

By: Representative Holland

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1437

1 AN ACT TO CODIFY NEW SECTION 41-73-70, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE FOR THE CREATION OF THE ESSENTIAL SERVICE  
 3 PROVIDER ASSISTANCE PROGRAM, WHICH PROVIDES FINANCIAL ASSISTANCE  
 4 TO RURAL ESSENTIAL SERVICE PROVIDERS WITH FUNDS FROM THE HEALTH  
 5 CARE EXPENDABLE FUND; TO AMEND SECTION 41-73-3, MISSISSIPPI CODE  
 6 OF 1972, TO RECOGNIZE THE ESSENTIAL SERVICE PROVIDER ASSISTANCE  
 7 PROGRAM AS A PUBLIC PURPOSE; TO AMEND SECTION 41-73-5, MISSISSIPPI  
 8 CODE OF 1972, TO DEFINE "ESSENTIAL SERVICE HOSPITAL," "ESSENTIAL  
 9 SERVICE PHYSICIAN," "ESSENTIAL SERVICE PROVIDER" AND "RURAL AREA"  
 10 UNDER THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES AUTHORITY  
 11 ACT; TO AMEND SECTION 41-73-17, MISSISSIPPI CODE OF 1972, TO  
 12 REVISE HOW THE AUTHORITY MAY CLASSIFY COSTS FOR ADMINISTRATIVE  
 13 FUNCTIONS AND RESPONSIBILITIES; TO AMEND SECTION 41-73-27,  
 14 MISSISSIPPI CODE OF 1972, TO PROVIDE THE AUTHORITY WITH THE POWER  
 15 TO ADMINISTER THE ESSENTIAL SERVICE PROVIDER ASSISTANCE PROGRAM;  
 16 AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** The following shall be codified as Section  
 19 41-73-70, Mississippi Code of 1972:

20 41-73-70. (1) Essential service providers within the State  
 21 of Mississippi provide a valuable service to the residents of the  
 22 communities in which they are located. Many of Mississippi's  
 23 essential service hospitals are currently located within buildings  
 24 and structures that are in great need of renovation and operate  
 25 with equipment and technology that are out of date, and many of  
 26 Mississippi's essential service physicians operate with equipment  
 27 and technology that are out of date. It is in the public interest  
 28 and is vital to the public welfare of the people of Mississippi,  
 29 and it is declared to be the public purpose of this section to  
 30 develop an essential service provider assistance program within  
 31 the State of Mississippi with respect to essential service  
 32 providers to assist in the maintenance and renovation of the  
 33 existing facilities of essential service hospitals and the  
 34 acquisition of modern equipment and upgrade of technology of



35 essential service providers in order to provide residents in the  
36 state who live in rural areas access to effective and appropriate  
37 health care.

38 (2) There is established a statewide Essential Service  
39 Provider Assistance Program to provide assistance to (a) essential  
40 service hospitals in need of renovated facilities, new equipment  
41 and upgraded technology and (b) essential service physicians in  
42 need of new equipment and upgraded technology.

43 (3) The Essential Service Provider Assistance Program shall,  
44 upon appropriate request by an essential service hospital to the  
45 authority, provide funds to essential service hospitals for the  
46 purposes of maintenance and renovation of essential service  
47 hospital facilities and acquisition of essential service hospital  
48 equipment and upgrade of technology.

49 (4) The Essential Service Provider Assistance Program shall,  
50 upon appropriate request by an essential service physician to the  
51 authority, provide funds to essential service physicians for the  
52 purpose of acquisition of essential service physician equipment  
53 and upgrade of technology.

54 (5) In accordance with the purposes of this section, there  
55 is established within the Health Care Expendable Fund, created  
56 under Section 43-13-407, an Essential Service Provider Assistance  
57 Account into which shall be transferred from the Health Care  
58 Expendable Fund the following sums:

59 (a) In fiscal year 2003, Two Million Five Hundred  
60 Thousand Dollars (\$2,500,000.00);

61 (b) In fiscal year 2004, Two Million Seven Hundred  
62 Fifty Thousand Dollars (\$2,750,000.00);

63 (c) In fiscal year 2005, Three Million Twenty-five  
64 Thousand Dollars (\$3,025,000.00);

65 (d) In fiscal year 2006, Three Million Three Hundred  
66 Twenty-seven Thousand Five Hundred Dollars (\$3,327,500.00);



67           (e) In fiscal year 2007 and each subsequent fiscal  
68 year, a sum equal to five percent (5%) of the sum transferred from  
69 the Health Care Trust Fund, created under Section 43-13-405, to  
70 the Health Care Expendable Fund.

71           (6) All income from the investment of the funds in the  
72 Essential Service Provider Assistance Account shall be credited to  
73 the account of the Essential Service Provider Assistance Account.  
74 Any funds in the Essential Service Provider Assistance Account at  
75 the end of a fiscal year shall not lapse into the State General  
76 Fund but shall remain in the Essential Service Provider Assistance  
77 Account.

78           (7) The Essential Service Provider Assistance Program will  
79 be administered by the authority created under this chapter with  
80 all its right, duties and responsibilities set forth in this  
81 chapter.

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

84           41-73-3. The Legislature hereby finds and declares that:

85           (1) Delivery of quality health care in Mississippi has in  
86 recent years become increasingly dependent upon sophisticated  
87 equipment and adequate, modern facilities at a time when the  
88 acquisition and financing of such equipment and facilities by  
89 health care providers has become increasingly expensive.

90           (2) It is necessary that Mississippi hospitals be able to  
91 obtain the modern equipment and facilities needed to meet the  
92 needs of their medical staffs and to improve the quality of  
93 medical care provided to Mississippi citizens.

94           (3) The increased costs of acquiring and financing modern  
95 equipment and facilities by Mississippi hospitals is necessarily  
96 passed to the patients receiving medical care from the hospitals,  
97 resulting in higher medical bills and increased health insurance  
98 premiums.



99           (4) These increased costs discourage Mississippi citizens  
100 from obtaining necessary medical care.

101           (5) The problems set forth above cannot be remedied solely  
102 through the operation of private enterprise or efforts by  
103 individual communities, but can be alleviated through the creation  
104 of a public body corporate and politic, separate and apart from  
105 the State of Mississippi, constituting a governmental  
106 instrumentality, to be known as the Mississippi Hospital Equipment  
107 and Facilities Authority, to encourage the investment of private  
108 capital in Mississippi hospitals through the use of public  
109 financing as provided in this act for the purpose of financing  
110 hospital equipment and hospital facilities at interest rates lower  
111 than those available in the conventional credit markets.

112           (6) Alleviating the conditions and problems set forth above  
113 by the encouragement of private investment through a governmental  
114 body is a public purpose and use for which public money provided  
115 by the sale of revenue bonds may be borrowed, expended, advanced,  
116 loaned and granted and is hereby so declared to be such public  
117 purpose as a matter of express legislative determination. Such  
118 activities shall not be conducted for profit.

119           (7) Because essential service providers are located in rural  
120 areas and in areas within the state that are largely populated by  
121 persons who are Medicaid recipients or are uninsured or  
122 underinsured, they are often unable to financially afford to  
123 acquire and finance modern equipment and facilities or to  
124 accomplish necessary renovations of their existing facilities even  
125 at interest rates lower than those available in the conventional  
126 credit markets. Alleviating the condition and problem of the  
127 essential service provider set forth in this subsection (7) by  
128 providing essential service providers grants from the Essential  
129 Service Provider Assistance Account in the Health Care Expendable  
130 Fund created in Section 41-73-70(5) is declared to be a public  
131 purpose as a matter of express legislative determination and an



132 appropriate use of the funds of the Health Care Expendable Fund as  
133 set forth in Section 43-13-407(5). Those activities shall not be  
134 conducted for profit.

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

137 41-73-5. When used in this act, unless the context requires  
138 a different definition, the following terms shall have the  
139 following meanings:

140 (a) "Act" means the Mississippi Hospital Equipment and  
141 Facilities Authority Act.

142 (b) "Authority" means the Mississippi Hospital  
143 Equipment and Facilities Authority created by this act and any  
144 successor to its functions.

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

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

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

154 (ii) The cost of any property interest in such  
155 hospital equipment including an option to purchase or leasehold  
156 interest;

157 (iii) The cost of architectural, engineering,  
158 legal and related services; the cost of the preparation of plans,  
159 specifications, studies, surveys and estimates of cost and of  
160 revenue; and all other expenses necessary or incident to planning,  
161 providing or determining the need for or the feasibility and  
162 practicability of such hospital equipment; and the cost of  
163 providing or establishing a reasonable reserve fund for the  
164 payment of principal and interest on bonds;



165 (iv) The cost of financing charges, including  
166 premiums or prepayment penalties, if any, and interest accrued  
167 prior to the acquisition and installation or refinancing of such  
168 hospital equipment and after such acquisition and installation or  
169 refinancing and start-up costs related to hospital equipment;

170 (v) Any and all costs paid or incurred in  
171 connection with the financing of such hospital equipment,  
172 including out-of-pocket expenses, the cost of financing, legal,  
173 accounting, financial advisory and consulting fees, expenses and  
174 disbursements; the cost of any policy of insurance; the cost of  
175 printing, engraving and reproduction services; and the cost of the  
176 initial or acceptance fee of any trustee or paying agent;

177 (vi) All direct or indirect costs of the authority  
178 incurred in connection with providing such hospital equipment,  
179 including, without limitation, reasonable sums to reimburse the  
180 authority for time spent by its agents or employees with respect  
181 to providing such hospital equipment and the financing thereof;  
182 and

183 (vii) Any and all costs paid or incurred for the  
184 administration of any program for the purchase or lease of or the  
185 making of loans for hospital equipment, by the authority and any  
186 program for the sale or lease of or the making of loans for such  
187 hospital equipment to any participating hospital institution.

188 (e) "Cost," as applied to hospital facilities, means  
189 any and all costs of such hospital facilities and, without  
190 limiting the generality of the foregoing, shall include the  
191 following:

192 (i) All costs of the establishment, demolition,  
193 site development of new and rehabilitated buildings,  
194 rehabilitation, reconstruction repair, erection, building,  
195 construction, remodeling, adding to and furnishing of any such  
196 hospital facilities and all costs incident or related thereto;



197                   (ii) The cost of acquiring any property interest  
198 in such hospital facilities including the purchase thereof, the  
199 cost of an option to purchase or the cost of any leasehold  
200 interest;

201                   (iii) The cost of architectural, engineering,  
202 legal and related services; the cost of the preparation of plans,  
203 specifications, studies, surveys and estimates of cost and of  
204 revenue; all other expenses necessary or incident to planning,  
205 providing or determining the need for or the feasibility and  
206 practicability of such hospital facilities or the acquisition  
207 thereof; and the cost of providing or establishing a reasonable  
208 reserve fund for the payment of principal of and interest on  
209 bonds;

210                   (iv) The cost of financing charges, including  
211 premiums or prepayment penalties, if any, and interest accrued  
212 prior to the acquisition and completion or refinancing of such  
213 hospital facilities and after such acquisition and completion or  
214 refinancing and start-up costs related to hospital facilities;

215                   (v) Any and all costs paid or incurred in  
216 connection with the financing of such hospital facilities,  
217 including out-of-pocket expenses, the cost of financing, legal,  
218 accounting, financial advisory and consulting fees, expenses and  
219 disbursement; the cost of any policy of insurance; the cost of  
220 printing, engraving and reproduction services; and the cost of the  
221 initial or acceptance fee of any trustee or paying agent;

222                   (vi) All direct or indirect costs of the authority  
223 incurred in connection with providing such hospital facilities,  
224 including, without limitation, reasonable sums to reimburse the  
225 authority for time spent by its agents or employees with respect  
226 to providing such hospital facilities and the financing thereof;

227                   (vii) Any and all costs paid or incurred for the  
228 administration of any program for the purchase or lease of or the  
229 making of loans for hospital facilities, by the authority and any



230 program for the sale or lease of or the making of loans for such  
231 hospital facilities to any participating hospital institution; and

232 (viii) The cost of providing for the payment or  
233 the making provision for the payment of, by the appropriate  
234 escrowing of monies or securities, the principal of and interest  
235 on which when due will be adequate to make such payment, any  
236 indebtedness encumbering the revenues or property of a  
237 participating hospital institution, whether such payment is to be  
238 effected by redemption of such indebtedness prior to maturity or  
239 not.

240 (f) "Essential service hospital" means any hospital in  
241 the State of Mississippi:

242 (i) Located in a rural area;

243 (ii) That has an average daily census of less than  
244 fifty (50);

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

248 (iv) That provides an essential service to a local  
249 population by being the only source of emergency or primary  
250 in-patient acute health care in the community in which it is  
251 located.

252 (g) "Essential service physician" means any physician  
253 practicing in the State of Mississippi:

254 (i) Who holds a valid and unrestricted license to  
255 practice medicine in the State of Mississippi and is practicing  
256 medicine on a full-time basis in the State of Mississippi;

257 (ii) Who is conducting at least seventy percent  
258 (70%) of his or her medical practice within five (5) miles of an  
259 essential service hospital; and

260 (iii) For whom at least seventy percent (70%) of  
261 his or her revenues derived from his or her medical practice is





262 attributable to patients entitled to Medicare and/or Medicaid  
263 benefits and to self pay patients.

264 (h) "Essential service provider" means an essential  
265 service hospital or an essential service physician.

266 (i) "Hospital equipment" means any personal property  
267 which is found and determined by the authority to be required or  
268 necessary or helpful for medical care, research, training or  
269 teaching, any one (1) or all, in hospital facilities located in  
270 the state, irrespective of whether such property is in existence  
271 at the time of, or is to be provided after the making of, such  
272 finding. Provided further, that major medical equipment as  
273 defined in Section 41-7-173(n), shall require a certificate of  
274 need prior to the approval of the authority to contract with said  
275 hospital.

276 (j) "Hospital facility" or "hospital facilities" means  
277 buildings and structures of any and all types used or useful, in  
278 the discretion of the authority, for providing any types of care  
279 to the sick, wounded, infirmed, needy, mentally incompetent or  
280 elderly and shall include, without limiting the generality of the  
281 foregoing, out-patient clinics, laboratories, laundries, nurses',  
282 doctors' or interns' residences, administration buildings, office  
283 buildings, facilities for research directly involved with hospital  
284 care, maintenance, storage or utility facilities, parking lots,  
285 and garages and all necessary, useful, or related furnishings, and  
286 appurtenances and all lands necessary or convenient as a site for  
287 the foregoing.

288 (k) "Participating hospital institution" or "hospital  
289 institution" means a public or private corporation, association,  
290 foundation, trust, cooperative, agency, body politic, or other  
291 person or organization which provides or operates or proposes to  
292 provide or operate hospital facilities not for profit, and which,  
293 pursuant to the provisions of this act, contracts with the



294 authority for the financing or refinancing of the lease or other  
295 acquisition of hospital equipment or hospital facilities, or both.

296 (l) "Rural area" shall means an area with the State of  
297 Mississippi that is located outside of a standard metropolitan  
298 statistical area as designated by Medicare.

299 (m) "State" means the State of Mississippi.

300 The use of singular terms herein shall also include the  
301 plural of such term and the use of a plural term herein shall also  
302 include the singular of such term unless the context clearly  
303 requires a different connotation.

304 **SECTION 4.** Section 41-73-17, Mississippi Code of 1972, is  
305 amended as follows:

306 41-73-17. The members of the authority may appoint an  
307 executive director and/or a secretary who shall be employees of  
308 the authority, but not members thereof, and who shall serve at the  
309 pleasure of the members and receive such compensation as shall be  
310 fixed by the members. The executive director, if appointed, shall  
311 attend the meetings of the members of the authority and shall  
312 administer, manage and direct the affairs and activities of the  
313 authority in accordance with the policies and under the control  
314 and direction of the members. The executive director shall  
315 approve all accounts for salaries, allowable expenses of the  
316 authority or of any employee or consultant thereof, and expenses  
317 incidental to the operation of the authority. He shall perform  
318 such other duties as may be directed by the members in carrying  
319 out the purposes of this chapter. The practices and procedures  
320 regarding administrative functions and responsibilities of the  
321 authority shall be subject to the approval and review of the  
322 Director of the State Bond Advisory Division of the Governor's  
323 office. In lieu of or in addition to the appointment of an  
324 executive director, the authority may contract with the State Bond  
325 Advisory Division of the Governor's office to carry out in whole  
326 or in part the administrative functions and responsibilities of



327 the authority, but may only pay the actual expenses incurred by  
328 such division in performing such functions and responsibilities.  
329 The expenses incurred by the authority in contracting for such  
330 administrative functions and responsibilities shall be paid by the  
331 authority as a qualified cost pursuant to Section 41-73-5(d)(vii)  
332 or 41-73-5(e)(vii).

333 The secretary shall attend the meetings of the members of the  
334 authority, shall keep a record of the proceedings of the  
335 authority, and shall maintain and be custodian of all books,  
336 documents and papers filed with the authority, the minute book or  
337 journal of the authority, and its official seal. He may cause  
338 copies to be made of all minutes and other records and documents  
339 of the authority and may give certificates under seal of the  
340 authority to the effect that such copies are true copies, and all  
341 persons dealing with the authority may rely upon such  
342 certificates. If an executive director and/or secretary are not  
343 appointed, the members of the authority may designate from among  
344 themselves or the authority's employees the person or persons  
345 responsible for carrying out the duties set out in this section.

346 **SECTION 5.** Section 41-73-27, Mississippi Code of 1972, is  
347 amended as follows:

348 41-73-27. The authority is hereby granted all powers  
349 necessary or appropriate to carry out and effectuate its public  
350 and corporate purposes, including but not limited to the  
351 following:

352 (a) To have perpetual succession as a body politic and  
353 corporate and an independent instrumentality exercising essential  
354 public functions;

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

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



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

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

363 (f) To monitor on a continuing basis the need for  
364 hospital equipment financing and hospital facilities financing at  
365 interest rates which are consistent with the needs of hospital  
366 institutions;

367 (g) To make and execute contracts and all other  
368 instruments necessary or convenient for the performance of its  
369 duties and the exercise of its powers and functions under this  
370 act;

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

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

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

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

386 (k) To procure letters of credit from any national or  
387 state banking association or other entity authorized to issue a  
388 letter of credit to secure the payment of any bonds issued by the  
389 authority or to secure the payment of any loan, lease or purchase  
390 payment owed by a participating hospital institution to the  
391 authority, including the power to pay the cost of obtaining such  
392 letter of credit;



393           (1) To receive and accept from any source aid or  
394 contributions of money, property, labor or other things of value  
395 to be held, used and applied to carry out the purposes of this act  
396 subject to the conditions upon which the grants or contributions  
397 are made, including but not limited to gifts or grants from any  
398 department, agency or instrumentality of the United States of  
399 America for any purpose consistent with the provisions of this  
400 act;

401           (m) To provide, or cause to be provided by a  
402 participating hospital institution, by acquisition, lease,  
403 fabrication, repair, restoration, reconditioning, refinancing or  
404 installation, one or more hospital facilities located within the  
405 state or items of hospital equipment to be located within a  
406 hospital facility in the state;

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

411           (o) To sell for installment payments or otherwise, to  
412 option or contract for such sale, and to convey all or any part of  
413 any hospital facility or any item of hospital equipment for such  
414 price and upon such terms and conditions as the authority may deem  
415 advisable and as are not in conflict with the provisions of this  
416 act;

417           (p) To make contracts and incur liabilities, borrow  
418 money at such rates of interest as the authority may determine,  
419 issue its bonds in accordance with the provisions of this act, and  
420 secure any of its bonds or obligations by mortgage or pledge of  
421 all or any of its property, franchises and income or as otherwise  
422 provided in this act;

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



426 including the retiring of any outstanding obligations with respect  
427 to such hospital facility or hospital equipment, and the  
428 reimbursement for the cost of any hospital facility or hospital  
429 equipment, purchased within two (2) years immediately preceding  
430 the date of the bond issue, made or given by any participating  
431 hospital institution for the cost of any hospital facility,  
432 hospital equipment, and to charge and collect interest on such  
433 loans for such loan payments and upon such terms and conditions as  
434 the authority may deem advisable and as are not in conflict with  
435 the provisions of this act;

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

439           (s) To purchase, receive, lease (as lessee or lessor),  
440 or otherwise acquire, own, hold, improve, use or otherwise deal in  
441 and with, hospital facilities and equipment, or any interest  
442 therein, wherever situated, as the purposes of the authority shall  
443 require;

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

447           (u) To the extent permitted under its contract with the  
448 holders of bonds of the authority, consent to any modification  
449 with respect to the rate of interest, time and payment of any  
450 installment of principal or interest, or any other term of any  
451 contract, loan, loan note, loan note commitment, contract, lease  
452 or agreement of any kind to which the authority is a party; \* \* \*

453           (v) To assist participating hospital institutions to  
454 obtain funds for any purpose by utilizing the value of the  
455 receivables of such participating hospital institutions through  
456 the making of loans secured by such receivables, by purchasing  
457 such receivables, by utilizing such receivables to secure



458 obligations of the authority, or through any combination of the  
459 foregoing; and

460 (w) To administer the Essential Service Provider  
461 Assistance Program established under Section 41-73-70.

462 **SECTION 6.** This act shall take effect and be in force from  
463 and after July 1, 2003.

