

By: Senator(s) Huggins

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2368

1 AN ACT TO ESTABLISH A RURAL HOSPITAL ASSISTANCE PROGRAM TO BE  
 2 ADMINISTERED BY THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES  
 3 AUTHORITY AND FUNDED FROM TOBACCO LITIGATION EXPENDABLE FUNDS; TO  
 4 AMEND SECTIONS 41-73-3 AND 41-73-5, MISSISSIPPI CODE OF 1972, TO  
 5 DEFINE A "RURAL HOSPITAL IN FINANCIAL DISTRESS," "RURAL AREA" AND  
 6 OTHER DEFINITIONS; TO CODIFY SECTION 41-73-70, MISSISSIPPI CODE OF  
 7 1972, AND TO AMEND SECTION 41-73-17 AND 41-73-27, MISSISSIPPI CODE  
 8 OF 1972, TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF THE  
 9 RURAL HOSPITAL ASSISTANCE PROGRAM, AND TO CREATE THE RURAL  
 10 HOSPITAL ASSISTANCE ACCOUNT FOR ITS OPERATION INTO WHICH FUNDS  
 11 SHALL BE TRANSFERRED FROM THE HEALTH CARE EXPENDABLE FUND; AND FOR  
 12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 41-73-3, Mississippi Code of 1972, is  
 15 amended as follows:

16 41-73-3. The Legislature hereby finds and declares that:

17 (1) Delivery of quality health care in Mississippi has  
 18 in recent years become increasingly dependent upon sophisticated  
 19 equipment and adequate, modern facilities at a time when the  
 20 acquisition and financing of such equipment and facilities by  
 21 health care providers has become increasingly expensive.

22 (2) It is necessary that Mississippi hospitals be able  
 23 to obtain the modern equipment and facilities needed to meet the  
 24 needs of their medical staffs and to improve the quality of  
 25 medical care provided to Mississippi citizens.

26 (3) The increased costs of acquiring and financing  
 27 modern equipment and facilities by Mississippi hospitals is  
 28 necessarily passed to the patients receiving medical care from the  
 29 hospitals, resulting in higher medical bills and increased health  
 30 insurance premiums.

31 (4) These increased costs discourage Mississippi  
 32 citizens from obtaining necessary medical care.



33           (5) The problems set forth above cannot be remedied  
34 solely through the operation of private enterprise or efforts by  
35 individual communities, but can be alleviated through the creation  
36 of a public body corporate and politic, separate and apart from  
37 the State of Mississippi, constituting a governmental  
38 instrumentality, to be known as the Mississippi Hospital Equipment  
39 and Facilities Authority, to encourage the investment of private  
40 capital in Mississippi hospitals through the use of public  
41 financing as provided in this act for the purpose of financing  
42 hospital equipment and hospital facilities at interest rates lower  
43 than those available in the conventional credit markets.

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

51           (7) Hospitals located in rural areas and in areas  
52 within the state that are largely populated by persons who are  
53 Medicaid recipients or are uninsured or underinsured often  
54 experience financial difficulties with respect to basic and  
55 necessary operational requirements of continuing to provide a  
56 certain level of health care services. These rural hospitals in  
57 financial distress are often an individual's most immediate access  
58 to health care and are often faced with having to scale back on  
59 the health care services offered in order to continue to operate.  
60 The state recognizes the importance of (a) allowing these rural  
61 hospitals to continue operating and providing the health care  
62 services needed in a community, and (b) assisting them in their  
63 efforts to continue to provide necessary health services.  
64 Alleviating the condition and problem of rural hospitals in  
65 financial distress by providing them grants from the Health Care



66 Expendable Fund created by Section 43-13-407 is hereby declared to  
67 be a public purpose as a matter of express legislative  
68 determination and an appropriate use of the funds of the Rural  
69 Hospital Assistance Fund as set forth in this chapter.

70 **SECTION 2.** Section 41-73-5, Mississippi Code of 1972, is  
71 amended as follows:

72 41-73-5. When used in this act, unless the context requires  
73 a different definition, the following terms shall have the  
74 following meanings:

75 (a) "Act" means the Mississippi Hospital Equipment and  
76 Facilities Authority Act.

77 (b) "Authority" means the Mississippi Hospital  
78 Equipment and Facilities Authority created by this act and any  
79 successor to its functions.

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

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

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

89 (ii) The cost of any property interest in such  
90 hospital equipment including an option to purchase or leasehold  
91 interest;

92 (iii) The cost of architectural, engineering,  
93 legal and related services; the cost of the preparation of plans,  
94 specifications, studies, surveys and estimates of cost and of  
95 revenue; and all other expenses necessary or incident to planning,  
96 providing or determining the need for or the feasibility and  
97 practicability of such hospital equipment; and the cost of



98 providing or establishing a reasonable reserve fund for the  
99 payment of principal and interest on bonds;

100 (iv) The cost of financing charges, including  
101 premiums or prepayment penalties, if any, and interest accrued  
102 prior to the acquisition and installation or refinancing of such  
103 hospital equipment and after such acquisition and installation or  
104 refinancing and start-up costs related to hospital equipment;

105 (v) Any and all costs paid or incurred in  
106 connection with the financing of such hospital equipment,  
107 including out-of-pocket expenses, the cost of financing, legal,  
108 accounting, financial advisory and consulting fees, expenses and  
109 disbursements; the cost of any policy of insurance; the cost of  
110 printing, engraving and reproduction services; and the cost of the  
111 initial or acceptance fee of any trustee or paying agent;

112 (vi) All direct or indirect costs of the authority  
113 incurred in connection with providing such hospital equipment,  
114 including, without limitation, reasonable sums to reimburse the  
115 authority for time spent by its agents or employees with respect  
116 to providing such hospital equipment and the financing thereof;  
117 and

118 (vii) Any and all costs paid or incurred for the  
119 administration of any program for the purchase or lease of or the  
120 making of loans for hospital equipment, by the authority and any  
121 program for the sale or lease of or the making of loans for such  
122 hospital equipment to any participating hospital institution.

123 (e) "Cost," as applied to hospital facilities, means  
124 any and all costs of such hospital facilities and, without  
125 limiting the generality of the foregoing, shall include the  
126 following:

127 (i) All costs of the establishment, demolition,  
128 site development of new and rehabilitated buildings,  
129 rehabilitation, reconstruction repair, erection, building,



130 construction, remodeling, adding to and furnishing of any such  
131 hospital facilities and all costs incident or related thereto;

132 (ii) The cost of acquiring any property interest  
133 in such hospital facilities including the purchase thereof, the  
134 cost of an option to purchase or the cost of any leasehold  
135 interest;

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

145 (iv) The cost of financing charges, including  
146 premiums or prepayment penalties, if any, and interest accrued  
147 prior to the acquisition and completion or refinancing of such  
148 hospital facilities and after such acquisition and completion or  
149 refinancing and start-up costs related to hospital facilities;

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

157 (vi) All direct or indirect costs of the authority  
158 incurred in connection with providing such hospital facilities,  
159 including, without limitation, reasonable sums to reimburse the  
160 authority for time spent by its agents or employees with respect  
161 to providing such hospital facilities and the financing thereof;



162                   (vii) Any and all costs paid or incurred for the  
163 administration of any program for the purchase or lease of or the  
164 making of loans for hospital facilities, by the authority and any  
165 program for the sale or lease of or the making of loans for such  
166 hospital facilities to any participating hospital institution; and

167                   (viii) The cost of providing for the payment or  
168 the making provision for the payment of, by the appropriate  
169 escrowing of monies or securities, the principal of and interest  
170 on which when due will be adequate to make such payment, any  
171 indebtedness encumbering the revenues or property of a  
172 participating hospital institution, whether such payment is to be  
173 effected by redemption of such indebtedness prior to maturity or  
174 not.

175                   (f) "Hospital equipment" means any personal property  
176 which is found and determined by the authority to be required or  
177 necessary or helpful for medical care, research, training or  
178 teaching, any one (1) or all, in hospital facilities located in  
179 the state, irrespective of whether such property is in existence  
180 at the time of, or is to be provided after the making of, such  
181 finding. Provided further, that major medical equipment as  
182 defined in Section 41-7-173(n), shall require a certificate of  
183 need prior to the approval of the authority to contract with said  
184 hospital.

185                   (g) "Hospital facility" or "hospital facilities" means  
186 buildings and structures of any and all types used or useful, in  
187 the discretion of the authority, for providing any types of care  
188 to the sick, wounded, infirmed, needy, mentally incompetent or  
189 elderly and shall include, without limiting the generality of the  
190 foregoing, out-patient clinics, laboratories, laundries, nurses',  
191 doctors' or interns' residences, administration buildings, office  
192 buildings, facilities for research directly involved with hospital  
193 care, maintenance, storage or utility facilities, parking lots,  
194 and garages and all necessary, useful, or related furnishings, and



195 appurtenances and all lands necessary or convenient as a site for  
196 the foregoing.

197 (h) "Participating hospital institution" or "hospital  
198 institution" means a public or private corporation, association,  
199 foundation, trust, cooperative, agency, body politic, or other  
200 person or organization which provides or operates or proposes to  
201 provide or operate hospital facilities not for profit, and which,  
202 pursuant to the provisions of this act, contracts with the  
203 authority for the financing or refinancing of the lease or other  
204 acquisition of hospital equipment or hospital facilities, or both.

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

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

210 (i) Located in a rural area;

211 (ii) That has an average daily census of less than  
212 fifty (50);

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

216 (iv) That can prove its financial distress by  
217 demonstrating either 1. that its debt to equity ratio is greater  
218 than ( %), 2. that the total value of its assets is less than its  
219 total liabilities, or 3. that, for a period of two (2) months, its  
220 monthly income is not sufficient to pay its monthly expenses as  
221 they become due; such proof must be verified by an independent  
222 auditor.

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

224 The use of singular terms herein shall also include the  
225 plural of such term and the use of a plural term herein shall also  
226 include the singular of such term unless the context clearly  
227 requires a different connotation.



228           **SECTION 3.** Section 41-73-17, Mississippi Code of 1972, is  
229 amended as follows:

230           41-73-17. The members of the authority may appoint an  
231 executive director and/or a secretary who shall be employees of  
232 the authority, but not members thereof, and who shall serve at the  
233 pleasure of the members and receive such compensation as shall be  
234 fixed by the members. The executive director, if appointed, shall  
235 attend the meetings of the members of the authority and shall  
236 administer, manage and direct the affairs and activities of the  
237 authority in accordance with the policies and under the control  
238 and direction of the members. The executive director shall  
239 approve all accounts for salaries, allowable expenses of the  
240 authority or of any employee or consultant thereof, and expenses  
241 incidental to the operation of the authority. He shall perform  
242 such other duties as may be directed by the members in carrying  
243 out the purposes of this chapter. The practices and procedures  
244 regarding administrative functions and responsibilities of the  
245 authority shall be subject to the approval and review of the  
246 Director of the State Bond Advisory Division of the Governor's  
247 office. In lieu of or in addition to the appointment of an  
248 executive director, the authority may contract with the State Bond  
249 Advisory Division of the Governor's office to carry out in whole  
250 or in part the administrative functions and responsibilities of  
251 the authority, but may only pay the actual expenses incurred by  
252 such division in performing such functions and responsibilities.  
253 The expenses incurred by the authority in contracting for such  
254 administrative functions and responsibilities shall be paid by the  
255 authority as a qualified cost pursuant to Section 41-73-5(d)(vii)  
256 or 41-73-5(e)(vii).

257           The secretary shall attend the meetings of the members of the  
258 authority, shall keep a record of the proceedings of the  
259 authority, and shall maintain and be custodian of all books,  
260 documents and papers filed with the authority, the minute book or





261 journal of the authority, and its official seal. He may cause  
262 copies to be made of all minutes and other records and documents  
263 of the authority and may give certificates under seal of the  
264 authority to the effect that such copies are true copies, and all  
265 persons dealing with the authority may rely upon such  
266 certificates. If an executive director and/or secretary are not  
267 appointed, the members of the authority may designate from among  
268 themselves or the authority's employees the person or persons  
269 responsible for carrying out the duties set out in this section.

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

272 41-73-27. The authority is hereby granted all powers  
273 necessary or appropriate to carry out and effectuate its public  
274 and corporate purposes, including, but not limited to, the  
275 following:

276 (a) To have perpetual succession as a body politic and  
277 corporate and an independent instrumentality exercising essential  
278 public functions;

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

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

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

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

287 (f) To monitor on a continuing basis the need for  
288 hospital equipment financing and hospital facilities financing at  
289 interest rates which are consistent with the needs of hospital  
290 institutions;

291 (g) To make and execute contracts and all other  
292 instruments necessary or convenient for the performance of its



293 duties and the exercise of its powers and functions under this  
294 act;

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

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

303 (j) To procure insurance or guarantees from any public  
304 or private entities, including any department, agency or  
305 instrumentality of the United States of America, to secure payment  
306 (i) on a loan, lease or purchase payment owed by a participating  
307 hospital institution to the authority and (ii) of any bonds issued  
308 by the authority, including the power to pay premiums on any such  
309 insurance or guarantee;

310 (k) To procure letters of credit from any national or  
311 state banking association or other entity authorized to issue a  
312 letter of credit to secure the payment of any bonds issued by the  
313 authority or to secure the payment of any loan, lease or purchase  
314 payment owed by a participating hospital institution to the  
315 authority, including the power to pay the cost of obtaining such  
316 letter of credit;

317 (l) To receive and accept from any source aid or  
318 contributions of money, property, labor or other things of value  
319 to be held, used and applied to carry out the purposes of this act  
320 subject to the conditions upon which the grants or contributions  
321 are made, including, but not limited to, gifts or grants from any  
322 department, agency or instrumentality of the United States of  
323 America for any purpose consistent with the provisions of this  
324 act;



325           (m) To provide, or cause to be provided by a  
326 participating hospital institution, by acquisition, lease,  
327 fabrication, repair, restoration, reconditioning, refinancing or  
328 installation, one or more hospital facilities located within the  
329 state or items of hospital equipment to be located within a  
330 hospital facility in the state;

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

335           (o) To sell for installment payments or otherwise, to  
336 option or contract for such sale, and to convey all or any part of  
337 any hospital facility or any item of hospital equipment for such  
338 price and upon such terms and conditions as the authority may deem  
339 advisable and as are not in conflict with the provisions of this  
340 act;

341           (p) To make contracts and incur liabilities, borrow  
342 money at such rates of interest as the authority may determine,  
343 issue its bonds in accordance with the provisions of this act, and  
344 secure any of its bonds or obligations by mortgage or pledge of  
345 all or any of its property, franchises and income or as otherwise  
346 provided in this act;

347           (q) To make secured or unsecured loans for the purpose  
348 of providing temporary or permanent financing or refinancing for  
349 the cost of any hospital facility or item of hospital equipment,  
350 including the retiring of any outstanding obligations with respect  
351 to such hospital facility or hospital equipment, and the  
352 reimbursement for the cost of any hospital facility or hospital  
353 equipment, purchased within two (2) years immediately preceding  
354 the date of the bond issue, made or given by any participating  
355 hospital institution for the cost of any hospital facility,  
356 hospital equipment, and to charge and collect interest on such  
357 loans for such loan payments and upon such terms and conditions as



358 the authority may deem advisable and as are not in conflict with  
359 the provisions of this act;

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

363 (s) To purchase, receive, lease (as lessee or lessor),  
364 or otherwise acquire, own, hold, improve, use or otherwise deal in  
365 and with, hospital facilities and equipment, or any interest  
366 therein, wherever situated, as the purposes of the authority shall  
367 require;

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

371 (u) To the extent permitted under its contract with the  
372 holders of bonds of the authority, consent to any modification  
373 with respect to the rate of interest, time and payment of any  
374 installment of principal or interest, or any other term of any  
375 contract, loan, loan note, loan note commitment, contract, lease  
376 or agreement of any kind to which the authority is a party; \* \* \*

377 (v) To assist participating hospital institutions to  
378 obtain funds for any purpose by utilizing the value of the  
379 receivables of such participating hospital institutions through  
380 the making of loans secured by such receivables, by purchasing  
381 such receivables, by utilizing such receivables to secure  
382 obligations of the authority, or through any combination of the  
383 foregoing; and

384 (w) To administer the Rural Hospital Assistance  
385 Program.

386 **SECTION 5.** The following provision shall be codified as  
387 Section 41-73-70, Mississippi Code of 1972:

388 41-73-70. **Establishment of Rural Hospital Assistance**  
389 **Program; purpose; administration; funding.**



390 (1) Rural hospitals within the State of Mississippi provide  
391 a valuable service to the residents of the communities in which  
392 they are located. Many of Mississippi's rural hospitals are  
393 experiencing financial distress. It is in the public interest and  
394 is vital to the public welfare of the people of Mississippi, and  
395 it is declared to be the public purpose of this section to develop  
396 a rural hospital assistance program within the State of  
397 Mississippi with respect to rural hospitals in financial distress  
398 in order to assist such hospitals to continue operating and  
399 maintaining a certain level of health care in the communities they  
400 serve so they may provide residents in the state who live in rural  
401 areas access to effective and appropriate health care.

402 (2) There is hereby established a statewide Rural Hospital  
403 Assistance Program to provide assistance to rural hospitals in  
404 financial distress.

405 (3) The Rural Hospital Assistance Program will be  
406 administered by the authority created pursuant to Section 41-73-7  
407 with all its rights, duties and responsibilities set forth in  
408 Section 41-73-1 et seq.

409 (4) The Rural Hospital Assistance Program shall, upon proof  
410 delivered to the authority of a rural hospital that it is in  
411 financial distress, provide funds to such rural hospital in  
412 financial distress for the purposes of operating the hospital and  
413 maintaining necessary health care services.

414 (5) In accordance with the purposes of this section, there  
415 is hereby established within the Health Care Expendable Fund,  
416 created pursuant to Section 43-13-407, Mississippi Code of 1972, a  
417 Rural Hospital Assistance Account into which shall be transferred  
418 from the Health Care Expendable Fund the following sums:

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

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



423 (c) In fiscal year 2006, Three Million Twenty-Five  
424 Thousand Dollars (\$3,025,000.00);

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

427 (e) In fiscal year 2008 and each subsequent fiscal  
428 year, a sum equal to five percent (5%) of the sum transferred from  
429 the Health Care Trust Fund, created pursuant to Section 43-13-405,  
430 to the Health Care Expendable Fund.

431 (6) All income from the investment of the funds in the Rural  
432 Hospital Assistance Account shall be credited to the account of  
433 the Rural Hospital Assistance Account. Any funds in the Rural  
434 Hospital Assistance Account at the end of a fiscal year shall not  
435 lapse into the State General Fund but shall remain in the Rural  
436 Hospital Assistance Account.

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

