

By: Representatives Lamar, White

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1647

1 AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO
2 ESTABLISH ANY PROGRAM OR PROMULGATE ANY RULE, POLICY, GUIDELINE,
3 OR PLAN OR CHANGE ANY PROGRAM, RULE, POLICY OR GUIDELINE TO
4 IMPLEMENT, ESTABLISH, CREATE, ADMINISTER, OR OTHERWISE OPERATE AN
5 EXCHANGE, OR TO APPLY FOR, ACCEPT OR EXPEND FEDERAL MONIES RELATED
6 TO THE CREATION, IMPLEMENTATION OR OPERATION OF AN EXCHANGE, AND
7 TO ESTABLISH ANY ADVISORY BOARD OR COMMITTEE AS NECESSARY FOR
8 PROVIDING RECOMMENDATIONS ON THE CREATION, IMPLEMENTATION OR
9 OPERATION OF AN EXCHANGE; TO AMEND SECTION 83-5-72, MISSISSIPPI
10 CODE OF 1972, TO PROVIDE THAT ALL LIFE, HEALTH AND ACCIDENT
11 INSURANCE COMPANIES AND HEALTH MAINTENANCE ORGANIZATIONS DOING
12 BUSINESS IN THIS STATE SHALL CONTRIBUTE CERTAIN AMOUNTS ANNUALLY
13 TO THE HEALTH INSURANCE STATE EXCHANGE FUND; TO PROVIDE THE
14 MAXIMUM AMOUNT OF TOTAL CONTRIBUTIONS THAT MAY BE COLLECTED; TO
15 AMEND SECTIONS 83-9-203 AND 83-9-205, MISSISSIPPI CODE OF 1972, TO
16 CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS
17 83-9-201, 83-9-207, 83-9-209, 83-9-211, 83-9-212, 83-9-213,
18 83-9-214, 83-9-215, 83-9-217, 83-9-219, 83-9-221, 83-9-222 AND
19 41-83-31, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
20 AMENDMENT; TO AUTHORIZE AN INCOME TAX DEDUCTION FOR TAXPAYERS WHO
21 PROVIDE HEALTH CARE SERVICES THAT ARE COVERED UNDER AN EXCHANGE
22 AND UNDER WHICH THE TAXPAYER RECEIVES PAYMENT FOR SUCH SERVICES;
23 TO PROVIDE FOR THE AMOUNT OF THE TAX DEDUCTION; TO AUTHORIZE AN
24 INCOME TAX DEDUCTION FOR TAXPAYERS WHO PAY ALL OR ANY PORTION OF
25 THE COST FOR AN INSURANCE POLICY FOR AN EMPLOYEE UNDER AN
26 EXCHANGE; TO PROVIDE FOR THE AMOUNT OF THE TAX DEDUCTION; TO
27 AUTHORIZE AN INSURANCE PREMIUM TAX CREDIT FOR TAXPAYERS PROVIDING
28 INSURANCE POLICIES UNDER AN EXCHANGE; TO PROVIDE FOR THE AMOUNT OF
29 THE TAX CREDIT; TO BRING FORWARD SECTIONS 27-7-17 AND 27-7-18,
30 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR INCOME TAX DEDUCTIONS
31 AND ADJUSTMENTS TO GROSS INCOME, FOR THE PURPOSES OF POSSIBLE
32 AMENDMENT; AND FOR RELATED PURPOSES.

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



34 **SECTION 1.** For the purposes of this act, the following words
35 and phrases shall have the meanings as defined in this section
36 unless the context clearly indicates otherwise:

37 (a) "Exchange" means a state, federal, or partnership
38 exchange or marketplace operating in Mississippi pursuant to
39 Section 1311 of the Federal Patient Protection and Affordable Care
40 Act (Public Law 111-148), as amended by the federal Health Care
41 and Education Reconciliation Act of 2010 (Public Law 111-152), and
42 regulations and guidance issued under those acts.

43 (b) "Comprehensive Health Insurance Risk Pool
44 Association" means the mechanism as established in Sections
45 83-9-201 through 83-9-223.

46 (c) "Comprehensive Health Insurance Risk Pool Board"
47 shall have the same meaning as provided in Section 83-9-205(b).

48 **SECTION 2.** The Commissioner of Insurance shall have the
49 authority to:

50 (a) Establish any program, promulgate any rule, policy,
51 guideline, or plan; or change any program, rule, policy or
52 guideline to implement, establish, create, administer, or
53 otherwise operate an exchange; or

54 (b) Apply for, accept or expend federal monies related
55 to the creation, implementation or operation of an exchange;

56 (c) Establish any advisory board or committee the
57 Commissioner deems necessary for providing recommendations on the
58 creation, implementation or operation of an exchange; and



59 (d) Use the services and funds of the Comprehensive
60 Health Insurance Risk Pool Association and the Comprehensive
61 Health Insurance Risk Pool Board to fulfill the purposes of this
62 section.

63 The Commissioner of Insurance shall, immediately after the
64 effective date of this act, begin action to carry out the
65 authority provided for in this section.

66 **SECTION 3.** Section 83-5-72, Mississippi Code of 1972, is
67 amended as follows:

68 83-5-72. All life, health and accident insurance companies
69 and health maintenance organizations doing business in this state
70 shall contribute annually, at such times as the Insurance
71 Commissioner shall determine, in proportion to their gross
72 premiums collected within the State of Mississippi during the
73 preceding year, to a special fund in the State Treasury to be
74 known as the "Health Insurance * * * State Exchange Fund" to be
75 expended by the Insurance Commissioner in the payment of the
76 expenses * * * incurred in the creation, implementation or
77 operation of an exchange. The commissioner is hereby authorized
78 to employ such actuarial and other assistance as shall be
79 necessary to carry out the duties of the department; and the
80 employees shall be under the authority and direction of the
81 Insurance Commissioner. The amount to be contributed annually to
82 the fund shall be fixed each year by the Insurance Commissioner at
83 a percentage of the gross premiums so collected during the



84 preceding year. However, a minimum assessment of One Hundred
85 Dollars (\$100.00) shall be charged each licensed life, health and
86 accident insurance company regardless of the gross premium amount
87 collected during the preceding year.

88 The total contributions collected for the Health
89 Insurance * * * State Exchange Fund shall not exceed the sum
90 of * * * One Million Five Hundred Thousand Dollars (\$1,500,000.00)
91 in each fiscal year.

92 * * *

93 **SECTION 4.** Section 83-9-203, Mississippi Code of 1972, is
94 amended as follows:

95 83-9-203. It is the purpose of the Legislature to establish
96 a mechanism to allow the availability of a health insurance
97 program and to allow the availability of health and accident
98 insurance coverage to those citizens of this state who (a) because
99 of health conditions cannot secure such coverage, or (b) desire to
100 obtain or continue health insurance coverage under any state or
101 federal program designed to enable persons to obtain or maintain
102 health insurance coverage, and (c) to assist the Commissioner of
103 Insurance with the creation, implementation or operation of an
104 exchange.

105 **SECTION 5.** Section 83-9-205, Mississippi Code of 1972, is
106 amended as follows:



107 83-9-205. As used in Sections 83-9-201 through 83-9-222, the
108 following words shall have the meaning ascribed herein unless the
109 context clearly requires otherwise:

110 (a) "Association" means the Comprehensive Health
111 Insurance Risk Pool Association.

112 (b) "Board" means the board of directors of the
113 association.

114 (c) "Church plan" has the meaning given such term under
115 Section 3(33) of the Employee Retirement Income Security Act of
116 1974.

117 (d) "Commissioner" means the Commissioner of Insurance
118 of this state.

119 (e) "Creditable coverage" has the meaning set forth in
120 the federal Health Insurance Portability and Accountability Act of
121 1996 (26 USCS Section 9801(c)(1)). A period of creditable
122 coverage shall not be counted, with respect to the enrollment of
123 an individual who seeks coverage under the plan, if, after such
124 period and before the enrollment date, the individual experiences
125 a significant break in coverage.

126 (f) "Dependent" means a resident spouse or resident
127 unmarried child under the age of nineteen (19) years, a child who
128 is a student under the age of twenty-three (23) years and who is
129 financially dependent upon the parent or a child of any age who is
130 disabled and dependent upon the parent.



131 (g) "Excess or stoploss coverage" means an arrangement
132 whereby an insurer insures against the risk that any one (1) claim
133 will exceed a specific dollar amount or that the entire loss of a
134 self-insurance plan will exceed a specific amount.

135 (h) "Federally defined eligible individual" means an
136 individual:

137 (i) For whom, as of the date on which the
138 individual seeks coverage under the plan, the aggregate of the
139 periods of creditable coverage is eighteen (18) or more months;

140 (ii) Whose most recent prior creditable coverage
141 was under a group health plan, governmental plan, church plan or
142 health insurance coverage offered in connection with such a plan;

143 (iii) Who is not eligible for coverage under a
144 group health plan, Part A or Part B of Title XVIII of the Social
145 Security Act (Medicare), or a state plan under Title XIX of the
146 act (Medicaid) or any successor program, and who does not have
147 other health insurance coverage;

148 (iv) With respect to whom the most recent coverage
149 within the period of aggregate creditable coverage was not
150 terminated based on a factor relating to nonpayment of premiums or
151 fraud;

152 (v) Who, if offered the option of continuation
153 coverage under a COBRA continuation provision or under a similar
154 state program, elected this coverage; and



155 (vi) Who has exhausted continuation coverage under
156 this provision or program, if the individual elected the
157 continuation coverage described in subparagraph (v).

158 (i) "Governmental plan" has the meaning given such term
159 under Section 3(32) of the Employee Retirement Income Security Act
160 of 1974 and any federal governmental plan.

161 (j) "Group health plan" means an employee welfare
162 benefit plan as defined in Section 3(1) of the Employee Retirement
163 Income Security Act of 1974 to the extent that the plan provides
164 medical care to employees or their dependents as defined under the
165 terms of the plan directly or through insurance, reimbursement or
166 otherwise.

167 (k) "Health insurance coverage" means any hospital and
168 medical expense incurred policy, nonprofit health care services
169 plan contract, health maintenance organization subscriber contract
170 or any other health care plan or arrangement that pays for or
171 furnishes medical or health care services whether by insurance or
172 otherwise.

173 (i) "Health insurance coverage" shall not include
174 one or more, or any combination of, the following:

175 1. Coverage only for accident, or disability
176 income insurance, or any combination thereof;

177 2. Coverage issued as a supplement to
178 liability insurance;



179 3. Liability insurance, including general
180 liability insurance and automobile liability insurance;
181 4. Workers' compensation or similar
182 insurance;
183 5. Automobile medical payment insurance;
184 6. Credit-only insurance;
185 7. Coverage for on-site medical clinics; and
186 8. Other similar insurance coverage,
187 specified in federal regulations issued pursuant to Public Law
188 104-191, under which benefits for medical care are secondary or
189 incidental to other insurance benefits.

190 (ii) "Health insurance coverage" shall not include
191 the following benefits if they are provided under a separate
192 policy, certificate or contract of insurance or are otherwise not
193 an integral part of the coverage:

194 1. Limited scope dental or vision benefits;
195 2. Benefits for long-term care, nursing home
196 care, home health care, community-based care, or any combination
197 thereof; or
198 3. Other similar, limited benefits specified
199 in federal regulations issued pursuant to Public Law 104-191.

200 (iii) "Health insurance coverage" shall not
201 include the following benefits if the benefits are provided under
202 a separate policy, certificate or contract of insurance, there is
203 no coordination between the provision of the benefits and any



204 exclusion of benefits under any group health plan maintained by
205 the same plan sponsor, and the benefits are paid with respect to
206 an event without regard to whether benefits are provided with
207 respect to such an event under any group health plan maintained by
208 the same plan sponsor:

209 1. Coverage only for a specified disease or
210 illness; or

211 2. Hospital indemnity or other fixed
212 indemnity insurance.

213 (iv) "Health insurance coverage" shall not include
214 the following if offered as a separate policy, certificate or
215 contract of insurance:

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

218 2. Coverage supplemental to the coverage
219 provided under Chapter 55, Title 10, United States Code (Civilian
220 Health and Medical Program of the Uniformed Services (CHAMPUS));
221 or

222 3. Similar supplemental coverage provided to
223 coverage under a group health plan.

224 (1) "Health maintenance organization" means any
225 organization authorized under the Health Maintenance Organization,
226 Preferred Provider Organization and Other Prepaid Health Benefit
227 Plans Protection Act, Section 83-41-301 et seq., to operate a
228 health maintenance organization in this state.



229 (m) "Insurer" means any entity that is authorized in
230 this state to write health insurance coverage or that provides
231 health insurance coverage in this state or any third-party
232 administrator. For the purposes of Sections 83-9-201 through
233 83-9-222, insurer includes an insurance company, nonprofit health
234 care services plan, fraternal benefit society, health maintenance
235 organization, to the extent consistent with federal law any
236 self-insurance arrangement covered by the Employee Retirement
237 Income Security Act of 1974, as amended, that provides health care
238 benefits in this state, any other entity providing a plan of
239 health insurance coverage or health benefits subject to state
240 insurance regulation and any reinsurer reinsuring health insurance
241 coverage in this state.

242 (n) "Medicare" means coverage under both Parts A or B
243 of Title XVIII of the Social Security Act, 42 USC, Section 1395 et
244 seq., as amended.

245 (o) "Plan" means the health insurance plan adopted by
246 the board under Sections 83-9-201 through 83-9-222.

247 (p) "Resident" means an individual who is legally
248 located in the United States and has been legally domiciled in
249 this state for a period to be established by the board and subject
250 to the approval of the commissioner but in no event shall such
251 residency requirement be greater than one (1) year, except that
252 for a federally defined eligible individual, there shall not be a
253 prior residency requirement.



254 (q) "Agent" means a person who is licensed to sell
255 health insurance in this state or a third-party administrator.

256 (r) "Covered person" means any individual resident of
257 this state (excluding dependents) who is eligible to receive
258 benefits from any insurer.

259 (s) "Third-party administrator" means any entity who is
260 paying or processing health insurance claims for any Mississippi
261 resident.

262 (t) "Reinsurer" means any insurer from whom any person
263 providing health insurance coverage for any Mississippi resident
264 procures insurance for itself in the insurer, with respect to all
265 or part of the health insurance coverage risk of the person.

266 (u) "Significant break in coverage" means a period of
267 sixty-three (63) consecutive days during all of which the
268 individual does not have any creditable coverage, except that
269 neither a waiting period nor an affiliation period is taken into
270 account in determining a significant break in coverage.

271 (v) "Exchange" means a state, federal, or partnership
272 exchange or marketplace operating in Mississippi pursuant to
273 Section 1311 of the Federal Patient Protection and Affordable Care
274 Act (Public Law 111-148), as amended by the federal Health Care
275 and Education Reconciliation Act of 2010 (Public Law 111-152), and
276 regulations and guidance issued under those acts.

277 **SECTION 6.** The Comprehensive Health Insurance Risk Pool
278 Association shall have the authority to develop and fund an online



279 portal that shall be available to all Mississippians to assist
280 consumers in selection of a health plan. This program shall have
281 the capacity to aggregate information regarding providers, drug
282 coverage and pricing that would allow consumers to make informed
283 decisions in selecting a health plan.

284 **SECTION 7.** Section 83-9-201, Mississippi Code of 1972, is
285 brought forward as follows:

286 83-9-201. Sections 83-9-201 through 83-9-222 shall be known
287 and may be cited as the "Comprehensive Health Insurance Risk Pool
288 Association Act."

289 **SECTION 8.** Section 83-9-207, Mississippi Code of 1972, is
290 brought forward as follows:

291 83-9-207. (1) Every insurer shall participate in the
292 association.

293 (2) The requirements of this plan shall become effective
294 April 15, 1991. The policies shall be available for sale January
295 1, 1992.

296 **SECTION 9.** Section 83-9-209, Mississippi Code of 1972, is
297 brought forward as follows:

298 83-9-209. (1) Any individual who is and continues to be a
299 resident shall be eligible for coverage under this plan if
300 evidence is provided of:

301 (a) A notice of rejection or refusal to issue health
302 insurance coverage for health reasons by one (1) insurer;



303 (b) A refusal by an insurer to issue health insurance
304 coverage except with material underwriting restriction; or

305 (c) A refusal by an insurer to issue health insurance
306 coverage except at a rate exceeding the plan rate.

307 (2) The board shall develop a procedure for eligibility for
308 coverage by the association for any natural person who changes his
309 domicile to this state and who at the time domicile is established
310 in this state is insured by an organization similar to the
311 association. The eligible maximum lifetime benefits for such
312 covered person shall not exceed the lifetime benefits available
313 through the association, less any benefits received from a similar
314 organization in the former domiciliary state.

315 (3) The board may promulgate a list of medical or health
316 conditions for which a person shall be eligible for plan coverage
317 without applying for health insurance coverage under subsection
318 (1) of this section. Persons who can demonstrate the existence or
319 history of any medical or health conditions on such list
320 promulgated by the board may not be required to provide the
321 evidence specified in subsection (1) of this section. Any such
322 list previously promulgated by the board may be amended or
323 repealed by the board from time to time as may be appropriate.

324 (4) A person shall not be eligible for coverage under this
325 plan if:



326 (a) The person has or obtains health insurance
327 coverage, or would be eligible to have coverage if the person
328 elected to obtain it; except that:

329 (i) A person may maintain other coverage for the
330 period of time the person is satisfying a preexisting condition
331 waiting period under a plan policy; and

332 (ii) A person may maintain plan coverage for the
333 period of time the person is satisfying a preexisting condition
334 waiting period under another health insurance policy intended to
335 replace the plan policy.

336 (b) The person is determined to be eligible for health
337 care benefits under the Mississippi Medicaid Law, Section
338 43-13-101 et seq., or Medicare.

339 (c) The person previously terminated plan coverage
340 unless twelve (12) months have elapsed since the person's latest
341 termination.

342 (d) The plan has paid out One Million Dollars
343 (\$1,000,000.00) in benefits on behalf of the person. The lifetime
344 maximum shall be One Million Dollars (\$1,000,000.00).

345 (e) The person is an inmate or resident of a public
346 institution.

347 (f) The person's premiums are paid for or reimbursed
348 under any government sponsored program or by any government agency
349 or health care provider, except as an otherwise qualifying



350 full-time employee, or dependent thereof, of a government agency
351 or health care provider.

352 (5) The coverage of any person shall cease:

353 (a) On the date a person is no longer a resident of
354 this state;

355 (b) Upon the death of the covered person;

356 (c) On the date state law requires cancellation of the
357 policy; or

358 (d) At the option of the association, thirty (30) days
359 after the association makes any inquiry concerning the person's
360 eligibility or place of residence to which the person does not
361 reply.

362 (6) The coverage of any person who ceases to meet the
363 eligibility requirements of this section may be terminated
364 immediately.

365 (7) It shall constitute an unfair trade practice for any
366 insurer, insurance agent or broker, employer or third-party
367 administrator to refer an individual employee or a dependent of an
368 individual employee to the association, or to arrange for an
369 individual employee or a dependent of an individual employee to
370 apply to the program, for the purpose of separating such employee
371 or dependent from a group health benefits plan provided in
372 connection with the employee's employment.

373 **SECTION 10.** Section 83-9-211, Mississippi Code of 1972, is
374 brought forward as follows:



375 83-9-211. (1) There is created a nonprofit legal entity to
376 be known as the "Comprehensive Health Insurance Risk Pool
377 Association." All insurers, as a condition of doing business,
378 shall be members of the association.

379 (2) (a) The association shall operate subject to the
380 supervision and approval of an eleven-member board of directors
381 consisting of:

382 (i) Six (6) members appointed by the Insurance
383 Commissioner. Two (2) of the commissioner's appointees shall be
384 chosen from the general public and shall not be associated with
385 the medical profession, a hospital or an insurer. Two (2)
386 appointees shall be representatives of medical providers. One (1)
387 appointee shall be a representative of businesses employing fewer
388 than one hundred (100) employees. One (1) appointee shall be a
389 representative of health insurance agents. Any board member
390 appointed by the commissioner may be removed and replaced by him
391 at any time without cause.

392 (ii) Three (3) members appointed by the
393 participating insurers, at least one (1) of whom is a domestic
394 insurer.

395 (iii) The Chair of the Senate Insurance Committee
396 and the Chair of the House Insurance Committee, or their
397 designees, who shall be nonvoting, ex officio members of the
398 board.



399 (iv) Of those initial members appointed by the
400 Insurance Commissioner, one (1) shall serve for a term of one (1)
401 year, two (2) for a term of two (2) years, and one (1) for a term
402 of three (3) years. Of those initial members appointed by the
403 participating insurers, one (1) shall serve for a term of one (1)
404 year, one (1) shall serve for a term of two (2) years, and one (1)
405 shall serve for a term of three (3) years. The appointing
406 authority shall designate the period of service of each initial
407 appointee at the time of appointment.

408 (v) All appointments after the initial term shall
409 be for a term of three (3) years.

410 (b) The board of directors shall elect one (1) of its
411 members as chairman.

412 (c) Board members may be reimbursed from monies of the
413 association for actual and necessary expenses incurred by them as
414 members in the manner and amount provided in Section 25-3-41,
415 Mississippi Code of 1972, but shall not otherwise be compensated
416 for their services.

417 (3) The association shall adopt a plan in accordance with
418 Sections 83-9-201 through 83-9-222 and submit its articles, bylaws
419 and operating rules to the State Department of Insurance for
420 approval. If the association fails to adopt such plan and
421 suitable articles, bylaws and operating rules within ninety (90)
422 days after the appointment of the board, the State Department of
423 Insurance shall adopt rules to effectuate the provisions of



424 Sections 83-9-201 through 83-9-222; and such rules shall remain in
425 effect until superseded by a plan and articles, bylaws and
426 operating rules submitted by the association and approved by the
427 State Department of Insurance.

428 (4) Individual board members shall not be liable and shall
429 be immune from suit at law or equity for any conduct performed in
430 good faith and which is within the subject matter over which they
431 have been given jurisdiction.

432 **SECTION 11.** Section 83-9-212, Mississippi Code of 1972, is
433 brought forward as follows:

434 83-9-212. Neither the board nor its employees shall be
435 liable for any obligations of the association. There shall be no
436 liability on the part of and no cause of action shall arise
437 against any member insurer or its agents or employees, the
438 association or its agents or employees, members of the board of
439 directors or the commissioner or his representatives for any
440 action or omission by them in the performance of their powers and
441 duties under Sections 83-9-201 through 83-9-222. The board may
442 provide in its bylaws or rules for indemnification of, and legal
443 representation for, its members and employees.

444 **SECTION 12.** Section 83-9-213, Mississippi Code of 1972, is
445 brought forward as follows:

446 83-9-213. (1) The association shall:

447 (a) Establish administrative and accounting procedures
448 for the operation of the association.



449 (b) Establish procedures under which applicants and
450 participants in the plan may have grievances reviewed by an
451 impartial body and reported to the board.

452 (c) Select an administering insurer in accordance with
453 Section 83-9-215.

454 (d) Collect the assessments provided in Section
455 83-9-217 from insurers and third-party administrators for claims
456 paid under the plan and for administrative expenses incurred or
457 estimated to be incurred during the period for which the
458 assessment is made. The level of payments shall be established by
459 the board. Assessments shall be collected pursuant to the plan of
460 operation approved by the board. In addition to the collection of
461 such assessments, the association shall collect an organizational
462 assessment or assessments from all insurers as necessary to
463 provide for expenses which have been incurred or are estimated to
464 be incurred prior to receipt of the first calendar year
465 assessments. Organizational assessments shall be equal in amount
466 for all insurers, but shall not exceed One Hundred Dollars
467 (\$100.00) per insurer for all such assessments. Assessments are
468 due and payable within thirty (30) days of receipt of the
469 assessment notice by the insurer.

470 (e) Require that all policy forms issued by the
471 association conform to standard forms developed by the
472 association. The forms shall be approved by the State Department
473 of Insurance.



474 (f) Develop and implement a program to publicize the
475 existence of the plan, the eligibility requirements for the plan,
476 and the procedures for enrollment in the plan and to maintain
477 public awareness of the plan.

478 (2) The association may:

479 (a) Exercise powers granted to insurers under the laws
480 of this state.

481 (b) Take any legal actions necessary or proper for the
482 recovery of any monies due the association under Sections 83-9-201
483 through 83-9-222. There shall be no liability on the part of and
484 no cause of action of any nature shall arise against the
485 Commissioner of Insurance or any of his staff, the administrator,
486 the board or its directors, agents or employees, or against any
487 participating insurer for any actions performed in accordance with
488 Sections 83-9-201 through 83-9-222.

489 (c) Enter into contracts as are necessary or proper to
490 carry out the provisions and purposes of Sections 83-9-201 through
491 83-9-222, including the authority, with the approval of the
492 commissioner, to enter into contracts with similar organizations
493 of other states for the joint performance of common administrative
494 functions or with persons or other organizations for the
495 performance of administrative functions.

496 (d) Sue or be sued, including taking any legal actions
497 necessary or proper to recover or collect assessments due the
498 association.



499 (e) Take any legal actions necessary to:

500 (i) Avoid the payment of improper claims against

501 the association or the coverage provided by or through the

502 association.

503 (ii) Recover any amounts erroneously or improperly

504 paid by the association.

505 (iii) Recover any amounts paid by the association

506 as a result of mistake of fact or law.

507 (iv) Recover other amounts due the association.

508 (f) Establish, and modify from time to time as

509 appropriate, rates, rate schedules, rate adjustments, expense

510 allowances, agents' referral fees, claim reserve formulas and any

511 other actuarial function appropriate to the operation of the

512 association. Rates and rate schedules may be adjusted for

513 appropriate factors such as age, sex and geographic variation in

514 claim cost and shall take into consideration appropriate factors

515 in accordance with established actuarial and underwriting

516 practices.

517 (g) Issue policies of insurance in accordance with the

518 requirements of Sections 83-9-201 through 83-9-222.

519 (h) Appoint appropriate legal, actuarial and other

520 committees as necessary to provide technical assistance in the

521 operation of the plan, policy and other contract design, and any

522 other function within the authority of the association.



523 (i) Borrow money to effect the purposes of the
524 association. Any notes or other evidence of indebtedness of the
525 association not in default shall be legal investments for insurers
526 and may be carried as admitted assets.

527 (j) Establish rules, conditions and procedures for
528 reinsuring risks of member insurers desiring to issue plan
529 coverages to individuals otherwise eligible for plan coverages in
530 their own name. Provision of reinsurance shall not subject the
531 association to any of the capital or surplus requirements, if any,
532 otherwise applicable to reinsurers.

533 (k) Prepare and distribute application forms and
534 enrollment instruction forms to insurance producers and to the
535 general public.

536 (l) Provide for reinsurance of risks incurred by the
537 association.

538 (m) Issue additional types of health insurance policies
539 to provide optional coverages, including Medicare supplemental
540 health insurance.

541 (n) Provide for and employ cost containment measures
542 and requirements including, but not limited to, disease management
543 programs and incentives for participation therein, preadmission
544 screening, second surgical opinion, concurrent utilization review
545 and individual case management for the purpose of making the
546 benefit plan more cost-effective.



547 (o) Design, utilize, contract or otherwise arrange for
548 the delivery of cost-effective health care services, including
549 establishing or contracting with preferred provider organizations,
550 health maintenance organizations and other limited network
551 provider arrangements.

552 (p) Serve as a mechanism to provide health and accident
553 insurance coverage to citizens of this state under any state or
554 federal program designed to enable persons to obtain or maintain
555 health insurance coverage.

556 (3) The commissioner may, by rule, establish additional
557 powers and duties of the board and may adopt such rules as are
558 necessary and proper to implement Sections 83-9-201 through
559 83-9-222.

560 (4) The State Department of Insurance shall examine and
561 investigate the association and make an annual report to the
562 Legislature thereon. Upon such investigation, the Commissioner of
563 Insurance, if he deems necessary, shall require the board: (a) to
564 contract with an outside independent actuarial firm to assess the
565 solvency of the association and for consultation as to the
566 sufficiency and means of the funding of the association, and the
567 enrollment in and the eligibility, benefits and rate structure of
568 the benefits plan to ensure the solvency of the association; and
569 (b) to close enrollment in the benefits plan at any time upon a
570 determination by the outside independent actuarial firm that funds
571 of the association are insufficient to support the enrollment of



572 additional persons. In no case shall the commissioner require
573 such actuarial study any less than once every two (2) years.

574 **SECTION 13.** Section 83-9-214, Mississippi Code of 1972, is
575 brought forward as follows:

576 83-9-214. Upon the cessation of operations by the
577 Comprehensive Health Insurance Risk Pool Association, the
578 distribution of any funds held by the association, including the
579 refund of assessments, shall require the prior approval of the
580 Commissioner of Insurance.

581 **SECTION 14.** Section 83-9-215, Mississippi Code of 1972, is
582 brought forward as follows:

583 83-9-215. (1) The board shall select an insurer, through a
584 competitive bidding process, to administer the plan. The board
585 shall evaluate bids submitted under this subsection based on
586 criteria established by the board, which criteria shall include:

587 (a) The insurer's proven ability to handle large group
588 accident and health insurance.

589 (b) The efficiency of the insurer's claims-paying
590 procedures.

591 (c) An estimate of total charges for administering the
592 plan.

593 (2) The administering insurer shall serve for a period of
594 three (3) years. At least one (1) year prior to the expiration of
595 each three-year period of service by an administering insurer, the
596 board shall invite all insurers, including the current



597 administering insurer, to submit bids to serve as the
598 administering insurer for the succeeding three-year period. The
599 selection of the administering insurer for the succeeding period
600 shall be made at least six (6) months prior to the end of the
601 current three-year period.

602 (3) The administering insurer shall:

603 (a) Perform all eligibility and administrative
604 claims-payment functions relating to the plan.

605 (b) Pay an agent's referral fee as established by the
606 board to each insurance agent who refers an applicant to the plan,
607 if the applicant's application is accepted. The selling or
608 marketing of plans shall not be limited to the administering
609 insurer or its agents. The referral fees shall be paid by the
610 administering insurer from monies received as premiums for the
611 plan.

612 (c) Establish a premium-billing procedure for
613 collection of premiums from insured persons. Billings shall be
614 made periodically as determined by the board.

615 (d) Perform all necessary functions to assure timely
616 payment of benefits to covered persons under the plan, including:

617 (i) Making available information relating to the
618 proper manner of submitting a claim for benefits under the plan
619 and distributing forms upon which submissions shall be made.

620 (ii) Evaluating the eligibility of each claim for
621 payment under the plan.



622 (iii) Notifying each claimant within forty-five
623 (45) days after receiving a properly completed and executed proof
624 of loss whether the claim is accepted, rejected or compromised.

625 (iv) The board shall establish reasonable
626 reimbursement amounts for any services covered under the benefit
627 plans.

628 (e) Submit regular reports to the board regarding the
629 operation of the plan. The frequency, content and form of the
630 reports shall be as determined by the board.

631 (f) Following the close of each calendar year,
632 determine net premiums, reinsurance premiums less administrative
633 expense allowance, the expense of administration pertaining to the
634 reinsurance operations of the association, and the incurred losses
635 of the year and report this information to the association and the
636 State Department of Insurance.

637 (g) Pay claims expenses. If the payments by the
638 administering insurer for claims expenses exceed the portion of
639 premiums allocated by the board for payment of claims expenses,
640 the board shall provide the administering insurer with additional
641 funds for payment of claims expenses.

642 (4) (a) The administering insurer shall be paid, as
643 provided in the contract of the association, for its direct and
644 indirect expenses incurred in the performance of its services.

645 (b) As used in this subsection, the term "direct and
646 indirect expenses" includes that portion of the audited



647 administrative costs, printing expenses, claims administration
648 expenses, management expenses, building overhead expenses and
649 other actual operating and administrative expenses of the
650 administering insurer which are approved by the board as allocable
651 to the administration of the plan and included in the bid
652 specifications.

653 **SECTION 15.** Section 83-9-217, Mississippi Code of 1972, is
654 brought forward as follows:

655 83-9-217. (1) For the purpose of providing the funds
656 necessary to carry out the powers and duties of the association,
657 the board of directors shall assess the member insurers at such
658 time and for such amounts as the board finds necessary.
659 Assessments shall be due not less than thirty (30) days after
660 prior written notice to the member insurers and shall accrue
661 interest at twelve percent (12%) per annum on and after the due
662 date.

663 (2) Each insurer shall be assessed an amount not to exceed
664 Three Dollars (\$3.00) per covered person insured or reinsured by
665 each insurer per month. There shall not be such assessment on any
666 insurer on policies or contracts insuring federal or state
667 employees.

668 (3) The board shall make reasonable efforts designed to
669 ensure that each covered person is counted only once with respect
670 to any assessment. For that purpose, the board shall require each
671 insurer that obtains excess or stoploss insurance to include in



672 its count of covered persons all individuals whose coverage is
673 insured (including by way of excess or stoploss coverage) in whole
674 or part. The board shall allow a reinsurer to exclude from its
675 number of covered persons those who have been counted by the
676 primary insurer or by the primary reinsurer or primary excess or
677 stoploss insurer for the purpose of determining its assessment
678 under this subsection.

679 (4) Each insurer's assessment may be verified by the board
680 based on annual statements and other reports deemed to be
681 necessary by the board. The board may use any reasonable method
682 of estimating the number of covered persons of an insurer if the
683 specific number is unknown.

684 (5) If assessments and other receipts by the association,
685 board or administering insurer exceed the actual losses and
686 administrative expenses of the plan, the excess shall be held at
687 interest and used by the board to offset future losses or to
688 reduce plan premiums.

689 As used in this subsection, the term "future losses" includes
690 reserves for claims incurred but not reported.

691 (6) The commissioner may suspend or revoke, after notice and
692 hearing, the certificate of authority to transact insurance in
693 this state of any member insurer which fails to pay an assessment
694 or otherwise file any report or furnish information required to be
695 filed with the board pursuant to the board's direction that the
696 board determines is necessary in order for the board to perform



697 its duties under this section. As an alternative, the
698 commissioner may levy a forfeiture on any member insurer which
699 fails to pay an assessment when due. Such forfeiture shall not
700 exceed five percent (5%) of the unpaid assessment per month, but
701 no forfeiture shall be less than One Hundred Dollars (\$100.00) per
702 month.

703 **SECTION 16.** Section 83-9-219, Mississippi Code of 1972, is
704 brought forward as follows:

705 83-9-219. The coverage provided by the plan shall be
706 directly insured by the association, and the policies shall be
707 issued through the administering insurer. Subject to the approval
708 of the commissioner, the association may close enrollment in,
709 and/or cease to offer the coverage provided by, the plan at any
710 time upon a determination by the board that the availability of
711 such coverage is no longer necessary.

712 **SECTION 17.** Section 83-9-221, Mississippi Code of 1972, is
713 brought forward as follows:

714 83-9-221. (1) **Coverage offered.** (a) The plan shall offer
715 the coverage specified in this section for each eligible person
716 subject to the association's discretion to close enrollment and/or
717 cease offering coverage as authorized in Section 83-9-219.

718 (b) If an eligible person is also eligible for Medicare
719 coverage, the plan shall not pay or reimburse any person for
720 expenses paid by Medicare.



721 (c) Any person whose health insurance coverage is
722 involuntarily terminated for any reason other than nonpayment of
723 premium may apply for coverage under the plan. If such coverage
724 is applied for within sixty-three (63) days after the involuntary
725 termination and if premiums are paid for the entire period of
726 coverage, the effective date of the coverage shall be the date of
727 termination of the previous coverage.

728 (2) **Major medical expense coverage.** The coverage issued by
729 the plan, its schedule of benefits, exclusions and other
730 limitations shall be established by the board and may be amended
731 from time to time subject to the approval of the commissioner.

732 (3) In establishing the plan coverage, the board shall take
733 into consideration the levels of health insurance coverage
734 provided in the state and medical economic factors as may be
735 deemed appropriate; and promulgate benefit levels, deductibles,
736 coinsurance factors, exclusions and limitations determined to be
737 generally reflective of and commensurate with health insurance
738 coverage provided through a representative number of large
739 employers in the state.

740 (4) Rates for coverages issued by the association may not be
741 unreasonable in relation to the benefits provided, the risk
742 experience and the reasonable expenses of providing the coverage.

743 (a) Separate schedules of premium rates based on age
744 may apply for individual risks.



745 (b) Rates are subject to approval by the State
746 Department of Insurance.

747 (c) Standard risk rates for coverages issued by the
748 association shall be established by the association, subject to
749 approval by the department, using reasonable actuarial techniques,
750 and shall reflect anticipated experiences and expenses of such
751 coverages for standard risks.

752 (d) The rating plan established by the association
753 shall initially provide for rates equal to one hundred fifty
754 percent (150%) of the average standard risk rates. Any changes in
755 the initial rates shall be based on experience of the plan and
756 shall reflect reasonably anticipated losses and expenses.

757 (e) No rate shall exceed one hundred seventy-five
758 percent (175%) of the standard risk rate.

759 (5) **Preexisting conditions.** An association policy may
760 contain provisions under which coverage is excluded during a
761 period of twelve (12) months following the effective date of
762 coverage with respect to a given covered individual for any
763 preexisting condition, as long as:

764 (a) The condition manifested itself within a period of
765 six (6) months before the effective date of coverage;

766 (b) Medical advice or treatment was recommended or
767 received within a period of six (6) months before the effective
768 date of coverage.



769 (6) **Other sources primary.** (a) The association shall be
770 payer of last resort of benefits whenever any other benefit or
771 source of third-party payment is available. The coverage provided
772 by the association shall be considered excess coverage, and
773 benefits otherwise payable under association coverage shall be
774 reduced by all amounts paid or payable through any other health
775 insurance coverage and by all hospital and medical expense
776 benefits paid or payable under any workers' compensation coverage,
777 automobile medical payment or liability insurance whether provided
778 on the basis of fault or nonfault, and by any hospital or medical
779 benefits paid or payable by any insurer or insurance arrangement
780 or any hospital or medical benefits paid or payable under or
781 provided pursuant to any state or federal law or program.

782 (b) No amounts paid or payable by Medicare or any other
783 governmental program or any other insurance, or self-insurance
784 maintained in lieu of otherwise statutorily required insurance,
785 may be made or recognized as claims under such policy or be
786 recognized as or towards satisfaction of applicable deductibles or
787 out-of-pocket maximums or to reduce the limits of benefits
788 available.

789 (c) The association shall have a cause of action
790 against a participant for the recovery of the amount of any
791 benefits paid to the participant which should not have been
792 claimed or recognized as claims because of the provisions of this
793 subsection or because otherwise not covered. Benefits due from



794 the association may be reduced or refused as a setoff against any
795 amount recoverable under this paragraph.

796 **SECTION 18.** Section 83-9-222, Mississippi Code of 1972, is
797 brought forward as follows:

798 83-9-222. Neither the participation in the association as
799 member insurers, the establishment of rates, forms or procedures
800 nor any other joint or collective action required by Sections
801 83-9-201 through 83-9-222 shall be the basis of any legal action,
802 criminal or civil liability or penalty against the association or
803 any member insurer.

804 **SECTION 19.** Section 41-83-31, Mississippi Code of 1972, is
805 brought forward as follows:

806 41-83-31. Any program of utilization review with regard to
807 hospital, medical or other health care services provided in this
808 state shall comply with the following:

809 (a) No determination adverse to a patient or to any
810 affected health care provider shall be made on any question
811 relating to the necessity or justification for any form of
812 hospital, medical or other health care services without prior
813 evaluation and concurrence in the adverse determination by a
814 physician licensed to practice in Mississippi. The physician who
815 made the adverse determination shall discuss the reasons for any
816 adverse determination with the affected health care provider, if
817 the provider so requests. The physician shall comply with this
818 request within fourteen (14) calendar days of being notified of a



819 request. Adverse determination by a physician shall not be
820 grounds for any disciplinary action against the physician by the
821 State Board of Medical Licensure.

822 (b) Any determination regarding hospital, medical or
823 other health care services rendered or to be rendered to a patient
824 which may result in a denial of third-party reimbursement or a
825 denial of precertification for that service shall include the
826 evaluation, findings and concurrence of a physician trained in the
827 relevant specialty or subspecialty, if requested by the patient's
828 physician, to make a final determination that care rendered or to
829 be rendered was, is, or may be medically inappropriate.

830 (c) The requirement in this section that the physician
831 who makes the evaluation and concurrence in the adverse
832 determination must be licensed to practice in Mississippi shall
833 not apply to the Comprehensive Health Insurance Risk Pool
834 Association or its policyholders and shall not apply to any
835 utilization review company which reviews fewer than ten (10)
836 persons residing in the State of Mississippi.

837 **SECTION 20.** A taxpayer who provides health care services
838 that are in network under an exchange for which coverage is
839 provided under the exchange and for which the taxpayer receives
840 payment under the exchange, shall be allowed a deduction from
841 income as provided in this section. The amount of the deduction
842 shall be equal to twenty (20%) of the amount of the taxpayer's
843 income derived from payment under an exchange for health care



844 services provided by the taxpayer. For the purposes of this
845 section, the term "exchange" means a state exchange as defined in
846 Section 1 of this act.

847 **SECTION 21.** Subject to the provisions of this section, a
848 taxpayer who pays all or any portion of the cost for an insurance
849 policy under an exchange for an employee of the taxpayer shall be
850 allowed a deduction from income for an amount equal to the cost
851 paid by the taxpayer for the insurance policy. However, a
852 taxpayer will not be eligible for the deduction if the taxpayer
853 removes an employee from an insurance plan provided by the
854 taxpayer and the employee becomes insured through an insurance
855 policy provided under an exchange. For the purposes of this
856 section, the term "exchange" means a state exchange as defined in
857 Section 1 of this act.

858 **SECTION 22.** There shall be allowed a credit against the
859 taxes imposed under Sections 27-15-103, 27-15-109 and 27-15-123,
860 in an amount equal to twenty percent (20%) of a taxpayer's premium
861 tax liability on the gross premium receipts on policies written
862 for insurance under an exchange. For the purposes of this
863 section, the term "exchange" means a state exchange as defined in
864 Section 1 of this act.

865 **SECTION 23.** Section 27-7-17, Mississippi Code of 1972, is
866 brought forward as follows:

867 27-7-17. In computing taxable income, there shall be allowed
868 as deductions:



869 (1) **Business deductions.**

870 (a) **Business expenses.** All the ordinary and necessary
871 expenses paid or incurred during the taxable year in carrying on
872 any trade or business, including a reasonable allowance for
873 salaries or other compensation for personal services actually
874 rendered; nonreimbursable traveling expenses incident to current
875 employment, including a reasonable amount expended for meals and
876 lodging while away from home in the pursuit of a trade or
877 business; and rentals or other payments required to be made as a
878 condition of the continued use or possession, for purposes of the
879 trade or business of property to which the taxpayer has not taken
880 or is not taking title or in which he had no equity. Expense
881 incurred in connection with earning and distributing nontaxable
882 income is not an allowable deduction. Limitations on
883 entertainment expenses shall conform to the provisions of the
884 Internal Revenue Code of 1986. There shall also be allowed a
885 deduction for expenses as provided in Section 41-137-51.

886 (b) **Interest.** All interest paid or accrued during the
887 taxable year on business indebtedness, except interest upon the
888 indebtedness for the purchase of tax-free bonds, or any stocks,
889 the dividends from which are nontaxable under the provisions of
890 this article; provided, however, in the case of securities
891 dealers, interest payments or accruals on loans, the proceeds of
892 which are used to purchase tax-exempt securities, shall be
893 deductible if income from otherwise tax-free securities is



894 reported as income. Investment interest expense shall be limited
895 to investment income. Interest expense incurred for the purchase
896 of treasury stock, to pay dividends, or incurred as a result of an
897 undercapitalized affiliated corporation may not be deducted unless
898 an ordinary and necessary business purpose can be established to
899 the satisfaction of the commissioner. For the purposes of this
900 paragraph, the phrase "interest upon the indebtedness for the
901 purchase of tax-free bonds" applies only to the indebtedness
902 incurred for the purpose of directly purchasing tax-free bonds and
903 does not apply to any other indebtedness incurred in the regular
904 course of the taxpayer's business. Any corporation, association,
905 organization or other entity taxable under Section 27-7-23(c)
906 shall allocate interest expense as provided in Section
907 27-7-23(c) (3) (I).

908 (c) **Taxes.** Taxes paid or accrued within the taxable
909 year, except state and federal income taxes, excise taxes based on
910 or measured by net income, estate and inheritance taxes, gift
911 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
912 use taxes unless incurred as an item of expense in a trade or
913 business or in the production of taxable income. In the case of
914 an individual, taxes permitted as an itemized deduction under the
915 provisions of subsection (3) (a) of this section are to be claimed
916 thereunder.

917 (d) **Business losses.**



918 (i) Losses sustained during the taxable year not
919 compensated for by insurance or otherwise, if incurred in trade or
920 business, or nonbusiness transactions entered into for profit.

921 (ii) Limitations on losses from passive activities
922 and rental real estate shall conform to the provisions of the
923 Internal Revenue Code of 1986.

924 (e) **Bad debts.** Losses from debts ascertained to be
925 worthless and charged off during the taxable year, if sustained in
926 the conduct of the regular trade or business of the taxpayer;
927 provided, that such losses shall be allowed only when the taxpayer
928 has reported as income, on the accrual basis, the amount of such
929 debt or account.

930 (f) **Depreciation.** (i) A reasonable allowance for
931 exhaustion, wear and tear of property used in the trade or
932 business, or rental property, and depreciation upon buildings
933 based upon their reasonable value as of March 16, 1912, if
934 acquired prior thereto, and upon cost if acquired subsequent to
935 that date. In the case of new or used aircraft, equipment,
936 engines, or other parts and tools used for aviation, allowance for
937 bonus depreciation conforms with the federal bonus depreciation
938 rates and reasonable allowance for depreciation under this section
939 is no less than one hundred percent (100%).

940 (ii) 1. For the purposes of computing income tax
941 for tax years beginning after December 31, 2022, a taxpayer may
942 treat specified research or experimental expenditures that are



943 paid or incurred by the taxpayer during the tax year in connection
944 with the taxpayer's trade or business as expenses that are not
945 chargeable to the capital account. Such expenditures so treated
946 shall be allowed as an immediate deduction. Such expenditures
947 shall remain allowable as a full and immediate expense deduction
948 in the year in which the expenses are incurred notwithstanding any
949 changes to the federal Internal Revenue Code related to the
950 depreciation of such specified research or experimental
951 expenditures. A taxpayer may alternatively treat the depreciation
952 of such specified research or experimental expenditures in
953 accordance with the schedule provided in 26 USCS Section 174. A
954 taxpayer may make an election whether to take a full and immediate
955 deduction for such expenditures and/or to depreciate the
956 expenditures in accordance with 26 USCS Section 174. Such an
957 election may be made for any tax year if made not later than the
958 time prescribed by law for filing the return for such tax year,
959 including extensions thereof. The method so elected by the
960 taxpayer is irrevocable unless the commissioner specifically
961 allows a change in the method.

962 2. For the purpose of computing income tax
963 for tax years beginning after December 31, 2022, expenditures for
964 business assets that are qualified property or qualified
965 improvement property shall be eligible for one hundred percent
966 (100%) bonus depreciation and may be deducted as an expense
967 incurred by the taxpayer during the tax year during which the



968 property is placed in service, notwithstanding any changes to
969 federal law related to cost recovery beginning on January 1, 2023,
970 or on any other date. A taxpayer may alternatively treat the
971 depreciation of such business assets in accordance with the
972 schedule provided in 26 USCS Section 168. A taxpayer may make an
973 election whether to take a bonus depreciation deduction for such
974 expenditures and/or to depreciate the expenditures in accordance
975 with 26 USCS Section 168. Such an election may be made for any
976 tax year if made not later than the time prescribed by law for
977 filing the return for such tax year, including extensions thereof.
978 The method so elected by the taxpayer is irrevocable unless the
979 commissioner specifically allows a change in the method.

980 3. In any taxable year in which any 26 USCS
981 Section 179 property is placed in service, a taxpayer may elect to
982 treat the cost of such property as an expense which is not
983 chargeable to a capital account, and any cost so treated shall be
984 allowed as a deduction for that year. Mississippi's treatment of
985 the deduction shall conform to the provisions of 26 USCS Section
986 179 in effect for that year.

987 4. For the purposes of this subparagraph
988 (ii), unless the context requires otherwise, the following terms
989 shall have the meanings ascribed herein:

990 a. "Qualified improvement property"
991 means and has the same definition as such term has in 26 USCS



992 Section 168(e) (6) as it existed on January 1, 2021, and shall
993 apply to property placed in service after December 31, 2022.

994 b. "Qualified property" means and has
995 the same definition as such term has in 26 USCS Section 168(k) as
996 it existed on January 1, 2021, and shall apply to property placed
997 in service after December 31, 2022.

998 c. "Specified research or experimental
999 expenditures" means and has the same definition as such term has
1000 in 26 USCS Section 174 as it existed on January 1, 2021.

1001 5. Nothing in this subparagraph (ii) shall be
1002 construed to nullify or otherwise alter the treatment of
1003 depreciation expenses for any tax year prior to 2023.

1004 6. The total of any method or combination of
1005 methods of depreciation used under this subparagraph (ii) cannot
1006 exceed one hundred percent (100%) of the cost of the subject
1007 property.

1008 (g) **Depletion.** In the case of mines, oil and gas
1009 wells, other natural deposits and timber, a reasonable allowance
1010 for depletion and for depreciation of improvements, based upon
1011 cost, including cost of development, not otherwise deducted, or
1012 fair market value as of March 16, 1912, if acquired prior to that
1013 date, such allowance to be made upon regulations prescribed by the
1014 commissioner, with the approval of the Governor.

1015 (h) **Contributions or gifts.** Except as otherwise
1016 provided in paragraph (p) of this subsection or subsection (3) (a)



1017 of this section for individuals, contributions or gifts made by
1018 corporations within the taxable year to corporations,
1019 organizations, associations or institutions, including Community
1020 Chest funds, foundations and trusts created solely and exclusively
1021 for religious, charitable, scientific or educational purposes, or
1022 for the prevention of cruelty to children or animals, no part of
1023 the net earnings of which inure to the benefit of any private
1024 stockholder or individual. This deduction shall be allowed in an
1025 amount not to exceed twenty percent (20%) of the net income. Such
1026 contributions or gifts shall be allowable as deductions only if
1027 verified under rules and regulations prescribed by the
1028 commissioner, with the approval of the Governor. Contributions
1029 made in any form other than cash shall be allowed as a deduction,
1030 subject to the limitations herein provided, in an amount equal to
1031 the actual market value of the contributions at the time the
1032 contribution is actually made and consummated.

1033 (i) **Reserve funds - insurance companies.** In the case
1034 of insurance companies the net additions required by law to be
1035 made within the taxable year to reserve funds when such reserve
1036 funds are maintained for the purpose of liquidating policies at
1037 maturity.

1038 (j) **Annuity income.** The sums, other than dividends,
1039 paid within the taxpayer year on policy or annuity contracts when
1040 such income has been included in gross income.



1041 (k) **Contributions to employee pension plans.**
1042 Contributions made by an employer to a plan or a trust forming
1043 part of a pension plan, stock bonus plan, disability or
1044 death-benefit plan, or profit-sharing plan of such employer for
1045 the exclusive benefit of some or all of his, their, or its
1046 employees, or their beneficiaries, shall be deductible from his,
1047 their, or its income only to the extent that, and for the taxable
1048 year in which, the contribution is deductible for federal income
1049 tax purposes under the Internal Revenue Code of 1986 and any other
1050 provisions of similar purport in the Internal Revenue Laws of the
1051 United States, and the rules, regulations, rulings and
1052 determinations promulgated thereunder, provided that:
1053 (i) The plan or trust be irrevocable.
1054 (ii) The plan or trust constitute a part of a
1055 pension plan, stock bonus plan, disability or death-benefit plan,
1056 or profit-sharing plan for the exclusive benefit of some or all of
1057 the employer's employees and/or officers, or their beneficiaries,
1058 for the purpose of distributing the corpus and income of the plan
1059 or trust to such employees and/or officers, or their
1060 beneficiaries.
1061 (iii) No part of the corpus or income of the plan
1062 or trust can be used for purposes other than for the exclusive
1063 benefit of employees and/or officers, or their beneficiaries.
1064 Contributions to all plans or to all trusts of real or
1065 personal property (or real and personal property combined) or to



1066 insured plans created under a retirement plan for which provision
1067 has been made under the laws of the United States of America,
1068 making such contributions deductible from income for federal
1069 income tax purposes, shall be deductible only to the same extent
1070 under the Income Tax Laws of the State of Mississippi.

1071 (1) **Net operating loss carrybacks and carryovers.** A
1072 net operating loss for any taxable year ending after December 31,
1073 1993, and taxable years thereafter, shall be a net operating loss
1074 carryback to each of the three (3) taxable years preceding the
1075 taxable year of the loss. If the net operating loss for any
1076 taxable year is not exhausted by carrybacks to the three (3)
1077 taxable years preceding the taxable year of the loss, then there
1078 shall be a net operating loss carryover to each of the fifteen
1079 (15) taxable years following the taxable year of the loss
1080 beginning with any taxable year after December 31, 1991.

1081 For any taxable year ending after December 31, 1997, the
1082 period for net operating loss carrybacks and net operating loss
1083 carryovers shall be the same as those established by the Internal
1084 Revenue Code and the rules, regulations, rulings and
1085 determinations promulgated thereunder as in effect at the taxable
1086 year end or on December 31, 2000, whichever is earlier.

1087 A net operating loss for any taxable year ending after
1088 December 31, 2001, and taxable years thereafter, shall be a net
1089 operating loss carryback to each of the two (2) taxable years
1090 preceding the taxable year of the loss. If the net operating loss



1091 for any taxable year is not exhausted by carrybacks to the two (2)
1092 taxable years preceding the taxable year of the loss, then there
1093 shall be a net operating loss carryover to each of the twenty (20)
1094 taxable years following the taxable year of the loss beginning
1095 with any taxable year after the taxable year of the loss.

1096 The term "net operating loss," for the purposes of this
1097 paragraph, shall be the excess of the deductions allowed over the
1098 gross income; provided, however, the following deductions shall
1099 not be allowed in computing same:

1100 (i) No net operating loss deduction shall be
1101 allowed.

1102 (ii) No personal exemption deduction shall be
1103 allowed.

1104 (iii) Allowable deductions which are not
1105 attributable to taxpayer's trade or business shall be allowed only
1106 to the extent of the amount of gross income not derived from such
1107 trade or business.

1108 Any taxpayer entitled to a carryback period as provided by
1109 this paragraph may elect to relinquish the entire carryback period
1110 with respect to a net operating loss for any taxable year ending
1111 after December 31, 1991. The election shall be made in the manner
1112 prescribed by the Department of Revenue and shall be made by the
1113 due date, including extensions of time, for filing the taxpayer's
1114 return for the taxable year of the net operating loss for which



1115 the election is to be in effect. The election, once made for any
1116 taxable year, shall be irrevocable for that taxable year.

1117 (m) **Amortization of pollution or environmental control**
1118 **facilities.** Allowance of deduction. Every taxpayer, at his
1119 election, shall be entitled to a deduction for pollution or
1120 environmental control facilities to the same extent as that
1121 allowed under the Internal Revenue Code and the rules,
1122 regulations, rulings and determinations promulgated thereunder.

1123 (n) **Dividend distributions - real estate investment**
1124 **trusts.** "Real estate investment trust" (hereinafter referred to
1125 as REIT) shall have the meaning ascribed to such term in Section
1126 856 of the federal Internal Revenue Code of 1986, as amended. A
1127 REIT is allowed a dividend distributed deduction if the dividend
1128 distributions meet the requirements of Section 857 or are
1129 otherwise deductible under Section 858 or 860, federal Internal
1130 Revenue Code of 1986, as amended. In addition:

1131 (i) A dividend distributed deduction shall only be
1132 allowed for dividends paid by a publicly traded REIT. A qualified
1133 REIT subsidiary shall be allowed a dividend distributed deduction
1134 if its owner is a publicly traded REIT.

1135 (ii) Income generated from real estate contributed
1136 or sold to a REIT by a shareholder or related party shall not give
1137 rise to a dividend distributed deduction, unless the shareholder
1138 or related party would have received the dividend distributed
1139 deduction under this chapter.



1140 (iii) A holding corporation receiving a dividend
1141 from a REIT shall not be allowed the deduction in Section
1142 27-7-15(4) (t) .

1143 (iv) Any REIT not allowed the dividend distributed
1144 deduction in the federal Internal Revenue Code of 1986, as
1145 amended, shall not be allowed a dividend distributed deduction
1146 under this chapter.

1147 The commissioner is authorized to promulgate rules and
1148 regulations consistent with the provisions in Section 269 of the
1149 federal Internal Revenue Code of 1986, as amended, so as to
1150 prevent the evasion or avoidance of state income tax.

1151 (o) **Contributions to college savings trust fund**
1152 **accounts.** Contributions or payments to a Mississippi Affordable
1153 College Savings Program account are deductible as provided under
1154 Section 37-155-113. Payments made under a prepaid tuition
1155 contract entered into under the Mississippi Prepaid Affordable
1156 College Tuition Program are deductible as provided under Section
1157 37-155-17.

1158 (p) **Contributions of human pharmaceutical products.** To
1159 the extent that a "major supplier" as defined in Section
1160 27-13-13(2) (d) contributes human pharmaceutical products in excess
1161 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
1162 determined under Section 170 of the Internal Revenue Code, the
1163 charitable contribution limitation associated with those donations



1164 shall follow the federal limitation but cannot result in the
1165 Mississippi net income being reduced below zero.

1166 (q) **Contributions to ABLE trust fund accounts.**

1167 Contributions or payments to a Mississippi Achieving a Better Life
1168 Experience (ABLE) Program account are deductible as provided under
1169 Section 43-28-13.

1170 (2) **Restrictions on the deductibility of certain intangible
1171 expenses and interest expenses with a related member.**

1172 (a) As used in this subsection (2):

1173 (i) "Intangible expenses and costs" include:

1174 1. Expenses, losses and costs for, related
1175 to, or in connection directly or indirectly with the direct or
1176 indirect acquisition, use, maintenance or management, ownership,
1177 sale, exchange or any other disposition of intangible property to
1178 the extent such amounts are allowed as deductions or costs in
1179 determining taxable income under this chapter;

1180 2. Expenses or losses related to or incurred
1181 in connection directly or indirectly with factoring transactions
1182 or discounting transactions;

1183 3. Royalty, patent, technical and copyright
1184 fees;

1185 4. Licensing fees; and

1186 5. Other similar expenses and costs.



1187 (ii) "Intangible property" means patents, patent
1188 applications, trade names, trademarks, service marks, copyrights
1189 and similar types of intangible assets.

1190 (iii) "Interest expenses and cost" means amounts
1191 directly or indirectly allowed as deductions for purposes of
1192 determining taxable income under this chapter to the extent such
1193 interest expenses and costs are directly or indirectly for,
1194 related to, or in connection with the direct or indirect
1195 acquisition, maintenance, management, ownership, sale, exchange or
1196 disposition of intangible property.

1197 (iv) "Related member" means an entity or person
1198 that, with respect to the taxpayer during all or any portion of
1199 the taxable year, is a related entity, a component member as
1200 defined in the Internal Revenue Code, or is an entity or a person
1201 to or from whom there is attribution of stock ownership in
1202 accordance with Section 1563(e) of the Internal Revenue Code.

1203 (v) "Related entity" means:

1204 1. A stockholder who is an individual or a
1205 member of the stockholder's family, as defined in regulations
1206 prescribed by the commissioner, if the stockholder and the members
1207 of the stockholder's family own, directly, indirectly,
1208 beneficially or constructively, in the aggregate, at least fifty
1209 percent (50%) of the value of the taxpayer's outstanding stock;

1210 2. A stockholder, or a stockholder's
1211 partnership, limited liability company, estate, trust or



1212 corporation, if the stockholder and the stockholder's
1213 partnerships, limited liability companies, estates, trusts and
1214 corporations own, directly, indirectly, beneficially or
1215 constructively, in the aggregate, at least fifty percent (50%) of
1216 the value of the taxpayer's outstanding stock;

1217 3. A corporation, or a party related to the
1218 corporation in a manner that would require an attribution of stock
1219 from the corporation to the party or from the party to the
1220 corporation, if the taxpayer owns, directly, indirectly,
1221 beneficially or constructively, at least fifty percent (50%) of
1222 the value of the corporation's outstanding stock under regulation
1223 prescribed by the commissioner;

1224 4. Any entity or person which would be a
1225 related member under this section if the taxpayer were considered
1226 a corporation for purposes of this section.

1227 (b) In computing net income, a taxpayer shall add back
1228 otherwise deductible interest expenses and costs and intangible
1229 expenses and costs directly or indirectly paid, accrued to or
1230 incurred, in connection directly or indirectly with one or more
1231 direct or indirect transactions with one or more related members.

1232 (c) The adjustments required by this subsection shall
1233 not apply to such portion of interest expenses and costs and
1234 intangible expenses and costs that the taxpayer can establish
1235 meets one (1) of the following:



1236 (i) The related member directly or indirectly
1237 paid, accrued or incurred such portion to a person during the same
1238 income year who is not a related member; or

1239 (ii) The transaction giving rise to the interest
1240 expenses and costs or intangible expenses and costs between the
1241 taxpayer and related member was done primarily for a valid
1242 business purpose other than the avoidance of taxes, and the
1243 related member is not primarily engaged in the acquisition, use,
1244 maintenance or management, ownership, sale, exchange or any other
1245 disposition of intangible property.

1246 (d) Nothing in this subsection shall require a taxpayer
1247 to add to its net income more than once any amount of interest
1248 expenses and costs or intangible expenses and costs that the
1249 taxpayer pays, accrues or incurs to a related member.

1250 (e) The commissioner may prescribe such regulations as
1251 necessary or appropriate to carry out the purposes of this
1252 subsection, including, but not limited to, clarifying definitions
1253 of terms, rules of stock attribution, factoring and discount
1254 transactions.

1255 (3) **Individual nonbusiness deductions.**

1256 (a) The amount allowable for individual nonbusiness
1257 itemized deductions for federal income tax purposes where the
1258 individual is eligible to elect, for the taxable year, to itemize
1259 deductions on his federal return except the following:



1260 (i) The deduction for state income taxes paid or
1261 other taxes allowed for federal purposes in lieu of state income
1262 taxes paid;

1263 (ii) The deduction for gaming losses from gaming
1264 establishments;

1265 (iii) The deduction for taxes collected by
1266 licensed gaming establishments pursuant to Section 27-7-901;

1267 (iv) The deduction for taxes collected by gaming
1268 establishments pursuant to Section 27-7-903; and

1269 (v) The deduction for medical expenses for the
1270 provision of gender transition procedures as defined in Section
1271 41-141-3.

1272 (b) In lieu of the individual nonbusiness itemized
1273 deductions authorized in paragraph (a), for all purposes other
1274 than ordinary and necessary expenses paid or incurred during the
1275 taxable year in carrying on any trade or business, an optional
1276 standard deduction of:

1277 (i) Three Thousand Four Hundred Dollars
1278 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1279 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1280 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1281 in the case of married individuals filing a joint or combined
1282 return;

1283 (ii) One Thousand Seven Hundred Dollars
1284 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred



1285 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
1286 Three Hundred Dollars (\$2,300.00) for each calendar year
1287 thereafter in the case of married individuals filing separate
1288 returns;

1289 (iii) Three Thousand Four Hundred Dollars
1290 (\$3,400.00) in the case of a head of family; or

1291 (iv) Two Thousand Three Hundred Dollars
1292 (\$2,300.00) in the case of an individual who is not married.

1293 In the case of a husband and wife living together, having
1294 separate incomes, and filing combined returns, the standard
1295 deduction authorized may be divided in any manner they choose. In
1296 the case of separate returns by a husband and wife, the standard
1297 deduction shall not be allowed to either if the taxable income of
1298 one of the spouses is determined without regard to the standard
1299 deduction.

1300 (c) A nonresident individual shall be allowed the same
1301 individual nonbusiness deductions as are authorized for resident
1302 individuals in paragraph (a) or (b) of this subsection; however,
1303 the nonresident individual is entitled only to that proportion of
1304 the individual nonbusiness deductions as his net income from
1305 sources within the State of Mississippi bears to his total or
1306 entire net income from all sources.

1307 (4) Nothing in this section shall permit the same item to be
1308 deducted more than once, either in fact or in effect.



1309 (5) Notwithstanding any other provision in Title 27,
1310 Mississippi Code of 1972, there shall be allowed an income tax
1311 deduction for otherwise deductible expenses if:

1312 (a) The payment(s) for such deductible expenses are
1313 made with the grant or loan program of the Paycheck Protection
1314 Program as authorized under (i) the Coronavirus Aid, Relief, and
1315 Economic Security (CARES) Act and the Consolidated Appropriations
1316 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
1317 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
1318 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
1319 Venue Operators Grant Program and Restaurant Revitalization Fund
1320 authorized by the Economic Aid to Hard-Hit Small Businesses,
1321 Nonprofits, and Venues Act, and amended by the federal American
1322 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
1323 Stabilization Act; and

1324 (b) Such deductible expenses shall be allowed as
1325 deductions for federal income tax purposes.

1326 **SECTION 24.** Section 27-7-18, Mississippi Code of 1972, is
1327 brought forward as follows:

1328 27-7-18. (1) Alimony payments. In the case of a person
1329 described in Section 27-7-15(2) (e), there shall be allowed as a
1330 deduction from gross income amounts paid as periodic payments to
1331 the extent of such amounts as are includible in the gross income
1332 of the spouse as provided in Section 27-7-15(2) (e), payment of
1333 which is made within the person's taxable year.



1334 (2) Unreimbursed moving expenses incurred after December 31,
1335 1994, are deductible as an adjustment to gross income in
1336 accordance with provisions of the United States Internal Revenue
1337 Code, and rules, regulations and revenue procedures thereunder
1338 relating to moving expenses, not in direct conflict with the
1339 provisions of the Mississippi Income Tax Law.

1340 (3) Amounts paid after December 31, 1998, by a self-employed
1341 individual for insurance which constitute medical care for the
1342 taxpayer, his spouse and dependents, are deductible as an
1343 adjustment to gross income in accordance with provisions of the
1344 United States Internal Revenue Code, and rules, regulations and
1345 revenue procedures thereunder relating to such payments, not in
1346 direct conflict with the provisions of the Mississippi Income Tax
1347 Law.

1348 (4) Contributions or payments to a Mississippi Affordable
1349 College Savings (MACS) Program account are deductible from gross
1350 income as provided in Section 37-155-113. Payments made under a
1351 prepaid tuition contract entered into under the Mississippi
1352 Prepaid Affordable College Tuition Program are deductible as
1353 provided in Section 37-155-17.

1354 (5) (a) Unreimbursed travel expenses, lodging expenses and
1355 lost wages an individual incurred as a result of, and related to,
1356 the donation, while living, of one or more of his or her organs
1357 for human organ transplantation, are deductible from gross income.
1358 The deduction from gross income authorized by this subsection may



1359 be claimed for only once and may not exceed Ten Thousand Dollars
1360 (\$10,000.00).

1361 (b) As used in this subsection, "organ" means all or
1362 part of a liver, pancreas, kidney, intestine, lung or bone marrow.

1363 (6) In the case of a self-employed individual, there shall
1364 be allowed as a deduction from gross income an amount equal to:

1365 (a) Seventeen percent (17%) of the federal
1366 self-employment taxes imposed on such individual for taxable years
1367 ending in calendar year 2017;

1368 (b) Thirty-four percent (34%) of the federal
1369 self-employment taxes imposed on such individual for taxable years
1370 ending in calendar year 2018; and

1371 (c) Fifty percent (50%) of the federal self-employment
1372 taxes imposed on such individual for taxable years ending in
1373 calendar year 2019 and thereafter.

1374 (7) Contributions or payments to a Mississippi Achieving a
1375 Better Life Experience (ABLE) Program account are deductible from
1376 gross income as provided in Section 43-28-13.

1377 **SECTION 25.** Sections 20 and 21 of this act shall be codified
1378 as new sections in Chapter 7, Title 27, Mississippi Code of 1972,
1379 and Section 22 of this act shall be codified as a new section in
1380 Chapter 15, Title 27, Mississippi Code of 1972.

1381 **SECTION 26.** This act shall take effect and be in force from
1382 and after July 1, 2024.

