

Senate Amendments to House Bill No. 1647

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

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

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

45 (b) "Comprehensive Health Insurance Risk Pool
46 Association" means the mechanism as established in Sections
47 83-9-201 through 83-9-223.

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

50 SECTION 2. The Commissioner of Insurance shall have the
51 authority to:

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

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

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

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

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

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

70 83-5-72. All life, health and accident insurance companies
71 and health maintenance organizations doing business in this state
72 shall contribute annually, at such times as the Insurance
73 Commissioner shall determine, in proportion to their gross
74 premiums collected within the State of Mississippi during the
75 preceding year, to a special fund in the State Treasury to be
76 known as the "Health Insurance * * * State Exchange Fund" to be
77 expended by the Insurance Commissioner in the payment of the

78 expenses * * * incurred in the creation, implementation or
79 operation of an exchange. The commissioner is hereby authorized
80 to employ such actuarial and other assistance as shall be
81 necessary to carry out the duties of the department; and the
82 employees shall be under the authority and direction of the
83 Insurance Commissioner. The amount to be contributed annually to
84 the fund shall be fixed each year by the Insurance Commissioner at
85 a percentage of the gross premiums so collected during the
86 preceding year. However, a minimum assessment of One Hundred
87 Dollars (\$100.00) shall be charged each licensed life, health and
88 accident insurance company regardless of the gross premium amount
89 collected during the preceding year.

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

94 * * *

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

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

104 health insurance coverage. It is further the purpose of the
105 Legislature to establish a mechanism to assist the Commissioner of
106 Insurance with the creation, implementation or operation of an
107 exchange.

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

110 83-9-205. As used in Sections 83-9-201 through 83-9-222, the
111 following words shall have the meaning ascribed herein unless the
112 context clearly requires otherwise:

113 (a) "Association" means the Comprehensive Health
114 Insurance Risk Pool Association.

115 (b) "Board" means the board of directors of the
116 association.

117 (c) "Church plan" has the meaning given such term under
118 Section 3(33) of the Employee Retirement Income Security Act of
119 1974.

120 (d) "Commissioner" means the Commissioner of Insurance
121 of this state.

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

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

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

138 (h) "Federally defined eligible individual" means an
139 individual:

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

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

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

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

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

158 (vi) Who has exhausted continuation coverage under
159 this provision or program, if the individual elected the
160 continuation coverage described in subparagraph (v).

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

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

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

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

178 1. Coverage only for accident, or disability
179 income insurance, or any combination thereof;

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

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

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

203 (iii) "Health insurance coverage" shall not
204 include the following benefits if the benefits are provided under
205 a separate policy, certificate or contract of insurance, there is

206 no coordination between the provision of the benefits and any
207 exclusion of benefits under any group health plan maintained by
208 the same plan sponsor, and the benefits are paid with respect to
209 an event without regard to whether benefits are provided with
210 respect to such an event under any group health plan maintained by
211 the same plan sponsor:

212 1. Coverage only for a specified disease or
213 illness; or

214 2. Hospital indemnity or other fixed
215 indemnity insurance.

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

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

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

224 or

225 3. Similar supplemental coverage provided to
226 coverage under a group health plan.

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

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

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

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

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

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

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

262 (s) "Third-party administrator" means any entity who is
263 paying or processing health insurance claims for any Mississippi
264 resident.

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

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

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

280 **SECTION 6.** The Comprehensive Health Insurance Risk Pool
281 Association shall have the authority to develop and fund an online
282 portal that shall be available to all Mississippians to assist

283 consumers in selection of a health plan. This program shall have
284 the capacity to aggregate information regarding providers, drug
285 coverage and pricing that would allow consumers to make informed
286 decisions in selecting a health plan.

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

289 83-9-201. Sections 83-9-201 through 83-9-222 shall be known
290 and may be cited as the "Comprehensive Health Insurance Risk Pool
291 Association Act."

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

294 83-9-207. (1) Every insurer shall participate in the
295 association.

296 (2) The requirements of this plan shall become effective
297 April 15, 1991. The policies shall be available for sale January
298 1, 1992.

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

301 83-9-209. (1) Any individual who is and continues to be a
302 resident shall be eligible for coverage under this plan if
303 evidence is provided of:

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

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

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

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

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

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

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

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

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

339 (b) The person is determined to be eligible for health
340 care benefits under the Mississippi Medicaid Law, Section
341 43-13-101 et seq., or Medicare.

342 (c) The person previously terminated plan coverage
343 unless twelve (12) months have elapsed since the person's latest
344 termination.

345 (d) The plan has paid out One Million Dollars
346 (\$1,000,000.00) in benefits on behalf of the person. The lifetime
347 maximum shall be One Million Dollars (\$1,000,000.00).

348 (e) The person is an inmate or resident of a public
349 institution.

350 (f) The person's premiums are paid for or reimbursed
351 under any government sponsored program or by any government agency
352 or health care provider, except as an otherwise qualifying
353 full-time employee, or dependent thereof, of a government agency
354 or health care provider.

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

356 (a) On the date a person is no longer a resident of
357 this state;

358 (b) Upon the death of the covered person;
359 (c) On the date state law requires cancellation of the
360 policy; or

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

365 (6) The coverage of any person who ceases to meet the
366 eligibility requirements of this section may be terminated
367 immediately.

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

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

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

382 (2) (a) The association shall operate subject to the
383 supervision and approval of an eleven-member board of directors
384 consisting of:

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

395 (ii) Three (3) members appointed by the
396 participating insurers, at least one (1) of whom is a domestic
397 insurer.

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

402 (iv) Of those initial members appointed by the
403 Insurance Commissioner, one (1) shall serve for a term of one (1)
404 year, two (2) for a term of two (2) years, and one (1) for a term
405 of three (3) years. Of those initial members appointed by the
406 participating insurers, one (1) shall serve for a term of one (1)
407 year, one (1) shall serve for a term of two (2) years, and one (1)

408 shall serve for a term of three (3) years. The appointing
409 authority shall designate the period of service of each initial
410 appointee at the time of appointment.

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

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

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

420 (3) The association shall adopt a plan in accordance with
421 Sections 83-9-201 through 83-9-222 and submit its articles, bylaws
422 and operating rules to the State Department of Insurance for
423 approval. If the association fails to adopt such plan and
424 suitable articles, bylaws and operating rules within ninety (90)
425 days after the appointment of the board, the State Department of
426 Insurance shall adopt rules to effectuate the provisions of
427 Sections 83-9-201 through 83-9-222; and such rules shall remain in
428 effect until superseded by a plan and articles, bylaws and
429 operating rules submitted by the association and approved by the
430 State Department of Insurance.

431 (4) Individual board members shall not be liable and shall
432 be immune from suit at law or equity for any conduct performed in

433 good faith and which is within the subject matter over which they
434 have been given jurisdiction.

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

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

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

449 83-9-213. (1) The association shall:

450 (a) Establish administrative and accounting procedures
451 for the operation of the association.

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

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

457 (d) Collect the assessments provided in Section
458 83-9-217 from insurers and third-party administrators for claims

459 paid under the plan and for administrative expenses incurred or
460 estimated to be incurred during the period for which the
461 assessment is made. The level of payments shall be established by
462 the board. Assessments shall be collected pursuant to the plan of
463 operation approved by the board. In addition to the collection of
464 such assessments, the association shall collect an organizational
465 assessment or assessments from all insurers as necessary to
466 provide for expenses which have been incurred or are estimated to
467 be incurred prior to receipt of the first calendar year
468 assessments. Organizational assessments shall be equal in amount
469 for all insurers, but shall not exceed One Hundred Dollars
470 (\$100.00) per insurer for all such assessments. Assessments are
471 due and payable within thirty (30) days of receipt of the
472 assessment notice by the insurer.

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

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

481 (2) The association may:

482 (a) Exercise powers granted to insurers under the laws
483 of this state.

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

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

499 (d) Sue or be sued, including taking any legal actions
500 necessary or proper to recover or collect assessments due the
501 association.

502 (e) Take any legal actions necessary to:

503 (i) Avoid the payment of improper claims against
504 the association or the coverage provided by or through the
505 association.

506 (ii) Recover any amounts erroneously or improperly
507 paid by the association.

508 (iii) Recover any amounts paid by the association
509 as a result of mistake of fact or law.

510 (iv) Recover other amounts due the association.

511 (f) Establish, and modify from time to time as
512 appropriate, rates, rate schedules, rate adjustments, expense
513 allowances, agents' referral fees, claim reserve formulas and any
514 other actuarial function appropriate to the operation of the
515 association. Rates and rate schedules may be adjusted for
516 appropriate factors such as age, sex and geographic variation in
517 claim cost and shall take into consideration appropriate factors
518 in accordance with established actuarial and underwriting
519 practices.

520 (g) Issue policies of insurance in accordance with the
521 requirements of Sections 83-9-201 through 83-9-222.

522 (h) Appoint appropriate legal, actuarial and other
523 committees as necessary to provide technical assistance in the
524 operation of the plan, policy and other contract design, and any
525 other function within the authority of the association.

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

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

536 (k) Prepare and distribute application forms and
537 enrollment instruction forms to insurance producers and to the
538 general public.

539 (l) Provide for reinsurance of risks incurred by the
540 association.

541 (m) Issue additional types of health insurance policies
542 to provide optional coverages, including Medicare supplemental
543 health insurance.

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

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

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

559 (3) The commissioner may, by rule, establish additional
560 powers and duties of the board and may adopt such rules as are

561 necessary and proper to implement Sections 83-9-201 through
562 83-9-222.

563 (4) The State Department of Insurance shall examine and
564 investigate the association and make an annual report to the
565 Legislature thereon. Upon such investigation, the Commissioner of
566 Insurance, if he deems necessary, shall require the board: (a) to
567 contract with an outside independent actuarial firm to assess the
568 solvency of the association and for consultation as to the
569 sufficiency and means of the funding of the association, and the
570 enrollment in and the eligibility, benefits and rate structure of
571 the benefits plan to ensure the solvency of the association; and
572 (b) to close enrollment in the benefits plan at any time upon a
573 determination by the outside independent actuarial firm that funds
574 of the association are insufficient to support the enrollment of
575 additional persons. In no case shall the commissioner require
576 such actuarial study any less than once every two (2) years.

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

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

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

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

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

592 (b) The efficiency of the insurer's claims-paying
593 procedures.

594 (c) An estimate of total charges for administering the
595 plan.

596 (2) The administering insurer shall serve for a period of
597 three (3) years. At least one (1) year prior to the expiration of
598 each three-year period of service by an administering insurer, the
599 board shall invite all insurers, including the current
600 administering insurer, to submit bids to serve as the
601 administering insurer for the succeeding three-year period. The
602 selection of the administering insurer for the succeeding period
603 shall be made at least six (6) months prior to the end of the
604 current three-year period.

605 (3) The administering insurer shall:

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

608 (b) Pay an agent's referral fee as established by the
609 board to each insurance agent who refers an applicant to the plan,
610 if the applicant's application is accepted. The selling or
611 marketing of plans shall not be limited to the administering

612 insurer or its agents. The referral fees shall be paid by the
613 administering insurer from monies received as premiums for the
614 plan.

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

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

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

623 (ii) Evaluating the eligibility of each claim for
624 payment under the plan.

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

628 (iv) The board shall establish reasonable
629 reimbursement amounts for any services covered under the benefit
630 plans.

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

634 (f) Following the close of each calendar year,
635 determine net premiums, reinsurance premiums less administrative
636 expense allowance, the expense of administration pertaining to the
637 reinsurance operations of the association, and the incurred losses

638 of the year and report this information to the association and the
639 State Department of Insurance.

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

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

648 (b) As used in this subsection, the term "direct and
649 indirect expenses" includes that portion of the audited
650 administrative costs, printing expenses, claims administration
651 expenses, management expenses, building overhead expenses and
652 other actual operating and administrative expenses of the
653 administering insurer which are approved by the board as allocable
654 to the administration of the plan and included in the bid
655 specifications.

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

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

664 interest at twelve percent (12%) per annum on and after the due
665 date.

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

671 (3) The board shall make reasonable efforts designed to
672 ensure that each covered person is counted only once with respect
673 to any assessment. For that purpose, the board shall require each
674 insurer that obtains excess or stoploss insurance to include in
675 its count of covered persons all individuals whose coverage is
676 insured (including by way of excess or stoploss coverage) in whole
677 or part. The board shall allow a reinsurer to exclude from its
678 number of covered persons those who have been counted by the
679 primary insurer or by the primary reinsurer or primary excess or
680 stoploss insurer for the purpose of determining its assessment
681 under this subsection.

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

687 (5) If assessments and other receipts by the association,
688 board or administering insurer exceed the actual losses and
689 administrative expenses of the plan, the excess shall be held at

690 interest and used by the board to offset future losses or to
691 reduce plan premiums.

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

694 (6) The commissioner may suspend or revoke, after notice and
695 hearing, the certificate of authority to transact insurance in
696 this state of any member insurer which fails to pay an assessment
697 or otherwise file any report or furnish information required to be
698 filed with the board pursuant to the board's direction that the
699 board determines is necessary in order for the board to perform
700 its duties under this section. As an alternative, the
701 commissioner may levy a forfeiture on any member insurer which
702 fails to pay an assessment when due. Such forfeiture shall not
703 exceed five percent (5%) of the unpaid assessment per month, but
704 no forfeiture shall be less than One Hundred Dollars (\$100.00) per
705 month.

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

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

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

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

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

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

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

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

741 coverage provided through a representative number of large
742 employers in the state.

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

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

748 (b) Rates are subject to approval by the State
749 Department of Insurance.

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

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

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

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

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

769 (b) Medical advice or treatment was recommended or
770 received within a period of six (6) months before the effective
771 date of coverage.

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

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

792 (c) The association shall have a cause of action
793 against a participant for the recovery of the amount of any
794 benefits paid to the participant which should not have been
795 claimed or recognized as claims because of the provisions of this
796 subsection or because otherwise not covered. Benefits due from
797 the association may be reduced or refused as a setoff against any
798 amount recoverable under this paragraph.

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

801 83-9-222. Neither the participation in the association as
802 member insurers, the establishment of rates, forms or procedures
803 nor any other joint or collective action required by Sections
804 83-9-201 through 83-9-222 shall be the basis of any legal action,
805 criminal or civil liability or penalty against the association or
806 any member insurer.

807 **SECTION 19.** Section 41-83-31, Mississippi Code of 1972, as
808 amended by Senate Bill No. 2140, 2024 Regular Session, is brought
809 forward as follows:

810 41-83-31. Any program of utilization review with regard to
811 hospital, medical or other health care services provided in this
812 state, including, but not limited to, any prior authorization as
813 defined in Section 4 of Senate Bill No. 2140, 2024 Regular
814 Session, shall comply with the following:

815 (a) No determination adverse to a patient or to any
816 affected health care provider shall be made on any question
817 relating to the necessity or justification for any form of

818 hospital, medical or other health care services without prior
819 evaluation and concurrence in the adverse determination by a
820 physician licensed to practice in Mississippi. The physician who
821 made the adverse determination shall discuss the reasons for any
822 adverse determination with the affected health care provider, if
823 the provider so requests. The physician shall comply with this
824 request within seven (7) calendar days of being notified of a
825 request. Adverse determination by a physician shall not be
826 grounds for any disciplinary action against the physician by the
827 State Board of Medical Licensure.

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

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

843 **SECTION 20.** A taxpayer who provides health care services
844 that are in network under an exchange for which coverage is
845 provided under the exchange and for which the taxpayer receives
846 payment under the exchange, shall be allowed a deduction from
847 income as provided in this section. The amount of the deduction
848 shall be equal to twenty (20%) of the amount of the taxpayer's
849 income derived from payment under an exchange for health care
850 services provided by the taxpayer. For the purposes of this
851 section, the term "exchange" means a state exchange as defined in
852 Section 1 of this act.

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

864 **SECTION 22.** There shall be allowed a credit against the
865 taxes imposed under Sections 27-15-103, 27-15-109 and 27-15-123,
866 in an amount equal to twenty percent (20%) of a taxpayer's premium
867 tax liability on the gross premium receipts on policies written
868 for insurance under an exchange. For the purposes of this

869 section, the term "exchange" means a state exchange as defined in
870 Section 1 of this act.

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

873 27-7-17. In computing taxable income, there shall be allowed
874 as deductions:

875 (1) **Business deductions.**

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

892 (b) **Interest.** All interest paid or accrued during the
893 taxable year on business indebtedness, except interest upon the
894 indebtedness for the purchase of tax-free bonds, or any stocks,

895 the dividends from which are nontaxable under the provisions of
896 this article; provided, however, in the case of securities
897 dealers, interest payments or accruals on loans, the proceeds of
898 which are used to purchase tax-exempt securities, shall be
899 deductible if income from otherwise tax-free securities is
900 reported as income. Investment interest expense shall be limited
901 to investment income. Interest expense incurred for the purchase
902 of treasury stock, to pay dividends, or incurred as a result of an
903 undercapitalized affiliated corporation may not be deducted unless
904 an ordinary and necessary business purpose can be established to
905 the satisfaction of the commissioner. For the purposes of this
906 paragraph, the phrase "interest upon the indebtedness for the
907 purchase of tax-free bonds" applies only to the indebtedness
908 incurred for the purpose of directly purchasing tax-free bonds and
909 does not apply to any other indebtedness incurred in the regular
910 course of the taxpayer's business. Any corporation, association,
911 organization or other entity taxable under Section 27-7-23(c)
912 shall allocate interest expense as provided in Section
913 27-7-23(c) (3) (I).

914 (c) **Taxes.** Taxes paid or accrued within the taxable
915 year, except state and federal income taxes, excise taxes based on
916 or measured by net income, estate and inheritance taxes, gift
917 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
918 use taxes unless incurred as an item of expense in a trade or
919 business or in the production of taxable income. In the case of
920 an individual, taxes permitted as an itemized deduction under the

921 provisions of subsection (3)(a) of this section are to be claimed
922 thereunder.

923 (d) **Business losses.**

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

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

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

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

946 (ii) 1. For the purposes of computing income tax
947 for tax years beginning after December 31, 2022, a taxpayer may
948 treat specified research or experimental expenditures that are
949 paid or incurred by the taxpayer during the tax year in connection
950 with the taxpayer's trade or business as expenses that are not
951 chargeable to the capital account. Such expenditures so treated
952 shall be allowed as an immediate deduction. Such expenditures
953 shall remain allowable as a full and immediate expense deduction
954 in the year in which the expenses are incurred notwithstanding any
955 changes to the federal Internal Revenue Code related to the
956 depreciation of such specified research or experimental
957 expenditures. A taxpayer may alternatively treat the depreciation
958 of such specified research or experimental expenditures in
959 accordance with the schedule provided in 26 USCS Section 174. A
960 taxpayer may make an election whether to take a full and immediate
961 deduction for such expenditures and/or to depreciate the
962 expenditures in accordance with 26 USCS Section 174. Such an
963 election may be made for any tax year if made not later than the
964 time prescribed by law for filing the return for such tax year,
965 including extensions thereof. The method so elected by the
966 taxpayer is irrevocable unless the commissioner specifically
967 allows a change in the method.

968 2. For the purpose of computing income tax
969 for tax years beginning after December 31, 2022, expenditures for
970 business assets that are qualified property or qualified
971 improvement property shall be eligible for one hundred percent

972 (100%) bonus depreciation and may be deducted as an expense
973 incurred by the taxpayer during the tax year during which the
974 property is placed in service, notwithstanding any changes to
975 federal law related to cost recovery beginning on January 1, 2023,
976 or on any other date. A taxpayer may alternatively treat the
977 depreciation of such business assets in accordance with the
978 schedule provided in 26 USCS Section 168. A taxpayer may make an
979 election whether to take a bonus depreciation deduction for such
980 expenditures and/or to depreciate the expenditures in accordance
981 with 26 USCS Section 168. Such an election may be made for any
982 tax year if made not later than the time prescribed by law for
983 filing the return for such tax year, including extensions thereof.
984 The method so elected by the taxpayer is irrevocable unless the
985 commissioner specifically allows a change in the method.

986 3. In any taxable year in which any 26 USCS
987 Section 179 property is placed in service, a taxpayer may elect to
988 treat the cost of such property as an expense which is not
989 chargeable to a capital account, and any cost so treated shall be
990 allowed as a deduction for that year. Mississippi's treatment of
991 the deduction shall conform to the provisions of 26 USCS Section
992 179 in effect for that year.

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

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

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

1000 b. "Qualified property" means and has
1001 the same definition as such term has in 26 USCS Section 168(k) as
1002 it existed on January 1, 2021, and shall apply to property placed
1003 in service after December 31, 2022.

1004 c. "Specified research or experimental
1005 expenditures" means and has the same definition as such term has
1006 in 26 USCS Section 174 as it existed on January 1, 2021.

1007 5. Nothing in this subparagraph (ii) shall be
1008 construed to nullify or otherwise alter the treatment of
1009 depreciation expenses for any tax year prior to 2023.

1010 6. The total of any method or combination of
1011 methods of depreciation used under this subparagraph (ii) cannot
1012 exceed one hundred percent (100%) of the cost of the subject
1013 property.

1014 (g) **Depletion.** In the case of mines, oil and gas
1015 wells, other natural deposits and timber, a reasonable allowance
1016 for depletion and for depreciation of improvements, based upon
1017 cost, including cost of development, not otherwise deducted, or
1018 fair market value as of March 16, 1912, if acquired prior to that
1019 date, such allowance to be made upon regulations prescribed by the
1020 commissioner, with the approval of the Governor.

1021 (h) **Contributions or gifts.** Except as otherwise
1022 provided in paragraph (p) of this subsection or subsection (3) (a)
1023 of this section for individuals, contributions or gifts made by

1024 corporations within the taxable year to corporations,
1025 organizations, associations or institutions, including Community
1026 Chest funds, foundations and trusts created solely and exclusively
1027 for religious, charitable, scientific or educational purposes, or
1028 for the prevention of cruelty to children or animals, no part of
1029 the net earnings of which inure to the benefit of any private
1030 stockholder or individual. This deduction shall be allowed in an
1031 amount not to exceed twenty percent (20%) of the net income. Such
1032 contributions or gifts shall be allowable as deductions only if
1033 verified under rules and regulations prescribed by the
1034 commissioner, with the approval of the Governor. Contributions
1035 made in any form other than cash shall be allowed as a deduction,
1036 subject to the limitations herein provided, in an amount equal to
1037 the actual market value of the contributions at the time the
1038 contribution is actually made and consummated.

1039 (i) **Reserve funds - insurance companies.** In the case
1040 of insurance companies the net additions required by law to be
1041 made within the taxable year to reserve funds when such reserve
1042 funds are maintained for the purpose of liquidating policies at
1043 maturity.

1044 (j) **Annuity income.** The sums, other than dividends,
1045 paid within the taxpayer year on policy or annuity contracts when
1046 such income has been included in gross income.

1047 (k) **Contributions to employee pension plans.**
1048 Contributions made by an employer to a plan or a trust forming
1049 part of a pension plan, stock bonus plan, disability or

1050 death-benefit plan, or profit-sharing plan of such employer for
1051 the exclusive benefit of some or all of his, their, or its
1052 employees, or their beneficiaries, shall be deductible from his,
1053 their, or its income only to the extent that, and for the taxable
1054 year in which, the contribution is deductible for federal income
1055 tax purposes under the Internal Revenue Code of 1986 and any other
1056 provisions of similar purport in the Internal Revenue Laws of the
1057 United States, and the rules, regulations, rulings and
1058 determinations promulgated thereunder, provided that:

1059 (i) The plan or trust be irrevocable.

1060 (ii) The plan or trust constitute a part of a
1061 pension plan, stock bonus plan, disability or death-benefit plan,
1062 or profit-sharing plan for the exclusive benefit of some or all of
1063 the employer's employees and/or officers, or their beneficiaries,
1064 for the purpose of distributing the corpus and income of the plan
1065 or trust to such employees and/or officers, or their
1066 beneficiaries.

1067 (iii) No part of the corpus or income of the plan
1068 or trust can be used for purposes other than for the exclusive
1069 benefit of employees and/or officers, or their beneficiaries.

1070 Contributions to all plans or to all trusts of real or
1071 personal property (or real and personal property combined) or to
1072 insured plans created under a retirement plan for which provision
1073 has been made under the laws of the United States of America,
1074 making such contributions deductible from income for federal

1075 income tax purposes, shall be deductible only to the same extent
1076 under the Income Tax Laws of the State of Mississippi.

1077 (1) **Net operating loss carrybacks and carryovers.** A
1078 net operating loss for any taxable year ending after December 31,
1079 1993, and taxable years thereafter, shall be a net operating loss
1080 carryback to each of the three (3) taxable years preceding the
1081 taxable year of the loss. If the net operating loss for any
1082 taxable year is not exhausted by carrybacks to the three (3)
1083 taxable years preceding the taxable year of the loss, then there
1084 shall be a net operating loss carryover to each of the fifteen
1085 (15) taxable years following the taxable year of the loss
1086 beginning with any taxable year after December 31, 1991.

1087 For any taxable year ending after December 31, 1997, the
1088 period for net operating loss carrybacks and net operating loss
1089 carryovers shall be the same as those established by the Internal
1090 Revenue Code and the rules, regulations, rulings and
1091 determinations promulgated thereunder as in effect at the taxable
1092 year end or on December 31, 2000, whichever is earlier.

1093 A net operating loss for any taxable year ending after
1094 December 31, 2001, and taxable years thereafter, shall be a net
1095 operating loss carryback to each of the two (2) taxable years
1096 preceding the taxable year of the loss. If the net operating loss
1097 for any taxable year is not exhausted by carrybacks to the two (2)
1098 taxable years preceding the taxable year of the loss, then there
1099 shall be a net operating loss carryover to each of the twenty (20)

1100 taxable years following the taxable year of the loss beginning
1101 with any taxable year after the taxable year of the loss.

1102 The term "net operating loss," for the purposes of this
1103 paragraph, shall be the excess of the deductions allowed over the
1104 gross income; provided, however, the following deductions shall
1105 not be allowed in computing same:

1106 (i) No net operating loss deduction shall be
1107 allowed.

1108 (ii) No personal exemption deduction shall be
1109 allowed.

1110 (iii) Allowable deductions which are not
1111 attributable to taxpayer's trade or business shall be allowed only
1112 to the extent of the amount of gross income not derived from such
1113 trade or business.

1114 Any taxpayer entitled to a carryback period as provided by
1115 this paragraph may elect to relinquish the entire carryback period
1116 with respect to a net operating loss for any taxable year ending
1117 after December 31, 1991. The election shall be made in the manner
1118 prescribed by the Department of Revenue and shall be made by the
1119 due date, including extensions of time, for filing the taxpayer's
1120 return for the taxable year of the net operating loss for which
1121 the election is to be in effect. The election, once made for any
1122 taxable year, shall be irrevocable for that taxable year.

1123 (m) **Amortization of pollution or environmental control**
1124 **facilities.** Allowance of deduction. Every taxpayer, at his
1125 election, shall be entitled to a deduction for pollution or

1126 environmental control facilities to the same extent as that
1127 allowed under the Internal Revenue Code and the rules,
1128 regulations, rulings and determinations promulgated thereunder.

1129 (n) **Dividend distributions - real estate investment**
1130 **trusts.** "Real estate investment trust" (hereinafter referred to
1131 as REIT) shall have the meaning ascribed to such term in Section
1132 856 of the federal Internal Revenue Code of 1986, as amended. A
1133 REIT is allowed a dividend distributed deduction if the dividend
1134 distributions meet the requirements of Section 857 or are
1135 otherwise deductible under Section 858 or 860, federal Internal
1136 Revenue Code of 1986, as amended. In addition:

1137 (i) A dividend distributed deduction shall only be
1138 allowed for dividends paid by a publicly traded REIT. A qualified
1139 REIT subsidiary shall be allowed a dividend distributed deduction
1140 if its owner is a publicly traded REIT.

1141 (ii) Income generated from real estate contributed
1142 or sold to a REIT by a shareholder or related party shall not give
1143 rise to a dividend distributed deduction, unless the shareholder
1144 or related party would have received the dividend distributed
1145 deduction under this chapter.

1146 (iii) A holding corporation receiving a dividend
1147 from a REIT shall not be allowed the deduction in Section
1148 27-7-15(4)(t).

1149 (iv) Any REIT not allowed the dividend distributed
1150 deduction in the federal Internal Revenue Code of 1986, as

1151 amended, shall not be allowed a dividend distributed deduction
1152 under this chapter.

1153 The commissioner is authorized to promulgate rules and
1154 regulations consistent with the provisions in Section 269 of the
1155 federal Internal Revenue Code of 1986, as amended, so as to
1156 prevent the evasion or avoidance of state income tax.

1157 (o) **Contributions to college savings trust fund**
1158 **accounts.** Contributions or payments to a Mississippi Affordable
1159 College Savings Program account are deductible as provided under
1160 Section 37-155-113. Payments made under a prepaid tuition
1161 contract entered into under the Mississippi Prepaid Affordable
1162 College Tuition Program are deductible as provided under Section
1163 37-155-17.

1164 (p) **Contributions of human pharmaceutical products.** To
1165 the extent that a "major supplier" as defined in Section
1166 27-13-13(2) (d) contributes human pharmaceutical products in excess
1167 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
1168 determined under Section 170 of the Internal Revenue Code, the
1169 charitable contribution limitation associated with those donations
1170 shall follow the federal limitation but cannot result in the
1171 Mississippi net income being reduced below zero.

1172 (q) **Contributions to ABLE trust fund accounts.**
1173 Contributions or payments to a Mississippi Achieving a Better Life
1174 Experience (ABLE) Program account are deductible as provided under
1175 Section 43-28-13.

1176 (2) **Restrictions on the deductibility of certain intangible**
1177 **expenses and interest expenses with a related member.**

1178 (a) As used in this subsection (2):

1179 (i) "Intangible expenses and costs" include:

1180 1. Expenses, losses and costs for, related
1181 to, or in connection directly or indirectly with the direct or
1182 indirect acquisition, use, maintenance or management, ownership,
1183 sale, exchange or any other disposition of intangible property to
1184 the extent such amounts are allowed as deductions or costs in
1185 determining taxable income under this chapter;

1186 2. Expenses or losses related to or incurred
1187 in connection directly or indirectly with factoring transactions
1188 or discounting transactions;

1189 3. Royalty, patent, technical and copyright
1190 fees;

1191 4. Licensing fees; and

1192 5. Other similar expenses and costs.

1193 (ii) "Intangible property" means patents, patent
1194 applications, trade names, trademarks, service marks, copyrights
1195 and similar types of intangible assets.

1196 (iii) "Interest expenses and cost" means amounts
1197 directly or indirectly allowed as deductions for purposes of
1198 determining taxable income under this chapter to the extent such
1199 interest expenses and costs are directly or indirectly for,
1200 related to, or in connection with the direct or indirect

1201 acquisition, maintenance, management, ownership, sale, exchange or
1202 disposition of intangible property.

1203 (iv) "Related member" means an entity or person
1204 that, with respect to the taxpayer during all or any portion of
1205 the taxable year, is a related entity, a component member as
1206 defined in the Internal Revenue Code, or is an entity or a person
1207 to or from whom there is attribution of stock ownership in
1208 accordance with Section 1563(e) of the Internal Revenue Code.

1209 (v) "Related entity" means:

1210 1. A stockholder who is an individual or a
1211 member of the stockholder's family, as defined in regulations
1212 prescribed by the commissioner, if the stockholder and the members
1213 of the stockholder's family own, directly, indirectly,
1214 beneficially or constructively, in the aggregate, at least fifty
1215 percent (50%) of the value of the taxpayer's outstanding stock;

1216 2. A stockholder, or a stockholder's
1217 partnership, limited liability company, estate, trust or
1218 corporation, if the stockholder and the stockholder's
1219 partnerships, limited liability companies, estates, trusts and
1220 corporations own, directly, indirectly, beneficially or
1221 constructively, in the aggregate, at least fifty percent (50%) of
1222 the value of the taxpayer's outstanding stock;

1223 3. A corporation, or a party related to the
1224 corporation in a manner that would require an attribution of stock
1225 from the corporation to the party or from the party to the
1226 corporation, if the taxpayer owns, directly, indirectly,

1227 beneficially or constructively, at least fifty percent (50%) of
1228 the value of the corporation's outstanding stock under regulation
1229 prescribed by the commissioner;

1230 4. Any entity or person which would be a
1231 related member under this section if the taxpayer were considered
1232 a corporation for purposes of this section.

1233 (b) In computing net income, a taxpayer shall add back
1234 otherwise deductible interest expenses and costs and intangible
1235 expenses and costs directly or indirectly paid, accrued to or
1236 incurred, in connection directly or indirectly with one or more
1237 direct or indirect transactions with one or more related members.

1238 (c) The adjustments required by this subsection shall
1239 not apply to such portion of interest expenses and costs and
1240 intangible expenses and costs that the taxpayer can establish
1241 meets one (1) of the following:

1242 (i) The related member directly or indirectly
1243 paid, accrued or incurred such portion to a person during the same
1244 income year who is not a related member; or

1245 (ii) The transaction giving rise to the interest
1246 expenses and costs or intangible expenses and costs between the
1247 taxpayer and related member was done primarily for a valid
1248 business purpose other than the avoidance of taxes, and the
1249 related member is not primarily engaged in the acquisition, use,
1250 maintenance or management, ownership, sale, exchange or any other
1251 disposition of intangible property.

1252 (d) Nothing in this subsection shall require a taxpayer
1253 to add to its net income more than once any amount of interest
1254 expenses and costs or intangible expenses and costs that the
1255 taxpayer pays, accrues or incurs to a related member.

1256 (e) The commissioner may prescribe such regulations as
1257 necessary or appropriate to carry out the purposes of this
1258 subsection, including, but not limited to, clarifying definitions
1259 of terms, rules of stock attribution, factoring and discount
1260 transactions.

1261 (3) **Individual nonbusiness deductions.**

1262 (a) The amount allowable for individual nonbusiness
1263 itemized deductions for federal income tax purposes where the
1264 individual is eligible to elect, for the taxable year, to itemize
1265 deductions on his federal return except the following:

1266 (i) The deduction for state income taxes paid or
1267 other taxes allowed for federal purposes in lieu of state income
1268 taxes paid;

1269 (ii) The deduction for gaming losses from gaming
1270 establishments;

1271 (iii) The deduction for taxes collected by
1272 licensed gaming establishments pursuant to Section 27-7-901;

1273 (iv) The deduction for taxes collected by gaming
1274 establishments pursuant to Section 27-7-903; and

1275 (v) The deduction for medical expenses for the
1276 provision of gender transition procedures as defined in Section
1277 41-141-3.

1278 (b) In lieu of the individual nonbusiness itemized
1279 deductions authorized in paragraph (a), for all purposes other
1280 than ordinary and necessary expenses paid or incurred during the
1281 taxable year in carrying on any trade or business, an optional
1282 standard deduction of:

1283 (i) Three Thousand Four Hundred Dollars
1284 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1285 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1286 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1287 in the case of married individuals filing a joint or combined
1288 return;

1289 (ii) One Thousand Seven Hundred Dollars
1290 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1291 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
1292 Three Hundred Dollars (\$2,300.00) for each calendar year
1293 thereafter in the case of married individuals filing separate
1294 returns;

1295 (iii) Three Thousand Four Hundred Dollars
1296 (\$3,400.00) in the case of a head of family; or

1297 (iv) Two Thousand Three Hundred Dollars
1298 (\$2,300.00) in the case of an individual who is not married.

1299 In the case of a husband and wife living together, having
1300 separate incomes, and filing combined returns, the standard
1301 deduction authorized may be divided in any manner they choose. In
1302 the case of separate returns by a husband and wife, the standard
1303 deduction shall not be allowed to either if the taxable income of

1304 one of the spouses is determined without regard to the standard
1305 deduction.

1306 (c) A nonresident individual shall be allowed the same
1307 individual nonbusiness deductions as are authorized for resident
1308 individuals in paragraph (a) or (b) of this subsection; however,
1309 the nonresident individual is entitled only to that proportion of
1310 the individual nonbusiness deductions as his net income from
1311 sources within the State of Mississippi bears to his total or
1312 entire net income from all sources.

1313 (4) Nothing in this section shall permit the same item to be
1314 deducted more than once, either in fact or in effect.

1315 (5) Notwithstanding any other provision in Title 27,
1316 Mississippi Code of 1972, there shall be allowed an income tax
1317 deduction for otherwise deductible expenses if:

1318 (a) The payment(s) for such deductible expenses are
1319 made with the grant or loan program of the Paycheck Protection
1320 Program as authorized under (i) the Coronavirus Aid, Relief, and
1321 Economic Security (CARES) Act and the Consolidated Appropriations
1322 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
1323 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
1324 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
1325 Venue Operators Grant Program and Restaurant Revitalization Fund
1326 authorized by the Economic Aid to Hard-Hit Small Businesses,
1327 Nonprofits, and Venues Act, and amended by the federal American
1328 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
1329 Stabilization Act; and

1330 (b) Such deductible expenses shall be allowed as
1331 deductions for federal income tax purposes.

1332 **SECTION 24.** Section 27-7-18, Mississippi Code of 1972, is
1333 brought forward as follows:

1334 27-7-18. (1) Alimony payments. In the case of a person
1335 described in Section 27-7-15(2)(e), there shall be allowed as a
1336 deduction from gross income amounts paid as periodic payments to
1337 the extent of such amounts as are includible in the gross income
1338 of the spouse as provided in Section 27-7-15(2)(e), payment of
1339 which is made within the person's taxable year.

1340 (2) Unreimbursed moving expenses incurred after December 31,
1341 1994, are deductible as an adjustment to gross income in
1342 accordance with provisions of the United States Internal Revenue
1343 Code, and rules, regulations and revenue procedures thereunder
1344 relating to moving expenses, not in direct conflict with the
1345 provisions of the Mississippi Income Tax Law.

1346 (3) Amounts paid after December 31, 1998, by a self-employed
1347 individual for insurance which constitute medical care for the
1348 taxpayer, his spouse and dependents, are deductible as an
1349 adjustment to gross income in accordance with provisions of the
1350 United States Internal Revenue Code, and rules, regulations and
1351 revenue procedures thereunder relating to such payments, not in
1352 direct conflict with the provisions of the Mississippi Income Tax
1353 Law.

1354 (4) Contributions or payments to a Mississippi Affordable
1355 College Savings (MACS) Program account are deductible from gross

1356 income as provided in Section 37-155-113. Payments made under a
1357 prepaid tuition contract entered into under the Mississippi
1358 Prepaid Affordable College Tuition Program are deductible as
1359 provided in Section 37-155-17.

1360 (5) (a) Unreimbursed travel expenses, lodging expenses and
1361 lost wages an individual incurred as a result of, and related to,
1362 the donation, while living, of one or more of his or her organs
1363 for human organ transplantation, are deductible from gross income.
1364 The deduction from gross income authorized by this subsection may
1365 be claimed for only once and may not exceed Ten Thousand Dollars
1366 (\$10,000.00).

1367 (b) As used in this subsection, "organ" means all or
1368 part of a liver, pancreas, kidney, intestine, lung or bone marrow.

1369 (6) In the case of a self-employed individual, there shall
1370 be allowed as a deduction from gross income an amount equal to:

1371 (a) Seventeen percent (17%) of the federal
1372 self-employment taxes imposed on such individual for taxable years
1373 ending in calendar year 2017;

1374 (b) Thirty-four percent (34%) of the federal
1375 self-employment taxes imposed on such individual for taxable years
1376 ending in calendar year 2018; and

1377 (c) Fifty percent (50%) of the federal self-employment
1378 taxes imposed on such individual for taxable years ending in
1379 calendar year 2019 and thereafter.

1380 (7) Contributions or payments to a Mississippi Achieving a
1381 Better Life Experience (ABLE) Program account are deductible from
1382 gross income as provided in Section 43-28-13.

1383 **SECTION 25.** Sections 20 and 21 of this act shall be codified
1384 as new sections in Chapter 7, Title 27, Mississippi Code of 1972,
1385 and Section 22 of this act shall be codified as a new section in
1386 Chapter 15, Title 27, Mississippi Code of 1972.

1387 **SECTION 26.** This act shall take effect and be in force from
1388 and after July 1, 2024, and shall stand repealed on June 30, 2024.

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

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 AND 83-9-222,
19 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
20 TO BRING FORWARD SECTION 41-83-31, MISSISSIPPI CODE OF 1972, AS
21 AMENDED BY SENATE BILL NO. 2140, 2024 REGULAR SESSION, FOR THE
22 PURPOSE OF POSSIBLE AMENDMENT; TO AUTHORIZE AN INCOME TAX
23 DEDUCTION FOR TAXPAYERS WHO PROVIDE HEALTH CARE SERVICES THAT ARE
24 COVERED UNDER AN EXCHANGE AND UNDER WHICH THE TAXPAYER RECEIVES
25 PAYMENT FOR SUCH SERVICES; TO PROVIDE FOR THE AMOUNT OF THE TAX
26 DEDUCTION; TO AUTHORIZE AN INCOME TAX DEDUCTION FOR TAXPAYERS WHO
27 PAY ALL OR ANY PORTION OF THE COST FOR AN INSURANCE POLICY FOR AN
28 EMPLOYEE UNDER AN EXCHANGE; TO PROVIDE FOR THE AMOUNT OF THE TAX

29 DEDUCTION; TO AUTHORIZE AN INSURANCE PREMIUM TAX CREDIT FOR
30 TAXPAYERS PROVIDING INSURANCE POLICIES UNDER AN EXCHANGE; TO
31 PROVIDE FOR THE AMOUNT OF THE TAX CREDIT; TO BRING FORWARD
32 SECTIONS 27-7-17 AND 27-7-18, MISSISSIPPI CODE OF 1972, WHICH
33 PROVIDE FOR INCOME TAX DEDUCTIONS AND ADJUSTMENTS TO GROSS INCOME,
34 FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

SS26\HB1647PS.J

Amanda White
Secretary of the Senate