

By: Senator(s) Bryan, Caughman

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2673

1 J AN ACT TO CREATE THE "MISSISSIPPI FRONTLINE NURSES AND HEALTH
2 CARE WORKERS RETENTION ACT"; TO PROVIDE THE LEGISLATIVE FINDINGS
3 AND DETERMINATIONS REGARDING THE IMPORTANCE AND URGENCY OF THE
4 ACT; TO ESTABLISH THE "MISSISSIPPI FRONTLINE NURSES AND HEALTH
5 CARE WORKERS RETENTION GRANT PROGRAM" IN THE MISSISSIPPI
6 DEPARTMENT OF HEALTH AND PRESCRIBE ITS COMPONENTS; TO PROVIDE THAT
7 A PORTION OF THE FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR
8 PROVIDING FUNDS TO MISSISSIPPI LICENSED HOSPITALS TO PROVIDE
9 PREMIUM PAY TO THEIR MISSISSIPPI FRONTLINE NURSES AND
10 LICENSED/CERTIFIED HEALTH CARE WORKERS PROVIDING BEDSIDE CARE WHO
11 ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT
12 COVID-19 PUBLIC HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE
13 FUNDS SHALL BE EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO
14 MISSISSIPPI LICENSED LONG-TERM CARE FACILITIES TO PROVIDE PREMIUM
15 PAY TO THEIR MISSISSIPPI FRONTLINE NURSES AND LICENSED/CERTIFIED
16 HEALTH CARE WORKERS PROVIDING BEDSIDE CARE WHO ARE PRIMARILY
17 DEVOTED TO MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC
18 HEALTH EMERGENCY; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE
19 EXPENDED BY THE DEPARTMENT FOR PROVIDING FUNDS TO MISSISSIPPI
20 LICENSED AMBULANCE SERVICES TO PROVIDE PREMIUM PAY TO THEIR
21 MISSISSIPPI FRONTLINE NURSES AND LICENSED/CERTIFIED HEALTH CARE
22 WORKERS PROVIDING BEDSIDE CARE WHO ARE PRIMARILY DEVOTED TO
23 MITIGATING OR RESPONDING TO THE CURRENT COVID-19 PUBLIC HEALTH
24 EMERGENCY; TO PROVIDE THAT A PORTION OF THE FUNDS SHALL BE
25 EXPENDED BY THE STATE DEPARTMENT OF HEALTH FOR PROVIDING FUNDS TO
26 ELIGIBLE ENTITIES UNDER THIS ACT TO PROVIDE PREMIUM PAY TO THEIR
27 MISSISSIPPI FRONTLINE NURSES AND LICENSED/CERTIFIED HEALTH CARE
28 WORKERS WHO ARE PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO
29 THE CURRENT COVID-19 PUBLIC HEALTH EMERGENCY TO BE DISTRIBUTED IN
30 THE MANNER THAT THE DEPARTMENT DETERMINES IS THE MOST EQUITABLE
31 AND EFFICIENT TO SUPPLEMENT THE FUNDS OTHERWISE PROVIDED AND TO
32 EFFECTUATE THE PURPOSES OF THIS ACT; TO PROVIDE THAT MISSISSIPPI
33 FRONTLINE NURSES AND LICENSED/CERTIFIED HEALTH CARE WORKERS WHO
34 QUALIFY FOR PREMIUM PAY UNDER THIS SECTION SHALL RECEIVE PREMIUM



35 PAY NOT TO EXCEED A CERTAIN AMOUNT WITHIN 60 DAYS OF THE EFFECTIVE
36 DATE OF THIS ACT IN RECOGNITION OF THE RECIPIENT'S CURRENT AND
37 FUTURE WORK PRIMARILY DEVOTED TO MITIGATING OR RESPONDING TO THE
38 CURRENT COVID-19 PUBLIC HEALTH EMERGENCY AND SUBJECT TO THE
39 RECIPIENT'S WRITTEN AGREEMENT WITH THE DEPARTMENT TO CONTINUE
40 EMPLOYMENT WITH THE RECIPIENT'S PRIMARY CURRENT EMPLOYER FOR FIVE
41 MONTHS FOLLOWING THE RECEIPT OF SUCH PREMIUM PAY; TO FURTHER
42 PROVIDE THAT THE WRITTEN AGREEMENT SHALL BE DEVELOPED BY THE
43 DEPARTMENT AND INCLUDE A PROVISION THAT THE MISSISSIPPI FRONTLINE
44 NURSE OR LICENSED/CERTIFIED HEALTH CARE WORKER MAY BE REQUIRED TO
45 REPAY TO THE STATE OF MISSISSIPPI THE AMOUNT OF THEIR PREMIUM PAY
46 FUNDS IF THE TERMS OF THE AGREEMENT ARE NOT MET; TO PROVIDE
47 CERTAIN REPORTING AND APPROVAL REQUIREMENTS UNDER THIS ACT; TO
48 PROVIDE THAT NONE OF THE FUNDS PROVIDED UNDER THIS SECTION MAY BE
49 USED TO PROVIDE PREMIUM PAY TO ANY FRONTLINE NURSES OR
50 LICENSED/CERTIFIED HEALTH CARE WORKERS WHO ARE WORKING UNDER A
51 CONTRACT WITH A STAFFING AGENCY TO PROVIDE SERVICES IN THE STATE
52 OF MISSISSIPPI FOR A LIMITED DURATION OF LESS THAN ONE YEAR, SUCH
53 AS TRAVEL NURSES, AS DETERMINED BY THE DEPARTMENT; AND FOR RELATED
54 PURPOSES.

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

56 **SECTION 1.** This act shall be known and may be cited as the
57 "Mississippi Frontline Nurses and Health Care Workers Retention
58 Act."

59 **SECTION 2.** The Legislature finds and determines that:

60 (a) Frontline nurses and licensed/certified health care
61 workers who are primarily devoted to mitigating or responding to
62 the current COVID-19 public health emergency in Mississippi have
63 faced and continue to face elevated health risks during the
64 current public health emergency;

65 (b) There is a vital need to provide these Mississippi
66 frontline nurses and licensed/certified health care workers with
67 premium pay from the Coronavirus State Fiscal Recovery Fund
68 established by the American Rescue Plan Act of 2021, with the goal
69 of retaining Mississippi frontline nurses and licensed/certified



70 health care workers who are primarily devoted to mitigating or
71 responding to the current COVID-19 public health emergency;

72 (c) Having cared for thousands of COVID-19 patients,
73 these Mississippi frontline nurses and licensed/certified health
74 care workers are now part of a hyper-competitive labor market and
75 in extreme demand across the country;

76 (d) These Mississippi frontline nurses and
77 licensed/certified health care workers who are primarily devoted
78 to mitigating or responding to the current COVID-19 public health
79 emergency are heroes to their patients and to all the citizens of
80 this state, and providing this premium pay to them is of utmost
81 urgency to retain these heroes fighting the pandemic on the front
82 lines in the months to come.

83 **SECTION 3.** (1) There is created at the Mississippi
84 Department of Health, the Mississippi Frontline Nurses and Health
85 Care Workers Retention Grant Program.

86 (2) The purpose of this program is to provide Mississippi
87 licensed hospitals and Mississippi licensed long-term care
88 facilities with grants to provide premium pay to their frontline
89 nurses and licensed/certified health care workers providing
90 bedside care who are primarily devoted to mitigating or responding
91 to the current COVID-19 public health emergency. This grant
92 program shall be subject to the availability of funds appropriated
93 by the Legislature utilizing Coronavirus State Fiscal Recovery



94 Funds made available under the federal American Rescue Plan Act of
95 2021 (ARPA) or any other funds appropriated by the Legislature.

96 (3) Definitions. For purposes of this section, unless the
97 context requires otherwise, the following terms shall have the
98 meanings ascribed:

99 (a) "ARPA" shall mean the federal American Rescue Plan
100 Act of 2021, Public Law 117-2, which amends Title VI of the Social
101 Security Act.

102 (b) "State Recovery Funds" shall mean Coronavirus State
103 Fiscal Recovery Funds awarded through Section 602, Title VI of the
104 Social Security Act amended by Section 9901 of the federal
105 American Rescue Plan Act of 2021, Public Law 117-2.

106 (c) "Department" shall mean the Mississippi Department
107 of Health.

108 (d) "Hospital" shall mean any Mississippi licensed
109 hospital and Mississippi licensed long-term care facility.

110 (4) On or before July 1, 2022, the Mississippi Department of
111 Health shall promulgate interim rules and regulations necessary to
112 administer the Frontline Nurses and Health Care Workers Retention
113 Grant Program prescribed under this act, including application
114 procedures and deadlines.

115 (5) In providing the funds to Mississippi licensed hospitals
116 under this act, the department shall determine the maximum
117 possible amount available to each Mississippi licensed hospital
118 using a formula based on the total number of hospitalized COVID-19



119 patients that the Mississippi licensed hospital treated from
120 January 1, 2021, through September 17, 2021, and the number of
121 Mississippi licensed hospital beds in the hospital as of the most
122 recent date known by the department. The formula should provide
123 double the weight to the total number of hospitalized COVID-19
124 patients that the Mississippi licensed hospital treated from
125 January 1, 2021, through September 17, 2021, as compared to the
126 weight given to the number of Mississippi licensed hospital beds
127 in the hospital as of the most recent date known by the
128 department.

129 (6) In providing the funds to Mississippi licensed long-term
130 care facilities under this act, the department shall determine the
131 maximum possible amount available to each Mississippi licensed
132 long-term care facility using a formula based on the total number
133 of COVID-19 positive residents at the Mississippi licensed
134 long-term care facility from January 1, 2021, through September
135 17, 2021, and the number of Mississippi licensed and staffed
136 long-term care beds in the long-term care facility as of the most
137 recent date known by the department. The formula should provide
138 double the weight to the total number of COVID-19 positive
139 residents that the Mississippi licensed long-term care facility
140 treated from January 1, 2021, through September 17, 2021, as
141 compared to the weight given to the number of Mississippi licensed
142 and staffed long-term care beds in the long-term care facility as
143 of the most recent date known by the department.



144 (7) In providing the funds to Mississippi licensed ambulance
145 services under this act, the department shall determine the
146 maximum possible amount available to each Mississippi licensed
147 ambulance service based on the total number of ambulance runs,
148 including transfers, as reported to the Mississippi EMS
149 information system on September 30, 2021, for the period January
150 1, 2021, through September 17, 2021.

151 (8) As a condition of receiving premium pay under this
152 section, the recipient must execute a written agreement with the
153 department to continue employment with his or her primary current
154 employer for five (5) months following the receipt of such premium
155 pay. The written agreement shall be developed by the department
156 and shall include a provision that the recipient may be required
157 to repay to the State of Mississippi, to be deposited into the
158 Coronavirus State Fiscal Recovery Fund, the amount of premium pay
159 funds that he or she received if the terms of the agreement are
160 not met. The written agreement with the department shall not
161 create, revise or otherwise affect any contractual relationship
162 between the employer and employee.

163 (9) As a condition of receiving funds under this act, each
164 employer shall provide a report to the department of the number
165 and type of frontline nurses and licensed/certified health care
166 workers and premium pay amounts they intend to distribute, and
167 must receive approval from the department that the requirements of
168 this act, the American Rescue Plan Act of 2021 and any federal



169 guidance regarding the Coronavirus State Fiscal Recovery Fund are
170 met before the employer may distribute the premium pay to their
171 frontline nurses or licensed/certified health care workers who are
172 primarily devoted to mitigating or responding to the current
173 COVID-19 public health emergency.

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

180 (11) None of the funds provided under this act may be used
181 to provide premium pay to any frontline nurses or
182 licensed/certified health care workers who have gross annual wages
183 or salary from their primary current employer equal to or greater
184 than One Hundred Fifty Thousand Dollars (\$150,000.00).

185 (12) If there are any unused or otherwise unspent funds
186 under this section, the department shall reallocate those funds to
187 eligible entities under this section, notwithstanding the maximum
188 possible amount available to each eligible entity as determined
189 under this section, to provide premium pay to their eligible
190 frontline nurses and licensed/certified health care workers who
191 are primarily devoted to mitigating or responding to the current
192 COVID-19 public health emergency. The department shall reallocate



193 such funds in a manner that the department determines is the most
194 equitable and efficient to effectuate the purposes of this act.

195 (13) For purposes of the Public Employees' Retirement System
196 of Mississippi, the premium pay provided under this section shall
197 not be considered earned compensation, as defined in Section
198 25-11-103(k).

199 (14) The department shall certify to the Department of
200 Finance and Administration that each expenditure of the funds
201 appropriated to the department under this act is in compliance
202 with the guidelines, guidance, rules, regulations and/or other
203 criteria, as may be amended from time to time, of the United
204 States Department of the Treasury regarding the use of monies from
205 the Coronavirus State Fiscal Recovery Fund established by the
206 American Rescue Plan Act of 2021.

207 (15) If the Office of Inspector General of the United States
208 Department of the Treasury, or the Office of Inspector General of
209 any other federal agency having oversight over the use of monies
210 from the Coronavirus State Fiscal Recovery Fund established by the
211 American Rescue Plan Act of 2021 (a) determines that the
212 department or recipient has expended or otherwise used any of the
213 funds appropriated to the department under this act for any
214 purpose that is not in compliance with the guidelines, guidance,
215 rules, regulations and/or other criteria, as may be amended from
216 time to time, of the United States Department of the Treasury
217 regarding the use of monies from the Coronavirus State Fiscal



218 Recovery Fund established by the American Rescue Plan Act of 2021,
219 and (b) the State of Mississippi is required to repay the federal
220 government for any of those funds that the Office of the Inspector
221 General determined were expended or otherwise used improperly by
222 the department or recipient, then the department or recipient that
223 expended or otherwise used those funds improperly shall be
224 required to pay the amount of those funds to the State of
225 Mississippi for repayment to the federal government.

226 **SECTION 4.** This act shall take effect and be in force from
227 and after July 1, 2022, and shall stand repealed on June 30, 2022.

