

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1647

BY: Committee

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

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;

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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



166 terms of the plan directly or through insurance, reimbursement or
167 otherwise.

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

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

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



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

195 1. Limited scope dental or vision benefits;

196 2. Benefits for long-term care, nursing home
197 care, home health care, community-based care, or any combination
198 thereof; or

199 3. Other similar, limited benefits specified
200 in federal regulations issued pursuant to Public Law 104-191.

201 (iii) "Health insurance coverage" shall not
202 include the following benefits if the benefits are provided under
203 a separate policy, certificate or contract of insurance, there is
204 no coordination between the provision of the benefits and any
205 exclusion of benefits under any group health plan maintained by
206 the same plan sponsor, and the benefits are paid with respect to
207 an event without regard to whether benefits are provided with
208 respect to such an event under any group health plan maintained by
209 the same plan sponsor:

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

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



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

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

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

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

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

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



239 benefits in this state, any other entity providing a plan of
240 health insurance coverage or health benefits subject to state
241 insurance regulation and any reinsurer reinsuring health insurance
242 coverage in this state.

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

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

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

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

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

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



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

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

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

278 **SECTION 6.** The Comprehensive Health Insurance Risk Pool
279 Association shall have the authority to develop and fund an online
280 portal that shall be available to all Mississippians to assist
281 consumers in selection of a health plan. This program shall have
282 the capacity to aggregate information regarding providers, drug
283 coverage and pricing that would allow consumers to make informed
284 decisions in selecting a health plan.

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



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

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

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

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

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

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

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

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

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

308 (2) The board shall develop a procedure for eligibility for
309 coverage by the association for any natural person who changes his
310 domicile to this state and who at the time domicile is established
311 in this state is insured by an organization similar to the



312 association. The eligible maximum lifetime benefits for such
313 covered person shall not exceed the lifetime benefits available
314 through the association, less any benefits received from a similar
315 organization in the former domiciliary state.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

359 (d) At the option of the association, thirty (30) days
360 after the association makes any inquiry concerning the person's



361 eligibility or place of residence to which the person does not
362 reply.

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

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

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

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

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

383 (i) Six (6) members appointed by the Insurance
384 Commissioner. Two (2) of the commissioner's appointees shall be
385 chosen from the general public and shall not be associated with



386 the medical profession, a hospital or an insurer. Two (2)
387 appointees shall be representatives of medical providers. One (1)
388 appointee shall be a representative of businesses employing fewer
389 than one hundred (100) employees. One (1) appointee shall be a
390 representative of health insurance agents. Any board member
391 appointed by the commissioner may be removed and replaced by him
392 at any time without cause.

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

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

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

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



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

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

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

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

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



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

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

447 83-9-213. (1) The association shall:

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

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

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

455 (d) Collect the assessments provided in Section
456 83-9-217 from insurers and third-party administrators for claims
457 paid under the plan and for administrative expenses incurred or
458 estimated to be incurred during the period for which the
459 assessment is made. The level of payments shall be established by



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

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

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

479 (2) The association may:

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

482 (b) Take any legal actions necessary or proper for the
483 recovery of any monies due the association under Sections 83-9-201
484 through 83-9-222. There shall be no liability on the part of and



485 no cause of action of any nature shall arise against the
486 Commissioner of Insurance or any of his staff, the administrator,
487 the board or its directors, agents or employees, or against any
488 participating insurer for any actions performed in accordance with
489 Sections 83-9-201 through 83-9-222.

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

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

500 (e) Take any legal actions necessary to:

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

504 (ii) Recover any amounts erroneously or improperly
505 paid by the association.

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

508 (iv) Recover other amounts due the association.



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

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

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

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

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



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

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

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

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

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

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

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



559 necessary and proper to implement Sections 83-9-201 through
560 83-9-222.

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

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

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

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



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

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

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

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

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

603 (3) The administering insurer shall:

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

606 (b) Pay an agent's referral fee as established by the
607 board to each insurance agent who refers an applicant to the plan,
608 if the applicant's application is accepted. The selling or



609 marketing of plans shall not be limited to the administering
610 insurer or its agents. The referral fees shall be paid by the
611 administering insurer from monies received as premiums for the
612 plan.

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

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

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

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

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

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

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

632 (f) Following the close of each calendar year,
633 determine net premiums, reinsurance premiums less administrative



634 expense allowance, the expense of administration pertaining to the
635 reinsurance operations of the association, and the incurred losses
636 of the year and report this information to the association and the
637 State Department of Insurance.

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

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

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

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

656 83-9-217. (1) For the purpose of providing the funds
657 necessary to carry out the powers and duties of the association,
658 the board of directors shall assess the member insurers at such



659 time and for such amounts as the board finds necessary.
660 Assessments shall be due not less than thirty (30) days after
661 prior written notice to the member insurers and shall accrue
662 interest at twelve percent (12%) per annum on and after the due
663 date.

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

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

680 (4) Each insurer's assessment may be verified by the board
681 based on annual statements and other reports deemed to be
682 necessary by the board. The board may use any reasonable method



683 of estimating the number of covered persons of an insurer if the
684 specific number is unknown.

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

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

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

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

706 83-9-219. The coverage provided by the plan shall be
707 directly insured by the association, and the policies shall be



708 issued through the administering insurer. Subject to the approval
709 of the commissioner, the association may close enrollment in,
710 and/or cease to offer the coverage provided by, the plan at any
711 time upon a determination by the board that the availability of
712 such coverage is no longer necessary.

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

810 (a) No determination adverse to a patient or to any
811 affected health care provider shall be made on any question
812 relating to the necessity or justification for any form of
813 hospital, medical or other health care services without prior
814 evaluation and concurrence in the adverse determination by a
815 physician licensed to practice in Mississippi. The physician who
816 made the adverse determination shall discuss the reasons for any
817 adverse determination with the affected health care provider, if
818 the provider so requests. The physician shall comply with this
819 request within fourteen (14) calendar days of being notified of a
820 request. Adverse determination by a physician shall not be
821 grounds for any disciplinary action against the physician by the
822 State Board of Medical Licensure.

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



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

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

848 **SECTION 21.** Subject to the provisions of this section, a
849 taxpayer who pays all or any portion of the cost for an insurance
850 policy under an exchange for an employee of the taxpayer shall be
851 allowed a deduction from income for an amount equal to the cost
852 paid by the taxpayer for the insurance policy. However, a
853 taxpayer will not be eligible for the deduction if the taxpayer
854 removes an employee from an insurance plan provided by the
855 taxpayer and the employee becomes insured through an insurance



856 policy provided under an exchange. For the purposes of this
857 section, the term "exchange" means a state exchange as defined in
858 Section 1 of this act.

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

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

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

870 (1) **Business deductions.**

871 (a) **Business expenses.** All the ordinary and necessary
872 expenses paid or incurred during the taxable year in carrying on
873 any trade or business, including a reasonable allowance for
874 salaries or other compensation for personal services actually
875 rendered; nonreimbursable traveling expenses incident to current
876 employment, including a reasonable amount expended for meals and
877 lodging while away from home in the pursuit of a trade or
878 business; and rentals or other payments required to be made as a
879 condition of the continued use or possession, for purposes of the
880 trade or business of property to which the taxpayer has not taken



881 or is not taking title or in which he had no equity. Expense
882 incurred in connection with earning and distributing nontaxable
883 income is not an allowable deduction. Limitations on
884 entertainment expenses shall conform to the provisions of the
885 Internal Revenue Code of 1986. There shall also be allowed a
886 deduction for expenses as provided in Section 41-137-51.

887 (b) **Interest.** All interest paid or accrued during the
888 taxable year on business indebtedness, except interest upon the
889 indebtedness for the purchase of tax-free bonds, or any stocks,
890 the dividends from which are nontaxable under the provisions of
891 this article; provided, however, in the case of securities
892 dealers, interest payments or accruals on loans, the proceeds of
893 which are used to purchase tax-exempt securities, shall be
894 deductible if income from otherwise tax-free securities is
895 reported as income. Investment interest expense shall be limited
896 to investment income. Interest expense incurred for the purchase
897 of treasury stock, to pay dividends, or incurred as a result of an
898 undercapitalized affiliated corporation may not be deducted unless
899 an ordinary and necessary business purpose can be established to
900 the satisfaction of the commissioner. For the purposes of this
901 paragraph, the phrase "interest upon the indebtedness for the
902 purchase of tax-free bonds" applies only to the indebtedness
903 incurred for the purpose of directly purchasing tax-free bonds and
904 does not apply to any other indebtedness incurred in the regular
905 course of the taxpayer's business. Any corporation, association,



906 organization or other entity taxable under Section 27-7-23(c)
907 shall allocate interest expense as provided in Section
908 27-7-23(c) (3) (I).

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

918 (d) **Business losses.**

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

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

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



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

941 (ii) 1. For the purposes of computing income tax
942 for tax years beginning after December 31, 2022, a taxpayer may
943 treat specified research or experimental expenditures that are
944 paid or incurred by the taxpayer during the tax year in connection
945 with the taxpayer's trade or business as expenses that are not
946 chargeable to the capital account. Such expenditures so treated
947 shall be allowed as an immediate deduction. Such expenditures
948 shall remain allowable as a full and immediate expense deduction
949 in the year in which the expenses are incurred notwithstanding any
950 changes to the federal Internal Revenue Code related to the
951 depreciation of such specified research or experimental
952 expenditures. A taxpayer may alternatively treat the depreciation
953 of such specified research or experimental expenditures in
954 accordance with the schedule provided in 26 USCS Section 174. A
955 taxpayer may make an election whether to take a full and immediate



956 deduction for such expenditures and/or to depreciate the
957 expenditures in accordance with 26 USCS Section 174. Such an
958 election may be made for any tax year if made not later than the
959 time prescribed by law for filing the return for such tax year,
960 including extensions thereof. The method so elected by the
961 taxpayer is irrevocable unless the commissioner specifically
962 allows a change in the method.

963 2. For the purpose of computing income tax
964 for tax years beginning after December 31, 2022, expenditures for
965 business assets that are qualified property or qualified
966 improvement property shall be eligible for one hundred percent
967 (100%) bonus depreciation and may be deducted as an expense
968 incurred by the taxpayer during the tax year during which the
969 property is placed in service, notwithstanding any changes to
970 federal law related to cost recovery beginning on January 1, 2023,
971 or on any other date. A taxpayer may alternatively treat the
972 depreciation of such business assets in accordance with the
973 schedule provided in 26 USCS Section 168. A taxpayer may make an
974 election whether to take a bonus depreciation deduction for such
975 expenditures and/or to depreciate the expenditures in accordance
976 with 26 USCS Section 168. Such an election may be made for any
977 tax year if made not later than the time prescribed by law for
978 filing the return for such tax year, including extensions thereof.
979 The method so elected by the taxpayer is irrevocable unless the
980 commissioner specifically allows a change in the method.



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

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

991 a. "Qualified improvement property"
992 means and has the same definition as such term has in 26 USCS
993 Section 168(e)(6) as it existed on January 1, 2021, and shall
994 apply to property placed in service after December 31, 2022.

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

999 c. "Specified research or experimental
1000 expenditures" means and has the same definition as such term has
1001 in 26 USCS Section 174 as it existed on January 1, 2021.

1002 5. Nothing in this subparagraph (ii) shall be
1003 construed to nullify or otherwise alter the treatment of
1004 depreciation expenses for any tax year prior to 2023.



1005 6. The total of any method or combination of
1006 methods of depreciation used under this subparagraph (ii) cannot
1007 exceed one hundred percent (100%) of the cost of the subject
1008 property.

1009 (g) **Depletion.** In the case of mines, oil and gas
1010 wells, other natural deposits and timber, a reasonable allowance
1011 for depletion and for depreciation of improvements, based upon
1012 cost, including cost of development, not otherwise deducted, or
1013 fair market value as of March 16, 1912, if acquired prior to that
1014 date, such allowance to be made upon regulations prescribed by the
1015 commissioner, with the approval of the Governor.

1016 (h) **Contributions or gifts.** Except as otherwise
1017 provided in paragraph (p) of this subsection or subsection (3) (a)
1018 of this section for individuals, contributions or gifts made by
1019 corporations within the taxable year to corporations,
1020 organizations, associations or institutions, including Community
1021 Chest funds, foundations and trusts created solely and exclusively
1022 for religious, charitable, scientific or educational purposes, or
1023 for the prevention of cruelty to children or animals, no part of
1024 the net earnings of which inure to the benefit of any private
1025 stockholder or individual. This deduction shall be allowed in an
1026 amount not to exceed twenty percent (20%) of the net income. Such
1027 contributions or gifts shall be allowable as deductions only if
1028 verified under rules and regulations prescribed by the
1029 commissioner, with the approval of the Governor. Contributions



1030 made in any form other than cash shall be allowed as a deduction,
1031 subject to the limitations herein provided, in an amount equal to
1032 the actual market value of the contributions at the time the
1033 contribution is actually made and consummated.

1034 (i) **Reserve funds - insurance companies.** In the case
1035 of insurance companies the net additions required by law to be
1036 made within the taxable year to reserve funds when such reserve
1037 funds are maintained for the purpose of liquidating policies at
1038 maturity.

1039 (j) **Annuity income.** The sums, other than dividends,
1040 paid within the taxpayer year on policy or annuity contracts when
1041 such income has been included in gross income.

1042 (k) **Contributions to employee pension plans.**
1043 Contributions made by an employer to a plan or a trust forming
1044 part of a pension plan, stock bonus plan, disability or
1045 death-benefit plan, or profit-sharing plan of such employer for
1046 the exclusive benefit of some or all of his, their, or its
1047 employees, or their beneficiaries, shall be deductible from his,
1048 their, or its income only to the extent that, and for the taxable
1049 year in which, the contribution is deductible for federal income
1050 tax purposes under the Internal Revenue Code of 1986 and any other
1051 provisions of similar purport in the Internal Revenue Laws of the
1052 United States, and the rules, regulations, rulings and
1053 determinations promulgated thereunder, provided that:

1054 (i) The plan or trust be irrevocable.



1055 (ii) The plan or trust constitute a part of a
1056 pension plan, stock bonus plan, disability or death-benefit plan,
1057 or profit-sharing plan for the exclusive benefit of some or all of
1058 the employer's employees and/or officers, or their beneficiaries,
1059 for the purpose of distributing the corpus and income of the plan
1060 or trust to such employees and/or officers, or their
1061 beneficiaries.

1062 (iii) No part of the corpus or income of the plan
1063 or trust can be used for purposes other than for the exclusive
1064 benefit of employees and/or officers, or their beneficiaries.

1065 Contributions to all plans or to all trusts of real or
1066 personal property (or real and personal property combined) or to
1067 insured plans created under a retirement plan for which provision
1068 has been made under the laws of the United States of America,
1069 making such contributions deductible from income for federal
1070 income tax purposes, shall be deductible only to the same extent
1071 under the Income Tax Laws of the State of Mississippi.

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



1080 (15) taxable years following the taxable year of the loss
1081 beginning with any taxable year after December 31, 1991.

1082 For any taxable year ending after December 31, 1997, the
1083 period for net operating loss carrybacks and net operating loss
1084 carryovers shall be the same as those established by the Internal
1085 Revenue Code and the rules, regulations, rulings and
1086 determinations promulgated thereunder as in effect at the taxable
1087 year end or on December 31, 2000, whichever is earlier.

1088 A net operating loss for any taxable year ending after
1089 December 31, 2001, and taxable years thereafter, shall be a net
1090 operating loss carryback to each of the two (2) taxable years
1091 preceding the taxable year of the loss. If the net operating loss
1092 for any taxable year is not exhausted by carrybacks to the two (2)
1093 taxable years preceding the taxable year of the loss, then there
1094 shall be a net operating loss carryover to each of the twenty (20)
1095 taxable years following the taxable year of the loss beginning
1096 with any taxable year after the taxable year of the loss.

1097 The term "net operating loss," for the purposes of this
1098 paragraph, shall be the excess of the deductions allowed over the
1099 gross income; provided, however, the following deductions shall
1100 not be allowed in computing same:

1101 (i) No net operating loss deduction shall be
1102 allowed.

1103 (ii) No personal exemption deduction shall be
1104 allowed.



1105 (iii) Allowable deductions which are not
1106 attributable to taxpayer's trade or business shall be allowed only
1107 to the extent of the amount of gross income not derived from such
1108 trade or business.

1109 Any taxpayer entitled to a carryback period as provided by
1110 this paragraph may elect to relinquish the entire carryback period
1111 with respect to a net operating loss for any taxable year ending
1112 after December 31, 1991. The election shall be made in the manner
1113 prescribed by the Department of Revenue and shall be made by the
1114 due date, including extensions of time, for filing the taxpayer's
1115 return for the taxable year of the net operating loss for which
1116 the election is to be in effect. The election, once made for any
1117 taxable year, shall be irrevocable for that taxable year.

1118 (m) **Amortization of pollution or environmental control**
1119 **facilities.** Allowance of deduction. Every taxpayer, at his
1120 election, shall be entitled to a deduction for pollution or
1121 environmental control facilities to the same extent as that
1122 allowed under the Internal Revenue Code and the rules,
1123 regulations, rulings and determinations promulgated thereunder.

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



1130 otherwise deductible under Section 858 or 860, federal Internal
1131 Revenue Code of 1986, as amended. In addition:

1132 (i) A dividend distributed deduction shall only be
1133 allowed for dividends paid by a publicly traded REIT. A qualified
1134 REIT subsidiary shall be allowed a dividend distributed deduction
1135 if its owner is a publicly traded REIT.

1136 (ii) Income generated from real estate contributed
1137 or sold to a REIT by a shareholder or related party shall not give
1138 rise to a dividend distributed deduction, unless the shareholder
1139 or related party would have received the dividend distributed
1140 deduction under this chapter.

1141 (iii) A holding corporation receiving a dividend
1142 from a REIT shall not be allowed the deduction in Section
1143 27-7-15(4)(t).

1144 (iv) Any REIT not allowed the dividend distributed
1145 deduction in the federal Internal Revenue Code of 1986, as
1146 amended, shall not be allowed a dividend distributed deduction
1147 under this chapter.

1148 The commissioner is authorized to promulgate rules and
1149 regulations consistent with the provisions in Section 269 of the
1150 federal Internal Revenue Code of 1986, as amended, so as to
1151 prevent the evasion or avoidance of state income tax.

1152 (o) **Contributions to college savings trust fund**
1153 **accounts.** Contributions or payments to a Mississippi Affordable
1154 College Savings Program account are deductible as provided under



1155 Section 37-155-113. Payments made under a prepaid tuition
1156 contract entered into under the Mississippi Prepaid Affordable
1157 College Tuition Program are deductible as provided under Section
1158 37-155-17.

1159 (p) **Contributions of human pharmaceutical products.** To
1160 the extent that a "major supplier" as defined in Section
1161 27-13-13(2) (d) contributes human pharmaceutical products in excess
1162 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
1163 determined under Section 170 of the Internal Revenue Code, the
1164 charitable contribution limitation associated with those donations
1165 shall follow the federal limitation but cannot result in the
1166 Mississippi net income being reduced below zero.

1167 (q) **Contributions to ABLE trust fund accounts.**
1168 Contributions or payments to a Mississippi Achieving a Better Life
1169 Experience (ABLE) Program account are deductible as provided under
1170 Section 43-28-13.

1171 (2) **Restrictions on the deductibility of certain intangible
1172 expenses and interest expenses with a related member.**

1173 (a) As used in this subsection (2):

1174 (i) "Intangible expenses and costs" include:

1175 1. Expenses, losses and costs for, related
1176 to, or in connection directly or indirectly with the direct or
1177 indirect acquisition, use, maintenance or management, ownership,
1178 sale, exchange or any other disposition of intangible property to



1179 the extent such amounts are allowed as deductions or costs in
1180 determining taxable income under this chapter;

1181 2. Expenses or losses related to or incurred
1182 in connection directly or indirectly with factoring transactions
1183 or discounting transactions;

1184 3. Royalty, patent, technical and copyright
1185 fees;

1186 4. Licensing fees; and

1187 5. Other similar expenses and costs.

1188 (ii) "Intangible property" means patents, patent
1189 applications, trade names, trademarks, service marks, copyrights
1190 and similar types of intangible assets.

1191 (iii) "Interest expenses and cost" means amounts
1192 directly or indirectly allowed as deductions for purposes of
1193 determining taxable income under this chapter to the extent such
1194 interest expenses and costs are directly or indirectly for,
1195 related to, or in connection with the direct or indirect
1196 acquisition, maintenance, management, ownership, sale, exchange or
1197 disposition of intangible property.

1198 (iv) "Related member" means an entity or person
1199 that, with respect to the taxpayer during all or any portion of
1200 the taxable year, is a related entity, a component member as
1201 defined in the Internal Revenue Code, or is an entity or a person
1202 to or from whom there is attribution of stock ownership in
1203 accordance with Section 1563(e) of the Internal Revenue Code.



1204 (v) "Related entity" means:

1205 1. A stockholder who is an individual or a

1206 member of the stockholder's family, as defined in regulations

1207 prescribed by the commissioner, if the stockholder and the members

1208 of the stockholder's family own, directly, indirectly,

1209 beneficially or constructively, in the aggregate, at least fifty

1210 percent (50%) of the value of the taxpayer's outstanding stock;

1211 2. A stockholder, or a stockholder's

1212 partnership, limited liability company, estate, trust or

1213 corporation, if the stockholder and the stockholder's

1214 partnerships, limited liability companies, estates, trusts and

1215 corporations own, directly, indirectly, beneficially or

1216 constructively, in the aggregate, at least fifty percent (50%) of

1217 the value of the taxpayer's outstanding stock;

1218 3. A corporation, or a party related to the

1219 corporation in a manner that would require an attribution of stock

1220 from the corporation to the party or from the party to the

1221 corporation, if the taxpayer owns, directly, indirectly,

1222 beneficially or constructively, at least fifty percent (50%) of

1223 the value of the corporation's outstanding stock under regulation

1224 prescribed by the commissioner;

1225 4. Any entity or person which would be a

1226 related member under this section if the taxpayer were considered

1227 a corporation for purposes of this section.



1228 (b) In computing net income, a taxpayer shall add back
1229 otherwise deductible interest expenses and costs and intangible
1230 expenses and costs directly or indirectly paid, accrued to or
1231 incurred, in connection directly or indirectly with one or more
1232 direct or indirect transactions with one or more related members.

1233 (c) The adjustments required by this subsection shall
1234 not apply to such portion of interest expenses and costs and
1235 intangible expenses and costs that the taxpayer can establish
1236 meets one (1) of the following:

1237 (i) The related member directly or indirectly
1238 paid, accrued or incurred such portion to a person during the same
1239 income year who is not a related member; or

1240 (ii) The transaction giving rise to the interest
1241 expenses and costs or intangible expenses and costs between the
1242 taxpayer and related member was done primarily for a valid
1243 business purpose other than the avoidance of taxes, and the
1244 related member is not primarily engaged in the acquisition, use,
1245 maintenance or management, ownership, sale, exchange or any other
1246 disposition of intangible property.

1247 (d) Nothing in this subsection shall require a taxpayer
1248 to add to its net income more than once any amount of interest
1249 expenses and costs or intangible expenses and costs that the
1250 taxpayer pays, accrues or incurs to a related member.

1251 (e) The commissioner may prescribe such regulations as
1252 necessary or appropriate to carry out the purposes of this



1253 subsection, including, but not limited to, clarifying definitions
1254 of terms, rules of stock attribution, factoring and discount
1255 transactions.

1256 (3) **Individual nonbusiness deductions.**

1257 (a) The amount allowable for individual nonbusiness
1258 itemized deductions for federal income tax purposes where the
1259 individual is eligible to elect, for the taxable year, to itemize
1260 deductions on his federal return except the following:

1261 (i) The deduction for state income taxes paid or
1262 other taxes allowed for federal purposes in lieu of state income
1263 taxes paid;

1264 (ii) The deduction for gaming losses from gaming
1265 establishments;

1266 (iii) The deduction for taxes collected by
1267 licensed gaming establishments pursuant to Section 27-7-901;

1268 (iv) The deduction for taxes collected by gaming
1269 establishments pursuant to Section 27-7-903; and

1270 (v) The deduction for medical expenses for the
1271 provision of gender transition procedures as defined in Section
1272 41-141-3.

1273 (b) In lieu of the individual nonbusiness itemized
1274 deductions authorized in paragraph (a), for all purposes other
1275 than ordinary and necessary expenses paid or incurred during the
1276 taxable year in carrying on any trade or business, an optional
1277 standard deduction of:



1278 (i) Three Thousand Four Hundred Dollars
1279 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1280 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1281 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1282 in the case of married individuals filing a joint or combined
1283 return;

1284 (ii) One Thousand Seven Hundred Dollars
1285 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1286 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
1287 Three Hundred Dollars (\$2,300.00) for each calendar year
1288 thereafter in the case of married individuals filing separate
1289 returns;

1290 (iii) Three Thousand Four Hundred Dollars
1291 (\$3,400.00) in the case of a head of family; or

1292 (iv) Two Thousand Three Hundred Dollars
1293 (\$2,300.00) in the case of an individual who is not married.

1294 In the case of a husband and wife living together, having
1295 separate incomes, and filing combined returns, the standard
1296 deduction authorized may be divided in any manner they choose. In
1297 the case of separate returns by a husband and wife, the standard
1298 deduction shall not be allowed to either if the taxable income of
1299 one of the spouses is determined without regard to the standard
1300 deduction.

1301 (c) A nonresident individual shall be allowed the same
1302 individual nonbusiness deductions as are authorized for resident



1303 individuals in paragraph (a) or (b) of this subsection; however,
1304 the nonresident individual is entitled only to that proportion of
1305 the individual nonbusiness deductions as his net income from
1306 sources within the State of Mississippi bears to his total or
1307 entire net income from all sources.

1308 (4) Nothing in this section shall permit the same item to be
1309 deducted more than once, either in fact or in effect.

1310 (5) Notwithstanding any other provision in Title 27,
1311 Mississippi Code of 1972, there shall be allowed an income tax
1312 deduction for otherwise deductible expenses if:

1313 (a) The payment(s) for such deductible expenses are
1314 made with the grant or loan program of the Paycheck Protection
1315 Program as authorized under (i) the Coronavirus Aid, Relief, and
1316 Economic Security (CARES) Act and the Consolidated Appropriations
1317 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
1318 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
1319 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
1320 Venue Operators Grant Program and Restaurant Revitalization Fund
1321 authorized by the Economic Aid to Hard-Hit Small Businesses,
1322 Nonprofits, and Venues Act, and amended by the federal American
1323 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
1324 Stabilization Act; and

1325 (b) Such deductible expenses shall be allowed as
1326 deductions for federal income tax purposes.



1327 **SECTION 24.** Section 27-7-18, Mississippi Code of 1972, is
1328 brought forward as follows:

1329 27-7-18. (1) Alimony payments. In the case of a person
1330 described in Section 27-7-15(2) (e), there shall be allowed as a
1331 deduction from gross income amounts paid as periodic payments to
1332 the extent of such amounts as are includible in the gross income
1333 of the spouse as provided in Section 27-7-15(2) (e), payment of
1334 which is made within the person's taxable year.

1335 (2) Unreimbursed moving expenses incurred after December 31,
1336 1994, are deductible as an adjustment to gross income in
1337 accordance with provisions of the United States Internal Revenue
1338 Code, and rules, regulations and revenue procedures thereunder
1339 relating to moving expenses, not in direct conflict with the
1340 provisions of the Mississippi Income Tax Law.

1341 (3) Amounts paid after December 31, 1998, by a self-employed
1342 individual for insurance which constitute medical care for the
1343 taxpayer, his spouse and dependents, are deductible as an
1344 adjustment to gross income in accordance with provisions of the
1345 United States Internal Revenue Code, and rules, regulations and
1346 revenue procedures thereunder relating to such payments, not in
1347 direct conflict with the provisions of the Mississippi Income Tax
1348 Law.

1349 (4) Contributions or payments to a Mississippi Affordable
1350 College Savings (MACS) Program account are deductible from gross
1351 income as provided in Section 37-155-113. Payments made under a



1352 prepaid tuition contract entered into under the Mississippi
1353 Prepaid Affordable College Tuition Program are deductible as
1354 provided in Section 37-155-17.

1355 (5) (a) Unreimbursed travel expenses, lodging expenses and
1356 lost wages an individual incurred as a result of, and related to,
1357 the donation, while living, of one or more of his or her organs
1358 for human organ transplantation, are deductible from gross income.
1359 The deduction from gross income authorized by this subsection may
1360 be claimed for only once and may not exceed Ten Thousand Dollars
1361 (\$10,000.00).

1362 (b) As used in this subsection, "organ" means all or
1363 part of a liver, pancreas, kidney, intestine, lung or bone marrow.

1364 (6) In the case of a self-employed individual, there shall
1365 be allowed as a deduction from gross income an amount equal to:

1366 (a) Seventeen percent (17%) of the federal
1367 self-employment taxes imposed on such individual for taxable years
1368 ending in calendar year 2017;

1369 (b) Thirty-four percent (34%) of the federal
1370 self-employment taxes imposed on such individual for taxable years
1371 ending in calendar year 2018; and

1372 (c) Fifty percent (50%) of the federal self-employment
1373 taxes imposed on such individual for taxable years ending in
1374 calendar year 2019 and thereafter.



1375 (7) Contributions or payments to a Mississippi Achieving a
1376 Better Life Experience (ABLE) Program account are deductible from
1377 gross income as provided in Section 43-28-13.

1378 **SECTION 25.** Sections 20 and 21 of this act shall be codified
1379 as new sections in Chapter 7, Title 27, Mississippi Code of 1972,
1380 and Section 22 of this act shall be codified as a new section in
1381 Chapter 15, Title 27, Mississippi Code of 1972.

1382 **SECTION 26.** This act shall take effect and be in force from
1383 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, 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.

