

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

To: Appropriations

HOUSE BILL NO. 764
(As Passed the House)

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 TO CONTINUE EMPLOYMENT WITH THE RECIPIENT'S PRIMARY
32 CURRENT EMPLOYER OR ANOTHER ELIGIBLE HEALTH CARE EMPLOYER IN THE
33 STATE OF MISSISSIPPI FOR FIVE MONTHS FOLLOWING THE RECEIPT OF SUCH
34 PREMIUM PAY; TO FURTHER PROVIDE THAT THE WRITTEN AGREEMENT SHALL



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

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

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

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

55 **SECTION 3.** (1) (a) Of the funds appropriated under Section
56 2 of this act, the following amount shall be expended by the
57 department for providing funds to Mississippi licensed hospitals
58 in Mississippi to provide premium pay to their licensed/certified
59 health care workers who are primarily devoted to mitigating or
60 responding to the current COVID-19 public health emergency
61\$ 40,000,000.00.

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



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

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

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



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

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

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

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



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

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

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

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



141 agreement with the department shall not revise or otherwise affect
142 any other contractual relationship between the employer and
143 employee.

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

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

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



165 (10) If there are any unused or otherwise unspent funds
166 under subsections (1), (2), (3) or (5) of this section, the
167 department shall reallocate those funds to eligible entities under
168 subsections (1) through (3) of this section, notwithstanding the
169 maximum possible amount available to each eligible entity as
170 determined under this section, to provide premium pay to their
171 eligible licensed/certified health care workers who are primarily
172 devoted to mitigating or responding to the current COVID-19 public
173 health emergency. The department shall reallocate such funds in a
174 manner that the department determines is the most equitable and
175 efficient to effectuate the purposes of this act.

176 (11) For purposes of the Public Employees' Retirement System
177 of Mississippi, the premium pay provided under this section shall
178 not be considered earned compensation, as defined in Section
179 25-11-103(k).

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

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

186 (b) "Long-term care facility" means a skilled nursing
187 facility licensed in the State of Mississippi. "Long-term care
188 facility" does not include extended care homes, intermediate care



189 facilities, personal care homes, or boarding homes, except for any
190 of those facilities operated by the Department of Mental Health.

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

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



214 **SECTION 5.** (1) As a condition of receiving and expending
215 the funds appropriated to the department under this act, the
216 department shall certify to the Department of Finance and
217 Administration that each expenditure of the funds appropriated to
218 the department under this act complies with the guidelines,
219 guidance, rules, regulations and/or other criteria, as may be
220 amended from time to time, of the United States Department of the
221 Treasury regarding the use of monies from the Coronavirus State
222 Fiscal Recovery Fund established by the American Rescue Plan Act
223 of 2021.

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



239 the department or recipient, then the department or recipient that
240 expended or otherwise used those funds improperly shall be
241 required to pay the amount of those funds to the State of
242 Mississippi for repayment to the federal government.

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

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

