

By: Representative Bourdeaux

To: Public Health and  
Welfare

## HOUSE BILL NO. 422

1 AN ACT TO AMEND SECTION 43-13-145, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT NURSING FACILITIES MEETING CERTAIN REQUIREMENTS  
3 SHALL BE EXEMPT FROM THE NURSING FACILITY ASSESSMENT; TO PROVIDE  
4 THAT THE EXEMPTION SHALL STAND REPEALED UNDER CERTAIN  
5 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

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

9 43-13-145. (1) (a) Upon each nursing facility licensed by  
10 the State of Mississippi, except those nursing facilities exempt  
11 by paragraph (b) of this subsection, and each intermediate care  
12 facility for the mentally retarded licensed by the State of  
13 Mississippi, there is levied an assessment in an amount set by the  
14 division not exceeding Two Dollars (\$2.00) per day, or fraction  
15 thereof, for each patient in a licensed bed of the facility. The  
16 division may apply for a waiver from the U.S. Secretary of Health  
17 and Human Services to exempt nonprofit, public, charitable or  
18 religious facilities from the assessment levied under this  
19 subsection, and if a waiver is granted, such facilities shall be  
20 exempt from any assessment levied under this subsection after the  
21 date that the division receives notice that the waiver has been  
22 granted.

23 (b) Nursing facilities that meet all of the following  
24 requirements shall be exempt from the assessment levied under  
25 paragraph (a) of this subsection:

26 (i) Meet the requirements of Section 501(c)(3) of  
27 the United States Internal Revenue Code;

28                    (ii) Do not participate in the Medicaid program;  
29                    (iii) Are operated by or affiliated with a church  
30 or religious organization; and  
31                    (iv) Are exempt from Mississippi sales taxes  
32 pursuant to Section 27-65-111(e) and Sales and Use Tax Rule 61.

33            The Legislature finds that exempting the small number of  
34 nursing facilities that meet all of the requirements of  
35 subparagraphs (i) through (iv) above from the assessment levied  
36 under paragraph (a) of this subsection would not prevent the net  
37 impact of that assessment and associated expenditures from being  
38 generally redistributive in nature and would not cause the amount  
39 of the assessment to be directly correlated to payments under the  
40 Medicaid program. Instead, this exemption would permit a limited  
41 number of nursing facilities to continue to offer nursing care to  
42 persons who otherwise would rely on the Medicaid program to pay  
43 for nursing care.

44            (c) The exemption authorized under paragraph (b) shall  
45 stand repealed if at any time after July 1, 1999, the Federal  
46 Government determines that the assessment levied under paragraph  
47 (a) of this subsection is not a broad based, uniformly imposed  
48 health care related tax because of the exemption authorized under  
49 paragraph (b) of this subsection, and notifies the Division of  
50 Medicaid that it intends to reduce the total state Medicaid  
51 expenditures eligible for federal financial participation under  
52 the Medicaid program by the amount of revenue generated from the  
53 assessment levied under paragraph (a) of this subsection for that  
54 reason. In that case, paragraph (b) shall stand repealed on the  
55 date that the federal government would otherwise begin the  
56 reduction of total state Medicaid expenditures eligible for  
57 federal financial participation, and the nursing facilities  
58 exempted under paragraph (b) shall begin paying the assessment  
59 after the date of the repeal.

60            (2) The assessment levied under this section shall be

61 collected by the division each quarter beginning on July 1, 1992,  
62 and shall be based on data for the quarter ending three (3) months  
63 before the date the assessments are to be collected.

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

66 (4) The assessment levied under this section shall be in  
67 addition to any other assessments, taxes or fees levied by law.

68 (5) The assessment levied under this section shall  
69 constitute a debt due the State of Mississippi from the time the  
70 assessment is due until it is paid. If any facility liable for  
71 payment of such assessment does not pay the assessment when it is  
72 due, the division shall give written notice to the facility  
73 demanding payment of the assessment within ten (10) days from the  
74 date of delivery of the notice. Such notice shall be sent by  
75 certified or registered mail or delivered to the facility by an  
76 agent of the division. If any facility liable for the assessment  
77 fails or refuses to pay it after receiving the notice and demand,  
78 the division may withhold the Medicaid reimbursement payments that  
79 are otherwise scheduled to be made to the facility from the time  
80 the assessment is due until it is paid by the facility.

81 SECTION 2. Nothing in this act shall affect or defeat any  
82 claim, suit, right or cause of action for assessments due or  
83 accrued under Section 43-13-145 before the date on which this act  
84 becomes effective, whether such claims, suits or actions have been  
85 begun before the date on which this act becomes effective or are  
86 begun thereafter; and the provisions of Section 43-13-145 are  
87 expressly continued in full force, effect and operation for the  
88 purpose of the collection of any assessments due or accrued before  
89 the date on which this act becomes effective.

90 SECTION 3. This act shall take effect and be in force from  
91 and after July 1, 1999.