

By: Representative Howell

To: Public Health and Welfare; Appropriations

HOUSE BILL NO. 1131

1 AN ACT TO CODIFY NEW SECTION 41-73-70, MISSISSIPPI CODE OF
 2 1972, TO CREATE A STATEWIDE ESSENTIAL SERVICE PROVIDER ASSISTANCE
 3 PROGRAM UNDER THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES
 4 AUTHORITY ACT TO PROVIDE ASSISTANCE TO ESSENTIAL SERVICE HOSPITALS
 5 AND ESSENTIAL SERVICE PHYSICIANS IN NEED OF RENOVATED FACILITIES,
 6 NEW EQUIPMENT AND UPGRADED TECHNOLOGY; TO AMEND SECTION 41-73-3,
 7 MISSISSIPPI CODE OF 1972, TO DEFINE "ESSENTIAL SERVICE HOSPITAL,"
 8 "ESSENTIAL SERVICE PHYSICIAN," "ESSENTIAL SERVICE PROVIDER" AND
 9 "RURAL AREA"; TO AMEND SECTIONS 41-73-5, 41-73-17 AND 41-73-27,
 10 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
 11 TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972, TO ESTABLISH
 12 WITHIN THE HEALTH CARE EXPENDABLE FUND THE ESSENTIAL SERVICE
 13 PROVIDER ASSISTANCE ACCOUNT, INTO WHICH SPECIFIED SUMS WILL BE
 14 TRANSFERRED FROM THE EXPENDABLE FUND EACH YEAR; AND FOR RELATED
 15 PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section
 18 41-73-70, Mississippi Code of 1972:

19 41-73-70. (1) Essential service providers within the State
 20 of Mississippi provide a valuable service to the residents of the
 21 communities in which they are located. Many of Mississippi's
 22 essential service hospitals are currently located within buildings
 23 and structures that are in great need of renovation and operate
 24 with equipment and technology that are out-of-date, and many of
 25 Mississippi's essential service physicians operate with equipment
 26 and technology that are out-of-date. It is in the public interest
 27 and is vital to the public welfare of the people of Mississippi,
 28 and it is declared to be the public purpose of this section to
 29 develop an essential service provider assistance program within
 30 the State of Mississippi with respect to essential service
 31 providers to assist in the maintenance and renovation of the
 32 existing facilities of essential service hospitals and the
 33 acquisition of modern equipment and upgrade of technology of



34 essential service providers in order to provide residents in the
35 state who live in rural areas access to effective and appropriate
36 health care.

37 (2) There is established a statewide Essential Service
38 Provider Assistance Program to provide assistance to (a) essential
39 service hospitals in need of renovated facilities, new equipment
40 and upgraded technology and (b) essential service physicians in
41 need of new equipment and upgraded technology.

42 (3) The Essential Service Provider Assistance Program shall,
43 upon appropriate request by an essential service hospital to the
44 authority, provide funds to essential service hospitals for the
45 purposes of maintenance and renovation of essential service
46 hospital facilities and acquisition of essential service hospital
47 equipment and upgrade of technology.

48 (4) The Essential Service Provider Assistance Program shall,
49 upon appropriate request by an essential service physician to the
50 authority, provide funds to essential service physicians for the
51 purpose of acquisition of essential service physician equipment
52 and upgrade of technology.

53 (5) The Essential Service Provider Assistance Program will
54 be administered by the authority created under Section 41-73-7
55 with all its rights, duties and responsibilities set forth in this
56 chapter.

57 **SECTION 2.** Section 41-73-3, Mississippi Code of 1972, is
58 amended as follows:

59 41-73-3. The Legislature * * * finds and declares that:

60 (a) Delivery of quality health care in Mississippi has
61 in recent years become increasingly dependent upon sophisticated
62 equipment and adequate, modern facilities at a time when the
63 acquisition and financing of such equipment and facilities by
64 health care providers has become increasingly expensive.

65 (b) It is necessary that Mississippi hospitals be able
66 to obtain the modern equipment and facilities needed to meet the



67 needs of their medical staffs and to improve the quality of
68 medical care provided to Mississippi citizens.

69 (c) The increased costs of acquiring and financing
70 modern equipment and facilities by Mississippi hospitals is
71 necessarily passed to the patients receiving medical care from the
72 hospitals, resulting in higher medical bills and increased health
73 insurance premiums.

74 (d) These increased costs discourage Mississippi
75 citizens from obtaining necessary medical care.

76 (e) The problems set forth above cannot be remedied
77 solely through the operation of private enterprise or efforts by
78 individual communities, but can be alleviated through the creation
79 of a public body corporate and politic, separate and apart from
80 the State of Mississippi, constituting a governmental
81 instrumentality, to be known as the Mississippi Hospital Equipment
82 and Facilities Authority, to encourage the investment of private
83 capital in Mississippi hospitals through the use of public
84 financing as provided in this act for the purpose of financing
85 hospital equipment and hospital facilities at interest rates lower
86 than those available in the conventional credit markets.

87 (f) Alleviating the conditions and problems set forth
88 above by the encouragement of private investment through a
89 governmental body is a public purpose and use for which public
90 money provided by the sale of revenue bonds may be borrowed,
91 expended, advanced, loaned and granted and is * * * so declared to
92 be such public purpose as a matter of express legislative
93 determination. Such activities shall not be conducted for profit.

94 (g) Because essential service providers are located in
95 rural areas and in areas within the state that are largely
96 populated by persons who are Medicaid recipients or are uninsured
97 or underinsured, they are often unable to financially afford to
98 acquire and finance modern equipment and facilities or to
99 accomplish necessary renovations of their existing facilities even



100 at interest rates lower than those available in the conventional
101 credit markets. Alleviating the condition and problem of the
102 essential service provider set forth in this subsection (g) by
103 providing essential service providers grants from the Health Care
104 Expendable Fund created by Section 43-13-407 is declared to be a
105 public purpose as a matter of express legislative determination
106 and an appropriate use of the funds of the Health Care Expendable
107 Fund as set forth in Section 43-13-407(4). Those activities shall
108 not be conducted for profit.

109 **SECTION 3.** Section 41-73-5, Mississippi Code of 1972, is
110 amended as follows:

111 41-73-5. When used in this act, unless the context requires
112 a different definition, the following terms shall have the
113 following meanings:

114 (a) "Act" means the Mississippi Hospital Equipment and
115 Facilities Authority Act.

116 (b) "Authority" means the Mississippi Hospital
117 Equipment and Facilities Authority created by this act and any
118 successor to its functions.

119 (c) "Bonds" means bonds, notes or other evidences of
120 indebtedness of the authority issued pursuant to this act,
121 including refunding bonds.

122 (d) "Cost" as applied to hospital equipment means any
123 and all costs of such hospital equipment and, without limiting the
124 generality of the foregoing, shall include the following:

125 (i) All costs of the acquisition, repair,
126 restoration, reconditioning, refinancing or installation of any
127 such hospital equipment and all costs incident or related thereto;

128 (ii) The cost of any property interest in such
129 hospital equipment including an option to purchase or leasehold
130 interest;

131 (iii) The cost of architectural, engineering,
132 legal and related services; the cost of the preparation of plans,



133 specifications, studies, surveys and estimates of cost and of
134 revenue; and all other expenses necessary or incident to planning,
135 providing or determining the need for or the feasibility and
136 practicability of such hospital equipment; and the cost of
137 providing or establishing a reasonable reserve fund for the
138 payment of principal and interest on bonds;

139 (iv) The cost of financing charges, including
140 premiums or prepayment penalties, if any, and interest accrued
141 prior to the acquisition and installation or refinancing of such
142 hospital equipment and after such acquisition and installation or
143 refinancing and start-up costs related to hospital equipment;

144 (v) Any and all costs paid or incurred in
145 connection with the financing of such hospital equipment,
146 including out-of-pocket expenses, the cost of financing, legal,
147 accounting, financial advisory and consulting fees, expenses and
148 disbursements; the cost of any policy of insurance; the cost of
149 printing, engraving and reproduction services; and the cost of the
150 initial or acceptance fee of any trustee or paying agent;

151 (vi) All direct or indirect costs of the authority
152 incurred in connection with providing such hospital equipment,
153 including, without limitation, reasonable sums to reimburse the
154 authority for time spent by its agents or employees with respect
155 to providing such hospital equipment and the financing thereof;
156 and

157 (vii) Any and all costs paid or incurred for the
158 administration of any program for the purchase or lease of or the
159 making of loans for hospital equipment, by the authority and any
160 program for the sale or lease of or the making of loans for such
161 hospital equipment to any participating hospital institution.

162 (e) "Cost," as applied to hospital facilities, means
163 any and all costs of such hospital facilities and, without
164 limiting the generality of the foregoing, shall include the
165 following:



166 (i) All costs of the establishment, demolition,
167 site development of new and rehabilitated buildings,
168 rehabilitation, reconstruction repair, erection, building,
169 construction, remodeling, adding to and furnishing of any such
170 hospital facilities and all costs incident or related thereto;

171 (ii) The cost of acquiring any property interest
172 in such hospital facilities including the purchase thereof, the
173 cost of an option to purchase or the cost of any leasehold
174 interest;

175 (iii) The cost of architectural, engineering,
176 legal and related services; the cost of the preparation of plans,
177 specifications, studies, surveys and estimates of cost and of
178 revenue; all other expenses necessary or incident to planning,
179 providing or determining the need for or the feasibility and
180 practicability of such hospital facilities or the acquisition
181 thereof; and the cost of providing or establishing a reasonable
182 reserve fund for the payment of principal of and interest on
183 bonds;

184 (iv) The cost of financing charges, including
185 premiums or prepayment penalties, if any, and interest accrued
186 prior to the acquisition and completion or refinancing of such
187 hospital facilities and after such acquisition and completion or
188 refinancing and start-up costs related to hospital facilities;

189 (v) Any and all costs paid or incurred in
190 connection with the financing of such hospital facilities,
191 including out-of-pocket expenses, the cost of financing, legal,
192 accounting, financial advisory and consulting fees, expenses and
193 disbursement; the cost of any policy of insurance; the cost of
194 printing, engraving and reproduction services; and the cost of the
195 initial or acceptance fee of any trustee or paying agent;

196 (vi) All direct or indirect costs of the authority
197 incurred in connection with providing such hospital facilities,
198 including, without limitation, reasonable sums to reimburse the



199 authority for time spent by its agents or employees with respect
200 to providing such hospital facilities and the financing thereof;

201 (vii) Any and all costs paid or incurred for the
202 administration of any program for the purchase or lease of or the
203 making of loans for hospital facilities, by the authority and any
204 program for the sale or lease of or the making of loans for such
205 hospital facilities to any participating hospital institution; and

206 (viii) The cost of providing for the payment or
207 the making provision for the payment of, by the appropriate
208 escrowing of moneys or securities, the principal of and interest
209 on which when due will be adequate to make such payment, any
210 indebtedness encumbering the revenues or property of a
211 participating hospital institution, whether such payment is to be
212 effected by redemption of such indebtedness prior to maturity or
213 not.

214 (f) "Essential service hospital" means any hospital in
215 the State of Mississippi:

216 (i) Located in a rural area;

217 (ii) That has an average daily census of less than
218 fifty (50);

219 (iii) For which at least seventy percent (70%) of
220 its revenues are attributable to patients entitled to Medicare
221 and/or Medicaid benefits and to self-pay patients; and

222 (iv) That provides an essential service to a local
223 population by being the only source of emergency or primary
224 inpatient acute health care in the community in which it is
225 located.

226 (g) "Essential service physician" means any physician
227 practicing in the State of Mississippi:

228 (i) Who holds a valid and unrestricted license to
229 practice medicine in the State of Mississippi and is practicing
230 medicine on a full time basis in the State of Mississippi;



231 (ii) Who is conducting at least seventy percent
232 (70%) of his or her medical practice within five (5) miles of an
233 essential service hospital; and

234 (iii) For whom at least seventy percent (70%) of
235 his or her revenues derived from his or her medical practice is
236 attributable to patients entitled to Medicare and/or Medicaid
237 benefits and to self-pay patients.

238 (h) "Essential service provider" means an essential
239 service hospital or an essential service physician.

240 (i) "Hospital equipment" means any personal property
241 which is found and determined by the authority to be required or
242 necessary or helpful for medical care, research, training or
243 teaching, any one (1) or all, in hospital facilities located in
244 the state, irrespective of whether such property is in existence
245 at the time of, or is to be provided after the making of, such
246 finding. * * * Major medical equipment as defined in Section
247 41-7-173(n), shall require a certificate of need prior to the
248 approval of the authority to contract with the hospital.

249 (j) "Hospital facility" or "hospital facilities" means
250 buildings and structures of any and all types used or useful, in
251 the discretion of the authority, for providing any types of care
252 to the sick, wounded, infirmed, needy, mentally incompetent or
253 elderly and shall include, without limiting the generality of the
254 foregoing, out-patient clinics, laboratories, laundries, nurses',
255 doctors' or interns' residences, administration buildings, office
256 buildings, facilities for research directly involved with hospital
257 care, maintenance, storage or utility facilities, parking lots,
258 and garages and all necessary, useful, or related furnishings, and
259 appurtenances and all lands necessary or convenient as a site for
260 the foregoing.

261 (k) "Participating hospital institution" or "hospital
262 institution" means a public or private corporation, association,
263 foundation, trust, cooperative, agency, body politic, or other



264 person or organization which provides or operates or proposes to
265 provide or operate hospital facilities not for profit, and which,
266 pursuant to the provisions of this act, contracts with the
267 authority for the financing or refinancing of the lease or other
268 acquisition of hospital equipment or hospital facilities, or both.

269 (l) "Rural area" means an area within the State of
270 Mississippi that is located outside of a standard metropolitan
271 statistical area as designated by Medicare.

272 (m) "State" means the State of Mississippi.

273 The use of singular terms in this section shall also include
274 the plural of such term and the use of a plural term in this
275 section shall also include the singular of such term unless the
276 context clearly requires a different connotation.

277 **SECTION 4.** Section 41-73-17, Mississippi Code of 1972, is
278 amended as follows:

279 41-73-17. The members of the authority may appoint an
280 executive director and/or a secretary who shall be employees of
281 the authority, but not members thereof, and who shall serve at the
282 pleasure of the members and receive such compensation as shall be
283 fixed by the members. The executive director, if appointed, shall
284 attend the meetings of the members of the authority and shall
285 administer, manage and direct the affairs and activities of the
286 authority in accordance with the policies and under the control
287 and direction of the members. The executive director shall
288 approve all accounts for salaries, allowable expenses of the
289 authority or of any employee or consultant thereof, and expenses
290 incidental to the operation of the authority. He shall perform
291 such other duties as may be directed by the members in carrying
292 out the purposes of this chapter. The practices and procedures
293 regarding administrative functions and responsibilities of the
294 authority shall be subject to the approval and review of the
295 Director of the State Bond Advisory Division of the Governor's
296 office. In lieu of or in addition to the appointment of an



297 executive director, the authority may contract with the State Bond
298 Advisory Division of the Governor's office to carry out in whole
299 or in part the administrative functions and responsibilities of
300 the authority, but may only pay the actual expenses incurred by
301 such division in performing such functions and responsibilities.
302 The expenses incurred by the authority in contracting for such
303 administrative functions and responsibilities shall be paid by the
304 authority as a qualified cost pursuant to Section 41-73-5(d)(vii)
305 or 41-73-5(e)(vii).

306 The secretary shall attend the meetings of the members of the
307 authority, shall keep a record of the proceedings of the
308 authority, and shall maintain and be custodian of all books,
309 documents and papers filed with the authority, the minute book or
310 journal of the authority, and its official seal. He may cause
311 copies to be made of all minutes and other records and documents
312 of the authority and may give certificates under seal of the
313 authority to the effect that such copies are true copies, and all
314 persons dealing with the authority may rely upon such
315 certificates. If an executive director and/or secretary are not
316 appointed, the members of the authority may designate from among
317 themselves or the authority's employees the person or persons
318 responsible for carrying out the duties set out in this section.

319 **SECTION 5.** Section 41-73-27, Mississippi Code of 1972, is
320 amended as follows:

321 41-73-27. The authority is * * * granted all powers
322 necessary or appropriate to carry out and effectuate its public
323 and corporate purposes, including but not limited to the
324 following:

325 (a) To have perpetual succession as a body politic and
326 corporate and an independent instrumentality exercising essential
327 public functions;

328 (b) To adopt, amend and repeal bylaws, rules and
329 regulations, not inconsistent with this act, to regulate its



330 affairs and to carry into effect the powers and purposes of the
331 authority and conduct its business;

332 (c) To sue and be sued in its own name;

333 (d) To have an official seal and alter it at will;

334 (e) To maintain an office at such place or places
335 within the state as it may designate;

336 (f) To monitor on a continuing basis the need for
337 hospital equipment financing and hospital facilities financing at
338 interest rates which are consistent with the needs of hospital
339 institutions;

340 (g) To make and execute contracts and all other
341 instruments necessary or convenient for the performance of its
342 duties and the exercise of its powers and functions under this
343 act;

344 (h) To employ architects, engineers, attorneys,
345 inspectors, accountants and health care experts and financial
346 advisors, and such other advisors, consultants and agents as may
347 be necessary in its judgment, and to fix their compensation;

348 (i) To procure insurance against any loss in connection
349 with its property and other assets, in such amounts and from such
350 insurers as it may deem advisable, including the power to pay
351 premiums on any such insurance;

352 (j) To procure insurance or guarantees from any public
353 or private entities, including any department, agency or
354 instrumentality of the United States of America, to secure payment
355 (i) on a loan, lease or purchase payment owed by a participating
356 hospital institution to the authority and (ii) of any bonds issued
357 by the authority, including the power to pay premiums on any such
358 insurance or guarantee;

359 (k) To procure letters of credit from any national or
360 state banking association or other entity authorized to issue a
361 letter of credit to secure the payment of any bonds issued by the
362 authority or to secure the payment of any loan, lease or purchase



363 payment owed by a participating hospital institution to the
364 authority, including the power to pay the cost of obtaining such
365 letter of credit;

366 (l) To receive and accept from any source aid or
367 contributions of money, property, labor or other things of value
368 to be held, used and applied to carry out the purposes of this act
369 subject to the conditions upon which the grants or contributions
370 are made, including, but not limited to, gifts or grants from any
371 department, agency or instrumentality of the United States of
372 America for any purpose consistent with the provisions of this
373 act;

374 (m) To provide, or cause to be provided by a
375 participating hospital institution, by acquisition, lease,
376 fabrication, repair, restoration, reconditioning, refinancing or
377 installation, one or more hospital facilities located within the
378 state or items of hospital equipment to be located within a
379 hospital facility in the state;

380 (n) To lease as lessor any hospital facility or any
381 item of hospital equipment for such rentals and upon such terms
382 and conditions as the authority may deem advisable and as are not
383 in conflict with the provisions of this act;

384 (o) To sell for installment payments or otherwise, to
385 option or contract for such sale, and to convey all or any part of
386 any hospital facility or any item of hospital equipment for such
387 price and upon such terms and conditions as the authority may deem
388 advisable and as are not in conflict with the provisions of this
389 act;

390 (p) To make contracts and incur liabilities, borrow
391 money at such rates of interest as the authority may determine,
392 issue its bonds in accordance with the provisions of this act, and
393 secure any of its bonds or obligations by mortgage or pledge of
394 all or any of its property, franchises and income or as otherwise
395 provided in this act;



396 (q) To make secured or unsecured loans for the purpose
397 of providing temporary or permanent financing or refinancing for
398 the cost of any hospital facility or item of hospital equipment,
399 including the retiring of any outstanding obligations with respect
400 to such hospital facility or hospital equipment, and the
401 reimbursement for the cost of any hospital facility or hospital
402 equipment, purchased within two (2) years immediately preceding
403 the date of the bond issue, made or given by any participating
404 hospital institution for the cost of any hospital facility,
405 hospital equipment, and to charge and collect interest on such
406 loans for such loan payments and upon such terms and conditions as
407 the authority may deem advisable and as are not in conflict with
408 the provisions of this act;

409 (r) To invest and reinvest its funds and to take and
410 hold property as security for the investment of such funds as
411 provided in this act;

412 (s) To purchase, receive, lease (as lessee or lessor),
413 or otherwise acquire, own, hold, improve, use or otherwise deal in
414 and with, hospital facilities and equipment, or any interest
415 therein, wherever situated, as the purposes of the authority shall
416 require;

417 (t) To sell, convey, mortgage, pledge, assign, lease,
418 exchange, transfer and otherwise dispose of all or any part of its
419 property and assets;

420 (u) To the extent permitted under its contract with the
421 holders of bonds of the authority, consent to any modification
422 with respect to the rate of interest, time and payment of any
423 installment of principal or interest, or any other term of any
424 contract, loan, loan note, loan note commitment, contract, lease
425 or agreement of any kind to which the authority is a party; * * *

426 (v) To assist participating hospital institutions to
427 obtain funds for any purpose by utilizing the value of the
428 receivables of such participating hospital institutions through



429 the making of loans secured by such receivables, by purchasing
430 such receivables, by utilizing such receivables to secure
431 obligations of the authority, or through any combination of the
432 foregoing; and

433 (w) To administer the Essential Service Provider
434 Assistance Program.

435 **SECTION 6.** Section 43-13-407, Mississippi Code of 1972, is
436 amended as follows:

437 43-13-407. (1) In accordance with the purposes of this
438 article, there is established in the State Treasury the Health
439 Care Expendable Fund, into which shall be transferred from the
440 Health Care Trust Fund the following sums:

441 (a) In fiscal year 2000, Fifty Million Dollars
442 (\$50,000,000.00);

443 (b) In fiscal year 2001, Fifty-five Million Dollars
444 (\$55,000,000.00);

445 (c) In fiscal year 2002, Sixty Million Five Hundred
446 Thousand Dollars (\$60,500,000.00);

447 (d) In fiscal year 2003, Sixty-six Million Five Hundred
448 Fifty Thousand Dollars (\$66,550,000.00);

449 (e) In fiscal year 2004 and each subsequent fiscal
450 year, a sum equal to the average annual amount of the income from
451 the investment of the funds in the Health Care Trust Fund since
452 July 1, 1999.

453 (2) In any fiscal year in which interest and dividends from
454 the investment of the funds in the Health Care Trust Fund are not
455 sufficient to fund the full amount of the annual transfer into the
456 Health Care Expendable Fund as required in subsection (1) of this
457 section, the State Treasurer shall transfer from tobacco
458 settlement installment payments an amount that is sufficient to
459 fully fund the amount of the annual transfer.

460 (3) Except as provided in subsection (5) of this section,
461 all income from the investment of the funds in the Health Care



462 Expendable Fund shall be credited to the account of the Health
463 Care Expendable Fund. Any funds in the Health Care Expendable
464 Fund at the end of a fiscal year shall not lapse into the State
465 General Fund.

466 (4) The funds in the Health Care Expendable Fund shall be
467 available for expenditure pursuant to specific appropriation by
468 the Legislature beginning in fiscal year 2000, and shall be
469 expended exclusively for health care purposes.

470 (5) In accordance with the purposes of Section 41-73-70,
471 there is established within the Health Care Expendable Fund, the
472 Essential Service Provider Assistance Account into which shall be
473 transferred from the Health Care Expendable Fund the following
474 sums:

475 (a) In fiscal year 2003, Two Million Five Hundred
476 Thousand Dollars (\$2,500,000.00);

477 (b) In fiscal year 2004, Two Million Seven Hundred
478 Fifty Thousand Dollars (\$2,750,000.00);

479 (c) In fiscal year 2005, Three Million Twenty-five
480 Thousand Dollars (\$3,025,000.00);

481 (d) In fiscal year 2006, Three Million Three Hundred
482 Twenty-seven Thousand Five Hundred Dollars (\$3,327,500.00);

483 (e) In fiscal year 2007 and each subsequent fiscal
484 year, a sum equal to five percent (5%) of the sum transferred from
485 the Health Care Trust Fund to the Health Care Expendable Fund.

486 (6) All income from the investment of the funds in the
487 Essential Service Provider Assistance Account shall be credited to
488 the account of the Essential Service Provider Assistance Account.
489 Any funds in the Essential Service Provider Assistance Account at
490 the end of a fiscal year shall not lapse into the State General
491 Fund, but shall remain in the Essential Service Provider
492 Assistance Account.

493 **SECTION 7.** This act shall take effect and be in force from
494 and after July 1, 2002.

