

By: Representative Morris

To: Public Health and
Welfare; Ways and
Means

HOUSE BILL NO. 107

1 AN ACT TO CREATE AND PROVIDE FOR A FACILITY FOR THE TREATMENT
2 OF PERSONS WITH MENTAL ILLNESS TO BE KNOWN AS THE NORTHWEST
3 MISSISSIPPI STATE HOSPITAL TO BE ADMINISTERED BY THE STATE
4 DEPARTMENT OF MENTAL HEALTH; TO PROVIDE THAT FOR THE LOCATION OF
5 THE FACILITY, THE DEPARTMENT SHALL ACQUIRE BY GIFT OR OTHERWISE
6 THE LAND AND BUILDING WHICH WAS FORMERLY THE NORTH PANOLA REGIONAL
7 HOSPITAL BUILDING LOCATED IN SARDIS, MISSISSIPPI; TO DESIGNATE THE
8 FACILITY AS A STATE AGENCY AND TO PROVIDE CRIMINAL PENALTIES FOR
9 CERTAIN ACTIONS IN CONNECTION WITH THE FACILITY; TO AMEND SECTION
10 41-13-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE OWNERS OF
11 COMMUNITY HOSPITALS TO CONVEY EXISTING OR FORMER COMMUNITY
12 HOSPITAL FACILITIES TO ANY STATE AGENCY; TO AUTHORIZE THE
13 DEPARTMENT OF FINANCE AND ADMINISTRATION TO ISSUE GENERAL
14 OBLIGATION BONDS TO PROVIDE FUNDS FOR CONSTRUCTION, RENOVATION,
15 REPAIRING, REMODELING, EQUIPPING, FURNISHING, IMPROVING AND
16 MAINTAINING THE NORTHWEST MISSISSIPPI STATE HOSPITAL AUTHORIZED
17 UNDER THIS ACT; AND FOR RELATED PURPOSES.

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

19 SECTION 1. (1) The purpose of this section is to create,
20 construct, equip and maintain a facility for the acute care
21 treatment of persons with mental illness who have been committed
22 by the chancery court pursuant to Section 41-21-61 et seq., which
23 shall be known as the Northwest Mississippi State Hospital. The
24 Northwest Mississippi State Hospital shall not be constructed or
25 established until such time as sufficient funds have been
26 appropriated or otherwise made available for that purpose by the
27 Legislature.

28 (2) Out of funds provided therefor by the Legislature for
29 the location of the Northwest Mississippi State Hospital or from
30 any other sources, the Department of Finance and Administration is
31 authorized to purchase or acquire by gift the land and three-story
32 building which was formerly the North Panola Regional Hospital
33 Building located in Sardis, Mississippi, owned by the Board of

Supervisors of Panola County, Mississippi, and the City of Sardis, Mississippi. Any such land and building shall be transferred or deeded to the State of Mississippi for the sole use of the State Board of Mental Health in carrying out the provisions of this section. The general design of the facility and all construction plans shall be approved and recommended by the State Department of Mental Health.

(3) The facility shall be administered by the State Board of Mental Health.

(4) Persons who are juveniles or adults who have been determined to be a mentally ill person as defined in Section 41-21-61, and who have been committed for treatment by the chancery court pursuant to Section 41-21-61 et seq., shall be eligible for acute treatment at the facility. Persons admitted to the facility shall be assessed support and maintenance costs in accordance with the provisions of the state reimbursement laws as they apply to other state institutions.

(5) The Northwest Mississippi State Hospital is designated as a state agency for carrying out the purposes of any act of the Congress of the United States of America existing or enacted on or after July 1, 1999, that pertains to mental illness.

(6) Any person who (a) under the provisions of this section knowingly and unlawfully or improperly causes a person to be adjudged mentally ill, (b) procures the escape of a legally committed patient or knowingly conceals an escaped legally committed resident of the facility, or (c) unlawfully brings any firearm, deadly weapon or explosive into the facility or its grounds, or passes any thereof to patient, employee or officer of the facility, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), imprisonment for not less than six (6) months nor more than one (1) year, or both.

SECTION 2. Section 41-13-15, Mississippi Code of 1972, is amended as follows:

41-13-15. (1) Any county and/or any political or judicial subdivision of a county and/or any municipality of the State of

71 Mississippi, acting individually or jointly, may acquire and hold
72 real estate for a community hospital either recognized and/or
73 licensed as such by either the State of Mississippi or the United
74 States Government, and may, after complying with applicable health
75 planning and licensure statutes, construct a community hospital
76 thereon and/or appropriate funds according to the provisions of
77 this chapter for the construction, remodeling, maintaining,
78 equipping, furnishing and expansion of such facilities by the
79 board of trustees upon such real estate.

80 (2) Where joint ownership of a community hospital is
81 involved, the owners are hereby authorized to contract with each
82 other for determining the pro rata ownership of such community
83 hospital, the proportionate cost of maintenance and operation, and
84 the proportionate financing that each will contribute to the
85 community hospital.

86 (3) The owners may likewise contract with each other, or on
87 behalf of any subordinate political or judicial subdivision, or
88 with the board of trustees of a community hospital, and/or any
89 agency of the State of Mississippi or the United States
90 Government, for necessary purposes related to the establishment,
91 operation or maintenance of community hospitals and related
92 programs wherever located, and may either accept from, sell or
93 contribute to the other entities, monies, personal property or
94 existing health facilities. The owners or the board of trustees
95 may also receive monies, property or any other valuables of any
96 kind through gifts, donations, devises or other recognized means
97 from any source for the purpose of hospital use.

98 (4) Owners and boards of trustees, acting jointly or
99 severally, may acquire and hold real estate for offices for
100 physicians and other health care practitioners and related health
101 care or support facilities, provided that any contract for the
102 purchase of real property must be ratified by the owner, and may
103 thereon construct and equip, maintain and remodel or expand such

offices and related facilities, and the board of trustees may lease same to members of the hospital staff or others at a rate deemed to be in the best interest of the community hospital.

(5) If any political or judicial subdivision of a county is obligated hereunder, the boundaries of such district shall not be altered in such a manner as to relieve any portion thereof of its obligation hereunder.

(6) Owners may convey to any other owner, or to any state agency, any or all property, real or personal, comprising any existing or former community hospital, including related facilities, wherever located, owned by such conveying owner. Such conveyance shall be upon such terms and conditions as may be agreed upon and may make such provisions for transfers of operating funds and/or for the assumption of liabilities of the community hospital as may be deemed appropriate by the respective owners.

(7) (a) Except as provided for in subsection (11) of this section, owners may lease all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8), (9) and (10) of this section. The term of such lease shall not exceed fifty (50) years. Such lease shall be conditioned upon (i) the leased facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the lease shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the lease being

deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. Such lease shall be subject to the express approval of the board of trustees of the community hospital, except in the case where the board of trustees of the community hospital will be the lessee. However, owners may not lease any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to lease such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

If the owner wishes to lease a community hospital without an option to sell it and the approval of the board of trustees of the community hospital is required but is not given within thirty (30) days of the request for its approval by the owner, then the owner may enter such lease as described herein on the following conditions: A resolution by the owner describing its intention to enter such lease shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the lease of the community hospital and the last publication shall be made not more than seven (7) days prior to such date. If, on or prior to the date fixed in such resolution for the lease of the community hospital, there shall be filed with the clerk of the owner a petition signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified voters of such owner, requesting that an election be called and held on the question of the lease of the community hospital, then it shall be the duty of the owner to call and provide for the holding of an election as petitioned for. In such case, no such lease shall be entered into unless authorized by the affirmative vote of the

majority of the qualified voters of such owner who vote on the proposition at such election. Notice of such election shall be given by publication in like manner as hereinabove provided for the publication of the initial resolution. Such election shall be conducted and the return thereof made, canvassed and declared as nearly as may be in like manner as is now or may hereafter be provided by law in the case of general elections in such owner. If, on or prior to the date fixed in the owner's resolution for the lease of the community hospital, no such petition as described above is filed with the clerk of the owner, then the owner may proceed with the lease subject to the other requirements of this section. Subject to the above conditions, the lease agreement shall be upon such terms and conditions as may be agreed upon and may make such provision for transfers of tangible and intangible personal property and operating funds and/or for the assumption of liabilities of the community hospital and for such lease payments, all as may be deemed appropriate by the owners.

(b) Owners may sell and convey all or part of the property, real or personal, comprising a community hospital, including any related facilities, wherever located, and/or assets of such community hospital, to any individual, partnership or corporation, whether operating on a nonprofit basis or on a profit basis, or to the board of trustees of such community hospital or any other owner or board of trustees, subject to the applicable provisions of subsections (8) and (10) of this section. Such sale and conveyance shall be upon such terms and conditions as may be agreed upon by the owner and the purchaser that are consistent with the requirements of this section, and the parties may make such provisions for the transfer of operating funds or for the assumption of liabilities of the facility, or both, as they deem appropriate. However, such sale and conveyance shall be conditioned upon (i) the facility continuing to operate in a manner safeguarding community health interests; (ii) the proceeds

from such sale being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19 as and when they are due, provided that the terms of the sale shall cover any indebtedness pursuant to Section 41-13-19; and (iii) any surplus proceeds from the sale being deposited in the general fund of the owner, which proceeds may be used for any lawful purpose. However, owners may not sell or convey any community hospital to the University of Mississippi Medical Center unless first the University of Mississippi Medical Center has obtained authority to purchase such hospital under specific terms and conditions from the Board of Trustees of State Institutions of Higher Learning.

(8) Whenever any owner decides that it may be in its best interests to sell or lease a community hospital as provided for under subsection (7) of this section, the owner shall first contract with a certified public accounting firm, a law firm or competent professional health care or management consultants to review the current operating condition of the community hospital. The review shall consist of, at minimum, the following:

(a) A review of the community's inpatient facility needs based on current workload, historical trends and projections, based on demographic data, of future needs.

(b) A review of the competitive market for services, including other hospitals which serve the same area, the services provided and the market perception of the competitive hospitals.

(c) A review of the hospital's strengths relative to the competition and its capacity to compete in light of projected trends and competition.

(d) An analysis of the hospital's options, including service mix and pricing strategies. If the study concludes that a sale or lease should occur, the study shall include an analysis of which option would be best for the community and how much revenues should be derived from the lease or sale.

(9) After the review and analysis under subsection (8) of this section, an owner may choose to sell or lease the community hospital. If an owner chooses to sell such hospital or lease the hospital with an option to sell it, the owner shall follow the procedure specified in subsection (10) of this section. If an owner chooses to lease the hospital without an option to sell it, it shall first spread upon its minutes why such a lease is in the best interests of the persons living in the area served by the facility to be leased, and it shall make public any and all findings and recommendations made in the review required under proposals for the lease, which shall state clearly the minimum required terms of all respondents and the evaluation process that will be used when the owner reviews the proposals. The owner shall lease to the respondent submitting the highest and best proposal. In no case may the owner deviate from the process provided for in the request for proposals.

(10) If an owner wishes to sell such community hospital or lease the hospital with an option to sell it, the owner first shall conduct a public hearing on the issue of the proposed sale or lease with an option to sell the hospital. Notice of the date, time, location and purpose of the public hearing shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county or city, as the case may be, or if none be so published, in a newspaper having a general circulation therein. The first publication of the notice shall be made not less than twenty-one (21) days before the date of the public hearing and the last publication shall be made not more than seven (7) days before that date. If, after the public hearing, the owner chooses to sell or lease with an option to sell the hospital, the owner shall adopt a resolution describing its intention to sell or lease with an option to sell the hospital, which shall include the owner's reasons why such a sale or lease is in the best interests of the persons living in the area served

269 by the facility to be sold or leased. The owner then shall
270 publish a copy of the resolution; the requirements for proposals
271 for the sale or lease with an option to sell the hospital, which
272 shall state clearly the minimum required terms of all respondents
273 and the evaluation process that will be used when the owner
274 reviews the proposals; and the date proposed by the owner for the
275 sale or lease with an option to sell the hospital. Such
276 publication shall be made once a week for at least three (3)
277 consecutive weeks in at least one (1) newspaper published in the
278 county or city, as the case may be, or if none be so published, in
279 a newspaper having a general circulation therein. The first
280 publication of the notice shall be made not less than twenty-one
281 (21) days before the date proposed for the sale or lease with an
282 option to sell the hospital and the last publication shall be made
283 not more than seven (7) days before that date. If, on or before
284 the date proposed for the sale or lease of the hospital, there is
285 filed with the clerk of the owner a petition signed by twenty
286 percent (20%) or fifteen hundred (1500), whichever is less, of the
287 qualified voters of the owner, requesting that an election be
288 called and held on the question of the sale or lease with an
289 option to sell the hospital, then it shall be the duty of the
290 owner to call and provide for the holding of an election as
291 petitioned for. In that case, no such sale or lease shall be
292 entered into unless authorized by the affirmative vote of the
293 majority of the qualified voters of the owner who vote on the
294 proposition at such election. Notice of the election shall be
295 given by publication in the same manner as provided for the
296 publication of the initial resolution. The election shall be
297 conducted and the return thereof made, canvassed and declared in
298 the same manner as provided by law in the case of general
299 elections in the owner. If, on or before the date proposed for
300 the sale or lease of the hospital, no such petition is filed with
301 the clerk of the owner, then the owner may sell or lease with an

option to sell the hospital. Such sale or lease shall be made to the respondent submitting the highest and best proposal. In no case may the owner deviate from the process provided for in the request for proposals.

(11) A lessee of a community hospital, under a lease entered into under the authority of Section 41-13-15, in effect prior to July 15, 1993, or an affiliate thereof, may extend or renew such lease whether or not an option to renew or extend the lease is contained in the lease, for a term not to exceed fifteen (15) years, conditioned upon (a) the leased facility continuing to operate in a manner safeguarding community health interest; (b) proceeds from the lease being first applied against such bonds, notes or other evidence of indebtedness as are issued pursuant to Section 41-13-19; (c) surplus proceeds from the lease being used for health related purposes; (d) subject to the express approval of the board of trustees of the community hospital; and (e) subject to the express approval of the owner. If no board of trustees is then existing, the owner shall have the right to enter into a lease upon such terms and conditions as agreed upon by the parties. Any lease entered into under this subsection (11) may contain an option to purchase the hospital, on such terms as the parties shall agree.

SECTION 3. The Department of Finance and Administration, at one (1) time or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for construction, repairing, remodeling, equipping, furnishing, adding to, improving and maintaining the Northwest Mississippi State Hospital facility authorized in Section 1 of this act. Upon the adoption of a resolution by the Department of Finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the department shall deliver a certified copy of its resolution or

335 resolutions to the State Bond Commission. Upon receipt of such
336 resolution, the State Bond Commission, in its discretion, may act
337 as the issuing agent, prescribe the form of the bonds, advertise
338 for and accept bids, issue and sell the bonds so authorized to be
339 sold, and do any and all other things necessary and advisable in
340 connection with the issuance and sale of such bonds. The amount
341 of bonds issued under Sections 3 through 16 shall not exceed Eight
342 Million Dollars (\$8,000,000.00) to provide funds for the purposes
343 hereinabove set forth and to issue and sell bonds in the amount
344 specified.

345 SECTION 4. The principal of and interest on the bonds
346 authorized under Sections 3 through 16 shall be payable in the
347 manner provided in this section. Such bonds shall bear such date
348 or dates, be in such denomination or denominations, bear interest
349 at such rate or rates not exceeding the limits set forth in
350 Section 75-17-101, be payable at such place or places within or
351 without the State of Mississippi, shall mature absolutely at such
352 time or times not to exceed twenty (20) years from date of issue,
353 be redeemable before maturity at such time or times and upon such
354 terms, with or without premium, shall bear such registration
355 privileges, and shall be substantially in such form, all as
356 determined by resolution of the State Bond Commission.

357 SECTION 5. The bonds authorized under Sections 3 through 16
358 shall be signed by the Chairman of the State Bond Commission, or
359 by his facsimile signature, and the official seal of the State
360 Bond Commission shall be affixed thereto, attested by the
361 Secretary of the State Bond Commission. The interest coupons, if
362 any, to be attached to such bonds may be executed by the facsimile
363 signatures of such officers. Whenever any such bonds shall have
364 been signed by the officials designated to sign the bonds who were
365 in office at the time of such signing but who may have ceased to
366 be such officers before the sale and delivery of such bonds, or
367 who may not have been in office on the date such bonds may bear,

the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything in Sections 3 through 16 to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SECTION 6. All bonds and interest coupons issued under the provisions of Sections 3 through 16 have all the qualities and incidents of negotiable instruments under the provisions of the Mississippi Uniform Commercial Code, and in exercising the powers granted by Sections 3 through 16, the State Bond Commission shall not be required to and need not comply with the provisions of the Mississippi Uniform Commercial Code.

SECTION 7. The State Bond Commission shall act as the issuing agent for the bonds authorized under Sections 3 through 16, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 3 through 16 from the proceeds derived from the sale of the bonds. The State Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale may be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

401 Notice of the sale of any such bond shall be published at
402 least one (1) time, not less than ten (10) days before the date of
403 sale, and shall be so published in one or more newspapers
404 published or having a general circulation in the City of Jackson,
405 Mississippi, and in one or more other newspapers or financial
406 journals with a national circulation, to be selected by the State
407 Bond Commission.

408 The State Bond Commission, when issuing any bonds under the
409 authority of Sections 3 through 16, may provide that the bonds, at
410 the option of the State of Mississippi, may be called in for
411 payment and redemption at the call price named therein and accrued
412 interest on such date or dates named therein

413 SECTION 8. The bonds issued under the provisions of Sections
414 3 through 16 are general obligations of the State of Mississippi,
415 and for the payment thereof the full faith and credit of the State
416 of Mississippi is irrevocably pledged. If the funds appropriated
417 by the Legislature are insufficient to pay the principal of and
418 the interest on such bonds as they become due, then the deficiency
419 shall be paid by the State Treasurer from any funds in the State
420 Treasury not otherwise appropriated. All such bonds shall contain
421 recitals on their faces substantially covering the provisions of
422 this section.

423 SECTION 9. The State Treasurer is authorized to certify to
424 the State Fiscal Officer the necessity for warrants, and the State
425 Fiscal Officer is authorized and directed to issue such warrants,
426 in such amounts as may be necessary to pay when due the principal
427 of, premium, if any, and interest on, or the accredited value of,
428 all bonds issued under Sections 3 through 16; and the State
429 Treasurer shall forward the necessary amount to the designated
430 place or places of payment of such bonds in ample time to
431 discharge such bonds, or the interest on the bonds, on their due
432 dates.

433 SECTION 10. Upon the issuance and sale of bonds under

Sections 3 through 16, the State Bond Commission shall deposit the proceeds of any such sale or sales in a special fund created in the State Treasury to be known as the "Northwest Mississippi State Hospital Fund." The proceeds of such bonds shall be used solely for the purposes provided in Sections 3 through 16, including the costs incident to the issuance and sale of such bonds. The costs incident to the issuance and sale of such bonds shall be disbursed by warrant upon requisition of the State Bond Commission, signed by the chairman of the commission. The remaining monies in the fund shall be expended solely under the direction of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds, and such funds shall be paid by the State Treasurer upon warrants issued by the State Fiscal Officer.

SECTION 11. The bonds authorized under Sections 3 through 16 may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things that are specified or required by Sections 3 through 16. Any resolution providing for the issuance of bonds under Sections 3 through 16 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

SECTION 12. The bonds authorized under the authority of Sections 3 through 16 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SECTION 13. Any holder of bonds issued under Sections 3

through 16 or of any of the interest coupons pertaining to the bonds may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights granted under Sections 3 through 16, or under such resolution, and may enforce and compel performance of all duties required by Sections 3 through 16 to be performed, in order to provide for the payment of bonds and interest on the bonds.

SECTION 14. All bonds issued under Sections 3 through 16 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities that may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SECTION 15. Bonds issued under Sections 3 through 16 and income from the bonds shall be exempt from all taxation in the State of Mississippi.

SECTION 16. Sections 3 through 16 shall be deemed to be full and complete authority for the exercise of the powers granted, but Sections 3 through 16 shall not be deemed to repeal or to be in derogation of any existing law of this state.

SECTION 17. This act shall take effect and be in force from and after July 1, 1999.