

By: Senator(s) Huggins

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2393

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 PROVIDER 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
 18 in 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
 23 to 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
 27 modern equipment and facilities by Mississippi hospitals is
 28 necessarily passed to the patients receiving medical care from the
 29 hospitals, resulting in higher medical bills and increased health
 30 insurance premiums.

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



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

51 (7) Because essential service providers are located in
52 rural areas and in areas within the state that are largely
53 populated by persons who are Medicaid recipients or are uninsured
54 or 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 paragraph (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 2004, Two Million Five Hundred
436 Thousand Dollars (\$2,500,000.00);

437 (b) In fiscal year 2005, Two Million Seven Hundred
438 Fifty Thousand Dollars (\$2,750,000.00);

439 (c) In fiscal year 2006, Three Million Twenty-Five
440 Thousand Dollars (\$3,025,000.00);

441 (d) In fiscal year 2007, Three Million Three Hundred
442 Twenty-seven Thousand Five Hundred Dollars (\$3,327,500.00);

443 (e) In fiscal year 2008 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, 2003.

