or funds withdrawn or distributed from an
1490 account for the payment of eligible costs by or on behalf of a
1491 qualified beneficiary; however, any monies or funds withdrawn or
1492 distributed from a first-time homebuyer savings account for any
1493 purpose other than the payment of eligible costs by or on behalf
1494 of a qualified beneficiary shall be included in gross income. For
1495 the purpose of this paragraph (jj), the terms "first-time
1496 homebuyer savings account," "eligible costs" and "qualified
1497 beneficiary" mean and have the same definitions as such terms have
1498 in Section 27-7-1101.

1499 (5) Prisoners of war, missing in action-taxable status.

1500 (a) **Members of the Armed Forces.** Gross income does not
1501 include compensation received for active service as a member of
1502 the Armed Forces of the United States for any month during any



1503 part of which such member is in a missing status, as defined in
1504 paragraph (d) of this subsection, during the Vietnam Conflict as a
1505 result of such conflict.

1506 (b) **Civilian employees.** Gross income does not include
1507 compensation received for active service as an employee for any
1508 month during any part of which such employee is in a missing
1509 status during the Vietnam Conflict as a result of such conflict.

1510 (c) **Period of conflict.** For the purpose of this
1511 subsection, the Vietnam Conflict began February 28, 1961, and ends
1512 on the date designated by the President by Executive Order as the
1513 date of the termination of combatant activities in Vietnam. For
1514 the purpose of this subsection, an individual is in a missing
1515 status as a result of the Vietnam Conflict if immediately before
1516 such status began he was performing service in Vietnam or was
1517 performing service in Southeast Asia in direct support of military
1518 operations in Vietnam. "Southeast Asia," as used in this
1519 paragraph, is defined to include Cambodia, Laos, Thailand and
1520 waters adjacent thereto.

1521 (d) "Missing status" means the status of an employee or
1522 member of the Armed Forces who is in active service and is
1523 officially carried or determined to be absent in a status of (i)
1524 missing; (ii) missing in action; (iii) interned in a foreign
1525 country; (iv) captured, beleaguered or besieged by a hostile
1526 force; or (v) detained in a foreign country against his will; but
1527 does not include the status of an employee or member of the Armed



1528 Forces for a period during which he is officially determined to be
1529 absent from his post of duty without authority.

1530 (e) "Active service" means active federal service by an
1531 employee or member of the Armed Forces of the United States in an
1532 active duty status.

1533 (f) "Employee" means one who is a citizen or national
1534 of the United States or an alien admitted to the United States for
1535 permanent residence and is a resident of the State of Mississippi
1536 and is employed in or under a federal executive agency or
1537 department of the Armed Forces.

1538 (g) "Compensation" means (i) basic pay; (ii) special
1539 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
1540 basic allowance for subsistence; and (vi) station per diem
1541 allowances for not more than ninety (90) days.

1542 (h) If refund or credit of any overpayment of tax for
1543 any taxable year resulting from the application of this subsection
1544 (5) is prevented by the operation of any law or rule of law, such
1545 refund or credit of such overpayment of tax may, nevertheless, be
1546 made or allowed if claim therefor is filed with the Department of
1547 Revenue within three (3) years after the date of the enactment of
1548 this subsection.

1549 (i) The provisions of this subsection shall be
1550 effective for taxable years ending on or after February 28, 1961.

1551 (6) A shareholder of an S corporation, as defined in Section
1552 27-8-3(1)(g), shall take into account the income, loss, deduction



1553 or credit of the S corporation only to the extent provided in
1554 Section 27-8-7(2).

1555 **SECTION 21.** Section 27-69-13, Mississippi Code of 1972, is
1556 brought forward as follows:

1557 27-69-13. There is hereby imposed, levied and assessed, to
1558 be collected and paid as hereinafter provided in this chapter, an
1559 excise tax on each person or dealer in cigarettes, cigars,
1560 stogies, snuff, chewing tobacco, and smoking tobacco, or
1561 substitutes therefor, upon the sale, use, consumption, handling or
1562 distribution in the State of Mississippi, as follows:

1563 (a) On cigarettes, the rate of tax shall be Three and
1564 Four-tenths Cents (3.4¢) on each cigarette sold with a maximum
1565 length of one hundred twenty (120) millimeters; any cigarette in
1566 excess of this length shall be taxed as if it were two (2) or more
1567 cigarettes. Provided, however, if the federal tax rate on
1568 cigarettes in effect on June 1, 1985, is reduced, then the rate as
1569 provided herein shall be increased by the amount of the federal
1570 tax reduction. Such tax increase shall take effect on the first
1571 day of the month following the effective date of such reduction in
1572 the federal tax rate.

1573 (b) On cigars, cheroots, stogies, snuff, chewing and
1574 smoking tobacco and all other tobacco products except cigarettes,
1575 the rate of tax shall be fifteen percent (15%) of the
1576 manufacturer's list price.



1577 No stamp evidencing the tax herein levied on cigarettes shall
1578 be of a denomination of less than One Cent (1¢), and whenever the
1579 tax computed at the rates herein prescribed on cigarettes shall be
1580 a specified amount, plus a fractional part of One Cent (1¢), the
1581 package shall be stamped for the next full cent; however, the
1582 additional face value of stamps purchased to comply with taxes
1583 imposed by this section after June 1, 1985, shall be subject to a
1584 four percent (4%) discount or compensation to dealers for their
1585 services rather than the eight percent (8%) discount or
1586 compensation allowed by Section 27-69-31.

1587 Every wholesaler shall purchase stamps as provided in this
1588 chapter, and affix the same to all packages of cigarettes handled
1589 by him as herein provided.

1590 The above tax is levied upon the sale, use, gift, possession
1591 or consumption of tobacco within the State of Mississippi, and the
1592 impact of the tax levied by this chapter is hereby declared to be
1593 on the vendee, user, consumer or possessor of tobacco in this
1594 state; and when said tax is paid by any other person, such payment
1595 shall be considered as an advance payment and shall thereafter be
1596 added to the price of the tobacco and recovered from the ultimate
1597 consumer or user.

1598 **SECTION 22.** Section 27-69-75, Mississippi Code of 1972, is
1599 brought forward as follows:

1600 27-69-75. All taxes levied by this chapter shall be payable
1601 to the commissioner in cash, or by personal check, cashier's



1602 check, bank exchange, post office money order or express money
1603 order, and shall be deposited by the commissioner in the State
1604 Treasury on the same day collected. No remittance other than cash
1605 shall be a final discharge of liability for the tax herein
1606 assessed and levied, unless and until it has been paid in cash to
1607 the commissioner.

1608 All tobacco taxes collected, including tobacco license taxes,
1609 shall be deposited into the State Treasury to the credit of the
1610 General Fund.

1611 Wholesalers who are entitled to purchase stamps at a
1612 discount, as provided by Section 27-69-31, may have consigned to
1613 them, without advance payment, such stamps, if and when such
1614 wholesaler shall give to the commissioner a good and sufficient
1615 bond executed by some surety company authorized to do business in
1616 this state, conditioned to secure the payment for the stamps so
1617 consigned. The commissioner shall require payment for such stamps
1618 not later than thirty (30) days from the date the stamps were
1619 consigned.

1620 **SECTION 23.** Section 97-17-41, Mississippi Code of 1972, is
1621 brought forward as follows:

1622 97-17-41. (1) Any person who shall be convicted of taking
1623 and carrying away, feloniously, the personal property of another,
1624 of the value of One Thousand Dollars (\$1,000.00) or more, but less
1625 than Five Thousand Dollars (\$5,000.00), shall be guilty of grand
1626 larceny, and shall be imprisoned in the Penitentiary for a term



1627 not exceeding five (5) years; or shall be fined not more than Ten
1628 Thousand Dollars (\$10,000.00), or both. The total value of
1629 property taken and carried away by the person from a single victim
1630 shall be aggregated in determining the gravity of the offense.

1631 (2) Any person who shall be convicted of taking and carrying
1632 away, feloniously, the personal property of another, of the value
1633 of Five Thousand Dollars (\$5,000.00) or more, but less than
1634 Twenty-five Thousand Dollars (\$25,000.00), shall be guilty of
1635 grand larceny, and shall be imprisoned in the Penitentiary for a
1636 term not exceeding ten (10) years; or shall be fined not more than
1637 Ten Thousand Dollars (\$10,000.00), or both. The total value of
1638 property taken and carried away by the person from a single victim
1639 shall be aggregated in determining the gravity of the offense.

1640 (3) Any person who shall be convicted of taking and carrying
1641 away, feloniously, the personal property of another, of the value
1642 of Twenty-five Thousand Dollars (\$25,000.00) or more, shall be
1643 guilty of grand larceny, and shall be imprisoned in the
1644 Penitentiary for a term not exceeding twenty (20) years; or shall
1645 be fined not more than Ten Thousand Dollars (\$10,000.00), or both.
1646 The total value of property taken and carried away by the person
1647 from a single victim shall be aggregated in determining the
1648 gravity of the offense.

1649 (4) (a) Any person who shall be convicted of taking and
1650 carrying away, feloniously, the property of a church, synagogue,
1651 temple or other established place of worship, of the value of One



1652 Thousand Dollars (\$1,000.00) or more, shall be guilty of grand
1653 larceny, and shall be imprisoned in the Penitentiary for a term
1654 not exceeding ten (10) years, or shall be fined not more than Ten
1655 Thousand Dollars (\$10,000.00), or both.

1656 (b) Any person who shall be convicted of taking and
1657 carrying away, feloniously, the property of a church, synagogue,
1658 temple or other established place of worship, of the value of
1659 Twenty-five Thousand Dollars (\$25,000.00) or more, shall be guilty
1660 of grand larceny, and shall be imprisoned in the Penitentiary for
1661 a term not exceeding twenty (20) years, or shall be fined not more
1662 than Ten Thousand Dollars (\$10,000.00), or both. The total value
1663 of property taken and carried away by the person from a single
1664 victim shall be aggregated in determining the gravity of the
1665 offense.

1666 **SECTION 24.** Section 97-17-43, Mississippi Code of 1972, is
1667 brought forward as follows:

1668 97-17-43. (1) If any person shall feloniously take, steal
1669 and carry away any personal property of another under the value of
1670 One Thousand Dollars (\$1,000.00), he shall be guilty of petit
1671 larceny and, upon conviction, may be punished by imprisonment in
1672 the county jail not exceeding six (6) months or by a fine not
1673 exceeding One Thousand Dollars (\$1,000.00), or both, if the court
1674 finds substantial and compelling reasons why the offender cannot
1675 be safely and effectively supervised in the community, is not
1676 amenable to community-based treatment, or poses a significant risk



1677 to public safety. If such a finding is not made, the court shall
1678 suspend the sentence of imprisonment and impose a period of
1679 probation not exceeding one (1) year or a fine not exceeding One
1680 Thousand Dollars (\$1,000.00), or both. The total value of
1681 property taken, stolen or carried away by the person from a single
1682 victim shall be aggregated in determining the gravity of the
1683 offense. Any person convicted of a third or subsequent offense
1684 under this section where the value of the property is not less
1685 than Five Hundred Dollars (\$500.00), shall be imprisoned in the
1686 Penitentiary for a term not exceeding three (3) years or fined an
1687 amount not exceeding One Thousand Dollars (\$1,000.00), or both.

1688 (2) If any person shall feloniously take, steal and carry
1689 away any property of a church, synagogue, temple or other
1690 established place of worship under the value of One Thousand
1691 Dollars (\$1,000.00), he shall be guilty of petit larceny and, upon
1692 conviction, may be punished by imprisonment in the county jail not
1693 exceeding one (1) year or by fine not exceeding Two Thousand
1694 Dollars (\$2,000.00), or both if the court finds substantial and
1695 compelling reasons why the offender cannot be safely and
1696 effectively supervised in the community, is not amenable to
1697 community-based treatment, or poses a significant risk to public
1698 safety. If such a finding is not made, the court shall suspend
1699 the sentence of imprisonment and impose a period of probation not
1700 exceeding one (1) year or a fine not exceeding Two Thousand
1701 Dollars (\$2,000.00), or both. Any person convicted of a third or



1702 subsequent offense under this section where the value of the
1703 property is not less than Five Hundred Dollars (\$500.00), shall be
1704 imprisoned in the Penitentiary for a term not exceeding three (3)
1705 years or fined an amount not exceeding Two Thousand Dollars
1706 (\$2,000.00), or both.

1707 (3) Any person who leaves the premises of an establishment
1708 at which motor fuel offered for retail sale was dispensed into the
1709 fuel tank of a motor vehicle by driving away in that motor vehicle
1710 without having made due payment or authorized charge for the motor
1711 fuel so dispensed, with intent to defraud the retail
1712 establishment, shall be guilty of petit larceny and punished as
1713 provided in subsection (1) of this section and, upon any second or
1714 subsequent such offense, the driver's license of the person shall
1715 be suspended as follows:

1716 (a) The person shall submit the driver's license to the
1717 court upon conviction and the court shall forward the driver's
1718 license to the Department of Public Safety.

1719 (b) The first suspension of a driver's license under
1720 this subsection shall be for a period of six (6) months.

1721 (c) A second or subsequent suspension of a driver's
1722 license under this subsection shall be for a period of one (1)
1723 year.

1724 (d) At the expiration of the suspension period, and
1725 upon payment of a restoration fee of Twenty-five Dollars (\$25.00),
1726 the suspension shall terminate and the Department of Public Safety



1727 shall return the person's driver's license to the person. The
1728 restoration fee shall be in addition to the fees provided for in
1729 Title 63, Chapter 1, and shall be deposited into the State General
1730 Fund in accordance with Section 45-1-23.

1731 **SECTION 25.** This act shall take effect and be in force from
1732 and after July 1, 2018.

