MISSISSIPPI LEGISLATURE

REGULAR SESSION 2022

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

To: Appropriations

HOUSE BILL NO. 764
(As Passed the House)

AN ACT TO CREATE THE "MISSISSIPPI HEALTH CARE WORKERS RETENTION ACT OF 2022"; TO MAKE AN ADDITIONAL APPROPRIATION FROM THE CORONAVIRUS STATE FISCAL RECOVERY FUND TO THE STATE DEPARTMENT OF HEALTH; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI LICENSED HOSPITALS TO PROVIDE PREMIUM PAY TO THEIR MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI LICENSED LONG-TERM CARE FACILITIES TO PROVIDE PREMIUM PAY TO THEIR MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI LICENSED AMBULANCE SERVICES TO PROVIDE PREMIUM PAY TO THEIR MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKER THAT QUALIFIES FOR PREMIUM PAY UNDER THIS SECTION SHALL RECEIVE PREMIUM PAY WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ACT SUBJECT TO THE RECIPIENT'S WRITTEN AGREEMENT TO CONTINUE EMPLOYMENT WITH THE RECIPIENT'S PRIMARY CURRENT EMPLOYER OR ANOTHER ELIGIBLE HEALTH CARE EMPLOYER IN THE STATE OF MISSISSIPPI FOR FIVE MONTHS FOLLOWING THE RECEIPT OF SUCH PREMIUM PAY; TO FURTHER PROVIDE THAT THE WRITTEN AGREEMENT SHALL BE EFFECTUATE THE PURPOSES OF THIS ACT; TO PROVIDE THAT MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS THAT QUALIFY FOR PREMIUM PAY UNDER THIS ACT TO PROVIDE PREMIUM PAY TO THEIR MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY TO BE DISTRIBUTED IN THE MANNER THAT THE DEPARTMENT DETERMINES IS THE MOST EQUITABLE AND EFFICIENT TO SUPPLEMENT THE FUNDS OTHERWISE PROVIDED AND TO EFFECTUATE THE PURPOSES OF THIS ACT; TO PROVIDE THAT MISSISSIPPI LICENSED/CERTIFIED HEALTH CARE WORKERS THAT QUALIFY FOR PREMIUM PAY UNDER THIS SECTION SHALL RECEIVE PREMIUM PAY WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS ACT SUBJECT TO THE RECIPIENT'S WRITTEN AGREEMENT TO CONTINUE EMPLOYMENT WITH THE RECIPIENT'S PRIMARY CURRENT EMPLOYER OR ANOTHER ELIGIBLE HEALTH CARE EMPLOYER IN THE STATE OF MISSISSIPPI FOR FIVE MONTHS FOLLOWING THE RECEIPT OF SUCH PREMIUM PAY; TO FURTHER PROVIDE THAT THE WRITTEN AGREEMENT SHALL
BE DEVELOPED AND PROMULGATED BY THE DEPARTMENT AND INCLUDE A 
PROVISION THAT THE LICENSED/CERTIFIED HEALTH CARE WORKER MAY BE 
REQUIRED TO REPAY TO THE STATE OF MISSISSIPPI THE AMOUNT OF HIS OR 
HER PREMIUM PAY FUNDS IF THE TERMS OF THE AGREEMENT ARE NOT MET; 
TO PROVIDE CERTAIN REPORTING AND APPROVAL REQUIREMENTS UNDER THIS 
ACT; TO PROVIDE THAT NONE OF THE FUNDS PROVIDED UNDER THIS SECTION 
MAY BE USED TO PROVIDE PREMIUM PAY TO ANY LICENSED/CERTIFIED 
HEALTH CARE WORKERS WHO ARE WORKING UNDER A CONTRACT WITH A 
STAFFING AGENCY TO PROVIDE SERVICES IN THE STATE OF MISSISSIPPI 
FOR A LIMITED DURATION OF LESS THAN ONE YEAR, SUCH AS TRAVEL 
NURSES, AS DETERMINED BY THE DEPARTMENT; AND FOR RELATED PURPOSES.

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

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

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

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

(b) In providing the funds to Mississippi licensed 
hospitals under paragraph (a) of this subsection, the department 
shall determine the maximum possible amount available to each 
Mississippi licensed hospital using a formula based on the total
number of hospitalized COVID-19 patients that the Mississippi licensed hospital treated from January 1, 2021, through December 31, 2021, and the number of Mississippi licensed hospital beds in the hospital as of the most recent date known by the department. The formula should provide double the weight to the total number of hospitalized COVID-19 patients that the Mississippi licensed hospital treated from January 1, 2021, through December 31, 2021, as compared to the weight given to the number of Mississippi licensed hospital beds in the hospital as of the most recent date known by the department.

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

(b) In providing the funds to Mississippi licensed long-term care facilities under paragraph (a) of this subsection, the department shall determine the maximum possible amount available to each Mississippi licensed long-term care facility using a formula based on the total number of COVID-19 positive residents at the Mississippi licensed long-term care facility from January 1, 2021, through December 31, 2021, and the number of Mississippi licensed and staffed long-term care beds in the long-term care facility as of the most recent date known by the department.
department. The formula should provide double the weight to the total number of COVID-19 positive residents that the Mississippi licensed long-term care facility treated from January 1, 2021, through December 31, 2021, as compared to the weight given to the number of Mississippi licensed and staffed long-term care beds in the long-term care facility as of the most recent date known by the department.

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

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

(4) Of the funds appropriated under Section 2 of this act, the following amount shall be expended by the department for providing funds to eligible entities under subsections (1) through (3) of this section to provide premium pay to their licensed/certified health care workers who are primarily devoted
to mitigating or responding to the current COVID-19 public health
emergency in a manner that the department determines is the most
equitable and efficient to supplement the funds provided under
subsections (1) through (3) of this section and to effectuate the
purposes of this act..............................$ 5,000,000.00.

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

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

(b) As a condition of receiving premium pay under this
section, the recipient must execute a written agreement with his
or her primary current employer to continue employment with his or
her primary current employer or another eligible health care
employer in the State of Mississippi for five (5) months following
the receipt of such premium pay. The written agreement shall be
developed and promulgated by the department and shall include a
provision that the recipient may be required to repay to the State
of Mississippi, to be deposited into the Coronavirus State Fiscal
Recovery Fund, the amount of premium pay funds that he or she
received if the terms of the agreement are not met. The written
agreement with the department shall not revise or otherwise affect
any other contractual relationship between the employer and
employee.

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

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

(9) None of the funds provided under this act may be used to
provide premium pay to any licensed/certified health care workers
who have gross annual wages or salary from their primary current
employer equal to or greater than One Hundred Fifty Thousand
Dollars ($150,000.00).
(10) If there are any unused or otherwise unspent funds under subsections (1), (2), (3) or (5) of this section, the department shall reallocate those funds to eligible entities under subsections (1) through (3) of this section, notwithstanding the maximum possible amount available to each eligible entity as determined under this section, to provide premium pay to their eligible licensed/certified health care workers who are primarily devoted to mitigating or responding to the current COVID-19 public health emergency. The department shall reallocate such funds in a manner that the department determines is the most equitable and efficient to effectuate the purposes of this act.

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

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

(a) "Hospital" means any type of hospital licensed by the Mississippi Department of Health, including, but not limited to, specialty hospitals that are recognized as such by the department.

(b) "Long-term care facility" means a skilled nursing facility licensed in the State of Mississippi. "Long-term care facility" does not include extended care homes, intermediate care
facilities, personal care homes, or boarding homes, except for any
of those facilities operated by the Department of Mental Health.

SECTION 4. (1) As used in this section and Section 5 of
this act, the term "department" means the Department of Health.
(2) The department shall not disburse any funds appropriated
under this act to any recipient without first: (a) making an
individualized determination that the reimbursement sought is, in
the department's independent judgment, for necessary expenditures
eligible under Section 602 of the federal Social Security Act as
added by Section 9901 of the federal American Rescue Plan Act of
2021 (ARPA) and its implementing guidelines, guidance, rules,
regulations and/or other criteria, as may be amended or
supplemented from time to time, by the United States Department of
the Treasury; and (b) determining that the recipient has not
received and will not receive reimbursement for the expense in
question from any source of funds, including insurance proceeds,
other than those funds provided under Section 602 of the federal
Social Security Act as added by Section 9901 of (ARPA). In
addition, the department shall ensure that all funds appropriated
under this act are disbursed in compliance with the Single Audit
Act (31 USC Sections 7501-7507) and the related provisions of the
Uniform Guidance, 2 CFR Section 200.303 regarding internal
controls, Sections 200.330 through 200.332 regarding sub-recipient
monitoring and management, and subpart F regarding audit
requirements.
SECTION 5. (1) As a condition of receiving and expending the funds appropriated to the department under this act, the department shall certify to the Department of Finance and Administration that each expenditure of the funds appropriated to the department under this act complies with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus State Fiscal Recovery Fund established by the American Rescue Plan Act of 2021.

(2) If the Office of Inspector General of the United States Department of the Treasury, or the Office of Inspector General of any other federal agency having oversight over the use of monies from the Coronavirus State Fiscal Recovery Fund established by the American Rescue Plan Act of 2021 (a) determines that the department or recipient has expended or otherwise used any of the funds appropriated to the department under this act for any purpose that is not in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus State Fiscal Recovery Fund established by the American Rescue Plan Act of 2021, and (b) the State of Mississippi is required to repay the federal government for any of those funds that the Office of the Inspector General determined were expended or otherwise used improperly by
SECTION 6. The money appropriated by this act shall be paid by the State Treasurer out of any money in the Coronavirus State Fiscal Recovery Fund not otherwise appropriated, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his or her warrants upon requisitions signed by the proper person, officer or officers in the manner provided by law.

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