

By: Representative Holland

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1221

1 AN ACT TO CODIFY NEW SECTION 41-73-70, MISSISSIPPI CODE OF
 2 1972, TO PROVIDE FOR THE CREATION OF THE RURAL HOSPITAL ASSISTANCE
 3 PROGRAM, WHICH PROVIDES FINANCIAL ASSISTANCE TO RURAL HOSPITALS IN
 4 FINANCIAL DISTRESS WITH FUNDS FROM THE HEALTH CARE EXPENDABLE
 5 FUND; TO AMEND SECTION 41-73-3, MISSISSIPPI CODE OF 1972, TO
 6 RECOGNIZE THE RURAL HOSPITAL ASSISTANCE PROGRAM AS A PUBLIC
 7 PURPOSE; TO AMEND SECTION 41-73-5, MISSISSIPPI CODE OF 1972, TO
 8 DEFINE "RURAL HOSPITAL IN FINANCIAL DISTRESS" AND "RURAL AREA"
 9 UNDER THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES AUTHORITY
 10 ACT; TO AMEND SECTION 41-73-27, MISSISSIPPI CODE OF 1972, TO
 11 PROVIDE THE AUTHORITY WITH THE POWER TO ADMINISTER THE RURAL
 12 HOSPITAL ASSISTANCE PROGRAM; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** The following shall be codified as Section
 15 41-73-70, Mississippi Code of 1972:

16 41-73-70. (1) Rural hospitals within the State of
 17 Mississippi provide a valuable service to the residents of the
 18 communities in which they are located. Many of Mississippi's
 19 rural hospitals are experiencing financial distress. It is in the
 20 public interest and is vital to the public welfare of the people
 21 of Mississippi, and it is declared to be the public purpose of
 22 this section to develop a rural hospital assistance program within
 23 the State of Mississippi with respect to rural hospitals in
 24 financial distress in order to assist those hospitals to continue
 25 operating and maintaining a certain level of health care in the
 26 communities they serve so they may provide residents in the state
 27 who live in rural areas access to effective and appropriate health
 28 care.

29 (2) There is established a statewide Rural Hospital
 30 Assistance Program to provide assistance to rural hospitals in
 31 financial distress.



32 (3) The Rural Hospital Assistance Program will be
33 administered by the authority created under this Chapter with all
34 its rights, duties and responsibilities set forth in this Chapter.

35 (4) The Rural Hospital Assistance Program shall, upon proof
36 delivered to the authority of a rural hospital that it is in
37 financial distress, provide funds to that rural hospital in
38 financial distress for the purposes of operating the hospital and
39 maintaining necessary health care services.

40 (5) In accordance with the purposes of this section, there
41 is established within the Health Care Expendable Fund, created
42 under Section 42-13-407, a Rural Hospital Assistance Account into
43 which shall be transferred from the Health Care Expendable Fund
44 the following sums:

45 (a) In fiscal year 2004, Two Million Five Hundred
46 Thousand Dollars (\$2,500,000.00);

47 (b) In fiscal year 2005, Two Million Seven Hundred
48 Fifty Thousand Dollars (\$2,750,000.00);

49 (c) In fiscal year 2006, Three Million Twenty-five
50 Thousand Dollars (\$3,025,000.00);

51 (d) In fiscal year 2007, Three Million Three Hundred
52 Twenty-seven Thousand Five Hundred Dollars (\$3,327,500.00);

53 (e) In fiscal year 2008 and each subsequent fiscal
54 year, a sum equal to five percent (5%) of the sum transferred from
55 the Health Care Trust Fund, created under Section 43-13-405, to
56 the Health Care Expendable Fund.

57 (6) All income from the investment of the funds in the Rural
58 Hospital Assistance Account shall be credited to the account of
59 the Rural Hospital Assistance Account. Any funds in the Rural
60 Hospital Assistance Account at the end of a fiscal year shall not
61 lapse into the State General Fund but shall remain in the Rural
62 Hospital Assistance Account.

63 **SECTION 2.** Section 41-73-3, Mississippi Code of 1972, is
64 amended as follows:



65 41-73-3. The Legislature hereby finds and declares that:

66 (1) Delivery of quality health care in Mississippi has in
67 recent years become increasingly dependent upon sophisticated
68 equipment and adequate, modern facilities at a time when the
69 acquisition and financing of such equipment and facilities by
70 health care providers has become increasingly expensive.

71 (2) It is necessary that Mississippi hospitals be able to
72 obtain the modern equipment and facilities needed to meet the
73 needs of their medical staffs and to improve the quality of
74 medical care provided to Mississippi citizens.

75 (3) The increased costs of acquiring and financing modern
76 equipment and facilities by Mississippi hospitals is necessarily
77 passed to the patients receiving medical care from the hospitals,
78 resulting in higher medical bills and increased health insurance
79 premiums.

80 (4) These increased costs discourage Mississippi citizens
81 from obtaining necessary medical care.

82 (5) The problems set forth above cannot be remedied solely
83 through the operation of private enterprise or efforts by
84 individual communities, but can be alleviated through the creation
85 of a public body corporate and politic, separate and apart from
86 the State of Mississippi, constituting a governmental
87 instrumentality, to be known as the Mississippi Hospital Equipment
88 and Facilities Authority, to encourage the investment of private
89 capital in Mississippi hospitals through the use of public
90 financing as provided in this act for the purpose of financing
91 hospital equipment and hospital facilities at interest rates lower
92 than those available in the conventional credit markets.

93 (6) Alleviating the conditions and problems set forth above
94 by the encouragement of private investment through a governmental
95 body is a public purpose and use for which public money provided
96 by the sale of revenue bonds may be borrowed, expended, advanced,
97 loaned and granted and is hereby so declared to be such public



98 purpose as a matter of express legislative determination. Such
99 activities shall not be conducted for profit.

100 (7) Hospitals located in rural areas and in areas within the
101 state that are largely populated by persons who are Medicaid
102 recipients or are uninsured or underinsured often experience
103 financial difficulties with respect to basic and necessary
104 operational requirements of continuing to provide a certain level
105 of health care services. These rural hospitals in financial
106 distress are often an individual's most immediate access to health
107 care and are often faced with having to scale back on the health
108 care services offered in order to continue to operate. The state
109 recognizes the importance of (a) allowing these rural hospitals to
110 continue operating and providing the health care services needed
111 in a community and (b) assisting them in their efforts to continue
112 to provide necessary health services. Alleviating the condition
113 and problem of rural hospitals in financial distress by providing
114 them grants from the Rural Hospital Assistance Account in the
115 Health Care Expendable Fund created by Section 41-73-70(5) is
116 declared to be a public purpose as a matter of express legislative
117 determination and an appropriate use of the funds of the Rural
118 Hospital Assistance Fund as set forth in this chapter.

119 **SECTION 3.** Section 41-73-5, Mississippi Code of 1972, is
120 amended as follows:

121 41-73-5. When used in this act, unless the context requires
122 a different definition, the following terms shall have the
123 following meanings:

124 (a) "Act" means the Mississippi Hospital Equipment and
125 Facilities Authority Act.

126 (b) "Authority" means the Mississippi Hospital
127 Equipment and Facilities Authority created by this act and any
128 successor to its functions.



129 (c) "Bonds" means bonds, notes or other evidences of
130 indebtedness of the authority issued pursuant to this act,
131 including refunding bonds.

132 (d) "Cost" as applied to hospital equipment means any
133 and all costs of such hospital equipment and, without limiting the
134 generality of the foregoing, shall include the following:

135 (i) All costs of the acquisition, repair,
136 restoration, reconditioning, refinancing or installation of any
137 such hospital equipment and all costs incident or related thereto;

138 (ii) The cost of any property interest in such
139 hospital equipment including an option to purchase or leasehold
140 interest;

141 (iii) The cost of architectural, engineering,
142 legal and related services; the cost of the preparation of plans,
143 specifications, studies, surveys and estimates of cost and of
144 revenue; and all other expenses necessary or incident to planning,
145 providing or determining the need for or the feasibility and
146 practicability of such hospital equipment; and the cost of
147 providing or establishing a reasonable reserve fund for the
148 payment of principal and interest on bonds;

149 (iv) The cost of financing charges, including
150 premiums or prepayment penalties, if any, and interest accrued
151 prior to the acquisition and installation or refinancing of such
152 hospital equipment and after such acquisition and installation or
153 refinancing and start-up costs related to hospital equipment;

154 (v) Any and all costs paid or incurred in
155 connection with the financing of such hospital equipment,
156 including out-of-pocket expenses, the cost of financing, legal,
157 accounting, financial advisory and consulting fees, expenses and
158 disbursements; the cost of any policy of insurance; the cost of
159 printing, engraving and reproduction services; and the cost of the
160 initial or acceptance fee of any trustee or paying agent;



161 (vi) All direct or indirect costs of the authority
162 incurred in connection with providing such hospital equipment,
163 including, without limitation, reasonable sums to reimburse the
164 authority for time spent by its agents or employees with respect
165 to providing such hospital equipment and the financing thereof;
166 and

167 (vii) Any and all costs paid or incurred for the
168 administration of any program for the purchase or lease of or the
169 making of loans for hospital equipment, by the authority and any
170 program for the sale or lease of or the making of loans for such
171 hospital equipment to any participating hospital institution.

172 (e) "Cost," as applied to hospital facilities, means
173 any and all costs of such hospital facilities and, without
174 limiting the generality of the foregoing, shall include the
175 following:

176 (i) All costs of the establishment, demolition,
177 site development of new and rehabilitated buildings,
178 rehabilitation, reconstruction repair, erection, building,
179 construction, remodeling, adding to and furnishing of any such
180 hospital facilities and all costs incident or related thereto;

181 (ii) The cost of acquiring any property interest
182 in such hospital facilities including the purchase thereof, the
183 cost of an option to purchase or the cost of any leasehold
184 interest;

185 (iii) The cost of architectural, engineering,
186 legal and related services; the cost of the preparation of plans,
187 specifications, studies, surveys and estimates of cost and of
188 revenue; all other expenses necessary or incident to planning,
189 providing or determining the need for or the feasibility and
190 practicability of such hospital facilities or the acquisition
191 thereof; and the cost of providing or establishing a reasonable
192 reserve fund for the payment of principal of and interest on
193 bonds;



194 (iv) The cost of financing charges, including
195 premiums or prepayment penalties, if any, and interest accrued
196 prior to the acquisition and completion or refinancing of such
197 hospital facilities and after such acquisition and completion or
198 refinancing and start-up costs related to hospital facilities;

199 (v) Any and all costs paid or incurred in
200 connection with the financing of such hospital facilities,
201 including out-of-pocket expenses, the cost of financing, legal,
202 accounting, financial advisory and consulting fees, expenses and
203 disbursement; the cost of any policy of insurance; the cost of
204 printing, engraving and reproduction services; and the cost of the
205 initial or acceptance fee of any trustee or paying agent;

206 (vi) All direct or indirect costs of the authority
207 incurred in connection with providing such hospital facilities,
208 including, without limitation, reasonable sums to reimburse the
209 authority for time spent by its agents or employees with respect
210 to providing such hospital facilities and the financing thereof;

211 (vii) Any and all costs paid or incurred for the
212 administration of any program for the purchase or lease of or the
213 making of loans for hospital facilities, by the authority and any
214 program for the sale or lease of or the making of loans for such
215 hospital facilities to any participating hospital institution; and

216 (viii) The cost of providing for the payment or
217 the making provision for the payment of, by the appropriate
218 escrowing of monies or securities, the principal of and interest
219 on which when due will be adequate to make such payment, any
220 indebtedness encumbering the revenues or property of a
221 participating hospital institution, whether such payment is to be
222 effected by redemption of such indebtedness prior to maturity or
223 not.

224 (f) "Hospital equipment" means any personal property
225 which is found and determined by the authority to be required or
226 necessary or helpful for medical care, research, training or



227 teaching, any one (1) or all, in hospital facilities located in
228 the state, irrespective of whether such property is in existence
229 at the time of, or is to be provided after the making of, such
230 finding. Provided further, that major medical equipment as
231 defined in Section 41-7-173(n), shall require a certificate of
232 need prior to the approval of the authority to contract with said
233 hospital.

234 (g) "Hospital facility" or "hospital facilities" means
235 buildings and structures of any and all types used or useful, in
236 the discretion of the authority, for providing any types of care
237 to the sick, wounded, infirmed, needy, mentally incompetent or
238 elderly and shall include, without limiting the generality of the
239 foregoing, out-patient clinics, laboratories, laundries, nurses',
240 doctors' or interns' residences, administration buildings, office
241 buildings, facilities for research directly involved with hospital
242 care, maintenance, storage or utility facilities, parking lots,
243 and garages and all necessary, useful, or related furnishings, and
244 appurtenances and all lands necessary or convenient as a site for
245 the foregoing.

246 (h) "Participating hospital institution" or "hospital
247 institution" means a public or private corporation, association,
248 foundation, trust, cooperative, agency, body politic, or other
249 person or organization which provides or operates or proposes to
250 provide or operate hospital facilities not for profit, and which,
251 pursuant to the provisions of this act, contracts with the
252 authority for the financing or refinancing of the lease or other
253 acquisition of hospital equipment or hospital facilities, or both.

254 (i) "Rural area" means an area within the State of
255 Mississippi that is located outside of a standard metropolitan
256 statistical area as designated by Medicare.

257 (j) "Rural hospital in financial distress" means any
258 hospital in the State of Mississippi:

259 (i) Located in a rural area;



260 (ii) That has an average daily census of less than
261 50;

262 (iii) For which at least seventy percent (70%) of
263 its revenues are attributable to patients entitled to Medicare
264 and/or Medicaid benefits and to self-pay patients; and

265 (iv) That can prove its financial distress by
266 demonstrating either (a) that its debt to equity ratio is greater
267 than two-to-one (2:1), (b) that the total value of its assets is
268 less than its total liabilities, or (c) that, for a period of two
269 (2) months, its monthly income is not sufficient to pay its
270 monthly expenses as they become due; this proof must be verified
271 by an independent auditor.

272 (k) "State" means the State of Mississippi.

273 The use of singular terms herein shall also include the
274 plural of such term and the use of a plural term herein shall also
275 include the singular of such term unless the context clearly
276 requires a different connotation.

277 **SECTION 4.** Section 41-73-27, Mississippi Code of 1972, is
278 amended as follows:

279 41-73-27. The authority is hereby granted all powers
280 necessary or appropriate to carry out and effectuate its public
281 and corporate purposes, including but not limited to the
282 following:

283 (a) To have perpetual succession as a body politic and
284 corporate and an independent instrumentality exercising essential
285 public functions;

286 (b) To adopt, amend and repeal bylaws, rules and
287 regulations, not inconsistent with this act, to regulate its
288 affairs and to carry into effect the powers and purposes of the
289 authority and conduct its business;

290 (c) To sue and be sued in its own name;

291 (d) To have an official seal and alter it at will;



292 (e) To maintain an office at such place or places
293 within the state as it may designate;

294 (f) To monitor on a continuing basis the need for
295 hospital equipment financing and hospital facilities financing at
296 interest rates which are consistent with the needs of hospital
297 institutions;

298 (g) To make and execute contracts and all other
299 instruments necessary or convenient for the performance of its
300 duties and the exercise of its powers and functions under this
301 act;

302 (h) To employ architects, engineers, attorneys,
303 inspectors, accountants and health care experts and financial
304 advisors, and such other advisors, consultants and agents as may
305 be necessary in its judgment, and to fix their compensation;

306 (i) To procure insurance against any loss in connection
307 with its property and other assets, in such amounts and from such
308 insurers as it may deem advisable, including the power to pay
309 premiums on any such insurance;

310 (j) To procure insurance or guarantees from any public
311 or private entities, including any department, agency or
312 instrumentality of the United States of America, to secure payment

313 (i) on a loan, lease or purchase payment owed by a participating
314 hospital institution to the authority and (ii) of any bonds issued
315 by the authority, including the power to pay premiums on any such
316 insurance or guarantee;

317 (k) To procure letters of credit from any national or
318 state banking association or other entity authorized to issue a
319 letter of credit to secure the payment of any bonds issued by the
320 authority or to secure the payment of any loan, lease or purchase
321 payment owed by a participating hospital institution to the
322 authority, including the power to pay the cost of obtaining such
323 letter of credit;



324 (1) To receive and accept from any source aid or
325 contributions of money, property, labor or other things of value
326 to be held, used and applied to carry out the purposes of this act
327 subject to the conditions upon which the grants or contributions
328 are made, including but not limited to gifts or grants from any
329 department, agency or instrumentality of the United States of
330 America for any purpose consistent with the provisions of this
331 act;

332 (m) To provide, or cause to be provided by a
333 participating hospital institution, by acquisition, lease,
334 fabrication, repair, restoration, reconditioning, refinancing or
335 installation, one or more hospital facilities located within the
336 state or items of hospital equipment to be located within a
337 hospital facility in the state;

338 (n) To lease as lessor any hospital facility or any
339 item of hospital equipment for such rentals and upon such terms
340 and conditions as the authority may deem advisable and as are not
341 in conflict with the provisions of this act;

342 (o) To sell for installment payments or otherwise, to
343 option or contract for such sale, and to convey all or any part of
344 any hospital facility or any item of hospital equipment for such
345 price and upon such terms and conditions as the authority may deem
346 advisable and as are not in conflict with the provisions of this
347 act;

348 (p) To make contracts and incur liabilities, borrow
349 money at such rates of interest as the authority may determine,
350 issue its bonds in accordance with the provisions of this act, and
351 secure any of its bonds or obligations by mortgage or pledge of
352 all or any of its property, franchises and income or as otherwise
353 provided in this act;

354 (q) To make secured or unsecured loans for the purpose
355 of providing temporary or permanent financing or refinancing for
356 the cost of any hospital facility or item of hospital equipment,



357 including the retiring of any outstanding obligations with respect
358 to such hospital facility or hospital equipment, and the
359 reimbursement for the cost of any hospital facility or hospital
360 equipment, purchased within two (2) years immediately preceding
361 the date of the bond issue, made or given by any participating
362 hospital institution for the cost of any hospital facility,
363 hospital equipment, and to charge and collect interest on such
364 loans for such loan payments and upon such terms and conditions as
365 the authority may deem advisable and as are not in conflict with
366 the provisions of this act;

367 (r) To invest and reinvest its funds and to take and
368 hold property as security for the investment of such funds as
369 provided in this act;

370 (s) To purchase, receive, lease (as lessee or lessor),
371 or otherwise acquire, own, hold, improve, use or otherwise deal in
372 and with, hospital facilities and equipment, or any interest
373 therein, wherever situated, as the purposes of the authority shall
374 require;

375 (t) To sell, convey, mortgage, pledge, assign, lease,
376 exchange, transfer and otherwise dispose of all or any part of its
377 property and assets;

378 (u) To the extent permitted under its contract with the
379 holders of bonds of the authority, consent to any modification
380 with respect to the rate of interest, time and payment of any
381 installment of principal or interest, or any other term of any
382 contract, loan, loan note, loan note commitment, contract, lease
383 or agreement of any kind to which the authority is a party; * * *

384 (v) To assist participating hospital institutions to
385 obtain funds for any purpose by utilizing the value of the
386 receivables of such participating hospital institutions through
387 the making of loans secured by such receivables, by purchasing
388 such receivables, by utilizing such receivables to secure



389 obligations of the authority, or through any combination of the
390 foregoing; and

391 (w) To administer the Rural Hospital Assistance Program
392 established under Section 41-73-70.

393 **SECTION 5.** This act shall take effect and be in force from
394 and after July 1, 2003.

