

By: Representatives Gunn, Felsher,
Carpenter, Ford (73rd), Stamps, Lancaster

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 764

1 AN ACT TO CREATE THE "MISSISSIPPI HEALTH CARE WORKERS
2 RETENTION ACT OF 2022"; TO MAKE AN ADDITIONAL APPROPRIATION FROM
3 THE CORONAVIRUS STATE FISCAL RECOVERY FUND TO THE STATE DEPARTMENT
4 OF HEALTH; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE
5 EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI
6 LICENSED HOSPITALS TO PROVIDE PREMIUM PAY TO THEIR MISSISSIPPI
7 LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE PRIMARILY DEVOTED
8 TO MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC HEALTH
9 EMERGENCY; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE
10 EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI
11 LICENSED LONG-TERM CARE FACILITIES TO PROVIDE PREMIUM PAY TO THEIR
12 MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE
13 PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT
14 COVID-19 PUBLIC HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE
15 FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO
16 MISSISSIPPI LICENSED AMBULANCE SERVICES TO PROVIDE PREMIUM PAY TO
17 THEIR MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE
18 PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT
19 COVID-19 PUBLIC HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE
20 FUNDS SHALL BE EXPENDED BY THE STATE DEPARTMENT OF HEALTH FOR
21 PROVIDING FUNDS TO ELIGIBLE ENTITIES UNDER THIS ACT TO PROVIDE
22 PREMIUM PAY TO THEIR MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE
23 WORKERS WHO ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO
24 THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY TO BE DISTRIBUTED IN
25 THE MANNER THAT THE DEPARTMENT DETERMINES IS THE MOST EQUITABLE
26 AND EFFICIENT TO SUPPLEMENT THE FUNDS OTHERWISE PROVIDED AND TO
27 EFFECTUATE THE PURPOSES OF THIS ACT; TO PROVIDE THAT MISSISSIPPI
28 LICENSED/CERTIFIED HEALTH CARE WORKERS THAT QUALIFY FOR PREMIUM
29 PAY UNDER THIS SECTION SHALL RECEIVE PREMIUM PAY WITHIN 60 DAYS OF
30 THE EFFECTIVE DATE OF THIS ACT SUBJECT TO THE RECIPIENT'S WRITTEN
31 AGREEMENT WITH THE DEPARTMENT TO CONTINUE EMPLOYMENT WITH THE
32 RECIPIENT'S PRIMARY CURRENT EMPLOYER FOR FIVE MONTHS FOLLOWING THE
33 RECEIPT OF SUCH PREMIUM PAY; TO FURTHER PROVIDE THAT THE WRITTEN
34 AGREEMENT SHALL BE DEVELOPED BY THE DEPARTMENT AND INCLUDE A



35 PROVISION THAT THE LICENSED/CERTIFIED HEALTH CARE WORKER MAY BE
36 REQUIRED TO REPAY TO THE STATE OF MISSISSIPPI THE AMOUNT OF HIS OR
37 HER PREMIUM PAY FUNDS IF THE TERMS OF THE AGREEMENT ARE NOT MET;
38 TO PROVIDE CERTAIN REPORTING AND APPROVAL REQUIREMENTS UNDER THIS
39 ACT; TO PROVIDE THAT NONE OF THE FUNDS PROVIDED UNDER THIS SECTION
40 MAY BE USED TO PROVIDE PREMIUM PAY TO ANY LICENSED/CERTIFIED
41 HEALTH CARE WORKERS WHO ARE WORKING UNDER A CONTRACT WITH A
42 STAFFING AGENCY TO PROVIDE SERVICES IN THE STATE OF MISSISSIPPI
43 FOR A LIMITED DURATION OF LESS THAN ONE YEAR, SUCH AS TRAVEL
44 NURSES, AS DETERMINED BY THE DEPARTMENT; AND FOR RELATED PURPOSES.

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

46 **SECTION 1.** This act shall be known and may be cited as the
47 "Mississippi Health Care Workers Retention Act of 2022."

48 **SECTION 2.** The following sum, or so much of it as may be
49 necessary, is appropriated out of any money in the Coronavirus
50 State Fiscal Recovery Fund not otherwise appropriated, to the
51 State Department of Health for the purposes described in Section 3
52 of this act, for the period beginning July 1, 2021, and ending
53 June 30, 2022.....\$ 56,000,000.00.

54 **SECTION 3.** (1) (a) Of the funds appropriated under Section
55 2 of this act, the following amount shall be expended by the
56 department for providing funds to Mississippi licensed hospitals
57 in Mississippi to provide premium pay to their licensed/certified
58 health care workers who are primarily devoted to mitigating or
59 responding to the current COVID-19 public health emergency
60\$ 40,000,000.00.

61 (b) In providing the funds to Mississippi licensed
62 hospitals under paragraph (a) of this subsection, the department
63 shall determine the maximum possible amount available to each
64 Mississippi licensed hospital using a formula based on the total



65 number of hospitalized COVID-19 patients that the Mississippi
66 licensed hospital treated from January 1, 2021, through December
67 31, 2021, and the number of Mississippi licensed hospital beds in
68 the hospital as of the most recent date known by the department.
69 The formula should provide double the weight to the total number
70 of hospitalized COVID-19 patients that the Mississippi licensed
71 hospital treated from January 1, 2021, through December 31, 2021,
72 as compared to the weight given to the number of Mississippi
73 licensed hospital beds in the hospital as of the most recent date
74 known by the department.

75 (2) (a) Of the funds appropriated under Section 2 of this
76 act, the following amount shall be expended by the department for
77 providing funds to Mississippi licensed long-term care facilities
78 to provide premium pay to their licensed/certified health care
79 workers who are primarily devoted to mitigating or responding to
80 the current COVID-19 public health emergency.....\$ 7,500,000.00.

81 (b) In providing the funds to Mississippi licensed
82 long-term care facilities under paragraph (a) of this subsection,
83 the department shall determine the maximum possible amount
84 available to each Mississippi licensed long-term care facility
85 using a formula based on the total number of COVID-19 positive
86 residents at the Mississippi licensed long-term care facility from
87 January 1, 2021, through December 31, 2021, and the number of
88 Mississippi licensed and staffed long-term care beds in the
89 long-term care facility as of the most recent date known by the



90 department. The formula should provide double the weight to the
91 total number of COVID-19 positive residents that the Mississippi
92 licensed long-term care facility treated from January 1, 2021,
93 through December 31, 2021, as compared to the weight given to the
94 number of Mississippi licensed and staffed long-term care beds in
95 the long-term care facility as of the most recent date known by
96 the department.

97 (3) (a) Of the funds appropriated under Section 2 of this
98 act, the following amount shall be expended by the department for
99 providing funds to Mississippi licensed ambulance services to
100 provide premium pay to their licensed/certified health care
101 workers who are primarily devoted to mitigating or responding to
102 the current COVID-19 public health emergency.....\$ 2,500,000.00.

103 (b) In providing the funds to Mississippi licensed
104 ambulance services under paragraph (a) of this subsection, the
105 department shall determine the maximum possible amount available
106 to each Mississippi licensed ambulance service based on the total
107 number of ambulance runs, including transfers, as reported to the
108 Mississippi EMS information system for the period January 1, 2021,
109 through December 31, 2021.

110 (4) Of the funds appropriated under Section 2 of this act,
111 the following amount shall be expended by the department for
112 providing funds to eligible entities under subsections (1) through
113 (3) of this section to provide premium pay to their
114 licensed/certified health care workers who are primarily devoted



115 to mitigating or responding to the current COVID-19 public health
116 emergency in a manner that the department determines is the most
117 equitable and efficient to supplement the funds provided under
118 subsections (1) through (3) of this section and to effectuate the
119 purposes of this act.....\$ 5,000,000.00.

120 (5) Of the funds appropriated under Section 2 of this act,
121 the following amount shall be expended for defraying the expenses
122 of the department in administering the funds approved and expended
123 under this section.....\$ 1,000,000.00.

124 (6) (a) As a condition of receiving premium pay under this
125 section, each licensed/certified health care worker who accepts
126 premium pay under this section shall receive premium pay in an
127 amount not to exceed Five Thousand Dollars (\$5,000.00) within
128 sixty (60) days after the effective date of this act.

129 (b) As a condition of receiving premium pay under this
130 section, the recipient must execute a written agreement with the
131 department to continue employment with his or her primary current
132 employer for five (5) months following the receipt of such premium
133 pay. The written agreement shall be developed by the department
134 and shall include a provision that the recipient may be required
135 to repay to the State of Mississippi, to be deposited into the
136 Coronavirus State Fiscal Recovery Fund, the amount of premium pay
137 funds that he or she received if the terms of the agreement are
138 not met. The written agreement with the department shall not



139 create, revise or otherwise affect any contractual relationship
140 between the employer and employee.

141 (7) As a condition of receiving funds under this act, each
142 employer shall provide a report to the department of the number
143 and type of licensed/certified health care workers and premium pay
144 amounts they intend to distribute, and must receive approval from
145 the department that the requirements of this act, the American
146 Rescue Plan Act of 2021 and any federal guidance regarding the
147 Coronavirus State Fiscal Recovery Fund are met before the employer
148 may distribute the premium pay to their licensed/certified health
149 care workers who are primarily devoted to mitigating or responding
150 to the current COVID-19 public health emergency.

151 (8) None of the funds provided under this act may be used to
152 provide premium pay to any licensed/certified health care workers
153 who are working under a contract with a staffing agency to provide
154 services for a limited duration of less than one (1) year in the
155 State of Mississippi, such as travel nurses, as determined by the
156 department.

157 (9) None of the funds provided under this act may be used to
158 provide premium pay to any licensed/certified health care workers
159 who have gross annual wages or salary from their primary current
160 employer equal to or greater than One Hundred Fifty Thousand
161 Dollars (\$150,000.00).

162 (10) If there are any unused or otherwise unspent funds
163 under subsections (1), (2), (3) or (5) of this section, the



164 department shall reallocate those funds to eligible entities under
165 subsections (1) through (3) of this section, notwithstanding the
166 maximum possible amount available to each eligible entity as
167 determined under this section, to provide premium pay to their
168 eligible licensed/certified health care workers who are primarily
169 devoted to mitigating or responding to the current COVID-19 public
170 health emergency. The department shall reallocate such funds in a
171 manner that the department determines is the most equitable and
172 efficient to effectuate the purposes of this act.

173 (11) For purposes of the Public Employees' Retirement System
174 of Mississippi, the premium pay provided under this section shall
175 not be considered earned compensation, as defined in Section
176 25-11-103(k).

177 (12) For the purposes of this act, the following terms shall
178 be defined as follows:

179 (a) "Hospital" means a nonfederal medical/surgical
180 short-term acute care hospital licensed in the State of
181 Mississippi, and does not include long-term acute care (LTAC),
182 rehabilitation, psychiatric, chemical dependency, or other special
183 purpose facilities.

184 (b) "Long-term care facility" means a skilled nursing
185 facility licensed in the State of Mississippi, and does not
186 include extended care homes, intermediate care facilities,
187 personal care homes, or boarding homes.



188 **SECTION 4.** (1) As used in this section and Section 5 of
189 this act, the term "department" means the Department of Health.

190 (2) The department shall not disburse any funds appropriated
191 under this act to any recipient without first: (a) making an
192 individualized determination that the reimbursement sought is, in
193 the department's independent judgment, for necessary expenditures
194 eligible under Section 602 of the federal Social Security Act as
195 added by Section 9901 of the federal American Rescue Plan Act of
196 2021 (ARPA) and its implementing guidelines, guidance, rules,
197 regulations and/or other criteria, as may be amended or
198 supplemented from time to time, by the United States Department of
199 the Treasury; and (b) determining that the recipient has not
200 received and will not receive reimbursement for the expense in
201 question from any source of funds, including insurance proceeds,
202 other than those funds provided under Section 602 of the federal
203 Social Security Act as added by Section 9901 of (ARPA). In
204 addition, the department shall ensure that all funds appropriated
205 under this act are disbursed in compliance with the Single Audit
206 Act (31 USC Sections 7501-7507) and the related provisions of the
207 Uniform Guidance, 2 CFR Section 200.303 regarding internal
208 controls, Sections 200.330 through 200.332 regarding sub-recipient
209 monitoring and management, and subpart F regarding audit
210 requirements.

211 **SECTION 5.** (1) As a condition of receiving and expending
212 the funds appropriated to the department under this act, the



213 department shall certify to the Department of Finance and
214 Administration that each expenditure of the funds appropriated to
215 the department under this act complies with the guidelines,
216 guidance, rules, regulations and/or other criteria, as may be
217 amended from time to time, of the United States Department of the
218 Treasury regarding the use of monies from the Coronavirus State
219 Fiscal Recovery Fund established by the American Rescue Plan Act
220 of 2021.

221 (2) If the Office of Inspector General of the United States
222 Department of the Treasury, or the Office of Inspector General of
223 any other federal agency having oversight over the use of monies
224 from the Coronavirus State Fiscal Recovery Fund established by the
225 American Rescue Plan Act of 2021 (a) determines that the
226 department or recipient has expended or otherwise used any of the
227 funds appropriated to the department under this act for any
228 purpose that is not in compliance with the guidelines, guidance,
229 rules, regulations and/or other criteria, as may be amended from
230 time to time, of the United States Department of the Treasury
231 regarding the use of monies from the Coronavirus State Fiscal
232 Recovery Fund established by the American Rescue Plan Act of 2021,
233 and (b) the State of Mississippi is required to repay the federal
234 government for any of those funds that the Office of the Inspector
235 General determined were expended or otherwise used improperly by
236 the department or recipient, then the department or recipient that
237 expended or otherwise used those funds improperly shall be



238 required to pay the amount of those funds to the State of
239 Mississippi for repayment to the federal government.

240 **SECTION 6.** The money appropriated by this act shall be paid
241 by the State Treasurer out of any money in the Coronavirus State
242 Fiscal Recovery Fund not otherwise appropriated, upon warrants
243 issued by the State Fiscal Officer; and the State Fiscal Officer
244 shall issue his or her warrants upon requisitions signed by the
245 proper person, officer or officers in the manner provided by law.

246 **SECTION 7.** This act shall take effect and be in force from
247 and after its passage.

