

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2872

1 AN ACT TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972,
2 TO EXCLUDE CONTINUING CARE RETIREMENT FACILITIES FROM THE NURSING
3 FACILITY ASSESSMENT COLLECTED BY THE DIVISION OF MEDICAID; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-13-145, Mississippi Code of 1972, is
7 amended as follows:

8 43-13-145. (1) (a) Upon each nursing facility and each
9 intermediate care facility for the mentally retarded licensed by
10 the State of Mississippi, there is levied an assessment in the
11 amount of Four Dollars (\$4.00) per day for each licensed and/or
12 certified bed of the facility. The term "nursing facility" as
13 used in this section shall not include a continuing care
14 retirement facility as defined in Section 41-7-191(13)(c), and as
15 described in the latest edition of the State Health Plan. The
16 division may apply for a waiver from the United States Secretary
17 of Health and Human Services to exempt nonprofit, public,
18 charitable or religious facilities from the assessment levied
19 under this subsection, and if a waiver is granted, those
20 facilities shall be exempt from any assessment levied under this
21 subsection after the date that the division receives notice that
22 the waiver has been granted.

23 (b) A nursing facility or intermediate care facility
24 for the mentally retarded is exempt from the assessment levied
25 under this subsection if the facility is operated under the
26 direction and control of:

27 (i) The United States Veterans Administration or
28 other agency or department of the United States government;

29 (ii) The State Veterans Affairs Board;
30 (iii) The University of Mississippi Medical
31 Center; or

32 (iv) A state agency or a state facility that
33 either provides its own state match through intergovernmental
34 transfer or certification of funds to the division.

35 (2) (a) Upon each psychiatric residential treatment
36 facility licensed by the State of Mississippi, there is levied an
37 assessment in the amount of Three Dollars (\$3.00) per day for each
38 licensed and/or certified bed of the facility.

39 (b) A psychiatric residential treatment facility is
40 exempt from the assessment levied under this subsection if the
41 facility is operated under the direction and control of:

42 (i) The United States Veterans Administration or
43 other agency or department of the United States government;

44 (ii) The University of Mississippi Medical Center;

45 (iii) A state agency or a state facility that
46 either provides its own state match through intergovernmental
47 transfer or certification of funds to the division.

48 (3) (a) Upon each hospital licensed by the State of
49 Mississippi, there is levied an assessment in the amount of One
50 Dollar and Fifty Cents (\$1.50) per day for each licensed inpatient
51 acute care bed of the hospital.

52 (b) A hospital is exempt from the assessment levied
53 under this subsection if the hospital is operated under the
54 direction and control of:

55 (i) The United States Veterans Administration or
56 other agency or department of the United States government;

57 (ii) The University of Mississippi Medical Center;

58 or

59 (iii) A state agency or a state facility that
60 either provides its own state match through intergovernmental
61 transfer or certification of funds to the division.

62 (4) Each health care facility that is subject to the
63 provisions of this section shall keep and preserve such suitable
64 books and records as may be necessary to determine the amount of
65 assessment for which it is liable under this section. The books
66 and records shall be kept and preserved for a period of not less
67 than five (5) years, and those books and records shall be open for
68 examination during business hours by the division, the State Tax
69 Commission, the Office of the Attorney General and the State
70 Department of Health.

71 (5) The assessment levied under this section shall be
72 collected by the division each month beginning on April 12, 2002.

73 (6) All assessments collected under this section shall be
74 deposited in the Medical Care Fund created by Section 43-13-143.

75 (7) The assessment levied under this section shall be in
76 addition to any other assessments, taxes or fees levied by law,
77 and the assessment shall constitute a debt due the State of
78 Mississippi from the time the assessment is due until it is paid.

79 (8) (a) If a health care facility that is liable for
80 payment of the assessment levied under this section does not pay
81 the assessment when it is due, the division shall give written
82 notice to the health care facility by certified or registered mail
83 demanding payment of the assessment within ten (10) days from the
84 date of delivery of the notice. If the health care facility
85 fails or refuses to pay the assessment after receiving the notice
86 and demand from the division, the division shall withhold from any
87 Medicaid reimbursement payments that are due to the health care
88 facility the amount of the unpaid assessment and a penalty of ten
89 percent (10%) of the amount of the assessment, plus the legal rate
90 of interest until the assessment is paid in full. If the health
91 care facility does not participate in the Medicaid program, the
92 division shall turn over to the Office of the Attorney General the
93 collection of the unpaid assessment by civil action. In any such
94 civil action, the Office of the Attorney General shall collect the

95 amount of the unpaid assessment and a penalty of ten percent (10%)
96 of the amount of the assessment, plus the legal rate of interest
97 until the assessment is paid in full.

98 (b) As an additional or alternative method for
99 collecting unpaid assessments under this section, if a health care
100 facility fails or refuses to pay the assessment after receiving
101 notice and demand from the division, the division may file a
102 notice of a tax lien with the circuit clerk of the county in which
103 the health care facility is located, for the amount of the unpaid
104 assessment and a penalty of ten percent (10%) of the amount of the
105 assessment, plus the legal rate of interest until the assessment
106 is paid in full. Immediately upon receipt of notice of the tax
107 lien for the assessment, the circuit clerk shall enter the notice
108 of the tax lien as a judgment upon the judgment roll and show in
109 the appropriate columns the name of the health care facility as
110 judgment debtor, the name of the division as judgment creditor,
111 the amount of the unpaid assessment, and the date and time of
112 enrollment. The judgment shall be valid as against mortgagees,
113 pledgees, entrusters, purchasers, judgment creditors and other
114 persons from the time of filing with the clerk. The amount of the
115 judgment shall be a debt due the State of Mississippi and remain a
116 lien upon the tangible property of the health care facility until
117 the judgment is satisfied. The judgment shall be the equivalent
118 of any enrolled judgment of a court of record and shall serve as
119 authority for the issuance of writs of execution, writs of
120 attachment or other remedial writs.

121 **SECTION 2.** This act shall take effect and be in force from
122 and after July 1, 2004.