

By: Senator(s) Huggins

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 2757

1 AN ACT TO ESTABLISH A RURAL HOSPITAL ASSISTANCE PROGRAM TO BE  
2 ADMINISTERED BY THE MISSISSIPPI HOSPITAL EQUIPMENT AND FACILITIES  
3 AUTHORITY AND FUNDED FROM TOBACCO LITIGATION EXPENDABLE FUNDS; TO  
4 AMEND SECTIONS 41-73-3 AND 41-73-5, MISSISSIPPI CODE OF 1972, TO  
5 DEFINE AN "ESSENTIAL SERVICE HOSPITAL," "RURAL AREA" AND OTHER  
6 DEFINITIONS; TO CODIFY SECTION 41-73-70, MISSISSIPPI CODE OF 1972,  
7 AND TO AMEND SECTION 41-73-17 AND 41-73-27, MISSISSIPPI CODE OF  
8 1972, TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF THE  
9 ESSENTIAL SERVICE PROVIDER ASSISTANCE PROGRAM, AND TO CREATE THE  
10 ESSENTIAL SERVICE PROVIDED ASSISTANCE ACCOUNT FOR ITS OPERATION  
11 INTO WHICH FUNDS SHALL BE TRANSFERRED FROM THE HEALTH CARE  
12 EXPENDABLE FUND; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 41-73-3, Mississippi Code of 1972, is  
15 amended as follows:

16 41-73-3. The Legislature hereby finds and declares that:

17 (1) Delivery of quality health care in Mississippi has in  
18 recent years become increasingly dependent upon sophisticated  
19 equipment and adequate, modern facilities at a time when the  
20 acquisition and financing of such equipment and facilities by  
21 health care providers has become increasingly expensive.

22 (2) It is necessary that Mississippi hospitals be able to  
23 obtain the modern equipment and facilities needed to meet the  
24 needs of their medical staffs and to improve the quality of  
25 medical care provided to Mississippi citizens.

26 (3) The increased costs of acquiring and financing modern  
27 equipment and facilities by Mississippi hospitals is necessarily  
28 passed to the patients receiving medical care from the hospitals,  
29 resulting in higher medical bills and increased health insurance  
30 premiums.

31 (4) These increased costs discourage Mississippi citizens  
32 from obtaining necessary medical care.



33 (5) The problems set forth above cannot be remedied solely  
34 through the operation of private enterprise or efforts by  
35 individual communities, but can be alleviated through the creation  
36 of a public body corporate and politic, separate and apart from  
37 the State of Mississippi, constituting a governmental  
38 instrumentality, to be known as the Mississippi Hospital Equipment  
39 and Facilities Authority, to encourage the investment of private  
40 capital in Mississippi hospitals through the use of public  
41 financing as provided in this act for the purpose of financing  
42 hospital equipment and hospital facilities at interest rates lower  
43 than those available in the conventional credit markets.

44 (6) Alleviating the conditions and problems set forth above  
45 by the encouragement of private investment through a governmental  
46 body is a public purpose and use for which public money provided  
47 by the sale of revenue bonds may be borrowed, expended, advanced,  
48 loaned and granted and is hereby so declared to be such public  
49 purpose as a matter of express legislative determination. Such  
50 activities shall not be conducted for profit.

51 (7) Because essential service providers are located in rural  
52 areas and in areas within the state that are largely populated by  
53 persons who are Medicaid recipients or are uninsured or  
54 underinsured, they are often unable to financially afford to  
55 acquire and finance modern equipment and facilities or to  
56 accomplish necessary renovations of their existing facilities even  
57 at interest rates lower than those available in the conventional  
58 credit markets. Alleviating the condition and problem of the  
59 essential service provider set forth in this subsection (7) by  
60 providing essential service providers grants from the Health Care  
61 Expendable Fund created by Section 43-13-407 is hereby declared to  
62 be a public purpose as a matter of express legislative  
63 determination and an appropriate use of the funds of the Health  
64 Care Expendable Fund as set forth in Section 43-13-407(4). Such  
65 activities shall not be conducted for profit.



66           **SECTION 2.** Section 41-73-5, Mississippi Code of 1972, is  
67 amended as follows:

68           41-73-5. When used in this act, unless the context requires  
69 a different definition, the following terms shall have the  
70 following meanings:

71           (a) "Act" means the Mississippi Hospital Equipment and  
72 Facilities Authority Act.

73           (b) "Authority" means the Mississippi Hospital  
74 Equipment and Facilities Authority created by this act and any  
75 successor to its functions.

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

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

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

85           (ii) The cost of any property interest in such  
86 hospital equipment including an option to purchase or leasehold  
87 interest;

88           (iii) The cost of architectural, engineering,  
89 legal and related services; the cost of the preparation of plans,  
90 specifications, studies, surveys and estimates of cost and of  
91 revenue; and all other expenses necessary or incident to planning,  
92 providing or determining the need for or the feasibility and  
93 practicability of such hospital equipment; and the cost of  
94 providing or establishing a reasonable reserve fund for the  
95 payment of principal and interest on bonds;

96           (iv) The cost of financing charges, including  
97 premiums or prepayment penalties, if any, and interest accrued  
98 prior to the acquisition and installation or refinancing of such



99 hospital equipment and after such acquisition and installation or  
100 refinancing and start-up costs related to hospital equipment;

101 (v) Any and all costs paid or incurred in  
102 connection with the financing of such hospital equipment,  
103 including out-of-pocket expenses, the cost of financing, legal,  
104 accounting, financial advisory and consulting fees, expenses and  
105 disbursements; the cost of any policy of insurance; the cost of  
106 printing, engraving and reproduction services; and the cost of the  
107 initial or acceptance fee of any trustee or paying agent;

108 (vi) All direct or indirect costs of the authority  
109 incurred in connection with providing such hospital equipment,  
110 including, without limitation, reasonable sums to reimburse the  
111 authority for time spent by its agents or employees with respect  
112 to providing such hospital equipment and the financing thereof;  
113 and

114 (vii) Any and all costs paid or incurred for the  
115 administration of any program for the purchase or lease of or the  
116 making of loans for hospital equipment, by the authority and any  
117 program for the sale or lease of or the making of loans for such  
118 hospital equipment to any participating hospital institution.

119 (e) "Cost," as applied to hospital facilities, means  
120 any and all costs of such hospital facilities and, without  
121 limiting the generality of the foregoing, shall include the  
122 following:

123 (i) All costs of the establishment, demolition,  
124 site development of new and rehabilitated buildings,  
125 rehabilitation, reconstruction repair, erection, building,  
126 construction, remodeling, adding to and furnishing of any such  
127 hospital facilities and all costs incident or related thereto;

128 (ii) The cost of acquiring any property interest  
129 in such hospital facilities including the purchase thereof, the  
130 cost of an option to purchase or the cost of any leasehold  
131 interest;



132 (iii) The cost of architectural, engineering,  
133 legal and related services; the cost of the preparation of plans,  
134 specifications, studies, surveys and estimates of cost and of  
135 revenue; all other expenses necessary or incident to planning,  
136 providing or determining the need for or the feasibility and  
137 practicability of such hospital facilities or the acquisition  
138 thereof; and the cost of providing or establishing a reasonable  
139 reserve fund for the payment of principal of and interest on  
140 bonds;

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

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

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

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

163 (viii) The cost of providing for the payment or  
164 the making provision for the payment of, by the appropriate



165 escrowing of monies or securities, the principal of and interest  
166 on which when due will be adequate to make such payment, any  
167 indebtedness encumbering the revenues or property of a  
168 participating hospital institution, whether such payment is to be  
169 effected by redemption of such indebtedness prior to maturity or  
170 not.

171 (f) "Essential service hospital" means any hospital in  
172 the State of Mississippi:

173 (i) Located in a rural area;

174 (ii) That has an average daily census of less than  
175 fifty (50);

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

179 (iv) That provides an essential service to a local  
180 population by being the only source of emergency or primary  
181 inpatient acute healthcare in the community in which it is  
182 located.

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

185 (i) Who holds a valid and unrestricted license to  
186 practice medicine in the State of Mississippi and is practicing  
187 medicine on a full-time basis in the State of Mississippi;

188 (ii) Who is conducting at least seventy percent  
189 (70%) of his or her medical practice within five (5) miles of an  
190 essential service hospital; and

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

195 (h) "Essential service provider" means an essential  
196 service hospital or an essential service physician.



197           (i) "Hospital equipment" means any personal property  
198 which is found and determined by the authority to be required or  
199 necessary or helpful for medical care, research, training or  
200 teaching, any one (1) or all, in hospital facilities located in  
201 the state, irrespective of whether such property is in existence  
202 at the time of, or is to be provided after the making of, such  
203 finding. Provided further, that major medical equipment as  
204 defined in Section 41-7-173(n), shall require a certificate of  
205 need prior to the approval of the authority to contract with said  
206 hospital.

207           (j) "Hospital facility" or "hospital facilities" means  
208 buildings and structures of any and all types used or useful, in  
209 the discretion of the authority, for providing any types of care  
210 to the sick, wounded, infirmed, needy, mentally incompetent or  
211 elderly and shall include, without limiting the generality of the  
212 foregoing, out-patient clinics, laboratories, laundries, nurses',  
213 doctors' or interns' residences, administration buildings, office  
214 buildings, facilities for research directly involved with hospital  
215 care, maintenance, storage or utility facilities, parking lots,  
216 and garages and all necessary, useful, or related furnishings, and  
217 appurtenances and all lands necessary or convenient as a site for  
218 the foregoing.

219           (k) "Participating hospital institution" or "hospital  
220 institution" means a public or private corporation, association,  
221 foundation, trust, cooperative, agency, body politic, or other  
222 person or organization which provides or operates or proposes to  
223 provide or operate hospital facilities not for profit, and which,  
224 pursuant to the provisions of this act, contracts with the  
225 authority for the financing or refinancing of the lease or other  
226 acquisition of hospital equipment or hospital facilities, or both.

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



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

231           The use of singular terms herein shall also include the  
232 plural of such term and the use of a plural term herein shall also  
233 include the singular of such term unless the context clearly  
234 requires a different connotation.

235           **SECTION 3.** Section 41-73-17, Mississippi Code of 1972, is  
236 amended as follows:

237           41-73-17. The members of the authority may appoint an  
238 executive director and/or a secretary who shall be employees of  
239 the authority, but not members thereof, and who shall serve at the  
240 pleasure of the members and receive such compensation as shall be  
241 fixed by the members. The executive director, if appointed, shall  
242 attend the meetings of the members of the authority and shall  
243 administer, manage and direct the affairs and activities of the  
244 authority in accordance with the policies and under the control  
245 and direction of the members. The executive director shall  
246 approve all accounts for salaries, allowable expenses of the  
247 authority or of any employee or consultant thereof, and expenses  
248 incidental to the operation of the authority. He shall perform  
249 such other duties as may be directed by the members in carrying  
250 out the purposes of this chapter. The practices and procedures  
251 regarding administrative functions and responsibilities of the  
252 authority shall be subject to the approval and review of the  
253 Director of the State Bond Advisory Division of the Governor's  
254 office. In lieu of or in addition to the appointment of an  
255 executive director, the authority may contract with the State Bond  
256 Advisory Division of the Governor's office to carry out in whole  
257 or in part the administrative functions and responsibilities of  
258 the authority, but may only pay the actual expenses incurred by  
259 such division in performing such functions and responsibilities.  
260 The expenses incurred by the authority in contracting for such  
261 administrative functions and responsibilities shall be paid by the





262 authority as a qualified cost pursuant to Section 41-73-5(d) (vii)  
263 or 41-73-5(e) (vii).

264 The secretary shall attend the meetings of the members of the  
265 authority, shall keep a record of the proceedings of the  
266 authority, and shall maintain and be custodian of all books,  
267 documents and papers filed with the authority, the minute book or  
268 journal of the authority, and its official seal. He may cause  
269 copies to be made of all minutes and other records and documents  
270 of the authority and may give certificates under seal of the  
271 authority to the effect that such copies are true copies, and all  
272 persons dealing with the authority may rely upon such  
273 certificates. If an executive director and/or secretary are not  
274 appointed, the members of the authority may designate from among  
275 themselves or the authority's employees the person or persons  
276 responsible for carrying out the duties set out in this section.

277 **SECTION 4.** Section 41-73-27, Mississippi Code of 1972, is  
278 amended as follows:

279 41-73-27. The authority is hereby granted all powers  
280 necessary or appropriate to carry out and effectuate its public  
281 and corporate purposes, including, but not limited to, the  
282 following:

283 (a) To have perpetual succession as a body politic and  
284 corporate and an independent instrumentality exercising essential  
285 public functions;

286 (b) To adopt, amend and repeal bylaws, rules and  
287 regulations, not inconsistent with this act, to regulate its  
288 affairs and to carry into effect the powers and purposes of the  
289 authority and conduct its business;

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

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

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



294 (f) To monitor on a continuing basis the need for  
295 hospital equipment financing and hospital facilities financing at  
296 interest rates which are consistent with the needs of hospital  
297 institutions;

298 (g) To make and execute contracts and all other  
299 instruments necessary or convenient for the performance of its  
300 duties and the exercise of its powers and functions under this  
301 act;

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

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

310 (j) To procure insurance or guarantees from any public  
311 or private entities, including any department, agency or  
312 instrumentality of the United States of America, to secure payment  
313 (i) on a loan, lease or purchase payment owed by a participating  
314 hospital institution to the authority and (ii) of any bonds issued  
315 by the authority, including the power to pay premiums on any such  
316 insurance or guarantee;

317 (k) To procure letters of credit from any national or  
318 state banking association or other entity authorized to issue a  
319 letter of credit to secure the payment of any bonds issued by the  
320 authority or to secure the payment of any loan, lease or purchase  
321 payment owed by a participating hospital institution to the  
322 authority, including the power to pay the cost of obtaining such  
323 letter of credit;

324 (l) To receive and accept from any source aid or  
325 contributions of money, property, labor or other things of value  
326 to be held, used and applied to carry out the purposes of this act



327 subject to the conditions upon which the grants or contributions  
328 are made, including, but not limited to, gifts or grants from any  
329 department, agency or instrumentality of the United States of  
330 America for any purpose consistent with the provisions of this  
331 act;

332 (m) To provide, or cause to be provided by a  
333 participating hospital institution, by acquisition, lease,  
334 fabrication, repair, restoration, reconditioning, refinancing or  
335 installation, one or more hospital facilities located within the  
336 state or items of hospital equipment to be located within a  
337 hospital facility in the state;

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

342 (o) To sell for installment payments or otherwise, to  
343 option or contract for such sale, and to convey all or any part of  
344 any hospital facility or any item of hospital equipment for such  
345 price and upon such terms and conditions as the authority may deem  
346 advisable and as are not in conflict with the provisions of this  
347 act;

348 (p) To make contracts and incur liabilities, borrow  
349 money at such rates of interest as the authority may determine,  
350 issue its bonds in accordance with the provisions of this act, and  
351 secure any of its bonds or obligations by mortgage or pledge of  
352 all or any of its property, franchises and income or as otherwise  
353 provided in this act;

354 (q) To make secured or unsecured loans for the purpose  
355 of providing temporary or permanent financing or refinancing for  
356 the cost of any hospital facility or item of hospital equipment,  
357 including the retiring of any outstanding obligations with respect  
358 to such hospital facility or hospital equipment, and the  
359 reimbursement for the cost of any hospital facility or hospital



360 equipment, purchased within two (2) years immediately preceding  
361 the date of the bond issue, made or given by any participating  
362 hospital institution for the cost of any hospital facility,  
363 hospital equipment, and to charge and collect interest on such  
364 loans for such loan payments and upon such terms and conditions as  
365 the authority may deem advisable and as are not in conflict with  
366 the provisions of this act;

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

370 (s) To purchase, receive, lease (as lessee or lessor),  
371 or otherwise acquire, own, hold, improve, use or otherwise deal in  
372 and with, hospital facilities and equipment, or any interest  
373 therein, wherever situated, as the purposes of the authority shall  
374 require;

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

378 (u) To the extent permitted under its contract with the  
379 holders of bonds of the authority, consent to any modification  
380 with respect to the rate of interest, time and payment of any  
381 installment of principal or interest, or any other term of any  
382 contract, loan, loan note, loan note commitment, contract, lease  
383 or agreement of any kind to which the authority is a party; \* \* \*

384 (v) To assist participating hospital institutions to  
385 obtain funds for any purpose by utilizing the value of the  
386 receivables of such participating hospital institutions through  
387 the making of loans secured by such receivables, by purchasing  
388 such receivables, by utilizing such receivables to secure  
389 obligations of the authority, or through any combination of the  
390 foregoing; and

391 (w) To administer the Essential Service Provider  
392 Assistance Program.



393           **SECTION 5.** The following provision shall be codified as  
394 Section 41-73-70, Mississippi Code of 1972:

395           41-73-70. (1) Essential service providers within the State  
396 of Mississippi provide a valuable service to the residents of the  
397 communities in which they are located. Many of Mississippi's  
398 essential service hospitals are currently located within buildings  
399 and structures that are in great need of renovation and operate  
400 with equipment and technology that are out-of-date, and many of  
401 Mississippi's essential service physicians operate with equipment  
402 and technology that are out-of-date. It is in the public interest  
403 and is vital to the public welfare of the people of Mississippi,  
404 and it is declared to be the public purpose of this section to  
405 develop an essential service provider assistance program within  
406 the State of Mississippi with respect to essential service  
407 providers to assist in the maintenance and renovation of the  
408 existing facilities of essential service hospitals and the  
409 acquisition of modern equipment and upgrade of technology of  
410 essential service providers in order to provide residents in the  
411 state who live in rural areas access to effective and appropriate  
412 health care.

413           (2) There is hereby established a statewide Essential  
414 Service Provider Assistance Program to provide assistance to (a)  
415 essential service hospitals in need of renovated facilities, new  
416 equipment and upgraded technology, and (b) essential service  
417 physicians in need of new equipment and upgraded technology.

418           (3) The Essential Service Provider Assistance Program shall,  
419 upon appropriate request by an essential service hospital to the  
420 authority, provide funds to essential service hospitals for the  
421 purposes of maintenance and renovation of essential service  
422 hospital facilities and acquisition of essential service hospital  
423 equipment and upgrade of technology.

424           (4) The Essential Service Provider Assistance Program shall,  
425 upon appropriate request by an essential service physician to the



426 authority, provide funds to essential service physicians for the  
427 purpose of acquisition of essential service physician equipment  
428 and upgrade of technology.

429 (5) In accordance with the purposes of this section, there  
430 is hereby established within the Health Care Expendable Fund,  
431 created pursuant to Section 43-13-407, Mississippi Code of 1972,  
432 an Essential Service Provider Assistance Account into which shall  
433 be transferred from the Health Care Expendable Fund the following  
434 sums:

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

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

439 (c) In fiscal year 2005, Three Million Twenty-Five  
440 Thousand Dollars (\$3,025,000.00);

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

443 (e) In fiscal year 2007 and each subsequent fiscal  
444 year, a sum equal to five percent (5%) of the sum transferred from  
445 the Health Care Trust Fund, created pursuant to Section 43-13-405,  
446 to the Health Care Expendable Fund.

447 (6) All income from the investment of the funds in the  
448 Essential Service Provider Assistance Account shall be credited to  
449 the account of the Essential Service Provider Assistance Account.  
450 Any funds in the Essential Service Provider Assistance Account at  
451 the end of a fiscal year shall not lapse into the State General  
452 Fund but shall remain in the Essential Service Provider Assistance  
453 Account.

454 (7) The Essential Service Provider Assistance Program will  
455 be administered by the authority created pursuant to Section  
456 41-73-7 with all its rights, duties and responsibilities set forth  
457 in Section 41-73-1 et seq.



458           **SECTION 6.** This act shall take effect and be in force from  
459 and after July 1, 2002.

