

By: Senator(s) Bryan, Burton

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2013

1 AN ACT TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR AN ANNUAL ASSESSMENT IMPOSED ON EACH HOSPITAL  
3 LICENSED IN THE STATE BASED UPON NON-MEDICARE HOSPITAL INPATIENT  
4 DAYS IN THE 2006 MEDICARE COST REPORT WITH CERTAIN CONDITIONS; TO  
5 PROVIDE THAT THE PRESENT PER BED ASSESSMENT LEVIED ON HOSPITALS  
6 SHALL BE DELETED UNLESS THE HOSPITAL ASSESSMENT DOES NOT TAKE  
7 EFFECT; TO CLARIFY THE ANNUAL ASSESSMENT IMPOSED ON NURSING  
8 FACILITIES AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY  
9 RETARDED; TO PROVIDE THAT TAX LIENS FOR ASSESSMENTS SHALL BE FILED  
10 WITH THE CHANCERY CLERK; AND FOR RELATED PURPOSES.

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

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

14 43-13-145. (1) (a) Upon each nursing facility licensed by  
15 the State of Mississippi, there is levied an assessment in an  
16 amount set by the division, equal to the maximum rate allowed by  
17 federal law or regulation, for each licensed and occupied bed of  
18 the facility.

19 (b) A nursing facility is exempt from the assessment  
20 levied under this subsection if the facility is operated under the  
21 direction and control of \* \* \* the United States Veterans  
22 Administration or other agency or department of the United States  
23 government.

24 \* \* \*

25 (2) (a) Upon each intermediate care facility for the  
26 mentally retarded licensed by the State of Mississippi, there is  
27 levied an assessment in an amount set by the division, equal to  
28 the maximum rate allowed by federal law or regulation, for each  
29 licensed and occupied bed of the facility.



30 (b) An intermediate care facility for the mentally  
31 retarded is exempt from the assessment levied under this  
32 subsection if the facility is operated under the direction and  
33 control of \* \* \* the United States Veterans Administration or  
34 other agency or department of the United States government.

35 \* \* \*

36 (3) (a) Upon each psychiatric residential treatment  
37 facility licensed by the State of Mississippi, there is levied an  
38 assessment in an amount set by the division, equal to the maximum  
39 rate allowed by federal law or regulation, for each licensed and  
40 occupied bed of the facility.

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

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

46 (ii) The University of Mississippi Medical Center;

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

50 **[Until June 30, 2013, unless the condition specified in**  
51 **paragraph (f) below are met, this subsection (4) shall read as**  
52 **follows:]**

53 (4) Hospital Assessment.

54 (a) Subject to and upon fulfillment of the requirements  
55 and conditions of paragraph (f) below, effective for State Fiscal  
56 Years 2009 through 2013 an annual assessment on each hospital  
57 licensed in the state is imposed on each non-Medicare hospital  
58 inpatient day as defined below at a rate that is determined by  
59 dividing One Hundred Four Million Dollars (\$104,000,000.00) plus  
60 the non-federal share necessary to maximize the DSH/UPL payment as  
61 described in the 2008 Medicaid State Plan Amendment by the total



62 number of non-Medicare hospital inpatient days as defined below  
63 for all licensed Mississippi hospitals.

64 (b) Payment and definitions.

65 (i) Payment. Upon approval of the State Plan  
66 Amendment for the division's DSH/UPL payment methodology by the  
67 Centers for Medicare and Medicaid Services (CMS), the assessment  
68 shall be paid in three (3) installments due no later than ten (10)  
69 days prior to the payment of the Disproportionate Share Hospital  
70 (DSH) and Medicare Upper Payment Limits (UPL) payments required by  
71 Section 43-13-117(18) which shall be paid during the Second, Third  
72 and Fourth Quarters of the State Fiscal Year.

73 (ii) Definitions. For purposes of this subsection  
74 (4):

75 1. "Non-Medicare hospital inpatient day"  
76 means total hospital inpatient days including subcomponent days  
77 but excluding Medicare inpatient days as identified on Worksheet  
78 S-3, Part 1, column 6 row 12, column 6 row 14.00, and column 6 row  
79 14.01, less column 6 row 3 and column 6 row 4 of the most recently  
80 approved 2006 hospital Medicare cost report filed as of May 31,  
81 2008.

82 2. "Hospital inpatient day" means the number  
83 of days of care charged to a beneficiary for inpatient hospital  
84 care services in units of full days. A day begins at midnight and  
85 ends twenty-four (24) hours later. A part of a day, including the  
86 day of admission and day on which a patient returns from leave of  
87 absence, counts as a full day. However, the day of discharge,  
88 death, or a day on which a patient begins a leave of absence is  
89 not counted as a day unless discharge or death occur on the day of  
90 admission. If admission and discharge or death occur on the same  
91 day, the day is considered a day of admission and counts as one  
92 (1) inpatient day.

93 3. "Subcomponent inpatient day" means the  
94 number of days of care charged to a beneficiary for inpatient



95 hospital rehabilitation and psychiatric care services in units of  
96 full days. A day begins at midnight and ends twenty-four (24)  
97 hours later. A part of a day, including the day of admission and  
98 day on which a patient returns from leave of absence, counts as a  
99 full day. However, the day of discharge, death, or a day on which  
100 a patient begins a leave of absence is not counted as a day unless  
101 discharge or death occur on the day of admission. If admission  
102 and discharge or death occur on the same day, the day is  
103 considered a day of admission and counts as one (1) subcomponent  
104 inpatient day.

105 (c) The assessment provided in this paragraph is  
106 intended to satisfy and not be in addition to the assessment and  
107 intergovernmental transfers provided in Section 43-13-117(18).  
108 Nothing in this act shall be construed to authorize any state  
109 agency, division or department, or county, municipality or other  
110 local governmental unit to license for revenue, levy or impose any  
111 other tax, fee or assessment upon hospitals in this state not  
112 authorized by a specific statute.

113 (d) Hospitals operated by the United States Department  
114 of Veterans Affairs shall not be subject to the Hospital  
115 Assessment provided in this subsection.

116 (e) Multihospital systems, closure, merger and new  
117 hospitals:

118 (i) If a hospital conducts, operates or maintains  
119 more than one (1) hospital licensed by the State Department of  
120 Health, the provider shall pay the hospital assessment for each  
121 hospital separately.

122 (ii) Notwithstanding any other provision in this  
123 section, if a hospital subject to this assessment operates or  
124 conducts business only for a portion of a fiscal year, the  
125 assessment for the state fiscal year shall be adjusted by  
126 multiplying the assessment by a fraction, the numerator of which  
127 is the number of days in the year during which the hospital



128 operates, and the denominator of which is three hundred sixty-five  
129 (365). Immediately upon ceasing to operate, the hospital shall  
130 pay the assessment for the year as so adjusted (to the extent not  
131 previously paid).

132 (f) Applicability.

133 The hospital assessment imposed by this subsection  
134 shall not take effect and/or shall cease to be imposed if:

135 (i) The assessment is determined to be an  
136 impermissible tax under Title XIX of the Social Security Act; or,

137 (ii) CMS does not approve the division's 2008  
138 Medicaid State Plan Amendment for its methodology for DSH and UPL  
139 payments to hospitals pursuant to Section 43-13-117(18).

140 (g) Monies in the Medical Care Fund derived from  
141 hospital assessments imposed prior to such determination shall be  
142 disbursed in accordance with the State Plan to the extent federal  
143 matching is not reduced due to the impermissibility of the  
144 assessments, and any remaining monies shall be refunded to  
145 hospitals in proportion to the amounts paid by them.

146 This subsection (4) is repealed on June 30, 2013.

147 **[If the hospital assessment imposed on non-Medicare hospital**  
148 **inpatient days provided in subsection (4) above is not approved by**  
149 **the Centers for Medicare and Medicaid Services or otherwise does**  
150 **not take effect, subsection (4) shall read as follows:]**

151 (a) Upon each hospital licensed by the State of  
152 Mississippi, there is levied an assessment in the amount of Three  
153 Dollars and Twenty-five Cents (\$3.25) per bed for each licensed  
154 inpatient acute care bed of the hospital.

155 (b) A hospital is exempt from the assessment levied  
156 under this subsection if the hospital is operated under the  
157 direction and control of:

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



160 (ii) The University of Mississippi Medical Center;  
161 or

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

165 This subsection (4) is repealed on June 30, 2013.

166 (5) Each health care facility that is subject to the  
167 provisions of this section shall keep and preserve such suitable  
168 books and records as may be necessary to determine the amount of  
169 assessment for which it is liable under this section. The books  
170 and records shall be kept and preserved for a period of not less  
171 than five (5) years, and those books and records shall be open for  
172 examination during business hours by the division, the State Tax  
173 Commission, the Office of the Attorney General and the State  
174 Department of Health.

175 (6) The assessment levied under this section shall be  
176 collected by the division each month beginning on March 31, 2005.

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

179 (8) The assessment levied under this section shall be in  
180 addition to any other assessments, taxes or fees levied by law,  
181 and the assessment shall constitute a debt due the State of  
182 Mississippi from the time the assessment is due until it is paid.

183 (9) (a) If a health care facility that is liable for  
184 payment of an assessment levied by the division does not pay the  
185 assessment when it is due, the division shall give written notice  
186 to the health care facility by certified or registered mail  
187 demanding payment of the assessment within ten (10) days from the  
188 date of delivery of the notice. If the health care facility  
189 fails or refuses to pay the assessment after receiving the notice  
190 and demand from the division, the division shall withhold from any  
191 Medicaid reimbursement payments that are due to the health care  
192 facility the amount of the unpaid assessment and a penalty of ten



193 percent (10%) of the amount of the assessment, plus the legal rate  
194 of interest until the assessment is paid in full. If the health  
195 care facility does not participate in the Medicaid program, the  
196 division shall turn over to the Office of the Attorney General the  
197 collection of the unpaid assessment by civil action. In any such  
198 civil action, the Office of the Attorney General shall collect the  
199 amount of the unpaid assessment and a penalty of ten percent (10%)  
200 of the amount of the assessment, plus the legal rate of interest  
201 until the assessment is paid in full.

202 (b) As an additional or alternative method for  
203 collecting unpaid assessments levied by the division, if a health  
204 care facility fails or refuses to pay the assessment after  
205 receiving notice and demand from the division, the division may  
206 file a notice of a tax lien with the chancery clerk of the county  
207 in which the health care facility is located, for the amount of  
208 the unpaid assessment and a penalty of ten percent (10%) of the  
209 amount of the assessment, plus the legal rate of interest until  
210 the assessment is paid in full. Immediately upon receipt of  
211 notice of the tax lien for the assessment, the chancery clerk  
212 shall forward the notice to the circuit clerk who shall enter the  
213 notice of the tax lien as a judgment upon the judgment roll and  
214 show in the appropriate columns the name of the health care  
215 facility as judgment debtor, the name of the division as judgment  
216 creditor, the amount of the unpaid assessment, and the date and  
217 time of enrollment. The judgment shall be valid as against  
218 mortgagees, pledgees, entrusters, purchasers, judgment creditors  
219 and other persons from the time of filing with the clerk. The  
220 amount of the judgment shall be a debt due the State of  
221 Mississippi and remain a lien upon the tangible property of the  
222 health care facility until the judgment is satisfied. The  
223 judgment shall be the equivalent of any enrolled judgment of a  
224 court of record and shall serve as authority for the issuance of  
225 writs of execution, writs of attachment or other remedial writs.



226           **SECTION 2.** This act shall take effect and be in force from  
227 and after July 1, 2008.

