

By: Representative Clark

To: Public Health and Human Services

HOUSE BILL NO. 202

1 AN ACT TO AMEND SECTION 43-6-171, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE REQUIREMENTS FOR LEGISLATIVE DRAFTING OFFICES AND  
3 STATE AGENCIES TO USE CERTAIN RESPECTFUL REFERENCES TO INDIVIDUALS  
4 WITH DISABILITIES IN PREPARING LEGISLATION AND RULES; TO AMEND  
5 SECTIONS 13-1-305, 19-5-45, 21-37-6, 25-9-149, 25-15-13, 27-19-56,  
6 27-19-56.134, 29-5-65, 37-13-91, 37-16-9, 37-23-63, 37-31-31,  
7 37-31-33, 37-31-35, 37-31-39, 37-41-3, 37-151-5, 37-151-7,  
8 37-151-81, 41-3-15, 41-4-18, 41-7-173, 41-7-191, 41-11-102,  
9 41-11-105, 41-11-109, 41-11-111, 41-11-113, 41-13-35, 41-19-33,  
10 41-19-205, 41-19-237, 41-19-257, 41-19-261, 41-19-291, 41-21-67,  
11 41-21-131, 41-21-139, 41-31-15, 41-79-5, 43-6-1, 43-6-3, 43-6-5,  
12 43-6-13, 43-6-15, 43-6-113, 43-6-125, 43-7-61, 43-13-117, 43-18-1,  
13 43-27-25, 43-33-703, 43-33-717, 43-33-723, 45-1-2, 45-35-53,  
14 47-5-1351, 49-7-39, 49-7-40, 71-3-3, 71-3-7, 71-3-105, 71-7-13,  
15 75-74-9, 83-9-32, 93-7-3, 93-17-55, 93-17-67 AND 97-3-4,  
16 MISSISSIPPI CODE OF 1972, TO MODERNIZE THE TERMINOLOGY THAT IS  
17 USED TO REFER TO PERSONS WITH MENTAL ILLNESS, PERSONS WITH AN  
18 INTELLECTUAL DISABILITY, HANDICAPPED PERSONS AND CRIPPLED PERSONS;  
19 AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 43-6-171, Mississippi Code of 1972, is  
22 amended as follows:

23 43-6-171. (1) The Legislature recognizes that language used  
24 in reference to individuals with disabilities shapes and reflects  
25 society's attitudes towards people with disabilities. Many of the  
26 terms currently used diminish the humanity and natural condition



27 of having a disability. Certain terms are demeaning and create an  
28 invisible barrier to inclusion as equal community members. The  
29 Legislature finds it necessary to clarify preferred language  
30 for \* \* \* all laws and rules by requiring the use of terminology  
31 that puts the person before the disability.

32 (2) The legislative drafting offices of the House and Senate  
33 are directed to avoid all references to the terms "disabled,"  
34 "developmentally disabled," "mentally disabled," "mentally ill,"  
35 "mentally retarded," "handicapped," "cripple" and "crippled," in  
36 any new statute, memorial or resolution, and to change those  
37 references in any existing statute, memorial or resolution \* \* \*.  
38 The drafting offices are directed to replace the terms referenced  
39 above as appropriate with the following revised terminology:  
40 "persons with disabilities," "persons with developmental  
41 disabilities," "persons with mental illness" and "persons with  
42 intellectual or cognitive disabilities."

43 (3) No statute, memorial or resolution is invalid because it  
44 does not comply with this section.

45 (4) All state agency orders \* \* \* shall be formulated in  
46 accordance with the requirements of subsection (1) of this section  
47 regarding the use of respectful language.

48 (5) No agency rule is invalid because it does not comply  
49 with this section.

50 **SECTION 2.** Section 13-1-305, Mississippi Code of 1972, is  
51 amended as follows:



52           13-1-305. If the judge, or any other person charged under  
53 the provisions of Sections 13-1-301 through 13-1-315 with  
54 providing an interpreter, believes that a person claiming to be  
55 entitled to an interpreter may not actually be deaf or hearing  
56 impaired, unable to communicate verbally because of his hearing  
57 disability, or otherwise not entitled to such services, the judge  
58 may, on good cause shown, hold a hearing to determine the extent  
59 of the person's \* \* \* disability and the bona fide need for  
60 interpreting services. If it is determined that the person is not  
61 entitled to such services, an interpreter shall not be provided.  
62 Except in a preliminary hearing in a criminal case, every deaf  
63 person whose appearance before a proceeding entitles him to an  
64 interpreter shall notify the appointing authority of his  
65 disability not less than five (5) days prior to any appearance and  
66 shall request at such time the services of an interpreter. When a  
67 deaf person reasonably expects to need an interpreter for more  
68 than a single day, he shall so notify the appointing authority,  
69 and such notification shall be sufficient for the duration of his  
70 participation in the proceedings. When a deaf person receives  
71 notification of an appearance less than five (5) days before such  
72 appearance, he shall provide his notification and request for an  
73 interpreter as soon thereafter as practicable.

74           **SECTION 3.** Section 19-5-45, Mississippi Code of 1972, is  
75 amended as follows:



76 19-5-45. Any county within the State of Mississippi wherein  
77 the railroads known as the Illinois Central and the Mississippi  
78 Central intersect, and any county with a population of not less  
79 than twenty-one thousand (21,000) nor more than twenty-one  
80 thousand five hundred (21,500) and with an assessed valuation in  
81 excess of Sixteen Million Dollars (\$16,000,000.00), and in which  
82 State Highway 35 and State Highway 12 intersect, is \* \* \*  
83 authorized and empowered to issue the negotiable bonds or  
84 certificates of indebtedness of \* \* \* the county for the purpose  
85 of constructing an industrial building to be used as a sheltered  
86 workshop for the employment of \* \* \* persons with disabilities,  
87 and \* \* \* the county is \* \* \* authorized to retain two (2) mills  
88 of the state ad valorem tax levy for a period not in excess of  
89 five (5) years for the purpose of assisting in the retirement  
90 of \* \* \* the bonds and interest thereon.

91 The board of supervisors of any county coming within the  
92 provisions of this section shall be authorized to levy, at the  
93 time and in the prescribed manner other county tax levies are  
94 made, an ad valorem tax of one-fourth ( $\frac{1}{4}$ ) mill for each mill  
95 retained levied against all of the taxable property of such  
96 county, and such levy shall be made a condition precedent to the  
97 operation of this section.

98 The amount of bonds or certificates of indebtedness issued  
99 for this purpose shall not exceed the sum of One Hundred Fifty  
100 Thousand Dollars (\$150,000.00) and the two (2) mill state ad



101 valorem tax levy herein authorized to be retained for the  
102 retirement of \* \* \* the bonds may be pledged, together with the  
103 full faith and credit of the county, for the payment of \* \* \* the  
104 bonds at maturity and the interest thereon.

105 In issuing the bonds herein authorized, it shall only be  
106 necessary for the board of supervisors of \* \* \* the county to  
107 adopt a resolution providing for the sale and issuance of \* \* \*  
108 the bonds as now provided by law.

109 **SECTION 4.** Section 21-37-6, Mississippi Code of 1972, is  
110 amended as follows:

111 21-37-6. Every municipality shall install ramps at  
112 crosswalks, in both business and residential areas, when making  
113 new installations of sidewalks, curbs or gutters, or improving or  
114 replacing existing sidewalks, curbs or gutters, so as to make the  
115 transition from street to sidewalk easily negotiable for \* \* \*  
116 persons with physical disabilities in wheelchairs and for other  
117 persons who may have difficulty in making the required step up or  
118 down from curb level to street level.

119 The term "ramps" as used herein means a sloping asphalt or  
120 concrete surface, from the level of the sidewalk or curb to the  
121 level of the street at curbside, extending outward and downward  
122 from the curb to the street for such a distance, at such an angle,  
123 and at such a width as will facilitate the movement up and down  
124 such ramps of persons in wheelchairs or persons who have



125 difficulty in stepping up or down between curb level and street  
126 level.

127 **SECTION 5.** Section 25-9-149, Mississippi Code of 1972, is  
128 amended as follows:

129 25-9-149. It is the intent of the Legislature that no person  
130 seeking employment in state service, as defined in Section  
131 25-9-107, \* \* \* or employed in state service, as defined in  
132 Section 25-9-107, \* \* \* shall be discriminated against on the  
133 basis of race, color, religion, sex, national origin, age or \* \* \*  
134 disability.

135 **SECTION 6.** Section 25-15-13, Mississippi Code of 1972, is  
136 amended as follows:

137 25-15-13. Each eligible employee may participate in the  
138 plan by signing up for the plan at the time of employment. Each  
139 eligible employee who declines coverage under the plan must sign a  
140 waiver of coverage. After acceptance in the plan, the employee  
141 may cease his or her participation by filing a specific disclaimer  
142 with the board. Forms for this purpose shall be prescribed and  
143 issued by the board. All eligible employees will be eligible to  
144 participate in the plan on the effective date of the plan or on  
145 the date on which they are employed by the state, whichever is  
146 later, provided they make the necessary contributions as provided  
147 in this article. Spouses of employees, unmarried dependent  
148 children from birth to age nineteen (19) years, unmarried  
149 dependent children who are full-time students up to age



150 twenty-five (25) years, and \* \* \* children with physical or mental  
151 disabilities, regardless of age, are eligible under the plan as of  
152 the date the employee becomes eligible. If both spouses are  
153 eligible employees who participate in the plan, the benefits shall  
154 apply individually to each spouse by virtue of his or her  
155 participation in the plan. If those spouses also have one or more  
156 eligible dependents participating in the plan, the cost of their  
157 dependents shall be calculated at a special family plan rate. The  
158 cost for participation by the dependents shall be paid by the  
159 spouse who elects to carry such dependents under his or her  
160 coverage.

161       **SECTION 7.** Section 27-19-56, Mississippi Code of 1972, is  
162 amended as follows:

163       27-19-56. (1) (a) Upon application by any legal resident  
164 of the State of Mississippi with a disability which limits or  
165 impairs the ability to walk, or by the owner of a motor vehicle  
166 who has a child, parent or spouse with a disability which limits  
167 or impairs the ability to walk and the child, parent or spouse is  
168 living with the applicant, the Department of Revenue shall prepare  
169 and issue through the county tax collectors a special license  
170 plate bearing the International Symbol of Access adopted by  
171 Rehabilitation International in 1969 at its Eleventh World  
172 Congress on Rehabilitation of the Disabled for not more than two  
173 (2) vehicles that are registered in the applicant's name. The  
174 initial application shall be accompanied by the certification of a



175 licensed physician that (i) the applicant or the applicant's  
176 child, parent or spouse meets the definition of persons with  
177 disabilities which limit or impair the ability to walk; and (ii)  
178 that the physician has determined that the applicant or the  
179 applicant's child, parent or spouse will have the disability for  
180 at least five (5) years. The Department of Revenue shall prepare  
181 and issue to the tax collectors of the various counties, decals  
182 for placement on the special license plates. The decals shall  
183 bear thereon the month in which the license plate was issued and  
184 the year in which the special license plate will expire. The  
185 special license plate issued under this section is valid for the  
186 period of time that the license tag attached upon a motor vehicle  
187 is issued pursuant to Section 27-19-31(1). A person to whom the  
188 special license plate is issued may retain the special license  
189 plate and may renew it by submitting to the county tax collector,  
190 on or before its expiration, the certification of a licensed  
191 physician that the physician has determined (i) that the applicant  
192 or the applicant's child, parent or spouse meets the definition of  
193 a person with a disability which limits or impairs the ability to  
194 walk; and (ii) that the applicant or the applicant's child, parent  
195 or spouse will have the disability for at least five (5) years.  
196 If an applicant fails to renew the special license plate before  
197 its date of expiration, then he or she shall surrender the special  
198 license plate to the county tax collector and the tax collector





199 shall issue to such person a regular license plate to replace the  
200 special license plate.

201 (b) Upon application by any legal resident of the State  
202 of Mississippi who has a disabled American veteran plate or tag  
203 issued under Section 27-19-53 properly displayed on his vehicle  
204 and a disability which limits or impairs the ability to walk, the  
205 Department of Revenue shall prepare and issue through the county  
206 tax collectors a special decal bearing the International Symbol of  
207 Access adopted by Rehabilitation International in 1969 at its  
208 Eleventh World Congress on Rehabilitation of the Disabled for not  
209 more than two (2) vehicles that are registered in the applicant's  
210 name and properly display the plate or tag issued under Section  
211 27-19-53. The decal shall be affixed to the plate or tag issued  
212 under Section 27-19-53. The initial application shall be  
213 accompanied by the certification of a licensed physician that (i)  
214 the applicant meets the definition of persons with disabilities  
215 which limit or impair the ability to walk; and (ii) that the  
216 physician has determined that the applicant will have the  
217 disability for at least five (5) years. The Department of Revenue  
218 shall prepare and issue to the tax collectors of the various  
219 counties, decals for placement on the plate or tag issued under  
220 Section 27-19-53. The decals shall bear thereon the month in  
221 which the license plate or tag was issued and the year in which  
222 the plate or tag will expire. The special decal is valid for the  
223 period of time that the license tag attached upon a motor vehicle



224 is issued pursuant to Section 27-19-53. A person to whom the  
225 special decal is issued may retain the decal and may renew it by  
226 submitting to the county tax collector, on or before its  
227 expiration, the certification of a licensed physician that the  
228 physician has determined (i) that the applicant meets the  
229 definition of a person with a disability which limits or impairs  
230 the ability to walk; and (ii) that the applicant will have the  
231 disability for at least five (5) years. If an applicant fails to  
232 renew the special license plate decal before its date of  
233 expiration, then he shall surrender the decal to the county tax  
234 collector.

235 (c) (i) The terms "vehicle" and "motor vehicle," as  
236 used in this section, include motorcycles.

237 (ii) The term "persons with disabilities which  
238 limit or impair the ability to walk" when used in this section  
239 means those persons who, as determined by a licensed physician:

240 1. Cannot walk two hundred (200) feet without  
241 stopping to rest; or

242 2. Cannot walk without the use of, or  
243 assistance from, a brace, cane, crutch, another person, prosthetic  
244 device, wheelchair, or other assistive device; or

245 3. Are restricted by lung disease to such an  
246 extent that the person's forced (respiratory) expiratory volume  
247 for one (1) second, when measured by spirometry, is less than one



248 (1) liter, or the arterial oxygen tension is less than sixty (60)  
249 mm/hg on room air at rest; or

250 4. Use portable oxygen; or

251 5. Have a cardiac condition to the extent  
252 that the person's functional limitations are classified in  
253 severity as Class III or Class IV according to standards set by  
254 the American Heart Association; or

255 6. Are severely limited in their ability to  
256 walk due to an arthritic, neurological or orthopedic condition.

257 (d) An applicant for a special license plate or decal  
258 bearing the International Symbol of Access shall not be required  
259 to pay any fee or charge for the issuance of such license plate or  
260 decal separate from or in addition to the road and bridge  
261 privilege taxes, ad valorem taxes and registration fees otherwise  
262 required by law to be paid for the issuance of a regular license  
263 plate for such vehicle.

264 (2) The Department of Revenue shall prepare removable  
265 windshield placards and such placards shall be issued and  
266 periodically renewed upon the applications of persons with  
267 disabilities which limit or impair the ability to walk, or upon  
268 the applications of owners of motor vehicles who have a child,  
269 parent or spouse with a disability which limits or impairs the  
270 ability to walk and the child, parent or spouse is living with the  
271 owner of the motor vehicle. The placards shall be issued, free of  
272 charge, to applicants through the offices of the tax collectors of



273 the counties. The initial application shall be accompanied by the  
274 certification of a licensed physician that the applicant or the  
275 applicant's child, parent or spouse meets the definition of  
276 persons with disabilities which limit or impair the ability to  
277 walk. These placards shall be valid for the period of time that  
278 the license tag attached upon a motor vehicle is issued pursuant  
279 to Section 27-19-31(1) and may be renewed in the same manner as  
280 provided for the renewal of the special license plates or decals  
281 under subsection (1) of this section. The removable windshield  
282 placard must be displayed on the left side of the vehicle  
283 dashboard or by hanging it on the rearview mirror of the vehicle.  
284 The Department of Revenue shall prescribe the placement for  
285 motorcycles.

286 (3) The Department of Revenue shall provide for the issuance  
287 of a temporary removable windshield placard, upon the application  
288 of a person with a disability which limits or impairs the ability  
289 to walk, or upon the application of the owner of a motor vehicle  
290 who has a child, parent or spouse with a disability which limits  
291 or impairs the ability to walk and the child, parent or spouse is  
292 living with the owner of the motor vehicle. Temporary removable  
293 windshield placards authorized by this subsection shall be  
294 prepared by the Department of Revenue and shall be issued, free of  
295 charge, to applicants through the offices of the tax collectors of  
296 the counties. Application for a temporary removable windshield  
297 placard must be accompanied by the certification of a licensed



298 physician that the applicant or the applicant's child, parent or  
299 spouse meets the definition of persons with disabilities which  
300 limit or impair the ability to walk. The certification shall also  
301 include the period of time that the physician determines the  
302 applicant or the applicant's child, parent or spouse will have the  
303 disability, not to exceed six (6) months. The temporary removable  
304 windshield placard must be displayed on the left side of the  
305 vehicle dashboard or by hanging it on the rearview mirror of the  
306 vehicle. The temporary removable windshield placard shall be  
307 valid for a period of time for which the physician has determined  
308 that the applicant will have the disability, not to exceed six (6)  
309 months from the date of issuance. The Department of Revenue shall  
310 prescribe the placement for motorcycles.

311 (4) The removable windshield placard and the temporary  
312 removable windshield placard shall be two-sided and shall include:

313 (a) The International Symbol of Access, which is at  
314 least three (3) inches in height, centered on the placard (the  
315 color of the removable windshield placard shall be white on a blue  
316 shield; and the temporary removable windshield placard shall be  
317 white on a red shield);

318 (b) An identification number and, on the reverse side,  
319 the name of the individual to whom the placard is issued;

320 (c) A date of expiration; and

321 (d) The seal of the State of Mississippi.



322 (5) (a) It shall be unlawful to park a motor vehicle in an  
323 area set aside for persons who are disabled if the motor vehicle  
324 does not (i) have displayed the removable windshield placard  
325 authorized in this section with the date of expiration visible,  
326 (ii) have the special license plate issued under this section  
327 properly displayed upon the motor vehicle, (iii) have the disabled  
328 American veteran tag or plate issued under Section 27-19-53  
329 properly displayed upon the motor vehicle, or (iv) have the  
330 disabled Purple Heart Medal recipient tag or plate issued under  
331 Section 27-19-56.5 properly displayed upon the motor vehicle. Any  
332 person who unlawfully parks a motor vehicle in such areas, or who  
333 blocks such spaces or access thereto, shall be guilty of a  
334 misdemeanor and, upon conviction thereof, shall be fined not more  
335 than Two Hundred Dollars (\$200.00) for each such violation. For  
336 the third and subsequent offenses under this section, the  
337 offender's driver's license shall be suspended for ninety (90)  
338 days by the Commissioner of Public Safety in accordance with  
339 Section 63-1-53 in addition to any fine imposed. The court shall  
340 not suspend or reduce any fine required to be imposed under this  
341 subsection.

342 (b) A person who is charged with a violation of this  
343 section by parking a motor vehicle in an area set aside for  
344 persons who are disabled and failing properly to display (i) a  
345 removable windshield placard on the dash of the vehicle or by  
346 hanging it on the rearview mirror of the vehicle, (ii) a special



347 license plate issued under this section upon the vehicle, (iii) a  
348 disabled American veteran tag or plate issued under Section  
349 27-19-53, or (iv) have the disabled Purple Heart Medal recipient  
350 tag or plate issued under Section 27-19-56.5 properly displayed  
351 upon the motor vehicle shall not be convicted and shall have the  
352 charge dismissed upon presentation to the court of proof by means  
353 of sworn oral testimony or sworn affidavit that at the time of the  
354 charged violation such person or a passenger in the vehicle  
355 possessed a valid removable windshield placard issued under this  
356 section.

357 (6) Any person who, for the purpose of obtaining a special  
358 license plate or windshield placard under this section, files with  
359 the county tax collector a physician's certification, knowing the  
360 certification to be false or to have been fraudulently obtained,  
361 shall be guilty of a misdemeanor and, upon conviction, shall be  
362 fined not more than Two Hundred Dollars (\$200.00).

363 (7) All law enforcement officers are authorized to enforce  
364 this section on public and private property. Provision of spaces  
365 restricted to \* \* \* disabled parking and proper marking of such  
366 spaces shall be considered as intent and permission to enforce  
367 such designated parking on private property. Any owner of private  
368 property may tow away a vehicle that is parked on the owner's  
369 private property in violation of the disabled parking restrictions  
370 set forth in this section at the vehicle owner's expense. In  
371 addition, the vehicle owner may be subject to any fines or other



372 penalties provided in this section. Only areas marked in  
373 accordance with the Americans with Disabilities Act Accessibility  
374 Guidelines or equivalent standards shall be enforced. Spaces  
375 shall bear the International Symbol of Access.

376 (8) Motor vehicles displaying a special license plate,  
377 license plate decal, placard or parking certificate or permit  
378 bearing the International Symbol of Access issued to a person with  
379 a disability by any other state or district subject to the laws of  
380 the United States shall be allowed the special parking privileges  
381 under this section provided the license plate, decal, placard,  
382 permit or certificate bears the International Symbol of Access and  
383 is displayed in a prominent place on the vehicle.

384 (9) Parking in any area set aside for persons who are  
385 disabled is limited to vehicles which, immediately before or after  
386 the utilization of such an area, are used to transport a person  
387 with a disability which limits or impairs the ability to walk.  
388 The identification required to park in such an area, except as  
389 provided in subsection (8) of this section, is as follows:

390 (a) For a vehicle used to transport a person with a  
391 permanent disability, that person's permanent windshield placard  
392 must be displayed or the vehicle must have a special license tag  
393 issued under this section or Section 27-19-53 properly displayed.

394 (b) For a vehicle being used by a person who has a  
395 temporary disability which limits or impairs the ability to walk,





396 or which is being used to transport such a person, a temporary  
397 windshield placard must be displayed.

398 Any person who parks in an area set aside for persons who are  
399 disabled in violation of this subsection shall be punished as  
400 provided for in subsection (5) of this section.

401 (10) Upon application by a nursing home, retirement home or  
402 other institution that transports disabled persons, the Department  
403 of Revenue may issue the special license plate authorized pursuant  
404 to this section for not more than one (1) vehicle that is  
405 registered in the applicant's name that is used to transport  
406 disabled residents of the institution. Such institution shall  
407 comply with all other laws regarding the registration of such  
408 vehicle.

409 **SECTION 8.** Section 27-19-56.134, Mississippi Code of 1972,  
410 is amended as follows:

411 27-19-56.134. (1) Any owner of a motor vehicle who is a  
412 resident of this state, upon payment of the road and bridge  
413 privilege taxes, ad valorem taxes and registration fees as  
414 prescribed by law for private carriers of passengers, pickup  
415 trucks and other noncommercial motor vehicles, and upon payment of  
416 an additional fee in the amount provided in subsection (3) of this  
417 section, shall be issued a distinctive license tag for any motor  
418 vehicle registered in his name identifying such person as a  
419 supporter of children with medical \* \* \* disabilities. The  
420 distinctive license tags so issued shall be of such color and



421 design as the \* \* \* Department of Revenue, with the advice of the  
422 Executive Director of the Children's Defense Fund, may prescribe  
423 and shall consist of such letters or numbers, or both, as may be  
424 necessary to distinguish each license tag.

425 (2) Application for the distinctive license tags authorized  
426 by this section shall be made to the county tax collector on forms  
427 prescribed by the \* \* \* Department of Revenue. The application  
428 and the additional fee imposed under subsection (3) of this  
429 section, less Two Dollars (\$2.00) thereof to be retained by the  
430 tax collector, shall be remitted to the \* \* \* Department of  
431 Revenue on a monthly basis as prescribed by the commission. The  
432 portion of the additional fee retained by the tax collector shall  
433 be deposited into the county general fund.

434 (3) Beginning with any registration year commencing on or  
435 after July 1, 2006, any person applying for a distinctive license  
436 tag under this section shall pay an additional fee in the amount  
437 of Thirty Dollars (\$30.00) for each distinctive license tag  
438 applied for under this section, which shall be in addition to all  
439 other taxes and fees. The additional fee paid shall be for a  
440 period of time to run concurrently with the vehicle's established  
441 license tag year. The additional fee is due and payable at the  
442 time the original application is made for a distinctive license  
443 tag under this section and thereafter annually at the time of  
444 renewal registration as long as the owner retains the distinctive  
445 license tag. If the owner does not wish to retain the distinctive



446 license tag, he must surrender it to the local county tax  
447 collector.

448 (4) The \* \* \* Department of Revenue shall deposit all fees  
449 into the State Treasury on the day collected. At the end of each  
450 month, the \* \* \* Department of Revenue shall certify to the State  
451 Treasurer the total fees collected under this section from the  
452 issuance of the distinctive license tags issued under this  
453 section. The State Treasurer shall distribute such collections as  
454 follows:

455 (a) Twenty-four Dollars (\$24.00) of each additional fee  
456 collected on distinctive license tags issued pursuant to this  
457 section shall be distributed to the Children's Defense Fund.

458 (b) One Dollar (\$1.00) of each additional fee collected  
459 on distinctive license tags issued pursuant to this section shall  
460 be deposited into the Mississippi Burn Care Fund created pursuant  
461 to Section 7-9-70.

462 (c) Two Dollars (\$2.00) of each additional fee  
463 collected on distinctive license tags issued pursuant to this  
464 section shall be deposited to the credit of the State Highway Fund  
465 to be expended solely for the repair, maintenance, construction or  
466 reconstruction of highways.

467 (d) One Dollar (\$1.00) of each additional fee collected  
468 on distinctive license tags issued pursuant to this section shall  
469 be deposited to the credit of the special fund created in Section  
470 27-19-44.2.



471 (5) A regular license tag must be properly displayed as  
472 required by law until replaced by a distinctive license tag under  
473 this section. The regular license tag must be surrendered to the  
474 tax collector upon issuance of the distinctive license tag under  
475 this section. The tax collector shall issue up to two (2) license  
476 decals for each distinctive license tag issued under this section,  
477 which will expire the same month and year as the regular license  
478 tag.

479 (6) In the case of loss or theft of a distinctive license  
480 tag issued under this section, the owner may make application and  
481 affidavit for a replacement distinctive license tag as provided by  
482 Section 27-19-37. The fee for a replacement distinctive license  
483 tag shall be Ten Dollars (\$10.00). The tax collector receiving  
484 such application and affidavit shall be entitled to retain and  
485 deposit into the county general fund five percent (5%) of the fee  
486 for such replacement license tag and the remainder shall be  
487 distributed in the same manner as funds from the sale of regular  
488 distinctive license tags issued under this section.

489 **SECTION 9.** Section 29-5-65, Mississippi Code of 1972, is  
490 amended as follows:

491 29-5-65. At any time when the Legislature is in session,  
492 the \* \* \* Department of Finance and Administration shall designate  
493 and reserve sufficient parking spaces around the New Capitol  
494 Building to accommodate the members of the Legislature, and, when  
495 such spaces have been so designated and reserved, they shall be



496 identified and marked by means of numbers, one (1) of which shall  
497 be assigned to each member of the Legislature, and that space for  
498 which he or she holds that number shall be reserved for the  
499 exclusive use of the \* \* \* legislator. The \* \* \* department is  
500 authorized and directed to reserve and allocate, among those  
501 spaces, an individual parking space for use of any member of the  
502 Legislature who \* \* \* has a physical disability, so as to make his  
503 or her entrance to and exit from the New Capitol Building as  
504 convenient as is reasonably possible.

505       **SECTION 10.** Section 37-13-91, Mississippi Code of 1972, is  
506 amended as follows:

507       37-13-91. (1) This section shall be referred to as the  
508 "Mississippi Compulsory School Attendance Law."

509       (2) The following terms as used in this section are defined  
510 as follows:

511           (a) "Parent" means the father or mother to whom a child  
512 has been born, or the father or mother by whom a child has been  
513 legally adopted.

514           (b) "Guardian" means a guardian of the person of a  
515 child, other than a parent, who is legally appointed by a court of  
516 competent jurisdiction.

517           (c) "Custodian" means any person having the present  
518 care or custody of a child, other than a parent or guardian of the  
519 child.



520 (d) "School day" means not less than five and one-half  
521 (5-1/2) and not more than eight (8) hours of actual teaching in  
522 which both teachers and pupils are in regular attendance for  
523 scheduled schoolwork.

524 (e) "School" means any public school, including a  
525 charter school, in this state or any nonpublic school in this  
526 state which is in session each school year for at least one  
527 hundred eighty (180) school days, except that the "nonpublic"  
528 school term shall be the number of days that each school shall  
529 require for promotion from grade to grade.

530 (f) "Compulsory-school-age child" means a child who has  
531 attained or will attain the age of six (6) years on or before  
532 September 1 of the calendar year and who has not attained the age  
533 of seventeen (17) years on or before September 1 of the calendar  
534 year; and shall include any child who has attained or will attain  
535 the age of five (5) years on or before September 1 and has  
536 enrolled in a full-day public school kindergarten program.

537 (g) "School attendance officer" means a person employed  
538 by the State Department of Education pursuant to Section 37-13-89.

539 (h) "Appropriate school official" means the  
540 superintendent of the school district, or his designee, or, in the  
541 case of a nonpublic school, the principal or the headmaster.

542 (i) "Nonpublic school" means an institution for the  
543 teaching of children, consisting of a physical plant, whether  
544 owned or leased, including a home, instructional staff members and



545 students, and which is in session each school year. This  
546 definition shall include, but not be limited to, private, church,  
547 parochial and home instruction programs.

548 (3) A parent, guardian or custodian of a  
549 compulsory-school-age child in this state shall cause the child to  
550 enroll in and attend a public school or legitimate nonpublic  
551 school for the period of time that the child is of compulsory  
552 school age, except under the following circumstances:

553 (a) When a compulsory-school-age child is physically,  
554 mentally or emotionally incapable of attending school as  
555 determined by the appropriate school official based upon  
556 sufficient medical documentation.

557 (b) When a compulsory-school-age child is enrolled in  
558 and pursuing a course of special education, remedial education or  
559 education for \* \* \* children who are physically or mentally  
560 disadvantaged \* \* \* or disabled.

561 (c) When a compulsory-school-age child is being  
562 educated in a legitimate home instruction program.

563 The parent, guardian or custodian of a compulsory-school-age  
564 child described in this subsection, or the parent, guardian or  
565 custodian of a compulsory-school-age child attending any charter  
566 school or nonpublic school, or the appropriate school official for  
567 any or all children attending a charter school or nonpublic school  
568 shall complete a "certificate of enrollment" in order to  
569 facilitate the administration of this section.



570           The form of the certificate of enrollment shall be prepared  
571 by the Office of Compulsory School Attendance Enforcement of the  
572 State Department of Education and shall be designed to obtain the  
573 following information only:

574                   (i) The name, address, telephone number and date  
575 of birth of the compulsory-school-age child;

576                   (ii) The name, address and telephone number of the  
577 parent, guardian or custodian of the compulsory-school-age child;

578                   (iii) A simple description of the type of  
579 education the compulsory-school-age child is receiving and, if the  
580 child is enrolled in a nonpublic school, the name and address of  
581 the school; and

582                   (iv) The signature of the parent, guardian or  
583 custodian of the compulsory-school-age child or, for any or all  
584 compulsory-school-age child or children attending a charter school  
585 or nonpublic school, the signature of the appropriate school  
586 official and the date signed.

587           The certificate of enrollment shall be returned to the school  
588 attendance officer where the child resides on or before September  
589 15 of each year. Any parent, guardian or custodian found by the  
590 school attendance officer to be in noncompliance with this section  
591 shall comply, after written notice of the noncompliance by the  
592 school attendance officer, with this subsection within ten (10)  
593 days after the notice or be in violation of this section.

594 However, in the event the child has been enrolled in a public





595 school within fifteen (15) calendar days after the first day of  
596 the school year as required in subsection (6), the parent or  
597 custodian may, at a later date, enroll the child in a legitimate  
598 nonpublic school or legitimate home instruction program and send  
599 the certificate of enrollment to the school attendance officer and  
600 be in compliance with this subsection.

601 For the purposes of this subsection, a legitimate nonpublic  
602 school or legitimate home instruction program shall be those not  
603 operated or instituted for the purpose of avoiding or  
604 circumventing the compulsory attendance law.

605 (4) An "unlawful absence" is an absence for an entire school  
606 day or during part of a school day by a compulsory-school-age  
607 child, which absence is not due to a valid excuse for temporary  
608 nonattendance. For purposes of reporting absenteeism under  
609 subsection (6) of this section, if a compulsory-school-age child  
610 has an absence that is more than thirty-seven percent (37%) of the  
611 instructional day, as fixed by the school board for the school at  
612 which the compulsory-school-age child is enrolled, the child must  
613 be considered absent the entire school day. Days missed from  
614 school due to disciplinary suspension shall not be considered an  
615 "excused" absence under this section. This subsection shall not  
616 apply to children enrolled in a nonpublic school.

617 Each of the following shall constitute a valid excuse for  
618 temporary nonattendance of a compulsory-school-age child enrolled  
619 in a noncharter public school, provided satisfactory evidence of



620 the excuse is provided to the superintendent of the school  
621 district, or his designee:

622 (a) An absence is excused when the absence results from  
623 the compulsory-school-age child's attendance at an authorized  
624 school activity with the prior approval of the superintendent of  
625 the school district, or his designee. These activities may  
626 include field trips, athletic contests, student conventions,  
627 musical festivals and any similar activity.

628 (b) An absence is excused when the absence results from  
629 illness or injury which prevents the compulsory-school-age child  
630 from being physically able to attend school.

631 (c) An absence is excused when isolation of a  
632 compulsory-school-age child is ordered by the county health  
633 officer, by the State Board of Health or appropriate school  
634 official.

635 (d) An absence is excused when it results from the  
636 death or serious illness of a member of the immediate family of a  
637 compulsory-school-age child. The immediate family members of a  
638 compulsory-school-age child shall include children, spouse,  
639 grandparents, parents, brothers and sisters, including  
640 stepbrothers and stepsisters.

641 (e) An absence is excused when it results from a  
642 medical or dental appointment of a compulsory-school-age child.

643 (f) An absence is excused when it results from the  
644 attendance of a compulsory-school-age child at the proceedings of



645 a court or an administrative tribunal if the child is a party to  
646 the action or under subpoena as a witness.

647 (g) An absence may be excused if the religion to which  
648 the compulsory-school-age child or the child's parents adheres,  
649 requires or suggests the observance of a religious event. The  
650 approval of the absence is within the discretion of the  
651 superintendent of the school district, or his designee, but  
652 approval should be granted unless the religion's observance is of  
653 such duration as to interfere with the education of the child.

654 (h) An absence may be excused when it is demonstrated  
655 to the satisfaction of the superintendent of the school district,  
656 or his designee, that the purpose of the absence is to take  
657 advantage of a valid educational opportunity such as travel,  
658 including vacations or other family travel. Approval of the  
659 absence must be gained from the superintendent of the school  
660 district, or his designee, before the absence, but the approval  
661 shall not be unreasonably withheld.

662 (i) An absence may be excused when it is demonstrated  
663 to the satisfaction of the superintendent of the school district,  
664 or his designee, that conditions are sufficient to warrant the  
665 compulsory-school-age child's nonattendance. However, no absences  
666 shall be excused by the school district superintendent, or his  
667 designee, when any student suspensions or expulsions circumvent  
668 the intent and spirit of the compulsory attendance law.



669           (j) An absence is excused when it results from the  
670 attendance of a compulsory-school-age child participating in  
671 official organized events sponsored by the 4-H or Future Farmers  
672 of America (FFA). The excuse for the 4-H or FFA event must be  
673 provided in writing to the appropriate school superintendent by  
674 the Extension Agent or High School Agricultural Instructor/FFA  
675 Advisor.

676           (k) An absence is excused when it results from the  
677 compulsory-school-age child officially being employed to serve as  
678 a page at the State Capitol for the Mississippi House of  
679 Representatives or Senate.

680           (5) Any parent, guardian or custodian of a  
681 compulsory-school-age child subject to this section who refuses or  
682 willfully fails to perform any of the duties imposed upon him or  
683 her under this section or who intentionally falsifies any  
684 information required to be contained in a certificate of  
685 enrollment, shall be guilty of contributing to the neglect of a  
686 child and, upon conviction, shall be punished in accordance with  
687 Section 97-5-39.

688           Upon prosecution of a parent, guardian or custodian of a  
689 compulsory-school-age child for violation of this section, the  
690 presentation of evidence by the prosecutor that shows that the  
691 child has not been enrolled in school within eighteen (18)  
692 calendar days after the first day of the school year of the public  
693 school which the child is eligible to attend, or that the child



694 has accumulated twelve (12) unlawful absences during the school  
695 year at the public school in which the child has been enrolled,  
696 shall establish a prima facie case that the child's parent,  
697 guardian or custodian is responsible for the absences and has  
698 refused or willfully failed to perform the duties imposed upon him  
699 or her under this section. However, no proceedings under this  
700 section shall be brought against a parent, guardian or custodian  
701 of a compulsory-school-age child unless the school attendance  
702 officer has contacted promptly the home of the child and has  
703 provided written notice to the parent, guardian or custodian of  
704 the requirement for the child's enrollment or attendance.

705 (6) If a compulsory-school-age child has not been enrolled  
706 in a school within fifteen (15) calendar days after the first day  
707 of the school year of the school which the child is eligible to  
708 attend or the child has accumulated five (5) unlawful absences  
709 during the school year of the public school in which the child is  
710 enrolled, the school district superintendent, or his designee,  
711 shall report, within two (2) school days or within five (5)  
712 calendar days, whichever is less, the absences to the school  
713 attendance officer. The State Department of Education shall  
714 prescribe a uniform method for schools to utilize in reporting the  
715 unlawful absences to the school attendance officer. The  
716 superintendent, or his designee, also shall report any student  
717 suspensions or student expulsions to the school attendance officer  
718 when they occur.



719           (7) When a school attendance officer has made all attempts  
720 to secure enrollment and/or attendance of a compulsory-school-age  
721 child and is unable to effect the enrollment and/or attendance,  
722 the attendance officer shall file a petition with the youth court  
723 under Section 43-21-451 or shall file a petition in a court of  
724 competent jurisdiction as it pertains to parent or child.  
725 Sheriffs, deputy sheriffs and municipal law enforcement officers  
726 shall be fully authorized to investigate all cases of  
727 nonattendance and unlawful absences by compulsory-school-age  
728 children, and shall be authorized to file a petition with the  
729 youth court under Section 43-21-451 or file a petition or  
730 information in the court of competent jurisdiction as it pertains  
731 to parent or child for violation of this section. The youth court  
732 shall expedite a hearing to make an appropriate adjudication and a  
733 disposition to ensure compliance with the Compulsory School  
734 Attendance Law, and may order the child to enroll or re-enroll in  
735 school. The superintendent of the school district to which the  
736 child is ordered may assign, in his discretion, the child to the  
737 alternative school program of the school established pursuant to  
738 Section 37-13-92.

739           (8) The State Board of Education shall adopt rules and  
740 regulations for the purpose of reprimanding any school  
741 superintendents who fail to timely report unexcused absences under  
742 the provisions of this section.



743           (9) Notwithstanding any provision or implication herein to  
744 the contrary, it is not the intention of this section to impair  
745 the primary right and the obligation of the parent or parents, or  
746 person or persons in loco parentis to a child, to choose the  
747 proper education and training for such child, and nothing in this  
748 section shall ever be construed to grant, by implication or  
749 otherwise, to the State of Mississippi, any of its officers,  
750 agencies or subdivisions any right or authority to control,  
751 manage, supervise or make any suggestion as to the control,  
752 management or supervision of any private or parochial school or  
753 institution for the education or training of children, of any kind  
754 whatsoever that is not a public school according to the laws of  
755 this state; and this section shall never be construed so as to  
756 grant, by implication or otherwise, any right or authority to any  
757 state agency or other entity to control, manage, supervise,  
758 provide for or affect the operation, management, program,  
759 curriculum, admissions policy or discipline of any such school or  
760 home instruction program.

761           **SECTION 11.** Section 37-16-9, Mississippi Code of 1972, is  
762 amended as follows:

763           37-16-9. (1) The state board shall, after a public hearing  
764 and consideration, make provision for appropriate accommodations  
765 for testing instruments and procedures for students with  
766 identified \* \* \* disabilities in order to ensure that the results  
767 of the testing represent the student's achievement, rather than



768 reflecting the student's impaired sensory, manual, speaking or  
769 psychological process skills, except when such skills are the  
770 factors the test purports to measure.

771 (2) The public hearing and consideration required hereunder  
772 shall not be construed to amend or nullify the requirements of  
773 security relating to the contents of examinations or assessment  
774 instruments and related materials or data.

775 (3) Children with disabilities shall be included in general  
776 statewide and district-wide assessments programs, with appropriate  
777 accommodations, where necessary. As appropriate, the State  
778 Department of Education and the local educational agency shall:

779 (a) Develop policies and procedures for the  
780 participation of children with disabilities in alternate  
781 assessments for those children who cannot participate in statewide  
782 and district-wide assessment programs; and

783 (b) Develop and, beginning not later than July 1, 2000,  
784 conduct those alternate assessments.

785 (4) The State Department of Education shall make available  
786 to the public, and report to the public with the same frequency  
787 and in the same detail as it reports on the assessment of  
788 nondisabled children, the following:

789 (a) The number of children with disabilities  
790 participating in regular assessments;

791 (b) The number of children participating in alternate  
792 assessments;





793 (c) The performance of those children on regular  
794 assessments, beginning not later than July 1, 1998, and on  
795 alternate assessments, not later than July 1, 2000, if doing so  
796 would be statistically sound and would not result in the  
797 disclosure of performance results identifiable to individual  
798 children; and

799 (d) Data relating to the performance of children with  
800 disabilities shall be disaggregated for assessments conducted  
801 after July 1, 1998.

802 **SECTION 12.** Section 37-23-63, Mississippi Code of 1972, is  
803 amended as follows:

804 37-23-63. Every child who is a resident citizen of the State  
805 of Mississippi under twenty-one (21) years of age, who cannot  
806 pursue all regular class work due to reasons of defective hearing,  
807 vision, speech, intellectual disability or other mental or  
808 physical conditions as determined by competent medical authorities  
809 and psychologists, who has not finished or graduated from high  
810 school, and who is in attendance in a private school, parochial  
811 school or speech, hearing and/or language clinic that is  
812 accredited by a state or regional accrediting agency or  
813 approved/licensed by the State Department of Education, shall be  
814 eligible and entitled to receive state financial assistance in the  
815 amount set forth in Section 37-23-69. Exceptional children as  
816 defined in Section 37-23-3(1) and who are certified by the  
817 designated state authority as requiring inpatient care in a



818 private intermediate care facility for \* \* \* individuals with  
819 intellectual disabilities or psychiatric residential treatment  
820 facility, with Medicaid reimbursement, shall be eligible and  
821 entitled to receive state and federal financial assistance under  
822 the provisions of Section 37-23-69, as allowable and available, if  
823 an approved private school is operated as an integral part of the  
824 facility that provides twenty-four (24) hours a day monitoring,  
825 treatment and education.

826       **SECTION 13.** Section 37-31-31, Mississippi Code of 1972, is  
827 amended as follows:

828       37-31-31. The intention of Sections 37-31-31 through  
829 37-31-41 is to enable the State of Mississippi, by and through the  
830 State Board of Education to secure the benefits of the federal  
831 Social Security Act pertaining to services for \* \* \* children with  
832 physical disabilities, and \* \* \* those sections shall be liberally  
833 construed in order to effectuate such intention.

834       **SECTION 14.** Section 37-31-33, Mississippi Code of 1972, is  
835 amended as follows:

836       37-31-33. For the purpose of enabling the State Board of  
837 Education to comply with the provisions of the federal Social  
838 Security Act and to continue to extend and improve as far as  
839 practicable the services now maintained by \* \* \* the state board  
840 for locating \* \* \* children with physical disabilities and for  
841 providing medical, surgical, corrective, and other services, care  
842 and treatment, and facilities for diagnosis, hospitalization, and



843 after-care for children \* \* \* with physical disabilities or who  
844 are suffering from conditions \* \* \* that lead to \* \* \* physical  
845 disabilities, any and all funds appropriated for physical  
846 restoration of \* \* \* children with physical disabilities for the  
847 above purposes may be used for the purposes set forth in this  
848 section.

849         **SECTION 15.** Section 37-31-35, Mississippi Code of 1972, is  
850 amended as follows:

851         37-31-35. Sections 37-31-31 through 37-31-41, together with  
852 funds made available through that section of those sections of the  
853 federal Social Security Act \* \* \* that relates to \* \* \* children  
854 with physical disabilities, together with any and all available  
855 state and federal appropriations, shall be administered by the  
856 State Board of Education, and shall be used in the further  
857 development of the state's program of physical restoration of  
858 \* \* \* children with physical disabilities. The State Board of  
859 Education is \* \* \* authorized to accept donations, gifts and  
860 bequests and to expend same on approval of the executive officer  
861 of the board, for purposes approved under regulations of the State  
862 Board of Education.

863         **SECTION 16.** Section 37-31-39, Mississippi Code of 1972, is  
864 amended as follows:

865         37-31-39. The State Board of Education shall cooperate with  
866 medical, health, nursing and \* \* \* human services groups and  
867 organizations and with any other agencies in the state charged



868 with administering state laws providing for vocational  
869 rehabilitation of \* \* \* children with physical disabilities.

870 \* \* \* The state board \* \* \* shall cooperate with the federal  
871 government in such manner as to obtain the benefits of the  
872 provisions of the federal Social Security Act pertaining to \* \* \*  
873 children with physical disabilities.

874 **SECTION 17.** Section 37-41-3, Mississippi Code of 1972, is  
875 amended as follows:

876 37-41-3. Pupils of legal school age, which shall include  
877 kindergarten pupils, and in actual attendance in the public  
878 schools who live a distance of one (1) mile or more by the nearest  
879 traveled road from the school to which they are assigned by the  
880 school district in which they are enrolled shall be entitled to  
881 transportation within the meaning of this chapter. Nothing  
882 contained in this section shall be construed to bar any child from  
883 such transportation where he or she lives less than one (1) mile  
884 and is on the regular route of travel of a school bus and space is  
885 available in such bus for such transportation. No state funds  
886 shall be paid for the transportation of children living within one  
887 (1) mile of the school, except as otherwise provided in this  
888 chapter, and such children shall not be included in transportation  
889 reports. In the development of route plans, economy shall be a  
890 prime consideration. There shall be no duplication of routes  
891 except in circumstances where it is totally unavoidable. The  
892 State Department of Education shall have authority to investigate



893 school bus routing when there is reason to believe the provisions  
894 of this statute are being violated. The State Board of Education  
895 shall have authority to withhold transportation funds when school  
896 districts fail to correct unnecessary route duplication. Provided  
897 further, that all school districts are \* \* \* authorized to lease  
898 or contract with any public or private individual, partnership,  
899 corporation, association, agency or other organization for the  
900 implementation of transportation of pupils as provided for in this  
901 section.

902 The school boards may provide transportation to such \* \* \*  
903 children with physical disabilities as may be designated by such  
904 boards, when the failure to do so would result in undue hardship,  
905 even though the children are not otherwise entitled to  
906 transportation under the provisions of this chapter. The State  
907 Department of Education shall require all school districts during  
908 the 1993-1994 school year to equip school buses with properly  
909 designed seat belts to protect such \* \* \* children with physical  
910 disabilities, and school districts are authorized to expend funds  
911 therefor from nonminimum program or other sources.

912 Where space is available, students attending junior colleges  
913 shall be allowed transportation on established routes in  
914 district-owned buses. However, no additional funds shall be  
915 allocated or expended for such purposes, and such persons shall  
916 not be included in transportation reports.



917 Children enrolled in special or alternative programs approved  
918 by school boards may be provided transportation even though such  
919 children are not otherwise entitled to transportation under the  
920 provisions of this chapter. No additional funds shall be  
921 allocated or expended for such purpose, and such children shall  
922 not be included in transportation reports.

923 **SECTION 18.** Section 37-151-5, Mississippi Code of 1972, is  
924 amended as follows:

925 37-151-5. As used in Sections 37-151-5 and 37-151-7:

926 (a) "Adequate program" or "adequate education program"  
927 or "Mississippi Adequate Education Program (MAEP)" shall mean the  
928 program to establish adequate current operation funding levels  
929 necessary for the programs of such school district to meet at  
930 least a successful Level III rating of the accreditation system as  
931 established by the State Board of Education using current  
932 statistically relevant state assessment data.

933 (b) "Educational programs or elements of programs not  
934 included in the adequate education program calculations, but which  
935 may be included in appropriations and transfers to school  
936 districts" shall mean:

937 (i) "Capital outlay" shall mean those funds used  
938 for the constructing, improving, equipping, renovating or major  
939 repairing of school buildings or other school facilities, or the  
940 cost of acquisition of land whereon to construct or establish such  
941 school facilities.



942 (ii) "Pilot programs" shall mean programs of a  
943 pilot or experimental nature usually designed for special purposes  
944 and for a specified period of time other than those included in  
945 the adequate education program.

946 (iii) "Adult education" shall mean public  
947 education dealing primarily with students above eighteen (18)  
948 years of age not enrolled as full-time public school students and  
949 not classified as students of technical schools, colleges or  
950 universities of the state.

951 (iv) "Food service programs" shall mean those  
952 programs dealing directly with the nutritional welfare of the  
953 student, such as the school lunch and school breakfast programs.

954 (c) "Base student" shall mean that student  
955 classification that represents the most economically educated  
956 pupil in a school system meeting the definition of successful, as  
957 determined by the State Board of Education.

958 (d) "Base student cost" shall mean the funding level  
959 necessary for providing an adequate education program for one (1)  
960 base student, subject to any minimum amounts prescribed in Section  
961 37-151-7(1).

962 (e) "Add-on program costs" shall mean those items which  
963 are included in the adequate education program appropriations and  
964 are outside of the program calculations:



965 (i) "Transportation" shall mean transportation to  
966 and from public schools for the students of Mississippi's public  
967 schools provided for under law and funded from state funds.

968 (ii) "Vocational or technical education program"  
969 shall mean a secondary vocational or technical program approved by  
970 the State Department of Education and provided for from state  
971 funds.

972 (iii) "Special education program" shall mean a  
973 program for exceptional children as defined and authorized by  
974 Sections 37-23-1 through 37-23-9, and approved by the State  
975 Department of Education and provided from state funds.

976 (iv) "Gifted education program" shall mean those  
977 programs for the instruction of intellectually or academically  
978 gifted children as defined and provided for in Section 37-23-175  
979 et seq.

980 (v) "Alternative school program" shall mean those  
981 programs for certain compulsory-school-age students as defined and  
982 provided for in Sections 37-13-92 and 37-19-22.

983 (vi) "Extended school year programs" shall mean  
984 those programs authorized by law which extend beyond the normal  
985 school year.

986 (vii) "University-based programs" shall mean those  
987 university-based programs for \* \* \* exceptional children as  
988 defined and provided for in Section 37-23- \* \* \* 31 et seq.





989 (viii) "Bus driver training" programs shall mean  
990 those driver training programs as provided for in Section 37-41-1.

991 (f) "Teacher" shall include any employee of a local  
992 school who is required by law to obtain a teacher's license from  
993 the State Board of Education and who is assigned to an  
994 instructional area of work as defined by the State Department of  
995 Education.

996 (g) "Principal" shall mean the head of an attendance  
997 center or division thereof.

998 (h) "Superintendent" shall mean the head of a school  
999 district.

1000 (i) "School district" shall mean any type of school  
1001 district in the State of Mississippi, and shall include  
1002 agricultural high schools.

1003 (j) "Minimum school term" shall mean a term of at least  
1004 one hundred eighty (180) days of school in which both teachers and  
1005 pupils are in regular attendance for scheduled classroom  
1006 instruction for not less than sixty-three percent (63%) of the  
1007 instructional day, as fixed by the local school board for each  
1008 school in the school district. It is the intent of the  
1009 Legislature that any tax levies generated to produce additional  
1010 local funds required by any school district to operate school  
1011 terms in excess of one hundred seventy-five (175) days shall not  
1012 be construed to constitute a new program for the purposes of  
1013 exemption from the limitation on tax revenues as allowed under



1014 Sections 27-39-321 and 37-57-107 for new programs mandated by the  
1015 Legislature.

1016 (k) The term "transportation density" shall mean the  
1017 number of transported children in average daily attendance per  
1018 square mile of area served in a school district, as determined by  
1019 the State Department of Education.

1020 (l) The term "transported children" shall mean children  
1021 being transported to school who live within legal limits for  
1022 transportation and who are otherwise qualified for being  
1023 transported to school at public expense as fixed by Mississippi  
1024 state law.

1025 (m) The term "year of teaching experience" shall mean  
1026 nine (9) months of actual teaching in the public or private  
1027 elementary and secondary schools and shall also include nine (9)  
1028 months of actual teaching at postsecondary institutions accredited  
1029 by the Southern Association of Colleges and Schools (SACS) or  
1030 equivalent regional accrediting body for degree-granting  
1031 postsecondary institutions. In no case shall more than one (1)  
1032 year of teaching experience be given for all services in one (1)  
1033 calendar or school year. In determining a teacher's experience,  
1034 no deduction shall be made because of the temporary absence of the  
1035 teacher because of illness or other good cause, and the teacher  
1036 shall be given credit therefor. Beginning with the 2003-2004  
1037 school year, the State Board of Education shall fix a number of  
1038 days, not to exceed forty-five (45) consecutive school days,



1039 during which a teacher may not be under contract of employment  
1040 during any school year and still be considered to have been in  
1041 full-time employment for a regular scholastic term. If a teacher  
1042 exceeds the number of days established by the State Board of  
1043 Education that a teacher may not be under contract but may still  
1044 be employed, that teacher shall not be credited with a year of  
1045 teaching experience. In determining the experience of school  
1046 librarians, each complete year of continuous, full-time employment  
1047 as a professional librarian in a public library in this or some  
1048 other state shall be considered a year of teaching experience. If  
1049 a full-time school administrator returns to actual teaching in the  
1050 public schools, the term "year of teaching experience" shall  
1051 include the period of time he or she served as a school  
1052 administrator. In determining the salaries of teachers who have  
1053 experience in any branch of the military, the term "year of  
1054 teaching experience" shall include each complete year of actual  
1055 classroom instruction while serving in the military. In  
1056 determining the experience of speech-language pathologists and  
1057 audiologists, each complete year of continuous full-time post  
1058 master's degree employment in an educational setting in this or  
1059 some other state shall be considered a year of teaching  
1060 experience. Provided, however, that school districts are  
1061 authorized, in their discretion, to negotiate the salary levels  
1062 applicable to certificated employees employed after July 1, 2009,  
1063 who are receiving retirement benefits from the retirement system



1064 of another state, and the annual experience increment provided in  
1065 Section 37-19-7 shall not be applicable to any such retired  
1066 certificated employee.

1067           (n) \* \* \* The term "average daily attendance" shall be  
1068 the figure which results when the total aggregate full-day  
1069 attendance during the period or months counted is divided by the  
1070 number of days during the period or months counted upon which both  
1071 teachers and pupils are in regular attendance for scheduled  
1072 classroom instruction, unless a pupil's absence is excused due to  
1073 participation in an activity authorized by the State Board of  
1074 Education under subparagraph (ii) of this paragraph, less the  
1075 average daily attendance for self-contained special education  
1076 classes. For purposes of determining and reporting attendance, a  
1077 pupil must be present for at least sixty-three percent (63%) of  
1078 the instructional day, as fixed by the local school board for each  
1079 school in the school district, in order to be considered in  
1080 full-day attendance. Prior to full implementation of the adequate  
1081 education program the department shall deduct the average daily  
1082 attendance for the alternative school program provided for in  
1083 Section 37-19-22.

1084 \* \* \*

1085           (o) The term "local supplement" shall mean the amount  
1086 paid to an individual teacher over and above the adequate  
1087 education program salary schedule for regular teaching duties.



1088           (p) The term "aggregate amount of support from ad  
1089 valorem taxation" shall mean the amounts produced by the  
1090 district's total tax levies for operations.

1091           (q) The term "adequate education program funds" shall  
1092 mean all funds, both state and local, constituting the  
1093 requirements for meeting the cost of the adequate program as  
1094 provided for in Section 37-151-7.

1095           (r) "Department" shall mean the State Department of  
1096 Education.

1097           (s) "Commission" shall mean the Mississippi Commission  
1098 on School Accreditation created under Section 37-17-3.

1099           (t) The term "successful school district" shall mean a  
1100 Level III school district as designated by the State Board of  
1101 Education using current statistically relevant state assessment  
1102 data.

1103           (u) "Dual enrollment-dual credit programs" shall mean  
1104 programs for potential or recent high school student dropouts to  
1105 dually enroll in their home high school and a local community  
1106 college in a dual credit program consisting of high school  
1107 completion coursework and a credential, certificate or degree  
1108 program at the community college, as provided in Section  
1109 37-15-38(19).

1110           (v) "Charter school" means a public school that is  
1111 established and operating under the terms of a charter contract



1112 between the school's governing board and the Mississippi Charter  
1113 School Authorizer Board.

1114 **SECTION 19.** Section 37-151-7, Mississippi Code of 1972, is  
1115 amended as follows:

1116 37-151-7. The annual allocation to each school district for  
1117 the operation of the adequate education program shall be  
1118 determined as follows:

1119 (1) **Computation of the basic amount to be included for**  
1120 **current operation in the adequate education program.** The  
1121 following procedure shall be followed in determining the annual  
1122 allocation to each school district:

1123 (a) **Determination of average daily attendance.**  
1124 Effective with fiscal year 2011, the State Department of Education  
1125 shall determine the percentage change from the prior year of each  
1126 year of each school district's average of months two (2) and three  
1127 (3) average daily attendance (ADA) for the three (3) immediately  
1128 preceding school years of the year for which funds are being  
1129 appropriated. For any school district that experiences a positive  
1130 growth in the average of months two (2) and three (3) ADA each  
1131 year of the three (3) years, the average percentage growth over  
1132 the three-year period shall be multiplied times the school  
1133 district's average of months two (2) and three (3) ADA for the  
1134 year immediately preceding the year for which MAEP funds are being  
1135 appropriated. The resulting amount shall be added to the school  
1136 district's average of months two (2) and three (3) ADA for the



1137 year immediately preceding the year for which MAEP funds are being  
1138 appropriated to arrive at the ADA to be used in determining a  
1139 school district's MAEP allocation. Otherwise, months two (2) and  
1140 three (3) ADA for the year immediately preceding the year for  
1141 which MAEP funds are being appropriated will be used in  
1142 determining a school district's MAEP allocation. In any fiscal  
1143 year prior to 2010 in which the MAEP formula is not fully funded,  
1144 for those districts that do not demonstrate a three-year positive  
1145 growth in months two (2) and three (3) ADA, months one (1) through  
1146 nine (9) ADA of the second preceding year for which funds are  
1147 being appropriated or months two (2) and three (3) ADA of the  
1148 preceding year for which funds are being appropriated, whichever  
1149 is greater, shall be used to calculate the district's MAEP  
1150 allocation. The district's average daily attendance shall be  
1151 computed and currently maintained in accordance with regulations  
1152 promulgated by the State Board of Education. The district's  
1153 average daily attendance shall include any student enrolled in a  
1154 Dual Enrollment-Dual Credit Program as defined and provided in  
1155 Section 37-15-38(19). The State Department of Education shall  
1156 make payments for Dual Enrollment-Dual Credit Programs to the home  
1157 school in which the student is enrolled, in accordance with  
1158 regulations promulgated by the State Board of Education. The  
1159 community college providing services to students in a Dual  
1160 Enrollment-Dual Credit Program shall require payment from the home  
1161 school district for services provided to such students at a rate



1162 of one hundred percent (100%) of ADA. All MAEP/state funding  
1163 shall cease upon completion of high school graduation  
1164 requirements.

1165           (b) **Determination of base student cost.** Effective with  
1166 fiscal year 2011 and every fourth fiscal year thereafter, the  
1167 State Board of Education, on or before August 1, with adjusted  
1168 estimate no later than January 2, shall submit to the Legislative  
1169 Budget Office and the Governor a proposed base student cost  
1170 adequate to provide the following cost components of educating a  
1171 pupil in a successful school district: (i) instructional cost;  
1172 (ii) administrative cost; (iii) operation and maintenance of  
1173 plant; and (iv) ancillary support cost. For purposes of these  
1174 calculations, the Department of Education shall utilize financial  
1175 data from the second preceding year of the year for which funds  
1176 are being appropriated.

1177           For the instructional cost component, the Department of  
1178 Education shall select districts that have been identified as  
1179 instructionally successful and have a ratio of a number of  
1180 teachers per one thousand (1,000) students that is between one (1)  
1181 standard deviation above the mean and two (2) standard deviations  
1182 below the mean of the statewide average of teachers per one  
1183 thousand (1,000) students. The instructional cost component shall  
1184 be calculated by dividing the latest available months one (1)  
1185 through nine (9) ADA into the instructional expenditures of these  
1186 selected districts. For the purpose of this calculation, the





1187 Department of Education shall use the following funds, functions  
1188 and objects:

1189 Fund 1120 Functions 1110-1199 Objects 100-999, Functions  
1190 1210, 1220, 2150-2159 Objects 210 and 215;

1191 Fund 1130 All Functions, Object Code 210 and 215;

1192 Fund 2001 Functions 1110-1199 Objects 100-999;

1193 Fund 2070 Functions 1110-1199 Objects 100-999;

1194 Fund 2420 Functions 1110-1199 Objects 100-999;

1195 Fund 2711 All Functions, Object Code 210 and 215.

1196 Prior to the calculation of the instructional cost component,  
1197 there shall be subtracted from the above expenditures any revenue  
1198 received for Chickasaw Cession payments, Master Teacher  
1199 Certification payments and the district's portion of state revenue  
1200 received from the MAEP at-risk allocation.

1201 For the administrative cost component, the Department of  
1202 Education shall select districts that have been identified as  
1203 instructionally successful and have a ratio of an administrative  
1204 staff to nonadministrative staff between one (1) standard  
1205 deviation above the mean and two (2) standard deviations below the  
1206 mean of the statewide average administrative staff to  
1207 nonadministrative staff. The administrative cost component shall  
1208 be calculated by dividing the latest available months one (1)  
1209 through nine (9) ADA of the selected districts into the  
1210 administrative expenditures of these selected districts. For the



1211 purpose of this calculation, the Department of Education shall use  
1212 the following funds, functions and objects:

1213 Fund 1120 Functions 2300-2599, Functions 2800-2899,  
1214 Objects 100-999;

1215 Fund 2711 Functions 2300-2599, Functions 2800-2899,  
1216 Objects 100-999.

1217 For the plant and maintenance cost component, the Department  
1218 of Education shall select districts that have been identified as  
1219 instructionally successful and have a ratio of plant and  
1220 maintenance expenditures per one hundred thousand (100,000) square  
1221 feet of building space and a ratio of maintenance workers per one  
1222 hundred thousand (100,000) square feet of building space that are  
1223 both between one (1) standard deviation above the mean and two (2)  
1224 standard deviations below the mean of the statewide average. The  
1225 plant and maintenance cost component shall be calculated by  
1226 dividing the latest available months one (1) through nine (9) ADA  
1227 of the selected districts into the plant and maintenance  
1228 expenditures of these selected districts. For the purpose of this  
1229 calculation, the Department of Education shall use the following  
1230 funds, functions and objects:

1231 Fund 1120 Functions 2600-2699, Objects 100-699  
1232 and Objects 800-999;

1233 Fund 2711 Functions 2600-2699, Objects 100-699  
1234 and Objects 800-999;

1235 Fund 2430 Functions 2600-2699, Objects 100-699



1236 and Objects 800-999.

1237 For the ancillary support cost component, the Department of  
1238 Education shall select districts that have been identified as  
1239 instructionally successful and have a ratio of a number of  
1240 librarians, media specialists, guidance counselors and  
1241 psychologists per one thousand (1,000) students that is between  
1242 one (1) standard deviation above the mean and two (2) standard  
1243 deviations below the mean of the statewide average of librarians,  
1244 media specialists, guidance counselors and psychologists per one  
1245 thousand (1,000) students. The ancillary cost component shall be  
1246 calculated by dividing the latest available months one (1) through  
1247 nine (9) ADA into the ancillary expenditures instructional  
1248 expenditures of these selected districts. For the purpose of this  
1249 calculation, the Department of Education shall use the following  
1250 funds, functions and objects:

1251 Fund 1120 Functions 2110-2129, Objects 100-999;

1252 Fund 1120 Functions 2140-2149, Objects 100-999;

1253 Fund 1120 Functions 2220-2229, Objects 100-999;

1254 Fund 2001 Functions 2100-2129, Objects 100-999;

1255 Fund 2001 Functions 2140-2149, Objects 100-999;

1256 Fund 2001 Functions 2220-2229, Objects 100-999.

1257 The total base cost for each year shall be the sum of the  
1258 instructional cost component, administrative cost component, plant  
1259 and maintenance cost component and ancillary support cost  
1260 component, and any estimated adjustments for additional state



1261 requirements as determined by the State Board of Education. \* \* \*  
1262 However, \* \* \* the base student cost in fiscal year 1998 shall be  
1263 Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

1264 For each of the fiscal years between the recalculation of the  
1265 base student cost under the provisions of this paragraph (b), the  
1266 base student cost shall be increased by an amount equal to forty  
1267 percent (40%) of the base student cost for the previous fiscal  
1268 year, multiplied by the latest annual rate of inflation for the  
1269 State of Mississippi as determined by the State Economist, plus  
1270 any adjustments for additional state requirements such as, but not  
1271 limited to, teacher pay raises and health insurance premium  
1272 increases.

1273 (c) **Determination of the basic adequate education**  
1274 **program cost.** The basic amount for current operation to be  
1275 included in the Mississippi Adequate Education Program for each  
1276 school district shall be computed as follows:

1277 Multiply the average daily attendance of the district by the  
1278 base student cost as established by the Legislature, which yields  
1279 the total base program cost for each school district.

1280 (d) **Adjustment to the base student cost for at-risk**  
1281 **pupils.** The amount to be included for at-risk pupil programs for  
1282 each school district shall be computed as follows: Multiply the  
1283 base student cost for the appropriate fiscal year as determined  
1284 under paragraph (b) by five percent (5%), and multiply that  
1285 product by the number of pupils participating in the federal free



1286 school lunch program in such school district, which yields the  
1287 total adjustment for at-risk pupil programs for such school  
1288 district.

1289 (e) **Add-on program cost.** The amount to be allocated to  
1290 school districts in addition to the adequate education program  
1291 cost for add-on programs for each school district shall be  
1292 computed as follows:

1293 (i) Transportation cost shall be the amount  
1294 allocated to such school district for the operational support of  
1295 the district transportation system from state funds.

1296 (ii) Vocational or technical education program  
1297 cost shall be the amount allocated to such school district from  
1298 state funds for the operational support of such programs.

1299 (iii) Special education program cost shall be the  
1300 amount allocated to such school district from state funds for the  
1301 operational support of such programs.

1302 (iv) Gifted education program cost shall be the  
1303 amount allocated to such school district from state funds for the  
1304 operational support of such programs.

1305 (v) Alternative school program cost shall be the  
1306 amount allocated to such school district from state funds for the  
1307 operational support of such programs.

1308 (vi) Extended school year programs shall be the  
1309 amount allocated to school districts for those programs authorized  
1310 by law which extend beyond the normal school year.



1311 (vii) University-based programs shall be the  
1312 amount allocated to school districts for those university-based  
1313 programs for \* \* \* exceptional children as defined and provided  
1314 for in Section 37-23- \* \* \* 31 et seq. \* \* \*

1315 (viii) Bus driver training programs shall be the  
1316 amount provided for those driver training programs as provided for  
1317 in Section 37-41-1 \* \* \*.

1318 The sum of the items listed above (i) transportation, (ii)  
1319 vocational or technical education, (iii) special education, (iv)  
1320 gifted education, (v) alternative school, (vi) extended school  
1321 year, (vii) university-based, and (viii) bus driver training shall  
1322 yield the add-on cost for each school district.

1323 (f) **Total projected adequate education program cost.**

1324 The total Mississippi Adequate Education Program cost shall be the  
1325 sum of the total basic adequate education program cost (paragraph  
1326 (c)), and the adjustment to the base student cost for at-risk  
1327 pupils (paragraph (d)) for each school district. In any year in  
1328 which the MAEP is not fully funded, the Legislature shall direct  
1329 the Department of Education in the K-12 appropriation bill as to  
1330 how to allocate MAEP funds to school districts for that year.

1331 (g) The State Auditor shall annually verify the State  
1332 Board of Education's estimated calculations for the Mississippi  
1333 Adequate Education Program that are submitted each year to the  
1334 Legislative Budget Office on August 1 and the final calculation  
1335 that is submitted on January 2.



1336           (2) **Computation of the required local revenue in support of**  
1337 **the adequate education program.** The amount that each district  
1338 shall provide toward the cost of the adequate education program  
1339 shall be calculated as follows:

1340           (a) The State Department of Education shall certify to  
1341 each school district that twenty-eight (28) mills, less the  
1342 estimated amount of the yield of the School Ad Valorem Tax  
1343 Reduction Fund grants as determined by the State Department of  
1344 Education, is the millage rate required to provide the district  
1345 required local effort for that year, or twenty-seven percent (27%)  
1346 of the basic adequate education program cost for such school  
1347 district as determined under paragraph (c), whichever is a lesser  
1348 amount. In the case of an agricultural high school, the millage  
1349 requirement shall be set at a level which generates an equitable  
1350 amount per pupil to be determined by the State Board of Education.  
1351 The local contribution amount for school districts in which there  
1352 is located one or more charter schools will be calculated using  
1353 the following methodology: using the adequate education program  
1354 twenty-eight (28) mill value, or the twenty-seven percent (27%)  
1355 cap amount (whichever is less) for each school district in which a  
1356 charter school is located, an average per pupil amount will be  
1357 calculated. This average per pupil amount will be multiplied  
1358 times the number of students attending the charter school in that  
1359 school district. The sum becomes the charter school's local  
1360 contribution to the adequate education program.



1361 (b) The State Department of Education shall determine  
1362 the following from the annual assessment information submitted to  
1363 the department by the tax assessors of the various counties: (i)  
1364 the total assessed valuation of nonexempt property for school  
1365 purposes in each school district; (ii) assessed value of exempt  
1366 property owned by homeowners aged sixty-five (65) or older or  
1367 disabled as defined in Section 27-33-67(2) \* \* \*; (iii) the school  
1368 district's tax loss from exemptions provided to applicants under  
1369 the age of sixty-five (65) and not disabled as defined in Section  
1370 27-33-67(1) \* \* \*; and (iv) the school district's homestead  
1371 reimbursement revenues.

1372 (c) The amount of the total adequate education program  
1373 funding which shall be contributed by each school district shall  
1374 be the sum of the ad valorem receipts generated by the millage  
1375 required under this subsection plus the following local revenue  
1376 sources for the appropriate fiscal year which are or may be  
1377 available for current expenditure by the school district:

1378 One hundred percent (100%) of Grand Gulf income as prescribed  
1379 in Section 27-35-309.

1380 One hundred percent (100%) of any fees in lieu of taxes as  
1381 prescribed in Section 27-31-104.

1382 (3) **Computation of the required state effort in support of**  
1383 **the adequate education program.**

1384 (a) The required state effort in support of the  
1385 adequate education program shall be determined by subtracting the





1386 sum of the required local tax effort as set forth in subsection  
1387 (2) (a) of this section and the other local revenue sources as set  
1388 forth in subsection (2) (c) of this section in an amount not to  
1389 exceed twenty-seven percent (27%) of the total projected adequate  
1390 education program cost as set forth in subsection (1) (f) of this  
1391 section from the total projected adequate education program cost  
1392 as set forth in subsection (1) (f) of this section.

1393 (b) \* \* \* However, \* \* \* in fiscal year 2015, any  
1394 increase in the \* \* \* state contribution to any district  
1395 calculated under this section shall be not less than six percent  
1396 (6%) in excess of the amount received by \* \* \* the district from  
1397 state funds for fiscal year 2002; in fiscal year 2016, any  
1398 increase in the \* \* \* state contribution to any district  
1399 calculated under this section shall be not less than four percent  
1400 (4%) in excess of the amount received by \* \* \* the district from  
1401 state funds for fiscal year 2002; in fiscal year 2017, any  
1402 increase in the \* \* \* state contribution to any district  
1403 calculated under this section shall be not less than two percent  
1404 (2%) in excess of the amount received by \* \* \* the district from  
1405 state funds for fiscal year 2002; and in fiscal year 2018 and  
1406 thereafter, any increase in the \* \* \* state contribution to any  
1407 district calculated under this section shall be zero percent (0%).  
1408 For purposes of this paragraph (b), state funds shall include  
1409 minimum program funds less the add-on programs, State Uniform  
1410 Millage Assistance Grant Funds, Education Enhancement Funds



1411 appropriated for Uniform Millage Assistance Grants and state  
1412 textbook allocations, and State General Funds allocated for  
1413 textbooks.

1414           (c) If the school board of any school district shall  
1415 determine that it is not economically feasible or practicable to  
1416 operate any school within the district for the full one hundred  
1417 eighty (180) days required for a school term of a scholastic year  
1418 as required in Section 37-13-63 \* \* \* due to an enemy attack, a  
1419 man-made, technological or natural disaster in which the Governor  
1420 has declared a disaster emergency under the laws of this state or  
1421 the President of the United States has declared an emergency or  
1422 major disaster to exist in this state, \* \* \* the school board may  
1423 notify the State Department of Education of such disaster and  
1424 submit a plan for altering the school term. If the State Board of  
1425 Education finds such disaster to be the cause of the school not  
1426 operating for the contemplated school term and that such school  
1427 was in a school district covered by the Governor's or President's  
1428 disaster declaration, it may permit \* \* \* the school board to  
1429 operate the schools in its district for less than one hundred  
1430 eighty (180) days and, in such case, the State Department of  
1431 Education shall not reduce the state contributions to the adequate  
1432 education program allotment for such district, because of the  
1433 failure to operate \* \* \* the schools for one hundred eighty (180)  
1434 days.



1435           (4) The Interim School District Capital Expenditure Fund  
1436 is \* \* \* established in the State Treasury which shall be used to  
1437 distribute any funds specifically appropriated by the Legislature  
1438 to such fund to school districts entitled to increased allocations  
1439 of state funds under the adequate education program funding  
1440 formula prescribed in Sections 37-151-3 through 37-151-7 \* \* \*  
1441 until such time as the \* \* \* the adequate education program is  
1442 fully funded by the Legislature. The following percentages of the  
1443 total state cost of increased allocations of funds under the  
1444 adequate education program funding formula shall be appropriated  
1445 by the Legislature into the Interim School District Capital  
1446 Expenditure Fund to be distributed to all school districts under  
1447 the formula: Nine and two-tenths percent (9.2%) shall be  
1448 appropriated in fiscal year 1998, twenty percent (20%) shall be  
1449 appropriated in fiscal year 1999, forty percent (40%) shall be  
1450 appropriated in fiscal year 2000, sixty percent (60%) shall be  
1451 appropriated in fiscal year 2001, eighty percent (80%) shall be  
1452 appropriated in fiscal year 2002, and one hundred percent (100%)  
1453 shall be appropriated in fiscal year 2003 into the State Adequate  
1454 Education Program Fund. Until July 1, 2002, such money shall be  
1455 used by school districts for the following purposes:

1456           (a) Purchasing, erecting, repairing, equipping,  
1457 remodeling and enlarging school buildings and related facilities,  
1458 including gymnasiums, auditoriums, lunchrooms, vocational training  
1459 buildings, libraries, school barns and garages for transportation



1460 vehicles, school athletic fields and necessary facilities  
1461 connected therewith, and purchasing land therefor. Any such  
1462 capital improvement project by a school district shall be approved  
1463 by the State Board of Education, and based on an approved  
1464 long-range plan. The State Board of Education shall promulgate  
1465 minimum requirements for the approval of school district capital  
1466 expenditure plans.

1467 (b) Providing necessary water, light, heating,  
1468 air-conditioning, and sewerage facilities for school buildings,  
1469 and purchasing land therefor.

1470 (c) Paying debt service on existing capital improvement  
1471 debt of the district or refinancing outstanding debt of a district  
1472 if such refinancing will result in an interest cost savings to the  
1473 district.

1474 (d) From and after October 1, 1997, through June 30,  
1475 1998, pursuant to a school district capital expenditure plan  
1476 approved by the State Department of Education, a school district  
1477 may pledge such funds until July 1, 2002, plus funds provided for  
1478 in paragraph (e) of this subsection (4) that are not otherwise  
1479 permanently pledged under such paragraph (e) to pay all or a  
1480 portion of the debt service on debt issued by the school district  
1481 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
1482 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
1483 37-7-301, 37-7-302 and 37-41-81, \* \* \* or debt issued by boards of  
1484 supervisors for agricultural high schools pursuant to Section



1485 37-27-65, \* \* \* or lease-purchase contracts entered into pursuant  
1486 to Section 31-7-13, \* \* \* or to retire or refinance outstanding  
1487 debt of a district, if such pledge is accomplished pursuant to a  
1488 written contract or resolution approved and spread upon the  
1489 minutes of an official meeting of the district's school board or  
1490 board of supervisors. It is the intent of this provision to allow  
1491 school districts to irrevocably pledge their Interim School  
1492 District Capital Expenditure Fund allotments as a constant stream  
1493 of revenue to secure a debt issued under the foregoing code  
1494 sections. To allow school districts to make such an irrevocable  
1495 pledge, the state shall take all action necessary to ensure that  
1496 the amount of a district's Interim School District Capital  
1497 Expenditure Fund allotments shall not be reduced below the amount  
1498 certified by the department or the district's total allotment  
1499 under the Interim Capital Expenditure Fund if fully funded, so  
1500 long as such debt remains outstanding.

1501 (e) [Repealed]

1502 (f) [Repealed]

1503 (g) The State Board of Education may authorize the  
1504 school district to expend not more than twenty percent (20%) of  
1505 its annual allotment of such funds or Twenty Thousand Dollars  
1506 (\$20,000.00), whichever is greater, for technology needs of the  
1507 school district, including computers, software,  
1508 telecommunications, cable television, interactive video, film,  
1509 low-power television, satellite communications, microwave



1510 communications, technology-based equipment installation and  
1511 maintenance, and the training of staff in the use of such  
1512 technology-based instruction. Any such technology expenditure  
1513 shall be reflected in the local district technology plan approved  
1514 by the State Board of Education under Section 37-151-17 \* \* \*.

1515 (h) To the extent a school district has not utilized  
1516 twenty percent (20%) of its annual allotment for technology  
1517 purposes under paragraph (g), a school district may expend not  
1518 more than twenty percent (20%) of its annual allotment or Twenty  
1519 Thousand Dollars (\$20,000.00), whichever is greater, for  
1520 instructional purposes. The State Board of Education may  
1521 authorize a school district to expend more than \* \* \* twenty  
1522 percent (20%) of its annual allotment for instructional purposes  
1523 if it determines that such expenditures are needed for  
1524 accreditation purposes.

1525 (i) The State Department of Education or the State  
1526 Board of Education may require that any project commenced under  
1527 this section with an estimated project cost of not less than Five  
1528 Million Dollars (\$5,000,000.00) shall be done only pursuant to  
1529 program management of the process with respect to design and  
1530 construction. Any individuals, partnerships, companies or other  
1531 entities acting as a program manager on behalf of a local school  
1532 district and performing program management services for projects  
1533 covered under this subsection shall be approved by the State  
1534 Department of Education.



1535 Any interest accruing on any unexpended balance in the  
1536 Interim School District Capital Expenditure Fund shall be invested  
1537 by the State Treasurer and placed to the credit of each school  
1538 district participating in such fund in its proportionate share.

1539 The provisions of this subsection (4) shall be cumulative and  
1540 supplemental to any existing funding programs or other authority  
1541 conferred upon school districts or school boards.

1542 (5) The State Department of Education shall make payments to  
1543 charter schools for each student in average daily attendance at  
1544 the charter school equal to the state share of the adequate  
1545 education program payments for each student in average daily  
1546 attendance at the school district in which the public charter  
1547 school is located. In calculating the local contribution for  
1548 purposes of determining the state share of the adequate education  
1549 program payments, the department shall deduct the pro rata local  
1550 contribution of the school district in which the student resides  
1551 as determined in subsection (2)(a) of this section.

1552 **SECTION 20.** Section 37-151-81, Mississippi Code of 1972, is  
1553 amended as follows:

1554 37-151-81. (1) In addition to other funds provided for in  
1555 this chapter, there shall be added to the allotment for each  
1556 school district for each teacher employed in a State Department of  
1557 Education approved program for exceptional children as defined in  
1558 Section 37-23-3 \* \* \* the value of one hundred percent (100%) of  
1559 the adequate education program salary schedule prescribed in



1560 Section 37-19-7, \* \* \* based on the type of certificate and number  
1561 of years' teaching experience held by each approved special  
1562 education teacher plus one hundred percent (100%) of the  
1563 applicable employer's rate for social security and state  
1564 retirement, except that only seventy percent (70%) of the value  
1565 will be added for the program for three- and four-year old  
1566 exceptional children.

1567 (2) In addition to the allowances provided above, for  
1568 each \* \* \* exceptional child who is being educated by a public  
1569 school district or is placed in accord with Section  
1570 37-23-77, \* \* \* and whose individualized educational program (IEP)  
1571 requires an extended school year in accord with the State  
1572 Department of Education criteria, a sufficient amount of funds  
1573 shall be allocated for the purpose of providing the educational  
1574 services the student requires. The State Board of Education shall  
1575 promulgate such regulations as are required to insure the  
1576 equitable distribution of these funds. All costs for the extended  
1577 school year for a particular summer shall be reimbursed from funds  
1578 appropriated for the fiscal year beginning July 1 of that summer.  
1579 If sufficient funds are not made available to finance all of the  
1580 required educational services, the State Department of Education  
1581 shall expend available funds in such a manner that it does not  
1582 limit the availability of appropriate education to \* \* \*  
1583 exceptional students more severely than it does to \* \* \* other  
1584 students.





1585           (3) The State Department of Education is \* \* \* authorized to  
1586 match adequate education program and other funds allocated for  
1587 provision of services to \* \* \* exceptional children with Division  
1588 of Medicaid funds to provide language-speech services, physical  
1589 therapy and occupational therapy to \* \* \* exceptional students who  
1590 meet State Department of Education or Division of Medicaid  
1591 standards and who are Medicaid eligible. Provided further, that  
1592 the State Department of Education is authorized to pay such funds  
1593 as may be required as a match directly to the Division of Medicaid  
1594 pursuant to an agreement to be developed between the State  
1595 Department of Education and the Division of Medicaid.

1596           (4) In addition to other funds provided for in this chapter,  
1597 there shall be added to the allotment for each school district for  
1598 each teacher employed in a State Department of Education approved  
1599 program for gifted education as defined in Sections 37-23-173  
1600 through 37-23-181 \* \* \* the value of one hundred percent (100%) of  
1601 the adequate education program salary schedule prescribed in  
1602 Section 37-19-7, \* \* \* based on the type of certificate and number  
1603 of years' teaching experience held by each approved gifted  
1604 education teacher plus one hundred percent (100%) of the  
1605 applicable employer's rate for social security and state  
1606 retirement.

1607           (5) When any children who are residents of the State of  
1608 Mississippi and qualify under the provisions of Section  
1609 37-23-31 \* \* \* shall be provided a program of education,



1610 instruction and training within a school under the provisions  
1611 of \* \* \* that section, the State Department of Education shall  
1612 allocate the value of one hundred percent (100%) of the adequate  
1613 education program salary schedule prescribed in Section  
1614 37-19-7 \* \* \* for each approved program based on the type of  
1615 certificate and number of years' teaching experience held by each  
1616 approved teacher plus one hundred percent (100%) of the applicable  
1617 employer's rate for social security and state retirement. The  
1618 university or college shall be eligible for state and federal  
1619 funds for such programs on the same basis as local school  
1620 districts. The university or college shall be responsible for  
1621 providing for the additional costs of the program.

1622 (6) In addition to the allotments provided above, a school  
1623 district may provide a program of education and instruction to  
1624 children ages five (5) years through twenty-one (21) years, who  
1625 are resident citizens of the State of Mississippi, who cannot have  
1626 their educational needs met in a regular public school program and  
1627 who have not finished or graduated from high school, if those  
1628 children are determined by competent medical authorities and  
1629 psychologists to need placement in a state licensed facility for  
1630 inpatient treatment, day treatment or residential treatment or a  
1631 therapeutic group home. Such program shall operate under rules,  
1632 regulations, policies and standards of school districts as  
1633 determined by the State Board of Education. If a private school  
1634 approved by the State Board of Education is operated as an



1635 integral part of the state licensed facility that provides for the  
1636 treatment of such children, the private school within the facility  
1637 may provide a program of education, instruction and training to  
1638 such children by requesting the State Department of Education to  
1639 allocate one (1) teacher unit or a portion of a teacher unit for  
1640 each approved class. The facility shall be responsible for  
1641 providing any additional costs of the program.

1642 Such funds will be allotted based on the type of certificate  
1643 and number of years' teaching experience held by each approved  
1644 teacher. Such children shall not be counted in average daily  
1645 attendance when determining regular teacher unit allocation.

1646 **SECTION 21.** Section 41-3-15, Mississippi Code of 1972, is  
1647 amended as follows:

1648 41-3-15. (1) (a) There shall be a State Department of  
1649 Health.

1650 (b) The State Board of Health shall have the following  
1651 powers and duties:

1652 (i) To formulate the policy of the State  
1653 Department of Health regarding public health matters within the  
1654 jurisdiction of the department;

1655 (ii) To adopt, modify, repeal and promulgate,  
1656 after due notice and hearing, and enforce rules and regulations  
1657 implementing or effectuating the powers and duties of the  
1658 department under any and all statutes within the department's  
1659 jurisdiction, and as the board may deem necessary;



1660 (iii) To apply for, receive, accept and expend any  
1661 federal or state funds or contributions, gifts, trusts, devises,  
1662 bequests, grants, endowments or funds from any other source or  
1663 transfers of property of any kind;

1664 (iv) To enter into, and to authorize the executive  
1665 officer to execute contracts, grants and cooperative agreements  
1666 with any federal or state agency or subdivision thereof, or any  
1667 public or private institution located inside or outside the State  
1668 of Mississippi, or any person, corporation or association in  
1669 connection with carrying out the provisions of this chapter, if it  
1670 finds those actions to be in the public interest and the contracts  
1671 or agreements do not have a financial cost that exceeds the  
1672 amounts appropriated for those purposes by the Legislature;

1673 (v) To appoint, upon recommendation of the  
1674 Executive Officer of the State Department of Health, a Director of  
1675 Internal Audit who shall be either a Certified Public Accountant  
1676 or Certified Internal Auditor, and whose employment shall be  
1677 continued at the discretion of the board, and who shall report  
1678 directly to the board, or its designee; and

1679 (vi) To discharge such other duties,  
1680 responsibilities and powers as are necessary to implement the  
1681 provisions of this chapter.

1682 (c) The Executive Officer of the State Department of  
1683 Health shall have the following powers and duties:



1684 (i) To administer the policies of the State Board  
1685 of Health within the authority granted by the board;

1686 (ii) To supervise and direct all administrative  
1687 and technical activities of the department, except that the  
1688 department's internal auditor shall be subject to the sole  
1689 supervision and direction of the board;

1690 (iii) To organize the administrative units of the  
1691 department in accordance with the plan adopted by the board and,  
1692 with board approval, alter the organizational plan and reassign  
1693 responsibilities as he or she may deem necessary to carry out the  
1694 policies of the board;

1695 (iv) To coordinate the activities of the various  
1696 offices of the department;

1697 (v) To employ, subject to regulations of the State  
1698 Personnel Board, qualified professional personnel in the subject  
1699 matter or fields of each office, and such other technical and  
1700 clerical staff as may be required for the operation of the  
1701 department. The executive officer shall be the appointing  
1702 authority for the department, and shall have the power to delegate  
1703 the authority to appoint or dismiss employees to appropriate  
1704 subordinates, subject to the rules and regulations of the State  
1705 Personnel Board;

1706 (vi) To recommend to the board such studies and  
1707 investigations as he or she may deem appropriate, and to carry out



1708 the approved recommendations in conjunction with the various  
1709 offices;

1710 (vii) To prepare and deliver to the Legislature  
1711 and the Governor on or before January 1 of each year, and at such  
1712 other times as may be required by the Legislature or Governor, a  
1713 full report of the work of the department and the offices thereof,  
1714 including a detailed statement of expenditures of the department  
1715 and any recommendations the board may have;

1716 (viii) To prepare and deliver to the Chairmen of  
1717 the Public Health and Welfare/Human Services Committees of the  
1718 Senate and House on or before January 1 of each year, a plan for  
1719 monitoring infant mortality in Mississippi and a full report of  
1720 the work of the department on reducing Mississippi's infant  
1721 mortality and morbidity rates and improving the status of maternal  
1722 and infant health; and

1723 (ix) To enter into contracts, grants and  
1724 cooperative agreements with any federal or state agency or  
1725 subdivision thereof, or any public or private institution located  
1726 inside or outside the State of Mississippi, or any person,  
1727 corporation or association in connection with carrying out the  
1728 provisions of this chapter, if he or she finds those actions to be  
1729 in the public interest and the contracts or agreements do not have  
1730 a financial cost that exceeds the amounts appropriated for those  
1731 purposes by the Legislature. Each contract or agreement entered



1732 into by the executive officer shall be submitted to the board  
1733 before its next meeting.

1734 (2) The State Board of Health shall have the authority to  
1735 establish an Office of Rural Health within the department. The  
1736 duties and responsibilities of this office shall include the  
1737 following:

1738 (a) To collect and evaluate data on rural health  
1739 conditions and needs;

1740 (b) To engage in policy analysis, policy development  
1741 and economic impact studies with regard to rural health issues;

1742 (c) To develop and implement plans and provide  
1743 technical assistance to enable community health systems to respond  
1744 to various changes in their circumstances;

1745 (d) To plan and assist in professional recruitment and  
1746 retention of medical professionals and assistants; and

1747 (e) To establish information clearinghouses to improve  
1748 access to and sharing of rural health care information.

1749 (3) The State Board of Health shall have general supervision  
1750 of the health interests of the people of the state and to exercise  
1751 the rights, powers and duties of those acts which it is authorized  
1752 by law to enforce.

1753 (4) The State Board of Health shall have authority:

1754 (a) To make investigations and inquiries with respect  
1755 to the causes of disease and death, and to investigate the effect  
1756 of environment, including conditions of employment and other



1757 conditions that may affect health, and to make such other  
1758 investigations as it may deem necessary for the preservation and  
1759 improvement of health.

1760 (b) To make such sanitary investigations as it may,  
1761 from time to time, deem necessary for the protection and  
1762 improvement of health and to investigate nuisance questions that  
1763 affect the security of life and health within the state.

1764 (c) To direct and control sanitary and quarantine  
1765 measures for dealing with all diseases within the state possible  
1766 to suppress same and prevent their spread.

1767 (d) To obtain, collect and preserve such information  
1768 relative to mortality, morbidity, disease and health as may be  
1769 useful in the discharge of its duties or may contribute to the  
1770 prevention of disease or the promotion of health in this state.

1771 (e) To charge and collect reasonable fees for health  
1772 services, including immunizations, inspections and related  
1773 activities, and the board shall charge fees for those services;  
1774 however, if it is determined that a person receiving services is  
1775 unable to pay the total fee, the board shall collect any amount  
1776 that the person is able to pay. Any increase in the fees charged  
1777 by the board under this paragraph shall be in accordance with the  
1778 provisions of Section 41-3-65.

1779 (f) (i) To establish standards for, issue permits and  
1780 exercise control over, any cafes, restaurants, food or drink  
1781 stands, sandwich manufacturing establishments, and all other





1782 establishments, other than churches, church-related and private  
1783 schools, and other nonprofit or charitable organizations, where  
1784 food or drink is regularly prepared, handled and served for pay;  
1785 and

1786 (ii) To require that a permit be obtained from the  
1787 Department of Health before those persons begin operation. If any  
1788 such person fails to obtain the permit required in this  
1789 subparagraph (ii), the State Board of Health, after due notice and  
1790 opportunity for a hearing, may impose a monetary penalty not to  
1791 exceed One Thousand Dollars (\$1,000.00) for each violation.  
1792 However, the department is not authorized to impose a monetary  
1793 penalty against any person whose gross annual prepared food sales  
1794 are less than Five Thousand Dollars (\$5,000.00). Money collected  
1795 by the board under this subparagraph (ii) shall be deposited to  
1796 the credit of the State General Fund of the State Treasury.

1797 (g) To promulgate rules and regulations and exercise  
1798 control over the production and sale of milk pursuant to the  
1799 provisions of Sections 75-31-41 through 75-31-49.

1800 (h) On presentation of proper authority, to enter into  
1801 and inspect any public place or building where the State Health  
1802 Officer or his representative deems it necessary and proper to  
1803 enter for the discovery and suppression of disease and for the  
1804 enforcement of any health or sanitary laws and regulations in the  
1805 state.



1806 (i) To conduct investigations, inquiries and hearings,  
1807 and to issue subpoenas for the attendance of witnesses and the  
1808 production of books and records at any hearing when authorized and  
1809 required by statute to be conducted by the State Health Officer or  
1810 the State Board of Health.

1811 (j) To promulgate rules and regulations, and to collect  
1812 data and information, on (i) the delivery of services through the  
1813 practice of telemedicine; and (ii) the use of electronic records  
1814 for the delivery of telemedicine services.

1815 (k) To enforce and regulate domestic and imported fish  
1816 as authorized under Section 69-7-601 et seq.

1817 (5) (a) The State Board of Health shall have the authority,  
1818 in its discretion, to establish programs to promote the public  
1819 health, to be administered by the State Department of Health.  
1820 Specifically, those programs may include, but shall not be limited  
1821 to, programs in the following areas:

1822 (i) Maternal and child health;

1823 (ii) Family planning;

1824 (iii) Pediatric services;

1825 (iv) Services to \* \* \* children with disabilities;

1826 (v) Control of communicable and noncommunicable  
1827 disease;

1828 (vi) Chronic disease;

1829 (vii) Accidental deaths and injuries;

1830 (viii) Child care licensure;



1831 (ix) Radiological health;  
1832 (x) Dental health;  
1833 (xi) Milk sanitation;  
1834 (xii) Occupational safety and health;  
1835 (xiii) Food, vector control and general  
1836 sanitation;  
1837 (xiv) Protection of drinking water;  
1838 (xv) Sanitation in food handling establishments  
1839 open to the public;  
1840 (xvi) Registration of births and deaths and other  
1841 vital events;  
1842 (xvii) Such public health programs and services as  
1843 may be assigned to the State Board of Health by the Legislature or  
1844 by executive order; and  
1845 (xviii) Regulation of domestic and imported fish  
1846 for human consumption.  
1847 (b) The State Board of Health and State Department of  
1848 Health shall not be authorized to sell, transfer, alienate or  
1849 otherwise dispose of any of the home health agencies owned and  
1850 operated by the department on January 1, 1995, and shall not be  
1851 authorized to sell, transfer, assign, alienate or otherwise  
1852 dispose of the license of any of those home health agencies,  
1853 except upon the specific authorization of the Legislature by an  
1854 amendment to this section. However, this paragraph (b) shall not  
1855 prevent the board or the department from closing or terminating



1856 the operation of any home health agency owned and operated by the  
1857 department, or closing or terminating any office, branch office or  
1858 clinic of any such home health agency, or otherwise discontinuing  
1859 the providing of home health services through any such home health  
1860 agency, office, branch office or clinic, if the board first  
1861 demonstrates that there are other providers of home health  
1862 services in the area being served by the department's home health  
1863 agency, office, branch office or clinic that will be able to  
1864 provide adequate home health services to the residents of the area  
1865 if the department's home health agency, office, branch office or  
1866 clinic is closed or otherwise discontinues the providing of home  
1867 health services. This demonstration by the board that there are  
1868 other providers of adequate home health services in the area shall  
1869 be spread at length upon the minutes of the board at a regular or  
1870 special meeting of the board at least thirty (30) days before a  
1871 home health agency, office, branch office or clinic is proposed to  
1872 be closed or otherwise discontinue the providing of home health  
1873 services.

1874 (c) The State Department of Health may undertake such  
1875 technical programs and activities as may be required for the  
1876 support and operation of those programs, including maintaining  
1877 physical, chemical, bacteriological and radiological laboratories,  
1878 and may make such diagnostic tests for diseases and tests for the  
1879 evaluation of health hazards as may be deemed necessary for the  
1880 protection of the people of the state.



1881           (6)   (a)   The State Board of Health shall administer the  
1882 local governments and rural water systems improvements loan  
1883 program in accordance with the provisions of Section 41-3-16.

1884                   (b)   The State Board of Health shall have authority:

1885                           (i)   To enter into capitalization grant agreements  
1886 with the United States Environmental Protection Agency, or any  
1887 successor agency thereto;

1888                           (ii)   To accept capitalization grant awards made  
1889 under the federal Safe Drinking Water Act, as amended;

1890                           (iii)   To provide annual reports and audits to the  
1891 United States Environmental Protection Agency, as may be required  
1892 by federal capitalization grant agreements; and

1893                           (iv)   To establish and collect fees to defray the  
1894 reasonable costs of administering the revolving fund or emergency  
1895 fund if the State Board of Health determines that those costs will  
1896 exceed the limitations established in the federal Safe Drinking  
1897 Water Act, as amended. The administration fees may be included in  
1898 loan amounts to loan recipients for the purpose of facilitating  
1899 payment to the board; however, those fees may not exceed five  
1900 percent (5%) of the loan amount.

1901           (7)   Notwithstanding any other provision to the contrary, the  
1902 State Department of Health shall have the following specific  
1903 powers: The department shall issue a license to Alexander Milne  
1904 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the  
1905 construction, conversion, expansion and operation of not more than



1906 forty-five (45) beds for developmentally disabled adults who have  
1907 been displaced from New Orleans, Louisiana, with the beds to be  
1908 located in a certified ICF-MR facility in the City of Laurel,  
1909 Mississippi. There shall be no prohibition or restrictions on  
1910 participation in the Medicaid program for the person receiving the  
1911 license under this subsection (7). The license described in this  
1912 subsection shall expire five (5) years from the date of its issue.  
1913 The license authorized by this subsection shall be issued upon the  
1914 initial payment by the licensee of an application fee of  
1915 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of  
1916 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of  
1917 the license, to be paid as long as the licensee continues to  
1918 operate. The initial and monthly licensing fees shall be  
1919 deposited by the State Department of Health into the special fund  
1920 created under Section 41-7-188.

1921 (8) Notwithstanding any other provision to the contrary, the  
1922 State Department of Health shall have the following specific  
1923 powers: The State Department of Health is authorized to issue a  
1924 license to an existing home health agency for the transfer of a  
1925 county from that agency to another existing home health agency,  
1926 and to charge a fee for reviewing and making a determination on  
1927 the application for such transfer not to exceed one-half (1/2) of  
1928 the authorized fee assessed for the original application for the  
1929 home health agency, with the revenue to be deposited by the State



1930 Department of Health into the special fund created under Section  
1931 41-7-188.

1932 (9) Notwithstanding any other provision to the contrary, the  
1933 State Department of Health shall have the following specific  
1934 powers: For the period beginning July 1, 2010, through July 1,  
1935 2017, the State Department of Health is authorized and empowered  
1936 to assess a fee in addition to the fee prescribed in Section  
1937 41-7-188 for reviewing applications for certificates of need in an  
1938 amount not to exceed twenty-five one-hundredths of one percent  
1939 (.25 of 1%) of the amount of a proposed capital expenditure, but  
1940 shall be not less than Two Hundred Fifty Dollars (\$250.00)  
1941 regardless of the amount of the proposed capital expenditure, and  
1942 the maximum additional fee permitted shall not exceed Fifty  
1943 Thousand Dollars (\$50,000.00). Provided that the total  
1944 assessments of fees for certificate of need applications under  
1945 Section 41-7-188 and this section shall not exceed the actual cost  
1946 of operating the certificate of need program.

1947 (10) Notwithstanding any other provision to the contrary,  
1948 the State Department of Health shall have the following specific  
1949 powers: The State Department of Health is authorized to extend  
1950 and renew any certificate of need that has expired, and to charge  
1951 a fee for reviewing and making a determination on the application  
1952 for such action not to exceed one-half (1/2) of the authorized fee  
1953 assessed for the original application for the certificate of need,



1954 with the revenue to be deposited by the State Department of Health  
1955 into the special fund created under Section 41-7-188.

1956 (11) Notwithstanding any other provision to the contrary,  
1957 the State Department of Health shall have the following specific  
1958 powers: The State Department of Health is authorized and  
1959 empowered, to revoke, immediately, the license and require closure  
1960 of any institution for the aged or infirm, including any other  
1961 remedy less than closure to protect the health and safety of the  
1962 residents of \* \* \* the institution or the health and safety of the  
1963 general public.

1964 (12) Notwithstanding any other provision to the contrary,  
1965 the State Department of Health shall have the following specific  
1966 powers: The State Department of Health is authorized and  
1967 empowered, to require the temporary detainment of individuals for  
1968 disease control purposes based upon violation of any order of the  
1969 State Health Officer, as provided in Section 41-23-5. For the  
1970 purpose of enforcing such orders of the State Health Officer,  
1971 persons employed by the department as investigators shall have  
1972 general arrest powers. All law enforcement officers are  
1973 authorized and directed to assist in the enforcement of such  
1974 orders of the State Health Officer.

1975 **SECTION 22.** Section 41-4-18, Mississippi Code of 1972, is  
1976 amended as follows:

1977 41-4-18. (1) Notwithstanding Section 41-7-191(11) and  
1978 Section 41-7-171 et seq. \* \* \* or any other section of law, the





1979 Department of Mental Health shall have the authority to contract  
1980 with private and/or public entities to transfer beds within  
1981 intermediate care facilities for \* \* \* individuals with  
1982 intellectual disabilities owned and operated by the Department of  
1983 Mental Health to locations owned and operated by private and/or  
1984 public entities for the purpose of serving individuals with  
1985 intellectual disabilities in the settings most appropriate to meet  
1986 their needs.

1987 (2) Any license granted to the Department of Mental Health  
1988 by the Department of Health for the operation of transferred  
1989 intermediate care facility for \* \* \* individuals with intellectual  
1990 disabilities beds shall remain in the name of the Department of  
1991 Mental Health and shall not be transferred into the name of the  
1992 contractor unless the contractor has received the appropriate  
1993 certificates of need.

1994 **SECTION 23.** Section 41-7-173, Mississippi Code of 1972, is  
1995 amended as follows:

1996 41-7-173. For the purposes of Section 41-7-171 et seq., the  
1997 following words shall have the meanings ascribed herein, unless  
1998 the context otherwise requires:

1999 (a) "Affected person" means (i) the applicant; (ii) a  
2000 person residing within the geographic area to be served by the  
2001 applicant's proposal; (iii) a person who regularly uses health  
2002 care facilities or HMOs located in the geographic area of the  
2003 proposal which provide similar service to that which is proposed;



2004 (iv) health care facilities and HMOs which have, prior to receipt  
2005 of the application under review, formally indicated an intention  
2006 to provide service similar to that of the proposal being  
2007 considered at a future date; (v) third-party payers who reimburse  
2008 health care facilities located in the geographical area of the  
2009 proposal; or (vi) any agency that establishes rates for health  
2010 care services or HMOs located in the geographic area of the  
2011 proposal.

2012 (b) "Certificate of need" means a written order of the  
2013 State Department of Health setting forth the affirmative finding  
2014 that a proposal in prescribed application form, sufficiently  
2015 satisfies the plans, standards and criteria prescribed for such  
2016 service or other project by Section 41-7-171 et seq., and by rules  
2017 and regulations promulgated thereunder by the State Department of  
2018 Health.

2019 (c) (i) "Capital expenditure," when pertaining to  
2020 defined major medical equipment, shall mean an expenditure which,  
2021 under generally accepted accounting principles consistently  
2022 applied, is not properly chargeable as an expense of operation and  
2023 maintenance and which exceeds One Million Five Hundred Thousand  
2024 Dollars (\$1,500,000.00).

2025 (ii) "Capital expenditure," when pertaining to  
2026 other than major medical equipment, shall mean any expenditure  
2027 which under generally accepted accounting principles consistently  
2028 applied is not properly chargeable as an expense of operation and



2029 maintenance and which exceeds, for clinical health services, as  
2030 defined in \* \* \* paragraph (k) below, Five Million Dollars  
2031 (\$5,000,000.00), adjusted for inflation as published by the State  
2032 Department of Health or which exceeds, for nonclinical health  
2033 services, as defined in \* \* \* paragraph (k) below, Ten Million  
2034 Dollars (\$10,000,000.00), adjusted for inflation as published by  
2035 the State Department of Health.

2036 (iii) A "capital expenditure" shall include the  
2037 acquisition, whether by lease, sufferance, gift, devise, legacy,  
2038 settlement of a trust or other means, of any facility or part  
2039 thereof, or equipment for a facility, the expenditure for which  
2040 would have been considered a capital expenditure if acquired by  
2041 purchase. Transactions which are separated in time but are  
2042 planned to be undertaken within twelve (12) months of each other  
2043 and are components of an overall plan for meeting patient care  
2044 objectives shall, for purposes of this definition, be viewed in  
2045 their entirety without regard to their timing.

2046 (iv) In those instances where a health care  
2047 facility or other provider of health services proposes to provide  
2048 a service in which the capital expenditure for major medical  
2049 equipment or other than major medical equipment or a combination  
2050 of the two (2) may have been split between separate parties, the  
2051 total capital expenditure required to provide the proposed service  
2052 shall be considered in determining the necessity of certificate of  
2053 need review and in determining the appropriate certificate of need



2054 review fee to be paid. The capital expenditure associated with  
2055 facilities and equipment to provide services in Mississippi shall  
2056 be considered regardless of where the capital expenditure was  
2057 made, in state or out of state, and regardless of the domicile of  
2058 the party making the capital expenditure, in state or out of  
2059 state.

2060 (d) "Change of ownership" includes, but is not limited  
2061 to, inter vivos gifts, purchases, transfers, lease arrangements,  
2062 cash and/or stock transactions or other comparable arrangements  
2063 whenever any person or entity acquires or controls a majority  
2064 interest of an existing health care facility, and/or the change of  
2065 ownership of major medical equipment, a health service, or an  
2066 institutional health service. Changes of ownership from  
2067 partnerships, single proprietorships or corporations to another  
2068 form of ownership are specifically included. However, "change of  
2069 ownership" shall not include any inherited interest acquired as a  
2070 result of a testamentary instrument or under the laws of descent  
2071 and distribution of the State of Mississippi.

2072 (e) "Commencement of construction" means that all of  
2073 the following have been completed with respect to a proposal or  
2074 project proposing construction, renovating, remodeling or  
2075 alteration:

2076 (i) A legally binding written contract has been  
2077 consummated by the proponent and a lawfully licensed contractor to  
2078 construct and/or complete the intent of the proposal within a



2079 specified period of time in accordance with final architectural  
2080 plans which have been approved by the licensing authority of the  
2081 State Department of Health;

2082 (ii) Any and all permits and/or approvals deemed  
2083 lawfully necessary by all authorities with responsibility for such  
2084 have been secured; and

2085 (iii) Actual bona fide undertaking of the subject  
2086 proposal has commenced, and a progress payment of at least one  
2087 percent (1%) of the total cost price of the contract has been paid  
2088 to the contractor by the proponent, and the requirements of this  
2089 paragraph (e) have been certified to in writing by the State  
2090 Department of Health.

2091 Force account expenditures, such as deposits, securities,  
2092 bonds, et cetera, may, in the discretion of the State Department  
2093 of Health, be excluded from any or all of the provisions of  
2094 defined commencement of construction.

2095 (f) "Consumer" means an individual who is not a  
2096 provider of health care as defined in paragraph (q) of this  
2097 section.

2098 (g) "Develop," when used in connection with health  
2099 services, means to undertake those activities which, on their  
2100 completion, will result in the offering of a new institutional  
2101 health service or the incurring of a financial obligation as  
2102 defined under applicable state law in relation to the offering of  
2103 such services.



2104 (h) "Health care facility" includes hospitals,  
2105 psychiatric hospitals, chemical dependency hospitals, skilled  
2106 nursing facilities, end-stage renal disease (ESRD) facilities,  
2107 including freestanding hemodialysis units, intermediate care  
2108 facilities, ambulatory surgical facilities, intermediate care  
2109 facilities for \* \* \* individuals with intellectual disabilities,  
2110 home health agencies, psychiatric residential treatment  
2111 facilities, pediatric skilled nursing facilities, long-term care  
2112 hospitals, comprehensive medical rehabilitation facilities,  
2113 including facilities owned or operated by the state or a political  
2114 subdivision or instrumentality of the state, but does not include  
2115 Christian Science sanatoriums operated or listed and certified by  
2116 the First Church of Christ, Scientist, Boston, Massachusetts.  
2117 This definition shall not apply to facilities for the private  
2118 practice, either independently or by incorporated medical groups,  
2119 of physicians, dentists or health care professionals except where  
2120 such facilities are an integral part of an institutional health  
2121 service. The various health care facilities listed in this  
2122 paragraph shall be defined as follows:

2123 (i) "Hospital" means an institution which is  
2124 primarily engaged in providing to inpatients, by or under the  
2125 supervision of physicians, diagnostic services and therapeutic  
2126 services for medical diagnosis, treatment and care of injured,  
2127 disabled or sick persons, or rehabilitation services for the



2128 rehabilitation of injured, disabled or sick persons. Such term  
2129 does not include psychiatric hospitals.

2130 (ii) "Psychiatric hospital" means an institution  
2131 which is primarily engaged in providing to inpatients, by or under  
2132 the supervision of a physician, psychiatric services for the  
2133 diagnosis and treatment of persons with mental illness.

2134 (iii) "Chemical dependency hospital" means an  
2135 institution which is primarily engaged in providing to inpatients,  
2136 by or under the supervision of a physician, medical and related  
2137 services for the diagnosis and treatment of chemical dependency  
2138 such as alcohol and drug abuse.

2139 (iv) "Skilled nursing facility" means an  
2140 institution or a distinct part of an institution which is  
2141 primarily engaged in providing to inpatients skilled nursing care  
2142 and related services for patients who require medical or nursing  
2143 care or rehabilitation services for the rehabilitation of injured,  
2144 disabled or sick persons.

2145 (v) "End-stage renal disease (ESRD) facilities"  
2146 means kidney disease treatment centers, which includes  
2147 freestanding hemodialysis units and limited care facilities. The  
2148 term "limited care facility" generally refers to an  
2149 off-hospital-premises facility, regardless of whether it is  
2150 provider or nonprovider operated, which is engaged primarily in  
2151 furnishing maintenance hemodialysis services to stabilized  
2152 patients.



2153 (vi) "Intermediate care facility" means an  
2154 institution which provides, on a regular basis, health-related  
2155 care and services to individuals who do not require the degree of  
2156 care and treatment which a hospital or skilled nursing facility is  
2157 designed to provide, but who, because of their mental or physical  
2158 condition, require health-related care and services (above the  
2159 level of room and board).

2160 (vii) "Ambulatory surgical facility" means a  
2161 facility primarily organized or established for the purpose of  
2162 performing surgery for outpatients and is a separate identifiable  
2163 legal entity from any other health care facility. Such term does  
2164 not include the offices of private physicians or dentists, whether  
2165 for individual or group practice, and does not include any  
2166 abortion facility as defined in Section 41-75-1(f).

2167 (viii) "Intermediate care facility for \* \* \*  
2168 individuals with intellectual disabilities" means an intermediate  
2169 care facility that provides health or rehabilitative services in a  
2170 planned program of activities to persons with an intellectual  
2171 disability, also including, but not limited to, cerebral palsy and  
2172 other conditions covered by the Federal Developmentally Disabled  
2173 Assistance and Bill of Rights Act, Public Law 94-103.

2174 (ix) "Home health agency" means a public or  
2175 privately owned agency or organization, or a subdivision of such  
2176 an agency or organization, properly authorized to conduct business  
2177 in Mississippi, which is primarily engaged in providing to





2178 individuals at the written direction of a licensed physician, in  
2179 the individual's place of residence, skilled nursing services  
2180 provided by or under the supervision of a registered nurse  
2181 licensed to practice in Mississippi, and one or more of the  
2182 following services or items:

- 2183 1. Physical, occupational or speech therapy;
- 2184 2. Medical social services;
- 2185 3. Part-time or intermittent services of a  
2186 home health aide;
- 2187 4. Other services as approved by the  
2188 licensing agency for home health agencies;
- 2189 5. Medical supplies, other than drugs and  
2190 biologicals, and the use of medical appliances; or
- 2191 6. Medical services provided by an intern or  
2192 resident-in-training at a hospital under a teaching program of  
2193 such hospital.

2194 Further, all skilled nursing services and those services  
2195 listed in items 1 through 4 of this subparagraph (ix) must be  
2196 provided directly by the licensed home health agency. For  
2197 purposes of this subparagraph, "directly" means either through an  
2198 agency employee or by an arrangement with another individual not  
2199 defined as a health care facility.

2200 This subparagraph (ix) shall not apply to health care  
2201 facilities which had contracts for the above services with a home  
2202 health agency on January 1, 1990.



2203 (x) "Psychiatric residential treatment facility"  
2204 means any nonhospital establishment with permanent licensed  
2205 facilities which provides a twenty-four-hour program of care by  
2206 qualified therapists, including, but not limited to, duly licensed  
2207 mental health professionals, psychiatrists, psychologists,  
2208 psychotherapists and licensed certified social workers, for  
2209 emotionally disturbed children and adolescents referred to such  
2210 facility by a court, local school district or by the Department of  
2211 Human Services, who are not in an acute phase of illness requiring  
2212 the services of a psychiatric hospital, and are in need of such  
2213 restorative treatment services. For purposes of this  
2214 subparagraph, the term "emotionally disturbed" means a condition  
2215 exhibiting one or more of the following characteristics over a  
2216 long period of time and to a marked degree, which adversely  
2217 affects educational performance:

- 2218 1. An inability to learn which cannot be  
2219 explained by intellectual, sensory or health factors;
- 2220 2. An inability to build or maintain  
2221 satisfactory relationships with peers and teachers;
- 2222 3. Inappropriate types of behavior or  
2223 feelings under normal circumstances;
- 2224 4. A general pervasive mood of unhappiness or  
2225 depression; or
- 2226 5. A tendency to develop physical symptoms or  
2227 fears associated with personal or school problems. An



2228 establishment furnishing primarily domiciliary care is not within  
2229 this definition.

2230 (xi) "Pediatric skilled nursing facility" means an  
2231 institution or a distinct part of an institution that is primarily  
2232 engaged in providing to inpatients skilled nursing care and  
2233 related services for persons under twenty-one (21) years of age  
2234 who require medical or nursing care or rehabilitation services for  
2235 the rehabilitation of injured, disabled or sick persons.

2236 (xii) "Long-term care hospital" means a  
2237 freestanding, Medicare-certified hospital that has an average  
2238 length of inpatient stay greater than twenty-five (25) days, which  
2239 is primarily engaged in providing chronic or long-term medical  
2240 care to patients who do not require more than three (3) hours of  
2241 rehabilitation or comprehensive rehabilitation per day, and has a  
2242 transfer agreement with an acute care medical center and a  
2243 comprehensive medical rehabilitation facility. Long-term care  
2244 hospitals shall not use rehabilitation, comprehensive medical  
2245 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
2246 nursing home, skilled nursing facility or sub-acute care facility  
2247 in association with its name.

2248 (xiii) "Comprehensive medical rehabilitation  
2249 facility" means a hospital or hospital unit that is licensed  
2250 and/or certified as a comprehensive medical rehabilitation  
2251 facility which provides specialized programs that are accredited  
2252 by the Commission on Accreditation of Rehabilitation Facilities



2253 and supervised by a physician board certified or board eligible in  
2254 physiatry or other doctor of medicine or osteopathy with at least  
2255 two (2) years of training in the medical direction of a  
2256 comprehensive rehabilitation program that:

2257 1. Includes evaluation and treatment of  
2258 individuals with physical disabilities;

2259 2. Emphasizes education and training of  
2260 individuals with disabilities;

2261 3. Incorporates at least the following core  
2262 disciplines:

2263 \* \* \*a. Physical Therapy;

2264 \* \* \*b. Occupational Therapy;

2265 \* \* \*c. Speech and Language Therapy;

2266 \* \* \*d. Rehabilitation Nursing; and

2267 4. Incorporates at least three (3) of the  
2268 following disciplines:

2269 \* \* \*a. Psychology;

2270 \* \* \*b. Audiology;

2271 \* \* \*c. Respiratory Therapy;

2272 \* \* \*d. Therapeutic Recreation;

2273 \* \* \*e. Orthotics;

2274 \* \* \*f. Prosthetics;

2275 \* \* \*g. Special Education;

2276 \* \* \*h. Vocational Rehabilitation;

2277 \* \* \*i. Psychotherapy;



2278 \* \* \*j. Social Work;

2279 \* \* \*k. Rehabilitation Engineering.

2280 These specialized programs include, but are not limited to:  
2281 spinal cord injury programs, head injury programs and infant and  
2282 early childhood development programs.

2283 (i) "Health maintenance organization" or "HMO" means a  
2284 public or private organization organized under the laws of this  
2285 state or the federal government which:

2286 (i) Provides or otherwise makes available to  
2287 enrolled participants health care services, including  
2288 substantially the following basic health care services: usual  
2289 physician services, hospitalization, laboratory, x-ray, emergency  
2290 and preventive services, and out-of-area coverage;

2291 (ii) Is compensated (except for copayments) for  
2292 the provision of the basic health care services listed in  
2293 subparagraph (i) of this paragraph to enrolled participants on a  
2294 predetermined basis; and

2295 (iii) Provides physician services primarily:

2296 1. Directly through physicians who are either  
2297 employees or partners of such organization; or

2298 2. Through arrangements with individual  
2299 physicians or one or more groups of physicians (organized on a  
2300 group practice or individual practice basis).

2301 (j) "Health service area" means a geographic area of  
2302 the state designated in the State Health Plan as the area to be



2303 used in planning for specified health facilities and services and  
2304 to be used when considering certificate of need applications to  
2305 provide health facilities and services.

2306 (k) "Health services" means clinically related (i.e.,  
2307 diagnostic, treatment or rehabilitative) services and includes  
2308 alcohol, drug abuse, mental health and home health care services.  
2309 "Clinical health services" shall only include those activities  
2310 which contemplate any change in the existing bed complement of any  
2311 health care facility through the addition or conversion of any  
2312 beds, under Section 41-7-191(1)(c) or propose to offer any health  
2313 services if those services have not been provided on a regular  
2314 basis by the proposed provider of such services within the period  
2315 of twelve (12) months prior to the time such services would be  
2316 offered, under Section 41-7-191(1)(d). "Nonclinical health  
2317 services" shall be all other services which do not involve any  
2318 change in the existing bed complement or offering health services  
2319 as described above.

2320 (l) "Institutional health services" shall mean health  
2321 services provided in or through health care facilities and shall  
2322 include the entities in or through which such services are  
2323 provided.

2324 (m) "Major medical equipment" means medical equipment  
2325 designed for providing medical or any health-related service which  
2326 costs in excess of One Million Five Hundred Thousand Dollars  
2327 (\$1,500,000.00). However, this definition shall not be applicable



2328 to clinical laboratories if they are determined by the State  
2329 Department of Health to be independent of any physician's office,  
2330 hospital or other health care facility or otherwise not so defined  
2331 by federal or state law, or rules and regulations promulgated  
2332 thereunder.

2333 (n) "State Department of Health" or "department" shall  
2334 mean the state agency created under Section 41-3-15, which shall  
2335 be considered to be the State Health Planning and Development  
2336 Agency, as defined in paragraph (u) of this section.

2337 (o) "Offer," when used in connection with health  
2338 services, means that it has been determined by the State  
2339 Department of Health that the health care facility is capable of  
2340 providing specified health services.

2341 (p) "Person" means an individual, a trust or estate,  
2342 partnership, corporation (including associations, joint-stock  
2343 companies and insurance companies), the state or a political  
2344 subdivision or instrumentality of the state.

2345 (q) "Provider" shall mean any person who is a provider  
2346 or representative of a provider of health care services requiring  
2347 a certificate of need under Section 41-7-171 et seq., or who has  
2348 any financial or indirect interest in any provider of services.

2349 (r) "Radiation therapy services" means the treatment of  
2350 cancer and other diseases using ionizing radiation of either high  
2351 energy photons (x-rays or gamma rays) or charged particles  
2352 (electrons, protons or heavy nuclei). However, for purposes of a



2353 certificate of need, radiation therapy services shall not include  
2354 low energy, superficial, external beam x-ray treatment of  
2355 superficial skin lesions.

2356 (s) "Secretary" means the Secretary of Health and Human  
2357 Services, and any officer or employee of the Department of Health  
2358 and Human Services to whom the authority involved has been  
2359 delegated.

2360 (t) "State Health Plan" means the sole and official  
2361 statewide health plan for Mississippi which identifies priority  
2362 state health needs and establishes standards and criteria for  
2363 health-related activities which require certificate of need review  
2364 in compliance with Section 41-7-191.

2365 (u) "State Health Planning and Development Agency"  
2366 means the agency of state government designated to perform health  
2367 planning and resource development programs for the State of  
2368 Mississippi.

2369 **SECTION 24.** Section 41-7-191, Mississippi Code of 1972, is  
2370 amended as follows:

2371 41-7-191. (1) No person shall engage in any of the  
2372 following activities without obtaining the required certificate of  
2373 need:

2374 (a) The construction, development or other  
2375 establishment of a new health care facility, which establishment  
2376 shall include the reopening of a health care facility that has  
2377 ceased to operate for a period of sixty (60) months or more;





2378           (b) The relocation of a health care facility or portion  
2379 thereof, or major medical equipment, unless such relocation of a  
2380 health care facility or portion thereof, or major medical  
2381 equipment, which does not involve a capital expenditure by or on  
2382 behalf of a health care facility, is within five thousand two  
2383 hundred eighty (5,280) feet from the main entrance of the health  
2384 care facility;

2385           (c) Any change in the existing bed complement of any  
2386 health care facility through the addition or conversion of any  
2387 beds or the alteration, modernizing or refurbishing of any unit or  
2388 department in which the beds may be located; however, if a health  
2389 care facility has voluntarily delicensed some of its existing bed  
2390 complement, it may later relicense some or all of its delicensed  
2391 beds without the necessity of having to acquire a certificate of  
2392 need. The State Department of Health shall maintain a record of  
2393 the delicensing health care facility and its voluntarily  
2394 delicensed beds and continue counting those beds as part of the  
2395 state's total bed count for health care planning purposes. If a  
2396 health care facility that has voluntarily delicensed some of its  
2397 beds later desires to relicense some or all of its voluntarily  
2398 delicensed beds, it shall notify the State Department of Health of  
2399 its intent to increase the number of its licensed beds. The State  
2400 Department of Health shall survey the health care facility within  
2401 thirty (30) days of that notice and, if appropriate, issue the  
2402 health care facility a new license reflecting the new contingent



2403 of beds. However, in no event may a health care facility that has  
2404 voluntarily delicensed some of its beds be reissued a license to  
2405 operate beds in excess of its bed count before the voluntary  
2406 delicensure of some of its beds without seeking certificate of  
2407 need approval;

2408 (d) Offering of the following health services if those  
2409 services have not been provided on a regular basis by the proposed  
2410 provider of such services within the period of twelve (12) months  
2411 prior to the time such services would be offered:

- 2412 (i) Open-heart surgery services;
- 2413 (ii) Cardiac catheterization services;
- 2414 (iii) Comprehensive inpatient rehabilitation  
2415 services;
- 2416 (iv) Licensed psychiatric services;
- 2417 (v) Licensed chemical dependency services;
- 2418 (vi) Radiation therapy services;
- 2419 (vii) Diagnostic imaging services of an invasive  
2420 nature, i.e. invasive digital angiography;
- 2421 (viii) Nursing home care as defined in  
2422 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
- 2423 (ix) Home health services;
- 2424 (x) Swing-bed services;
- 2425 (xi) Ambulatory surgical services;
- 2426 (xii) Magnetic resonance imaging services;
- 2427 (xiii) [Deleted]



2428                   (xiv) Long-term care hospital services;

2429                   (xv) Positron emission tomography (PET) services;

2430                   (e) The relocation of one or more health services from

2431 one physical facility or site to another physical facility or

2432 site, unless such relocation, which does not involve a capital

2433 expenditure by or on behalf of a health care facility, (i) is to a

2434 physical facility or site within five thousand two hundred eighty

2435 (5,280) feet from the main entrance of the health care facility

2436 where the health care service is located, or (ii) is the result of

2437 an order of a court of appropriate jurisdiction or a result of

2438 pending litigation in such court, or by order of the State

2439 Department of Health, or by order of any other agency or legal

2440 entity of the state, the federal government, or any political

2441 subdivision of either, whose order is also approved by the State

2442 Department of Health;

2443                   (f) The acquisition or otherwise control of any major

2444 medical equipment for the provision of medical services; however,

2445 (i) the acquisition of any major medical equipment used only for

2446 research purposes, and (ii) the acquisition of major medical

2447 equipment to replace medical equipment for which a facility is

2448 already providing medical services and for which the State

2449 Department of Health has been notified before the date of such

2450 acquisition shall be exempt from this paragraph; an acquisition

2451 for less than fair market value must be reviewed, if the

2452 acquisition at fair market value would be subject to review;



2453 (g) Changes of ownership of existing health care  
2454 facilities in which a notice of intent is not filed with the State  
2455 Department of Health at least thirty (30) days prior to the date  
2456 such change of ownership occurs, or a change in services or bed  
2457 capacity as prescribed in paragraph (c) or (d) of this subsection  
2458 as a result of the change of ownership; an acquisition for less  
2459 than fair market value must be reviewed, if the acquisition at  
2460 fair market value would be subject to review;

2461 (h) The change of ownership of any health care facility  
2462 defined in subparagraphs (iv), (vi) and (viii) of Section  
2463 41-7-173(h), in which a notice of intent as described in paragraph  
2464 (g) has not been filed and if the Executive Director, Division of  
2465 Medicaid, Office of the Governor, has not certified in writing  
2466 that there will be no increase in allowable costs to Medicaid from  
2467 revaluation of the assets or from increased interest and  
2468 depreciation as a result of the proposed change of ownership;

2469 (i) Any activity described in paragraphs (a) through  
2470 (h) if undertaken by any person if that same activity would  
2471 require certificate of need approval if undertaken by a health  
2472 care facility;

2473 (j) Any capital expenditure or deferred capital  
2474 expenditure by or on behalf of a health care facility not covered  
2475 by paragraphs (a) through (h);

2476 (k) The contracting of a health care facility as  
2477 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)



2478 to establish a home office, subunit, or branch office in the space  
2479 operated as a health care facility through a formal arrangement  
2480 with an existing health care facility as defined in subparagraph  
2481 (ix) of Section 41-7-173(h);

2482 (l) The replacement or relocation of a health care  
2483 facility designated as a critical access hospital shall be exempt  
2484 from subsection (1) of this section so long as the critical access  
2485 hospital complies with all applicable federal law and regulations  
2486 regarding such replacement or relocation;

2487 (m) Reopening a health care facility that has ceased to  
2488 operate for a period of sixty (60) months or more, which reopening  
2489 requires a certificate of need for the establishment of a new  
2490 health care facility.

2491 (2) The State Department of Health shall not grant approval  
2492 for or issue a certificate of need to any person proposing the new  
2493 construction of, addition to, or expansion of any health care  
2494 facility defined in subparagraphs (iv) (skilled nursing facility)  
2495 and (vi) (intermediate care facility) of Section 41-7-173(h) or  
2496 the conversion of vacant hospital beds to provide skilled or  
2497 intermediate nursing home care, except as hereinafter authorized:

2498 (a) The department may issue a certificate of need to  
2499 any person proposing the new construction of any health care  
2500 facility defined in subparagraphs (iv) and (vi) of Section  
2501 41-7-173(h) as part of a life care retirement facility, in any  
2502 county bordering on the Gulf of Mexico in which is located a



2503 National Aeronautics and Space Administration facility, not to  
2504 exceed forty (40) beds. From and after July 1, 1999, there shall  
2505 be no prohibition or restrictions on participation in the Medicaid  
2506 program (Section 43-13-101 et seq.) for the beds in the health  
2507 care facility that were authorized under this paragraph (a).

2508 (b) The department may issue certificates of need in  
2509 Harrison County to provide skilled nursing home care for  
2510 Alzheimer's disease patients and other patients, not to exceed one  
2511 hundred fifty (150) beds. From and after July 1, 1999, there  
2512 shall be no prohibition or restrictions on participation in the  
2513 Medicaid program (Section 43-13-101 et seq.) for the beds in the  
2514 nursing facilities that were authorized under this paragraph (b).

2515 (c) The department may issue a certificate of need for  
2516 the addition to or expansion of any skilled nursing facility that  
2517 is part of an existing continuing care retirement community  
2518 located in Madison County, provided that the recipient of the  
2519 certificate of need agrees in writing that the skilled nursing  
2520 facility will not at any time participate in the Medicaid program  
2521 (Section 43-13-101 et seq.) or admit or keep any patients in the  
2522 skilled nursing facility who are participating in the Medicaid  
2523 program. This written agreement by the recipient of the  
2524 certificate of need shall be fully binding on any subsequent owner  
2525 of the skilled nursing facility, if the ownership of the facility  
2526 is transferred at any time after the issuance of the certificate  
2527 of need. Agreement that the skilled nursing facility will not



2528 participate in the Medicaid program shall be a condition of the  
2529 issuance of a certificate of need to any person under this  
2530 paragraph (c), and if such skilled nursing facility at any time  
2531 after the issuance of the certificate of need, regardless of the  
2532 ownership of the facility, participates in the Medicaid program or  
2533 admits or keeps any patients in the facility who are participating  
2534 in the Medicaid program, the State Department of Health shall  
2535 revoke the certificate of need, if it is still outstanding, and  
2536 shall deny or revoke the license of the skilled nursing facility,  
2537 at the time that the department determines, after a hearing  
2538 complying with due process, that the facility has failed to comply  
2539 with any of the conditions upon which the certificate of need was  
2540 issued, as provided in this paragraph and in the written agreement  
2541 by the recipient of the certificate of need. The total number of  
2542 beds that may be authorized under the authority of this paragraph  
2543 (c) shall not exceed sixty (60) beds.

2544 (d) The State Department of Health may issue a  
2545 certificate of need to any hospital located in DeSoto County for  
2546 the new construction of a skilled nursing facility, not to exceed  
2547 one hundred twenty (120) beds, in DeSoto County. From and after  
2548 July 1, 1999, there shall be no prohibition or restrictions on  
2549 participation in the Medicaid program (Section 43-13-101 et seq.)  
2550 for the beds in the nursing facility that were authorized under  
2551 this paragraph (d).



2552           (e) The State Department of Health may issue a  
2553 certificate of need for the construction of a nursing facility or  
2554 the conversion of beds to nursing facility beds at a personal care  
2555 facility for the elderly in Lowndes County that is owned and  
2556 operated by a Mississippi nonprofit corporation, not to exceed  
2557 sixty (60) beds. From and after July 1, 1999, there shall be no  
2558 prohibition or restrictions on participation in the Medicaid  
2559 program (Section 43-13-101 et seq.) for the beds in the nursing  
2560 facility that were authorized under this paragraph (e).

2561           (f) The State Department of Health may issue a  
2562 certificate of need for conversion of a county hospital facility  
2563 in Itawamba County to a nursing facility, not to exceed sixty (60)  
2564 beds, including any necessary construction, renovation or  
2565 expansion. From and after July 1, 1999, there shall be no  
2566 prohibition or restrictions on participation in the Medicaid  
2567 program (Section 43-13-101 et seq.) for the beds in the nursing  
2568 facility that were authorized under this paragraph (f).

2569           (g) The State Department of Health may issue a  
2570 certificate of need for the construction or expansion of nursing  
2571 facility beds or the conversion of other beds to nursing facility  
2572 beds in either Hinds, Madison or Rankin County, not to exceed  
2573 sixty (60) beds. From and after July 1, 1999, there shall be no  
2574 prohibition or restrictions on participation in the Medicaid  
2575 program (Section 43-13-101 et seq.) for the beds in the nursing  
2576 facility that were authorized under this paragraph (g).





2577           (h) The State Department of Health may issue a  
2578 certificate of need for the construction or expansion of nursing  
2579 facility beds or the conversion of other beds to nursing facility  
2580 beds in either Hancock, Harrison or Jackson County, not to exceed  
2581 sixty (60) beds. From and after July 1, 1999, there shall be no  
2582 prohibition or restrictions on participation in the Medicaid  
2583 program (Section 43-13-101 et seq.) for the beds in the facility  
2584 that were authorized under this paragraph (h).

2585           (i) The department may issue a certificate of need for  
2586 the new construction of a skilled nursing facility in Leake  
2587 County, provided that the recipient of the certificate of need  
2588 agrees in writing that the skilled nursing facility will not at  
2589 any time participate in the Medicaid program (Section 43-13-101 et  
2590 seq.) or admit or keep any patients in the skilled nursing  
2591 facility who are participating in the Medicaid program. This  
2592 written agreement by the recipient of the certificate of need  
2593 shall be fully binding on any subsequent owner of the skilled  
2594 nursing facility, if the ownership of the facility is transferred  
2595 at any time after the issuance of the certificate of need.  
2596 Agreement that the skilled nursing facility will not participate  
2597 in the Medicaid program shall be a condition of the issuance of a  
2598 certificate of need to any person under this paragraph (i), and if  
2599 such skilled nursing facility at any time after the issuance of  
2600 the certificate of need, regardless of the ownership of the  
2601 facility, participates in the Medicaid program or admits or keeps



2602 any patients in the facility who are participating in the Medicaid  
2603 program, the State Department of Health shall revoke the  
2604 certificate of need, if it is still outstanding, and shall deny or  
2605 revoke the license of the skilled nursing facility, at the time  
2606 that the department determines, after a hearing complying with due  
2607 process, that the facility has failed to comply with any of the  
2608 conditions upon which the certificate of need was issued, as  
2609 provided in this paragraph and in the written agreement by the  
2610 recipient of the certificate of need. The provision of Section  
2611 41-7-193(1) regarding substantial compliance of the projection of  
2612 need as reported in the current State Health Plan is waived for  
2613 the purposes of this paragraph. The total number of nursing  
2614 facility beds that may be authorized by any certificate of need  
2615 issued under this paragraph (i) shall not exceed sixty (60) beds.  
2616 If the skilled nursing facility authorized by the certificate of  
2617 need issued under this paragraph is not constructed and fully  
2618 operational within eighteen (18) months after July 1, 1994, the  
2619 State Department of Health, after a hearing complying with due  
2620 process, shall revoke the certificate of need, if it is still  
2621 outstanding, and shall not issue a license for the skilled nursing  
2622 facility at any time after the expiration of the eighteen-month  
2623 period.

2624 (j) The department may issue certificates of need to  
2625 allow any existing freestanding long-term care facility in  
2626 Tishomingo County and Hancock County that on July 1, 1995, is



2627 licensed with fewer than sixty (60) beds. For the purposes of  
2628 this paragraph (j), the provisions of Section 41-7-193(1)  
2629 requiring substantial compliance with the projection of need as  
2630 reported in the current State Health Plan are waived. From and  
2631 after July 1, 1999, there shall be no prohibition or restrictions  
2632 on participation in the Medicaid program (Section 43-13-101 et  
2633 seq.) for the beds in the long-term care facilities that were  
2634 authorized under this paragraph (j).

2635 (k) The department may issue a certificate of need for  
2636 the construction of a nursing facility at a continuing care  
2637 retirement community in Lowndes County. The total number of beds  
2638 that may be authorized under the authority of this paragraph (k)  
2639 shall not exceed sixty (60) beds. From and after July 1, 2001,  
2640 the prohibition on the facility participating in the Medicaid  
2641 program (Section 43-13-101 et seq.) that was a condition of  
2642 issuance of the certificate of need under this paragraph (k) shall  
2643 be revised as follows: The nursing facility may participate in  
2644 the Medicaid program from and after July 1, 2001, if the owner of  
2645 the facility on July 1, 2001, agrees in writing that no more than  
2646 thirty (30) of the beds at the facility will be certified for  
2647 participation in the Medicaid program, and that no claim will be  
2648 submitted for Medicaid reimbursement for more than thirty (30)  
2649 patients in the facility in any month or for any patient in the  
2650 facility who is in a bed that is not Medicaid-certified. This  
2651 written agreement by the owner of the facility shall be a



2652 condition of licensure of the facility, and the agreement shall be  
2653 fully binding on any subsequent owner of the facility if the  
2654 ownership of the facility is transferred at any time after July 1,  
2655 2001. After this written agreement is executed, the Division of  
2656 Medicaid and the State Department of Health shall not certify more  
2657 than thirty (30) of the beds in the facility for participation in  
2658 the Medicaid program. If the facility violates the terms of the  
2659 written agreement by admitting or keeping in the facility on a  
2660 regular or continuing basis more than thirty (30) patients who are  
2661 participating in the Medicaid program, the State Department of  
2662 Health shall revoke the license of the facility, at the time that  
2663 the department determines, after a hearing complying with due  
2664 process, that the facility has violated the written agreement.

2665 (l) Provided that funds are specifically appropriated  
2666 therefor by the Legislature, the department may issue a  
2667 certificate of need to a rehabilitation hospital in Hinds County  
2668 for the construction of a sixty-bed long-term care nursing  
2669 facility dedicated to the care and treatment of persons with  
2670 severe disabilities including persons with spinal cord and  
2671 closed-head injuries and ventilator dependent patients. The  
2672 provisions of Section 41-7-193(1) regarding substantial compliance  
2673 with projection of need as reported in the current State Health  
2674 Plan are waived for the purpose of this paragraph.

2675 (m) The State Department of Health may issue a  
2676 certificate of need to a county-owned hospital in the Second



2677 Judicial District of Panola County for the conversion of not more  
2678 than seventy-two (72) hospital beds to nursing facility beds,  
2679 provided that the recipient of the certificate of need agrees in  
2680 writing that none of the beds at the nursing facility will be  
2681 certified for participation in the Medicaid program (Section  
2682 43-13-101 et seq.), and that no claim will be submitted for  
2683 Medicaid reimbursement in the nursing facility in any day or for  
2684 any patient in the nursing facility. This written agreement by  
2685 the recipient of the certificate of need shall be a condition of  
2686 the issuance of the certificate of need under this paragraph, and  
2687 the agreement shall be fully binding on any subsequent owner of  
2688 the nursing facility if the ownership of the nursing facility is  
2689 transferred at any time after the issuance of the certificate of  
2690 need. After this written agreement is executed, the Division of  
2691 Medicaid and the State Department of Health shall not certify any  
2692 of the beds in the nursing facility for participation in the  
2693 Medicaid program. If the nursing facility violates the terms of  
2694 the written agreement by admitting or keeping in the nursing  
2695 facility on a regular or continuing basis any patients who are  
2696 participating in the Medicaid program, the State Department of  
2697 Health shall revoke the license of the nursing facility, at the  
2698 time that the department determines, after a hearing complying  
2699 with due process, that the nursing facility has violated the  
2700 condition upon which the certificate of need was issued, as  
2701 provided in this paragraph and in the written agreement. If the



2702 certificate of need authorized under this paragraph is not issued  
2703 within twelve (12) months after July 1, 2001, the department shall  
2704 deny the application for the certificate of need and shall not  
2705 issue the certificate of need at any time after the twelve-month  
2706 period, unless the issuance is contested. If the certificate of  
2707 need is issued and substantial construction of the nursing  
2708 facility beds has not commenced within eighteen (18) months after  
2709 July 1, 2001, the State Department of Health, after a hearing  
2710 complying with due process, shall revoke the certificate of need  
2711 if it is still outstanding, and the department shall not issue a  
2712 license for the nursing facility at any time after the  
2713 eighteen-month period. However, if the issuance of the  
2714 certificate of need is contested, the department shall require  
2715 substantial construction of the nursing facility beds within six  
2716 (6) months after final adjudication on the issuance of the  
2717 certificate of need.

2718 (n) The department may issue a certificate of need for  
2719 the new construction, addition or conversion of skilled nursing  
2720 facility beds in Madison County, provided that the recipient of  
2721 the certificate of need agrees in writing that the skilled nursing  
2722 facility will not at any time participate in the Medicaid program  
2723 (Section 43-13-101 et seq.) or admit or keep any patients in the  
2724 skilled nursing facility who are participating in the Medicaid  
2725 program. This written agreement by the recipient of the  
2726 certificate of need shall be fully binding on any subsequent owner



2727 of the skilled nursing facility, if the ownership of the facility  
2728 is transferred at any time after the issuance of the certificate  
2729 of need. Agreement that the skilled nursing facility will not  
2730 participate in the Medicaid program shall be a condition of the  
2731 issuance of a certificate of need to any person under this  
2732 paragraph (n), and if such skilled nursing facility at any time  
2733 after the issuance of the certificate of need, regardless of the  
2734 ownership of the facility, participates in the Medicaid program or  
2735 admits or keeps any patients in the facility who are participating  
2736 in the Medicaid program, the State Department of Health shall  
2737 revoke the certificate of need, if it is still outstanding, and  
2738 shall deny or revoke the license of the skilled nursing facility,  
2739 at the time that the department determines, after a hearing  
2740 complying with due process, that the facility has failed to comply  
2741 with any of the conditions upon which the certificate of need was  
2742 issued, as provided in this paragraph and in the written agreement  
2743 by the recipient of the certificate of need. The total number of  
2744 nursing facility beds that may be authorized by any certificate of  
2745 need issued under this paragraph (n) shall not exceed sixty (60)  
2746 beds. If the certificate of need authorized under this paragraph  
2747 is not issued within twelve (12) months after July 1, 1998, the  
2748 department shall deny the application for the certificate of need  
2749 and shall not issue the certificate of need at any time after the  
2750 twelve-month period, unless the issuance is contested. If the  
2751 certificate of need is issued and substantial construction of the



2752 nursing facility beds has not commenced within eighteen (18)  
2753 months after July 1, 1998, the State Department of Health, after a  
2754 hearing complying with due process, shall revoke the certificate  
2755 of need if it is still outstanding, and the department shall not  
2756 issue a license for the nursing facility at any time after the  
2757 eighteen-month period. However, if the issuance of the  
2758 certificate of need is contested, the department shall require  
2759 substantial construction of the nursing facility beds within six  
2760 (6) months after final adjudication on the issuance of the  
2761 certificate of need.

2762           (o) The department may issue a certificate of need for  
2763 the new construction, addition or conversion of skilled nursing  
2764 facility beds in Leake County, provided that the recipient of the  
2765 certificate of need agrees in writing that the skilled nursing  
2766 facility will not at any time participate in the Medicaid program  
2767 (Section 43-13-101 et seq.) or admit or keep any patients in the  
2768 skilled nursing facility who are participating in the Medicaid  
2769 program. This written agreement by the recipient of the  
2770 certificate of need shall be fully binding on any subsequent owner  
2771 of the skilled nursing facility, if the ownership of the facility  
2772 is transferred at any time after the issuance of the certificate  
2773 of need. Agreement that the skilled nursing facility will not  
2774 participate in the Medicaid program shall be a condition of the  
2775 issuance of a certificate of need to any person under this  
2776 paragraph (o), and if such skilled nursing facility at any time





2777 after the issuance of the certificate of need, regardless of the  
2778 ownership of the facility, participates in the Medicaid program or  
2779 admits or keeps any patients in the facility who are participating  
2780 in the Medicaid program, the State Department of Health shall  
2781 revoke the certificate of need, if it is still outstanding, and  
2782 shall deny or revoke the license of the skilled nursing facility,  
2783 at the time that the department determines, after a hearing  
2784 complying with due process, that the facility has failed to comply  
2785 with any of the conditions upon which the certificate of need was  
2786 issued, as provided in this paragraph and in the written agreement  
2787 by the recipient of the certificate of need. The total number of  
2788 nursing facility beds that may be authorized by any certificate of  
2789 need issued under this paragraph (o) shall not exceed sixty (60)  
2790 beds. If the certificate of need authorized under this paragraph  
2791 is not issued within twelve (12) months after July 1, 2001, the  
2792 department shall deny the application for the certificate of need  
2793 and shall not issue the certificate of need at any time after the  
2794 twelve-month period, unless the issuance is contested. If the  
2795 certificate of need is issued and substantial construction of the  
2796 nursing facility beds has not commenced within eighteen (18)  
2797 months after July 1, 2001, the State Department of Health, after a  
2798 hearing complying with due process, shall revoke the certificate  
2799 of need if it is still outstanding, and the department shall not  
2800 issue a license for the nursing facility at any time after the  
2801 eighteen-month period. However, if the issuance of the



2802 certificate of need is contested, the department shall require  
2803 substantial construction of the nursing facility beds within six  
2804 (6) months after final adjudication on the issuance of the  
2805 certificate of need.

2806 (p) The department may issue a certificate of need for  
2807 the construction of a municipally owned nursing facility within  
2808 the Town of Belmont in Tishomingo County, not to exceed sixty (60)  
2809 beds, provided that the recipient of the certificate of need  
2810 agrees in writing that the skilled nursing facility will not at  
2811 any time participate in the Medicaid program (Section 43-13-101 et  
2812 seq.) or admit or keep any patients in the skilled nursing  
2813 facility who are participating in the Medicaid program. This  
2814 written agreement by the recipient of the certificate of need  
2815 shall be fully binding on any subsequent owner of the skilled  
2816 nursing facility, if the ownership of the facility is transferred  
2817 at any time after the issuance of the certificate of need.

2818 Agreement that the skilled nursing facility will not participate  
2819 in the Medicaid program shall be a condition of the issuance of a  
2820 certificate of need to any person under this paragraph (p), and if  
2821 such skilled nursing facility at any time after the issuance of  
2822 the certificate of need, regardless of the ownership of the  
2823 facility, participates in the Medicaid program or admits or keeps  
2824 any patients in the facility who are participating in the Medicaid  
2825 program, the State Department of Health shall revoke the  
2826 certificate of need, if it is still outstanding, and shall deny or



2827 revoke the license of the skilled nursing facility, at the time  
2828 that the department determines, after a hearing complying with due  
2829 process, that the facility has failed to comply with any of the  
2830 conditions upon which the certificate of need was issued, as  
2831 provided in this paragraph and in the written agreement by the  
2832 recipient of the certificate of need. The provision of Section  
2833 41-7-193(1) regarding substantial compliance of the projection of  
2834 need as reported in the current State Health Plan is waived for  
2835 the purposes of this paragraph. If the certificate of need  
2836 authorized under this paragraph is not issued within twelve (12)  
2837 months after July 1, 1998, the department shall deny the  
2838 application for the certificate of need and shall not issue the  
2839 certificate of need at any time after the twelve-month period,  
2840 unless the issuance is contested. If the certificate of need is  
2841 issued and substantial construction of the nursing facility beds  
2842 has not commenced within eighteen (18) months after July 1, 1998,  
2843 the State Department of Health, after a hearing complying with due  
2844 process, shall revoke the certificate of need if it is still  
2845 outstanding, and the department shall not issue a license for the  
2846 nursing facility at any time after the eighteen-month period.  
2847 However, if the issuance of the certificate of need is contested,  
2848 the department shall require substantial construction of the  
2849 nursing facility beds within six (6) months after final  
2850 adjudication on the issuance of the certificate of need.



2851           (q)   (i)   Beginning on July 1, 1999, the State  
2852 Department of Health shall issue certificates of need during each  
2853 of the next four (4) fiscal years for the construction or  
2854 expansion of nursing facility beds or the conversion of other beds  
2855 to nursing facility beds in each county in the state having a need  
2856 for fifty (50) or more additional nursing facility beds, as shown  
2857 in the fiscal year 1999 State Health Plan, in the manner provided  
2858 in this paragraph (q). The total number of nursing facility beds  
2859 that may be authorized by any certificate of need authorized under  
2860 this paragraph (q) shall not exceed sixty (60) beds.

2861           (ii)   Subject to the provisions of subparagraph  
2862 (v), during each of the next four (4) fiscal years, the department  
2863 shall issue six (6) certificates of need for new nursing facility  
2864 beds, as follows: During fiscal years 2000, 2001 and 2002, one  
2865 (1) certificate of need shall be issued for new nursing facility  
2866 beds in the county in each of the four (4) Long-Term Care Planning  
2867 Districts designated in the fiscal year 1999 State Health Plan  
2868 that has the highest need in the district for those beds; and two  
2869 (2) certificates of need shall be issued for new nursing facility  
2870 beds in the two (2) counties from the state at large that have the  
2871 highest need in the state for those beds, when considering the  
2872 need on a statewide basis and without regard to the Long-Term Care  
2873 Planning Districts in which the counties are located. During  
2874 fiscal year 2003, one (1) certificate of need shall be issued for  
2875 new nursing facility beds in any county having a need for fifty



2876 (50) or more additional nursing facility beds, as shown in the  
2877 fiscal year 1999 State Health Plan, that has not received a  
2878 certificate of need under this paragraph (q) during the three (3)  
2879 previous fiscal years. During fiscal year 2000, in addition to  
2880 the six (6) certificates of need authorized in this subparagraph,  
2881 the department also shall issue a certificate of need for new  
2882 nursing facility beds in Amite County and a certificate of need  
2883 for new nursing facility beds in Carroll County.

2884 (iii) Subject to the provisions of subparagraph  
2885 (v), the certificate of need issued under subparagraph (ii) for  
2886 nursing facility beds in each Long-Term Care Planning District  
2887 during each fiscal year shall first be available for nursing  
2888 facility beds in the county in the district having the highest  
2889 need for those beds, as shown in the fiscal year 1999 State Health  
2890 Plan. If there are no applications for a certificate of need for  
2891 nursing facility beds in the county having the highest need for  
2892 those beds by the date specified by the department, then the  
2893 certificate of need shall be available for nursing facility beds  
2894 in other counties in the district in descending order of the need  
2895 for those beds, from the county with the second highest need to  
2896 the county with the lowest need, until an application is received  
2897 for nursing facility beds in an eligible county in the district.

2898 (iv) Subject to the provisions of subparagraph  
2899 (v), the certificate of need issued under subparagraph (ii) for  
2900 nursing facility beds in the two (2) counties from the state at



2901 large during each fiscal year shall first be available for nursing  
2902 facility beds in the two (2) counties that have the highest need  
2903 in the state for those beds, as shown in the fiscal year 1999  
2904 State Health Plan, when considering the need on a statewide basis  
2905 and without regard to the Long-Term Care Planning Districts in  
2906 which the counties are located. If there are no applications for  
2907 a certificate of need for nursing facility beds in either of the  
2908 two (2) counties having the highest need for those beds on a  
2909 statewide basis by the date specified by the department, then the  
2910 certificate of need shall be available for nursing facility beds  
2911 in other counties from the state at large in descending order of  
2912 the need for those beds on a statewide basis, from the county with  
2913 the second highest need to the county with the lowest need, until  
2914 an application is received for nursing facility beds in an  
2915 eligible county from the state at large.

2916 (v) If a certificate of need is authorized to be  
2917 issued under this paragraph (q) for nursing facility beds in a  
2918 county on the basis of the need in the Long-Term Care Planning  
2919 District during any fiscal year of the four-year period, a  
2920 certificate of need shall not also be available under this  
2921 paragraph (q) for additional nursing facility beds in that county  
2922 on the basis of the need in the state at large, and that county  
2923 shall be excluded in determining which counties have the highest  
2924 need for nursing facility beds in the state at large for that  
2925 fiscal year. After a certificate of need has been issued under



2926 this paragraph (q) for nursing facility beds in a county during  
2927 any fiscal year of the four-year period, a certificate of need  
2928 shall not be available again under this paragraph (q) for  
2929 additional nursing facility beds in that county during the  
2930 four-year period, and that county shall be excluded in determining  
2931 which counties have the highest need for nursing facility beds in  
2932 succeeding fiscal years.

2933                   (vi) If more than one (1) application is made for  
2934 a certificate of need for nursing home facility beds available  
2935 under this paragraph (q), in Yalobusha, Newton or Tallahatchie  
2936 County, and one (1) of the applicants is a county-owned hospital  
2937 located in the county where the nursing facility beds are  
2938 available, the department shall give priority to the county-owned  
2939 hospital in granting the certificate of need if the following  
2940 conditions are met:

2941                   1. The county-owned hospital fully meets all  
2942 applicable criteria and standards required to obtain a certificate  
2943 of need for the nursing facility beds; and

2944                   2. The county-owned hospital's qualifications  
2945 for the certificate of need, as shown in its application and as  
2946 determined by the department, are at least equal to the  
2947 qualifications of the other applicants for the certificate of  
2948 need.

2949                   (r) (i) Beginning on July 1, 1999, the State  
2950 Department of Health shall issue certificates of need during each



2951 of the next two (2) fiscal years for the construction or expansion  
2952 of nursing facility beds or the conversion of other beds to  
2953 nursing facility beds in each of the four (4) Long-Term Care  
2954 Planning Districts designated in the fiscal year 1999 State Health  
2955 Plan, to provide care exclusively to patients with Alzheimer's  
2956 disease.

2957 (ii) Not more than twenty (20) beds may be  
2958 authorized by any certificate of need issued under this paragraph  
2959 (r), and not more than a total of sixty (60) beds may be  
2960 authorized in any Long-Term Care Planning District by all  
2961 certificates of need issued under this paragraph (r). However,  
2962 the total number of beds that may be authorized by all  
2963 certificates of need issued under this paragraph (r) during any  
2964 fiscal year shall not exceed one hundred twenty (120) beds, and  
2965 the total number of beds that may be authorized in any Long-Term  
2966 Care Planning District during any fiscal year shall not exceed  
2967 forty (40) beds. Of the certificates of need that are issued for  
2968 each Long-Term Care Planning District during the next two (2)  
2969 fiscal years, at least one (1) shall be issued for beds in the  
2970 northern part of the district, at least one (1) shall be issued  
2971 for beds in the central part of the district, and at least one (1)  
2972 shall be issued for beds in the southern part of the district.

2973 (iii) The State Department of Health, in  
2974 consultation with the Department of Mental Health and the Division  
2975 of Medicaid, shall develop and prescribe the staffing levels,





2976 space requirements and other standards and requirements that must  
2977 be met with regard to the nursing facility beds authorized under  
2978 this paragraph (r) to provide care exclusively to patients with  
2979 Alzheimer's disease.

2980 (s) The State Department of Health may issue a  
2981 certificate of need to a nonprofit skilled nursing facility using  
2982 the Green House model of skilled nursing care and located in Yazoo  
2983 City, Yazoo County, Mississippi, for the construction, expansion  
2984 or conversion of not more than nineteen (19) nursing facility  
2985 beds. For purposes of this paragraph (s), the provisions of  
2986 Section 41-7-193(1) requiring substantial compliance with the  
2987 projection of need as reported in the current State Health Plan  
2988 and the provisions of Section 41-7-197 requiring a formal  
2989 certificate of need hearing process are waived. There shall be no  
2990 prohibition or restrictions on participation in the Medicaid  
2991 program for the person receiving the certificate of need  
2992 authorized under this paragraph (s).

2993 (t) The State Department of Health shall issue  
2994 certificates of need to the owner of a nursing facility in  
2995 operation at the time of Hurricane Katrina in Hancock County that  
2996 was not operational on December 31, 2005, because of damage  
2997 sustained from Hurricane Katrina to authorize the following: (i)  
2998 the construction of a new nursing facility in Harrison County;  
2999 (ii) the relocation of forty-nine (49) nursing facility beds from  
3000 the Hancock County facility to the new Harrison County facility;



3001 (iii) the establishment of not more than twenty (20) non-Medicaid  
3002 nursing facility beds at the Hancock County facility; and (iv) the  
3003 establishment of not more than twenty (20) non-Medicaid beds at  
3004 the new Harrison County facility. The certificates of need that  
3005 authorize the non-Medicaid nursing facility beds under  
3006 subparagraphs (iii) and (iv) of this paragraph (t) shall be  
3007 subject to the following conditions: The owner of the Hancock  
3008 County facility and the new Harrison County facility must agree in  
3009 writing that no more than fifty (50) of the beds at the Hancock  
3010 County facility and no more than forty-nine (49) of the beds at  
3011 the Harrison County facility will be certified for participation  
3012 in the Medicaid program, and that no claim will be submitted for  
3013 Medicaid reimbursement for more than fifty (50) patients in the  
3014 Hancock County facility in any month, or for more than forty-nine  
3015 (49) patients in the Harrison County facility in any month, or for  
3016 any patient in either facility who is in a bed that is not  
3017 Medicaid-certified. This written agreement by the owner of the  
3018 nursing facilities shall be a condition of the issuance of the  
3019 certificates of need under this paragraph (t), and the agreement  
3020 shall be fully binding on any later owner or owners of either  
3021 facility if the ownership of either facility is transferred at any  
3022 time after the certificates of need are issued. After this  
3023 written agreement is executed, the Division of Medicaid and the  
3024 State Department of Health shall not certify more than fifty (50)  
3025 of the beds at the Hancock County facility or more than forty-nine



3026 (49) of the beds at the Harrison County facility for participation  
3027 in the Medicaid program. If the Hancock County facility violates  
3028 the terms of the written agreement by admitting or keeping in the  
3029 facility on a regular or continuing basis more than fifty (50)  
3030 patients who are participating in the Medicaid program, or if the  
3031 Harrison County facility violates the terms of the written  
3032 agreement by admitting or keeping in the facility on a regular or  
3033 continuing basis more than forty-nine (49) patients who are  
3034 participating in the Medicaid program, the State Department of  
3035 Health shall revoke the license of the facility that is in  
3036 violation of the agreement, at the time that the department  
3037 determines, after a hearing complying with due process, that the  
3038 facility has violated the agreement.

3039 (u) The State Department of Health shall issue a  
3040 certificate of need to a nonprofit venture for the establishment,  
3041 construction and operation of a skilled nursing facility of not  
3042 more than sixty (60) beds to provide skilled nursing care for  
3043 ventilator dependent or otherwise medically dependent pediatric  
3044 patients who require medical and nursing care or rehabilitation  
3045 services to be located in a county in which an academic medical  
3046 center and a children's hospital are located, and for any  
3047 construction and for the acquisition of equipment related to those  
3048 beds. The facility shall be authorized to keep such ventilator  
3049 dependent or otherwise medically dependent pediatric patients  
3050 beyond age twenty-one (21) in accordance with regulations of the



3051 State Board of Health. For purposes of this paragraph (u), the  
3052 provisions of Section 41-7-193(1) requiring substantial compliance  
3053 with the projection of need as reported in the current State  
3054 Health Plan are waived, and the provisions of Section 41-7-197  
3055 requiring a formal certificate of need hearing process are waived.  
3056 The beds authorized by this paragraph shall be counted as  
3057 pediatric skilled nursing facility beds for health planning  
3058 purposes under Section 41-7-171 et seq. There shall be no  
3059 prohibition of or restrictions on participation in the Medicaid  
3060 program for the person receiving the certificate of need  
3061 authorized by this paragraph.

3062 (3) The State Department of Health may grant approval for  
3063 and issue certificates of need to any person proposing the new  
3064 construction of, addition to, conversion of beds of or expansion  
3065 of any health care facility defined in subparagraph (x)  
3066 (psychiatric residential treatment facility) of Section  
3067 41-7-173(h). The total number of beds which may be authorized by  
3068 such certificates of need shall not exceed three hundred  
3069 thirty-four (334) beds for the entire state.

3070 (a) Of the total number of beds authorized under this  
3071 subsection, the department shall issue a certificate of need to a  
3072 privately owned psychiatric residential treatment facility in  
3073 Simpson County for the conversion of sixteen (16) intermediate  
3074 care facility for \* \* \* individuals with intellectual disabilities  
3075 (ICF- \* \* \* IID) beds to psychiatric residential treatment facility



3076 beds, provided that facility agrees in writing that the facility  
3077 shall give priority for the use of those sixteen (16) beds to  
3078 Mississippi residents who are presently being treated in  
3079 out-of-state facilities.

3080 (b) Of the total number of beds authorized under this  
3081 subsection, the department may issue a certificate or certificates  
3082 of need for the construction or expansion of psychiatric  
3083 residential treatment facility beds or the conversion of other  
3084 beds to psychiatric residential treatment facility beds in Warren  
3085 County, not to exceed sixty (60) psychiatric residential treatment  
3086 facility beds, provided that the facility agrees in writing that  
3087 no more than thirty (30) of the beds at the psychiatric  
3088 residential treatment facility will be certified for participation  
3089 in the Medicaid program (Section 43-13-101 et seq.) for the use of  
3090 any patients other than those who are participating only in the  
3091 Medicaid program of another state, and that no claim will be  
3092 submitted to the Division of Medicaid for Medicaid reimbursement  
3093 for more than thirty (30) patients in the psychiatric residential  
3094 treatment facility in any day or for any patient in the  
3095 psychiatric residential treatment facility who is in a bed that is  
3096 not Medicaid-certified. This written agreement by the recipient  
3097 of the certificate of need shall be a condition of the issuance of  
3098 the certificate of need under this paragraph, and the agreement  
3099 shall be fully binding on any subsequent owner of the psychiatric  
3100 residential treatment facility if the ownership of the facility is



3101 transferred at any time after the issuance of the certificate of  
3102 need. After this written agreement is executed, the Division of  
3103 Medicaid and the State Department of Health shall not certify more  
3104 than thirty (30) of the beds in the psychiatric residential  
3105 treatment facility for participation in the Medicaid program for  
3106 the use of any patients other than those who are participating  
3107 only in the Medicaid program of another state. If the psychiatric  
3108 residential treatment facility violates the terms of the written  
3109 agreement by admitting or keeping in the facility on a regular or  
3110 continuing basis more than thirty (30) patients who are  
3111 participating in the Mississippi Medicaid program, the State  
3112 Department of Health shall revoke the license of the facility, at  
3113 the time that the department determines, after a hearing complying  
3114 with due process, that the facility has violated the condition  
3115 upon which the certificate of need was issued, as provided in this  
3116 paragraph and in the written agreement.

3117 The State Department of Health, on or before July 1, 2002,  
3118 shall transfer the certificate of need authorized under the  
3119 authority of this paragraph (b), or reissue the certificate of  
3120 need if it has expired, to River Region Health System.

3121 (c) Of the total number of beds authorized under this  
3122 subsection, the department shall issue a certificate of need to a  
3123 hospital currently operating Medicaid-certified acute psychiatric  
3124 beds for adolescents in DeSoto County, for the establishment of a  
3125 forty-bed psychiatric residential treatment facility in DeSoto



3126 County, provided that the hospital agrees in writing (i) that the  
3127 hospital shall give priority for the use of those forty (40) beds  
3128 to Mississippi residents who are presently being treated in  
3129 out-of-state facilities, and (ii) that no more than fifteen (15)  
3130 of the beds at the psychiatric residential treatment facility will  
3131 be certified for participation in the Medicaid program (Section  
3132 43-13-101 et seq.), and that no claim will be submitted for  
3133 Medicaid reimbursement for more than fifteen (15) patients in the  
3134 psychiatric residential treatment facility in any day or for any  
3135 patient in the psychiatric residential treatment facility who is  
3136 in a bed that is not Medicaid-certified. This written agreement  
3137 by the recipient of the certificate of need shall be a condition  
3138 of the issuance of the certificate of need under this paragraph,  
3139 and the agreement shall be fully binding on any subsequent owner  
3140 of the psychiatric residential treatment facility if the ownership  
3141 of the facility is transferred at any time after the issuance of  
3142 the certificate of need. After this written agreement is  
3143 executed, the Division of Medicaid and the State Department of  
3144 Health shall not certify more than fifteen (15) of the beds in the  
3145 psychiatric residential treatment facility for participation in  
3146 the Medicaid program. If the psychiatric residential treatment  
3147 facility violates the terms of the written agreement by admitting  
3148 or keeping in the facility on a regular or continuing basis more  
3149 than fifteen (15) patients who are participating in the Medicaid  
3150 program, the State Department of Health shall revoke the license



3151 of the facility, at the time that the department determines, after  
3152 a hearing complying with due process, that the facility has  
3153 violated the condition upon which the certificate of need was  
3154 issued, as provided in this paragraph and in the written  
3155 agreement.

3156 (d) Of the total number of beds authorized under this  
3157 subsection, the department may issue a certificate or certificates  
3158 of need for the construction or expansion of psychiatric  
3159 residential treatment facility beds or the conversion of other  
3160 beds to psychiatric treatment facility beds, not to exceed thirty  
3161 (30) psychiatric residential treatment facility beds, in either  
3162 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,  
3163 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

3164 (e) Of the total number of beds authorized under this  
3165 subsection (3) the department shall issue a certificate of need to  
3166 a privately owned, nonprofit psychiatric residential treatment  
3167 facility in Hinds County for an eight-bed expansion of the  
3168 facility, provided that the facility agrees in writing that the  
3169 facility shall give priority for the use of those eight (8) beds  
3170 to Mississippi residents who are presently being treated in  
3171 out-of-state facilities.

3172 (f) The department shall issue a certificate of need to  
3173 a one-hundred-thirty-four-bed specialty hospital located on  
3174 twenty-nine and forty-four one-hundredths (29.44) commercial acres  
3175 at 5900 Highway 39 North in Meridian (Lauderdale County),





3176 Mississippi, for the addition, construction or expansion of  
3177 child/adolescent psychiatric residential treatment facility beds  
3178 in Lauderdale County. As a condition of issuance of the  
3179 certificate of need under this paragraph, the facility shall give  
3180 priority in admissions to the child/adolescent psychiatric  
3181 residential treatment facility beds authorized under this  
3182 paragraph to patients who otherwise would require out-of-state  
3183 placement. The Division of Medicaid, in conjunction with the  
3184 Department of Human Services, shall furnish the facility a list of  
3185 all out-of-state patients on a quarterly basis. Furthermore,  
3186 notice shall also be provided to the parent, custodial parent or  
3187 guardian of each out-of-state patient notifying them of the  
3188 priority status granted by this paragraph. For purposes of this  
3189 paragraph, the provisions of Section 41-7-193(1) requiring  
3190 substantial compliance with the projection of need as reported in  
3191 the current State Health Plan are waived. The total number of  
3192 child/adolescent psychiatric residential treatment facility beds  
3193 that may be authorized under the authority of this paragraph shall  
3194 be sixty (60) beds. There shall be no prohibition or restrictions  
3195 on participation in the Medicaid program (Section 43-13-101 et  
3196 seq.) for the person receiving the certificate of need authorized  
3197 under this paragraph or for the beds converted pursuant to the  
3198 authority of that certificate of need.

3199 (4) (a) From and after July 1, 1993, the department shall  
3200 not issue a certificate of need to any person for the new



3201 construction of any hospital, psychiatric hospital or chemical  
3202 dependency hospital that will contain any child/adolescent  
3203 psychiatric or child/adolescent chemical dependency beds, or for  
3204 the conversion of any other health care facility to a hospital,  
3205 psychiatric hospital or chemical dependency hospital that will  
3206 contain any child/adolescent psychiatric or child/adolescent  
3207 chemical dependency beds, or for the addition of any  
3208 child/adolescent psychiatric or child/adolescent chemical  
3209 dependency beds in any hospital, psychiatric hospital or chemical  
3210 dependency hospital, or for the conversion of any beds of another  
3211 category in any hospital, psychiatric hospital or chemical  
3212 dependency hospital to child/adolescent psychiatric or  
3213 child/adolescent chemical dependency beds, except as hereinafter  
3214 authorized:

3215                   (i) The department may issue certificates of need  
3216 to any person for any purpose described in this subsection,  
3217 provided that the hospital, psychiatric hospital or chemical  
3218 dependency hospital does not participate in the Medicaid program  
3219 (Section 43-13-101 et seq.) at the time of the application for the  
3220 certificate of need and the owner of the hospital, psychiatric  
3221 hospital or chemical dependency hospital agrees in writing that  
3222 the hospital, psychiatric hospital or chemical dependency hospital  
3223 will not at any time participate in the Medicaid program or admit  
3224 or keep any patients who are participating in the Medicaid program  
3225 in the hospital, psychiatric hospital or chemical dependency



3226 hospital. This written agreement by the recipient of the  
3227 certificate of need shall be fully binding on any subsequent owner  
3228 of the hospital, psychiatric hospital or chemical dependency  
3229 hospital, if the ownership of the facility is transferred at any  
3230 time after the issuance of the certificate of need. Agreement  
3231 that the hospital, psychiatric hospital or chemical dependency  
3232 hospital will not participate in the Medicaid program shall be a  
3233 condition of the issuance of a certificate of need to any person  
3234 under this subparagraph (i), and if such hospital, psychiatric  
3235 hospital or chemical dependency hospital at any time after the  
3236 issuance of the certificate of need, regardless of the ownership  
3237 of the facility, participates in the Medicaid program or admits or  
3238 keeps any patients in the hospital, psychiatric hospital or  
3239 chemical dependency hospital who are participating in the Medicaid  
3240 program, the State Department of Health shall revoke the  
3241 certificate of need, if it is still outstanding, and shall deny or  
3242 revoke the license of the hospital, psychiatric hospital or  
3243 chemical dependency hospital, at the time that the department  
3244 determines, after a hearing complying with due process, that the  
3245 hospital, psychiatric hospital or chemical dependency hospital has  
3246 failed to comply with any of the conditions upon which the  
3247 certificate of need was issued, as provided in this subparagraph  
3248 (i) and in the written agreement by the recipient of the  
3249 certificate of need.



3250 (ii) The department may issue a certificate of  
3251 need for the conversion of existing beds in a county hospital in  
3252 Choctaw County from acute care beds to child/adolescent chemical  
3253 dependency beds. For purposes of this subparagraph (ii), the  
3254 provisions of Section 41-7-193(1) requiring substantial compliance  
3255 with the projection of need as reported in the current State  
3256 Health Plan are waived. The total number of beds that may be  
3257 authorized under authority of this subparagraph shall not exceed  
3258 twenty (20) beds. There shall be no prohibition or restrictions  
3259 on participation in the Medicaid program (Section 43-13-101 et  
3260 seq.) for the hospital receiving the certificate of need  
3261 authorized under this subparagraph or for the beds converted  
3262 pursuant to the authority of that certificate of need.

3263 (iii) The department may issue a certificate or  
3264 certificates of need for the construction or expansion of  
3265 child/adolescent psychiatric beds or the conversion of other beds  
3266 to child/adolescent psychiatric beds in Warren County. For  
3267 purposes of this subparagraph (iii), the provisions of Section  
3268 41-7-193(1) requiring substantial compliance with the projection  
3269 of need as reported in the current State Health Plan are waived.  
3270 The total number of beds that may be authorized under the  
3271 authority of this subparagraph shall not exceed twenty (20) beds.  
3272 There shall be no prohibition or restrictions on participation in  
3273 the Medicaid program (Section 43-13-101 et seq.) for the person  
3274 receiving the certificate of need authorized under this



3275 subparagraph or for the beds converted pursuant to the authority  
3276 of that certificate of need.

3277         If by January 1, 2002, there has been no significant  
3278 commencement of construction of the beds authorized under this  
3279 subparagraph (iii), or no significant action taken to convert  
3280 existing beds to the beds authorized under this subparagraph, then  
3281 the certificate of need that was previously issued under this  
3282 subparagraph shall expire. If the previously issued certificate  
3283 of need expires, the department may accept applications for  
3284 issuance of another certificate of need for the beds authorized  
3285 under this subparagraph, and may issue a certificate of need to  
3286 authorize the construction, expansion or conversion of the beds  
3287 authorized under this subparagraph.

3288                 (iv) The department shall issue a certificate of  
3289 need to the Region 7 Mental Health/Retardation Commission for the  
3290 construction or expansion of child/adolescent psychiatric beds or  
3291 the conversion of other beds to child/adolescent psychiatric beds  
3292 in any of the counties served by the commission. For purposes of  
3293 this subparagraph (iv), the provisions of Section 41-7-193(1)  
3294 requiring substantial compliance with the projection of need as  
3295 reported in the current State Health Plan are waived. The total  
3296 number of beds that may be authorized under the authority of this  
3297 subparagraph shall not exceed twenty (20) beds. There shall be no  
3298 prohibition or restrictions on participation in the Medicaid  
3299 program (Section 43-13-101 et seq.) for the person receiving the



3300 certificate of need authorized under this subparagraph or for the  
3301 beds converted pursuant to the authority of that certificate of  
3302 need.

3303                   (v) The department may issue a certificate of need  
3304 to any county hospital located in Leflore County for the  
3305 construction or expansion of adult psychiatric beds or the  
3306 conversion of other beds to adult psychiatric beds, not to exceed  
3307 twenty (20) beds, provided that the recipient of the certificate  
3308 of need agrees in writing that the adult psychiatric beds will not  
3309 at any time be certified for participation in the Medicaid program  
3310 and that the hospital will not admit or keep any patients who are  
3311 participating in the Medicaid program in any of such adult  
3312 psychiatric beds. This written agreement by the recipient of the  
3313 certificate of need shall be fully binding on any subsequent owner  
3314 of the hospital if the ownership of the hospital is transferred at  
3315 any time after the issuance of the certificate of need. Agreement  
3316 that the adult psychiatric beds will not be certified for  
3317 participation in the Medicaid program shall be a condition of the  
3318 issuance of a certificate of need to any person under this  
3319 subparagraph (v), and if such hospital at any time after the  
3320 issuance of the certificate of need, regardless of the ownership  
3321 of the hospital, has any of such adult psychiatric beds certified  
3322 for participation in the Medicaid program or admits or keeps any  
3323 Medicaid patients in such adult psychiatric beds, the State  
3324 Department of Health shall revoke the certificate of need, if it



3325 is still outstanding, and shall deny or revoke the license of the  
3326 hospital at the time that the department determines, after a  
3327 hearing complying with due process, that the hospital has failed  
3328 to comply with any of the conditions upon which the certificate of  
3329 need was issued, as provided in this subparagraph and in the  
3330 written agreement by the recipient of the certificate of need.

3331 (vi) The department may issue a certificate or  
3332 certificates of need for the expansion of child psychiatric beds  
3333 or the conversion of other beds to child psychiatric beds at the  
3334 University of Mississippi Medical Center. For purposes of this  
3335 subparagraph (vi), the provisions of Section 41-7-193(1) requiring  
3336 substantial compliance with the projection of need as reported in  
3337 the current State Health Plan are waived. The total number of  
3338 beds that may be authorized under the authority of this  
3339 subparagraph shall not exceed fifteen (15) beds. There shall be  
3340 no prohibition or restrictions on participation in the Medicaid  
3341 program (Section 43-13-101 et seq.) for the hospital receiving the  
3342 certificate of need authorized under this subparagraph or for the  
3343 beds converted pursuant to the authority of that certificate of  
3344 need.

3345 (b) From and after July 1, 1990, no hospital,  
3346 psychiatric hospital or chemical dependency hospital shall be  
3347 authorized to add any child/adolescent psychiatric or  
3348 child/adolescent chemical dependency beds or convert any beds of  
3349 another category to child/adolescent psychiatric or



3350 child/adolescent chemical dependency beds without a certificate of  
3351 need under the authority of subsection (1)(c) of this section.

3352 (5) The department may issue a certificate of need to a  
3353 county hospital in Winston County for the conversion of fifteen  
3354 (15) acute care beds to geriatric psychiatric care beds.

3355 (6) The State Department of Health shall issue a certificate  
3356 of need to a Mississippi corporation qualified to manage a  
3357 long-term care hospital as defined in Section 41-7-173(h)(xii) in  
3358 Harrison County, not to exceed eighty (80) beds, including any  
3359 necessary renovation or construction required for licensure and  
3360 certification, provided that the recipient of the certificate of  
3361 need agrees in writing that the long-term care hospital will not  
3362 at any time participate in the Medicaid program (Section 43-13-101  
3363 et seq.) or admit or keep any patients in the long-term care  
3364 hospital who are participating in the Medicaid program. This  
3365 written agreement by the recipient of the certificate of need  
3366 shall be fully binding on any subsequent owner of the long-term  
3367 care hospital, if the ownership of the facility is transferred at  
3368 any time after the issuance of the certificate of need. Agreement  
3369 that the long-term care hospital will not participate in the  
3370 Medicaid program shall be a condition of the issuance of a  
3371 certificate of need to any person under this subsection (6), and  
3372 if such long-term care hospital at any time after the issuance of  
3373 the certificate of need, regardless of the ownership of the  
3374 facility, participates in the Medicaid program or admits or keeps





3375 any patients in the facility who are participating in the Medicaid  
3376 program, the State Department of Health shall revoke the  
3377 certificate of need, if it is still outstanding, and shall deny or  
3378 revoke the license of the long-term care hospital, at the time  
3379 that the department determines, after a hearing complying with due  
3380 process, that the facility has failed to comply with any of the  
3381 conditions upon which the certificate of need was issued, as  
3382 provided in this subsection and in the written agreement by the  
3383 recipient of the certificate of need. For purposes of this  
3384 subsection, the provisions of Section 41-7-193(1) requiring  
3385 substantial compliance with the projection of need as reported in  
3386 the current State Health Plan are waived.

3387 (7) The State Department of Health may issue a certificate  
3388 of need to any hospital in the state to utilize a portion of its  
3389 beds for the "swing-bed" concept. Any such hospital must be in  
3390 conformance with the federal regulations regarding such swing-bed  
3391 concept at the time it submits its application for a certificate  
3392 of need to the State Department of Health, except that such  
3393 hospital may have more licensed beds or a higher average daily  
3394 census (ADC) than the maximum number specified in federal  
3395 regulations for participation in the swing-bed program. Any  
3396 hospital meeting all federal requirements for participation in the  
3397 swing-bed program which receives such certificate of need shall  
3398 render services provided under the swing-bed concept to any  
3399 patient eligible for Medicare (Title XVIII of the Social Security



3400 Act) who is certified by a physician to be in need of such  
3401 services, and no such hospital shall permit any patient who is  
3402 eligible for both Medicaid and Medicare or eligible only for  
3403 Medicaid to stay in the swing beds of the hospital for more than  
3404 thirty (30) days per admission unless the hospital receives prior  
3405 approval for such patient from the Division of Medicaid, Office of  
3406 the Governor. Any hospital having more licensed beds or a higher  
3407 average daily census (ADC) than the maximum number specified in  
3408 federal regulations for participation in the swing-bed program  
3409 which receives such certificate of need shall develop a procedure  
3410 to insure that before a patient is allowed to stay in the swing  
3411 beds of the hospital, there are no vacant nursing home beds  
3412 available for that patient located within a fifty-mile radius of  
3413 the hospital. When any such hospital has a patient staying in the  
3414 swing beds of the hospital and the hospital receives notice from a  
3415 nursing home located within such radius that there is a vacant bed  
3416 available for that patient, the hospital shall transfer the  
3417 patient to the nursing home within a reasonable time after receipt  
3418 of the notice. Any hospital which is subject to the requirements  
3419 of the two (2) preceding sentences of this subsection may be  
3420 suspended from participation in the swing-bed program for a  
3421 reasonable period of time by the State Department of Health if the  
3422 department, after a hearing complying with due process, determines  
3423 that the hospital has failed to comply with any of those  
3424 requirements.



3425 (8) The Department of Health shall not grant approval for or  
3426 issue a certificate of need to any person proposing the new  
3427 construction of, addition to or expansion of a health care  
3428 facility as defined in subparagraph (viii) of Section 41-7-173(h),  
3429 except as hereinafter provided: The department may issue a  
3430 certificate of need to a nonprofit corporation located in Madison  
3431 County, Mississippi, for the construction, expansion or conversion  
3432 of not more than twenty (20) beds in a community living program  
3433 for developmentally disabled adults in a facility as defined in  
3434 subparagraph (viii) of Section 41-7-173(h). For purposes of this  
3435 subsection (8), the provisions of Section 41-7-193(1) requiring  
3436 substantial compliance with the projection of need as reported in  
3437 the current State Health Plan and the provisions of Section  
3438 41-7-197 requiring a formal certificate of need hearing process  
3439 are waived. There shall be no prohibition or restrictions on  
3440 participation in the Medicaid program for the person receiving the  
3441 certificate of need authorized under this subsection (8).

3442 (9) The Department of Health shall not grant approval for or  
3443 issue a certificate of need to any person proposing the  
3444 establishment of, or expansion of the currently approved territory  
3445 of, or the contracting to establish a home office, subunit or  
3446 branch office within the space operated as a health care facility  
3447 as defined in Section 41-7-173(h) (i) through (viii) by a health  
3448 care facility as defined in subparagraph (ix) of Section  
3449 41-7-173(h).



3450           (10) Health care facilities owned and/or operated by the  
3451 state or its agencies are exempt from the restraints in this  
3452 section against issuance of a certificate of need if such addition  
3453 or expansion consists of repairing or renovation necessary to  
3454 comply with the state licensure law. This exception shall not  
3455 apply to the new construction of any building by such state  
3456 facility. This exception shall not apply to any health care  
3457 facilities owned and/or operated by counties, municipalities,  
3458 districts, unincorporated areas, other defined persons, or any  
3459 combination thereof.

3460           (11) The new construction, renovation or expansion of or  
3461 addition to any health care facility defined in subparagraph (ii)  
3462 (psychiatric hospital), subparagraph (iv) (skilled nursing  
3463 facility), subparagraph (vi) (intermediate care facility),  
3464 subparagraph (viii) (intermediate care facility for \* \* \*  
3465 individuals with intellectual disabilities) and subparagraph (x)  
3466 (psychiatric residential treatment facility) of Section  
3467 41-7-173(h) which is owned by the State of Mississippi and under  
3468 the direction and control of the State Department of Mental  
3469 Health, and the addition of new beds or the conversion of beds  
3470 from one category to another in any such defined health care  
3471 facility which is owned by the State of Mississippi and under the  
3472 direction and control of the State Department of Mental Health,  
3473 shall not require the issuance of a certificate of need under



3474 Section 41-7-171 et seq., notwithstanding any provision in Section  
3475 41-7-171 et seq. to the contrary.

3476 (12) The new construction, renovation or expansion of or  
3477 addition to any veterans homes or domiciliaries for eligible  
3478 veterans of the State of Mississippi as authorized under Section  
3479 35-1-19 shall not require the issuance of a certificate of need,  
3480 notwithstanding any provision in Section 41-7-171 et seq. to the  
3481 contrary.

3482 (13) The repair or the rebuilding of an existing, operating  
3483 health care facility that sustained significant damage from a  
3484 natural disaster that occurred after April 15, 2014, in an area  
3485 that is proclaimed a disaster area or subject to a state of  
3486 emergency by the Governor or by the President of the United States  
3487 shall be exempt from all of the requirements of the Mississippi  
3488 Certificate of Need Law (Section 41-7-171 et seq.) and any and all  
3489 rules and regulations promulgated under that law, subject to the  
3490 following conditions:

3491 (a) The repair or the rebuilding of any such damaged  
3492 health care facility must be within one (1) mile of the  
3493 pre-disaster location of the campus of the damaged health care  
3494 facility, except that any temporary post-disaster health care  
3495 facility operating location may be within five (5) miles of the  
3496 pre-disaster location of the damaged health care facility;

3497 (b) The repair or the rebuilding of the damaged health  
3498 care facility (i) does not increase or change the complement of



3499 its bed capacity that it had before the Governor's or the  
3500 President's proclamation, (ii) does not increase or change its  
3501 levels and types of health care services that it provided before  
3502 the Governor's or the President's proclamation, and (iii) does not  
3503 rebuild in a different county; however, this paragraph does not  
3504 restrict or prevent a health care facility from decreasing its bed  
3505 capacity that it had before the Governor's or the President's  
3506 proclamation, or from decreasing the levels of or decreasing or  
3507 eliminating the types of health care services that it provided  
3508 before the Governor's or the President's proclamation, when the  
3509 damaged health care facility is repaired or rebuilt;

3510 (c) The exemption from Certificate of Need Law provided  
3511 under this subsection (13) is valid for only five (5) years from  
3512 the date of the Governor's or the President's proclamation. If  
3513 actual construction has not begun within that five-year period,  
3514 the exemption provided under this subsection is inapplicable; and

3515 (d) The Division of Health Facilities Licensure and  
3516 Certification of the State Department of Health shall provide the  
3517 same oversight for the repair or the rebuilding of the damaged  
3518 health care facility that it provides to all health care facility  
3519 construction projects in the state.

3520 For the purposes of this subsection (13), "significant  
3521 damage" to a health care facility means damage to the health care  
3522 facility requiring an expenditure of at least One Million Dollars  
3523 (\$1,000,000.00).



3524           (14) The State Department of Health shall issue a  
3525 certificate of need to any hospital which is currently licensed  
3526 for two hundred fifty (250) or more acute care beds and is located  
3527 in any general hospital service area not having a comprehensive  
3528 cancer center, for the establishment and equipping of such a  
3529 center which provides facilities and services for outpatient  
3530 radiation oncology therapy, outpatient medical oncology therapy,  
3531 and appropriate support services including the provision of  
3532 radiation therapy services. The provisions of Section 41-7-193(1)  
3533 regarding substantial compliance with the projection of need as  
3534 reported in the current State Health Plan are waived for the  
3535 purpose of this subsection.

3536           (15) The State Department of Health may authorize the  
3537 transfer of hospital beds, not to exceed sixty (60) beds, from the  
3538 North Panola Community Hospital to the South Panola Community  
3539 Hospital. The authorization for the transfer of those beds shall  
3540 be exempt from the certificate of need review process.

3541           (16) The State Department of Health shall issue any  
3542 certificates of need necessary for Mississippi State University  
3543 and a public or private health care provider to jointly acquire  
3544 and operate a linear accelerator and a magnetic resonance imaging  
3545 unit. Those certificates of need shall cover all capital  
3546 expenditures related to the project between Mississippi State  
3547 University and the health care provider, including, but not  
3548 limited to, the acquisition of the linear accelerator, the



3549 magnetic resonance imaging unit and other radiological modalities;  
3550 the offering of linear accelerator and magnetic resonance imaging  
3551 services; and the cost of construction of facilities in which to  
3552 locate these services. The linear accelerator and the magnetic  
3553 resonance imaging unit shall be (a) located in the City of  
3554 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by  
3555 Mississippi State University and the public or private health care  
3556 provider selected by Mississippi State University through a  
3557 request for proposals (RFP) process in which Mississippi State  
3558 University selects, and the Board of Trustees of State  
3559 Institutions of Higher Learning approves, the health care provider  
3560 that makes the best overall proposal; (c) available to Mississippi  
3561 State University for research purposes two-thirds (2/3) of the  
3562 time that the linear accelerator and magnetic resonance imaging  
3563 unit are operational; and (d) available to the public or private  
3564 health care provider selected by Mississippi State University and  
3565 approved by the Board of Trustees of State Institutions of Higher  
3566 Learning one-third (1/3) of the time for clinical, diagnostic and  
3567 treatment purposes. For purposes of this subsection, the  
3568 provisions of Section 41-7-193(1) requiring substantial compliance  
3569 with the projection of need as reported in the current State  
3570 Health Plan are waived.

3571 (17) The State Department of Health shall issue a  
3572 certificate of need for the construction of an acute care hospital  
3573 in Kemper County, not to exceed twenty-five (25) beds, which shall





3574 be named the "John C. Stennis Memorial Hospital." In issuing the  
3575 certificate of need under this subsection, the department shall  
3576 give priority to a hospital located in Lauderdale County that has  
3577 two hundred fifteen (215) beds. For purposes of this subsection,  
3578 the provisions of Section 41-7-193(1) requiring substantial  
3579 compliance with the projection of need as reported in the current  
3580 State Health Plan and the provisions of Section 41-7-197 requiring  
3581 a formal certificate of need hearing process are waived. There  
3582 shall be no prohibition or restrictions on participation in the  
3583 Medicaid program (Section 43-13-101 et seq.) for the person or  
3584 entity receiving the certificate of need authorized under this  
3585 subsection or for the beds constructed under the authority of that  
3586 certificate of need.

3587 (18) The planning, design, construction, renovation,  
3588 addition, furnishing and equipping of a clinical research unit at  
3589 any health care facility defined in Section 41-7-173(h) that is  
3590 under the direction and control of the University of Mississippi  
3591 Medical Center and located in Jackson, Mississippi, and the  
3592 addition of new beds or the conversion of beds from one (1)  
3593 category to another in any such clinical research unit, shall not  
3594 require the issuance of a certificate of need under Section  
3595 41-7-171 et seq., notwithstanding any provision in Section  
3596 41-7-171 et seq. to the contrary.

3597 (19) [Repealed]



3598 (20) Nothing in this section or in any other provision of  
3599 Section 41-7-171 et seq. shall prevent any nursing facility from  
3600 designating an appropriate number of existing beds in the facility  
3601 as beds for providing care exclusively to patients with  
3602 Alzheimer's disease.

3603 **SECTION 25.** Section 41-11-102, Mississippi Code of 1972, is  
3604 amended as follows:

3605 41-11-102. The administration, supervision, duties and all  
3606 aspects of the Children's Rehabilitation Center shall be  
3607 transferred to the University of Mississippi Medical Center in a  
3608 division to be called Division of Children's Rehabilitation. It  
3609 is the intent that there shall be cooperation between the center,  
3610 the Blake Center and the Department of Health, Children's  
3611 Services.

3612 The University of Mississippi Medical Center is authorized  
3613 and empowered to minister to the educational, medical and total  
3614 needs of those affected by cerebral palsy and other \* \* \*  
3615 disabling conditions which are amenable to such treatment. The  
3616 center shall be used to the greatest extent possible for such  
3617 treatment.

3618 **SECTION 26.** Section 41-11-105, Mississippi Code of 1972, is  
3619 amended as follows:

3620 41-11-105. The State Building Commission is \* \* \*  
3621 authorized and empowered to erect, construct, and equip the  
3622 Mississippi Children's Rehabilitation Center, which shall have as



3623 its purpose the treatment and education of persons afflicted with  
3624 cerebral palsy and other \* \* \* disabling conditions which are  
3625 amenable to such treatment. The cost of constructing, erecting,  
3626 and equipping such hospital may be paid from such funds as may be  
3627 appropriated, or may heretofore have been appropriated, for such  
3628 purpose by the Legislature; and funds which are available to the  
3629 State Building Commission or which have been set aside and  
3630 earmarked for the construction, erection, and equipping of the  
3631 "Crippled Children's Hospital" under the provisions of Chapter  
3632 291, Laws of 1954, or the "Mississippi Hospital School for  
3633 Cerebral Palsy," under the provisions of Chapter 308, Laws of  
3634 1956, are \* \* \* designated and shall be applied to the  
3635 constructing, erecting and equipping of the Mississippi Children's  
3636 Rehabilitation Center.

3637       **SECTION 27.** Section 41-11-109, Mississippi Code of 1972, is  
3638 amended as follows:

3639       41-11-109. When the Mississippi Children's Rehabilitation  
3640 Center has been completed and made ready for occupancy, the  
3641 buildings and land on which they are located, together with any  
3642 and all equipment therefor, shall be conveyed and transferred by  
3643 the State Building Commission to the University of Mississippi  
3644 Medical Center for the use and benefit of the State of Mississippi  
3645 in accordance with the provisions of Sections 41-11-101 through  
3646 41-11-113. Title to all land, buildings and equipment held by the  
3647 board of trustees of the Mississippi Hospital School for Cerebral



3648 Palsy shall be conveyed to the University of Mississippi Medical  
3649 Center for the use and benefit of the state in accordance with the  
3650 provisions of such sections.

3651 The University of Mississippi Medical Center may contract for  
3652 and obtain the services of the board of education for the purpose  
3653 of conducting educational programs for children in the Mississippi  
3654 Children's Rehabilitation Center and all institutions and agencies  
3655 of the state government are requested and directed to participate  
3656 and cooperate to the fullest extent authorized by law in rendering  
3657 assistance towards the rehabilitation and restoration of such  
3658 cerebral palsy patients and patients with other \* \* \* disabling  
3659 conditions which are amenable to such treatment.

3660 No member of the family of any member of the board of  
3661 trustees shall be eligible for treatment in the center. \* \* \*  
3662 Children with physical disabilities shall be admitted to the  
3663 center insofar as practicable in proportion to the number of such  
3664 children in the counties of the State of Mississippi, so that all  
3665 such \* \* \* children with physical disabilities shall have equal  
3666 opportunity for admission to the center.

3667 **SECTION 28.** Section 41-11-111, Mississippi Code of 1972, is  
3668 amended as follows:

3669 41-11-111. The University of Mississippi Medical Center is  
3670 authorized to accept any and all grants, donations or matching  
3671 funds from private, public or federal sources in order to add to,  
3672 improve and enlarge the physical facilities and equipment of the



3673 Mississippi Children's Rehabilitation Center. The State  
3674 Department of Health and the \* \* \* Disabled Children's Service  
3675 are \* \* \* specifically authorized and empowered to provide  
3676 crutches, braces and any and all other mechanical devices  
3677 available and designed for the assistance of those persons  
3678 afflicted with cerebral palsy and other \* \* \* disabling conditions  
3679 which are amenable to such treatment.

3680         **SECTION 29.** Section 41-11-113, Mississippi Code of 1972, is  
3681 amended as follows:

3682         41-11-113. It is the intent of Sections 41-11-101 through  
3683 41-11-113 to change the name of the "Mississippi Crippled  
3684 Children's Treatment and Training Center" to the Mississippi  
3685 Children's Rehabilitation Center and to place it under the  
3686 supervision and control of the University of Mississippi Medical  
3687 Center. Sections 41-11-100 through 41-11-113 should be construed  
3688 liberally in order to accomplish the broad objectives in aiding  
3689 persons afflicted with cerebral palsy and other \* \* \* disabling  
3690 conditions which are amenable to such treatment, in any and every  
3691 manner possible by the use of new techniques as they are developed  
3692 and become known, and by use of the combination of education and  
3693 medical services for the rehabilitation of such persons.

3694         **SECTION 30.** Section 41-13-35, Mississippi Code of 1972, is  
3695 amended as follows:

3696         41-13-35. (1) The board of trustees of any community  
3697 hospital shall have full authority to appoint an administrator,



3698 who shall not be a member of the board of trustees, and to  
3699 delegate reasonable authority to such administrator for the  
3700 operation and maintenance of such hospital and all property and  
3701 facilities otherwise appertaining thereto.

3702 (2) The board of trustees shall have full authority to  
3703 select from its members, officers and committees and, by  
3704 resolution or through the board bylaws, to delegate to such  
3705 officers and committees reasonable authority to carry out and  
3706 enforce the powers and duties of the board of trustees during the  
3707 interim periods between regular meetings of the board of  
3708 trustees; \* \* \* however, \* \* \* any such action taken by an officer  
3709 or committee shall be subject to review by the board, and actions  
3710 may be withdrawn or nullified at the next subsequent meeting of  
3711 the board of trustees if the action is in excess of delegated  
3712 authority.

3713 (3) The board of trustees shall be responsible for governing  
3714 the community hospital under its control and shall make and  
3715 enforce staff and hospital bylaws and/or rules and regulations  
3716 necessary for the administration, government, maintenance and/or  
3717 expansion of such hospitals. The board of trustees shall keep  
3718 minutes of its official business and shall comply with Section  
3719 41-9-68.

3720 (4) The decisions of \* \* \* the board of trustees of the  
3721 community hospital shall be valid and binding unless expressly  
3722 prohibited by applicable statutory or constitutional provisions.



3723 (5) The power of the board of trustees shall specifically  
3724 include, but not be limited to, the following authority:

3725 (a) To deposit and invest funds of the community  
3726 hospital in accordance with Section 27-105-365;

3727 (b) To establish such equitable wage and salary  
3728 programs and other employment benefits as may be deemed expedient  
3729 or proper, and in so doing, to expend reasonable funds for such  
3730 employee salary and benefits. Allowable employee programs shall  
3731 specifically include, but not be limited to, medical benefit,  
3732 life, accidental death and dismemberment, disability, retirement  
3733 and other employee coverage plans. The hospital may offer and  
3734 fund such programs directly or by contract with any third party  
3735 and shall be authorized to take all actions necessary to  
3736 implement, administer and operate such plans, including payroll  
3737 deductions for such plans;

3738 (c) To authorize employees to attend and to pay actual  
3739 expenses incurred by employees while engaged in hospital business  
3740 or in attending recognized educational or professional meetings;

3741 (d) To enter into loan or scholarship agreements with  
3742 employees or students to provide educational assistance where such  
3743 student or employee agrees to work for a stipulated period of time  
3744 for the hospital;

3745 (e) To devise and implement employee incentive  
3746 programs;



3747 (f) To recruit and financially assist physicians and  
3748 other health care practitioners in establishing, or relocating  
3749 practices within the service area of the community hospital  
3750 including, without limitation, direct and indirect financial  
3751 assistance, loan agreements, agreements guaranteeing minimum  
3752 incomes for a stipulated period from opening of the practice and  
3753 providing free office space or reduced rental rates for office  
3754 space where such recruitment would directly benefit the community  
3755 hospital and/or the health and welfare of the citizens of the  
3756 service area;

3757 (g) To contract by way of lease, lease-purchase or  
3758 otherwise, with any agency, department or other office of  
3759 government or any individual, partnership, corporation, owner,  
3760 other board of trustees, or other health care facility, for the  
3761 providing of property, equipment or services by or to the  
3762 community hospital or other entity or regarding any facet of the  
3763 construction, management, funding or operation of the community  
3764 hospital or any division or department thereof, or any related  
3765 activity, including, without limitation, shared management  
3766 expertise or employee insurance and retirement programs, and to  
3767 terminate \* \* \* the contracts when deemed in the best interests of  
3768 the community hospital;

3769 (h) To file suit on behalf of the community hospital to  
3770 enforce any right or claims accruing to the hospital and to defend





3771 and/or settle claims against the community hospital and/or its  
3772 board of trustees;

3773           (i) To sell or otherwise dispose of any chattel  
3774 property of the community hospital by any method deemed  
3775 appropriate by the board where such disposition is consistent with  
3776 the hospital purposes or where such property is deemed by the  
3777 board to be surplus or otherwise unneeded;

3778           (j) To let contracts for the construction, remodeling,  
3779 expansion or acquisition, by lease or purchase, of hospital or  
3780 health care facilities, including real property, within the  
3781 service area for community hospital purposes where such may be  
3782 done with operational funds without encumbering the general  
3783 funds of the county or municipality, provided that any contract  
3784 for the purchase of real property must be ratified by the owner;

3785           (k) To borrow money and enter other financing  
3786 arrangements for community hospital and related purposes and to  
3787 grant security interests in hospital equipment and other hospital  
3788 assets and to pledge a percentage of hospital revenues as security  
3789 for such financings where needed; provided that the owner shall  
3790 specify by resolution the maximum borrowing authority and maximum  
3791 percent of revenue which may be pledged by the board of trustees  
3792 during any given fiscal year;

3793           (l) To expend hospital funds for public relations or  
3794 advertising programs;



3795 (m) To offer the following inpatient and outpatient  
3796 services, after complying with applicable health planning,  
3797 licensure statutes and regulations, whether or not heretofore  
3798 offered by such hospital or other similar hospitals in this state  
3799 and whether or not heretofore authorized to be offered, long-term  
3800 care, extended care, home care, after-hours clinic services,  
3801 ambulatory surgical clinic services, preventative health care  
3802 services including wellness services, health education,  
3803 rehabilitation and diagnostic and treatment services; to promote,  
3804 develop, operate and maintain a center providing care or  
3805 residential facilities for \* \* \* persons who are aged,  
3806 convalescent or \* \* \* disabled; and to promote, develop and  
3807 institute any other services having an appropriate place in the  
3808 operation of a hospital offering complete community health care;

3809 (n) To promote, develop, acquire, operate and maintain  
3810 on a nonprofit basis, or on a profit basis if the community  
3811 hospital's share of profits is used solely for community hospital  
3812 and related purposes in accordance with this chapter, either  
3813 separately or jointly with one or more other hospitals or  
3814 health-related organizations, facilities and equipment for  
3815 providing goods, services and programs for hospitals, other health  
3816 care providers, and other persons or entities in need of such  
3817 goods, services and programs and, in doing so, to provide for  
3818 contracts of employment or contracts for services and ownership of  
3819 property on terms that will protect the public interest;



3820           (o) To establish and operate medical offices, child  
3821 care centers, wellness or fitness centers and other facilities and  
3822 programs which the board determines are appropriate in the  
3823 operation of a community hospital for the benefit of its  
3824 employees, personnel and/or medical staff which shall be operated  
3825 as an integral part of the hospital and which may, in the  
3826 direction of the board of trustees, be offered to the general  
3827 public. If such programs are not established in existing  
3828 facilities or constructed on real estate previously acquired by  
3829 the owners, the board of trustees shall also have authority to  
3830 acquire, by lease or purchase, such facilities and real property  
3831 within the service area, whether or not adjacent to existing  
3832 facilities, provided that any contract for the purchase of real  
3833 property shall be ratified by the owner. The trustees shall lease  
3834 any such medical offices to members of the medical staff at rates  
3835 deemed appropriate and may, in its discretion, establish rates to  
3836 be paid for the use of other facilities or programs by its  
3837 employees or personnel or members of the public whom the trustees  
3838 may determine may properly use such other facilities or programs;

3839           (p) Provide, at its discretion, ambulance service  
3840 and/or to contract with any third party, public or private, for  
3841 the providing of such service;

3842           (q) Establish a fair and equitable system for the  
3843 billing of patients for care or users of services received through  
3844 the community hospital, which in the exercise of the board of



3845 trustees' prudent fiscal discretion, may allow for rates to be  
3846 classified according to the potential usage by an identified group  
3847 or groups of patients of the community hospital's services and may  
3848 allow for standard discounts where the discount is designed to  
3849 reduce the operating costs or increase the revenues of the  
3850 community hospital. Such billing system may also allow for the  
3851 payment of charges by means of a credit card or similar device and  
3852 allow for payment of administrative fees as may be regularly  
3853 imposed by a banking institution or other credit service  
3854 organization for the use of such cards;

3855 (r) To establish as an organizational part of the  
3856 hospital or to aid in establishing as a separate entity from the  
3857 hospital, hospital auxiliaries designed to aid the hospital, its  
3858 patients, and/or families and visitors of patients, and when the  
3859 auxiliary is established as a separate entity from the hospital,  
3860 the board of trustees may cooperate with the auxiliary in its  
3861 operations as the board of trustees deems appropriate; and

3862 (s) To make any agreements or contracts with the  
3863 federal government or any agency thereof, the State of Mississippi  
3864 or any agency thereof, and any county, city, town, supervisors  
3865 district or election district within this state, jointly or  
3866 separately, for the maintenance of charity facilities.

3867 (6) No board of trustees of any community hospital may  
3868 accept any grant of money or other thing of value from any  
3869 not-for-profit or for-profit organization established for the



3870 purpose of supporting health care in the area served by the  
3871 facility unless two-thirds (2/3) of the trustees vote to accept  
3872 the grant.

3873 (7) No board of trustees, individual trustee or any other  
3874 person who is an agent or servant of the trustees of any community  
3875 hospital shall have any personal financial interest in any  
3876 not-for-profit or for-profit organization which, regardless of its  
3877 stated purpose of incorporation, provides assistance in the form  
3878 of grants of money or property to community hospitals or provides  
3879 services to community hospitals in the form of performance of  
3880 functions normally associated with the operations of a hospital.

3881 **SECTION 31.** Section 41-19-33, Mississippi Code of 1972, is  
3882 amended as follows:

3883 41-19-33. (1) Each region so designated or established  
3884 under Section 41-19-31 shall establish a regional commission to be  
3885 composed of members appointed by the boards of supervisors of the  
3886 various counties in the region. It shall be the duty of such  
3887 regional commission to administer mental health/intellectual  
3888 disability programs certified and required by the State Board of  
3889 Mental Health and as specified in Section 41-4-1(2). In addition,  
3890 once designated and established as provided hereinabove, a  
3891 regional commission shall have the following authority and shall  
3892 pursue and promote the following general purposes:

3893 (a) To establish, own, lease, acquire, construct,  
3894 build, operate and maintain mental illness, mental health,



3895 intellectual disability, alcoholism and general rehabilitative  
3896 facilities and services designed to serve the needs of the people  
3897 of the region so designated, provided that the services supplied  
3898 by the regional commissions shall include those services  
3899 determined by the Department of Mental Health to be necessary and  
3900 may include, in addition to the above, services for persons with  
3901 developmental and learning disabilities; for persons suffering  
3902 from narcotic addiction and problems of drug abuse and drug  
3903 dependence; and for the aging as designated and certified by the  
3904 Department of Mental Health. Such regional mental health and  
3905 intellectual disability commissions and other community service  
3906 providers shall, on or before July 1 of each year, submit an  
3907 annual operational plan to the Department of Mental Health for  
3908 approval or disapproval based on the minimum standards and minimum  
3909 required services established by the department for certification  
3910 and itemize the services as specified in Section 41-4-1(2). As  
3911 part of the annual operation plan required by Section 41-4-7(h)  
3912 submitted by any regional community mental health center or by any  
3913 other reasonable certification deemed acceptable by the  
3914 department, the community mental health center shall state those  
3915 services specified in Section 41-4-1(2) that it will provide and  
3916 also those services that it will not provide. If the department  
3917 finds deficiencies in the plan of any regional commission or  
3918 community service provider based on the minimum standards and  
3919 minimum required services established for certification, the



3920 department shall give the regional commission or community service  
3921 provider a six-month probationary period to bring its standards  
3922 and services up to the established minimum standards and minimum  
3923 required services. After the six-month probationary period, if  
3924 the department determines that the regional commission or  
3925 community service provider still does not meet the minimum  
3926 standards and minimum required services established for  
3927 certification, the department may remove the certification of the  
3928 commission or provider, and from and after July 1, 2011, the  
3929 commission or provider shall be ineligible for state funds from  
3930 Medicaid reimbursement or other funding sources for those  
3931 services. After the six-month probationary period, the Department  
3932 of Mental Health may identify an appropriate community service  
3933 provider to provide any core services in that county that are not  
3934 provided by a community mental health center. However, the  
3935 department shall not offer reimbursement or other accommodations  
3936 to a community service provider of core services that were not  
3937 offered to the decertified community mental health center for the  
3938 same or similar services.

3939 (b) To provide facilities and services for the  
3940 prevention of mental illness, mental disorders, developmental and  
3941 learning disabilities, alcoholism, narcotic addiction, drug abuse,  
3942 drug dependence and other related \* \* \* disabilities or problems  
3943 (including the problems of the aging) among the people of the  
3944 region so designated, and for the rehabilitation of persons



3945 suffering from such illnesses, disorders, \* \* \* disabilities or  
3946 problems as designated and certified by the Department of Mental  
3947 Health.

3948 (c) To promote increased understanding of the problems  
3949 of mental illness, intellectual disabilities, alcoholism,  
3950 developmental and learning disabilities, narcotic addiction, drug  
3951 abuse and drug dependence and other related problems (including  
3952 the problems of the aging) by the people of the region, and also  
3953 to promote increased understanding of the purposes and methods of  
3954 the rehabilitation of persons suffering from such illnesses,  
3955 disorders, \* \* \* disabilities or problems as designated and  
3956 certified by the Department of Mental Health.

3957 (d) To enter into contracts and to make such other  
3958 arrangements as may be necessary, from time to time, with the  
3959 United States government, the government of the State of  
3960 Mississippi and such other agencies or governmental bodies as may  
3961 be approved by and acceptable to the regional commission for the  
3962 purpose of establishing, funding, constructing, operating and  
3963 maintaining facilities and services for the care, treatment and  
3964 rehabilitation of persons suffering from mental illness, an  
3965 intellectual disability, alcoholism, developmental and learning  
3966 disabilities, narcotic addiction, drug abuse, drug dependence and  
3967 other illnesses, disorders, \* \* \* disabilities and problems  
3968 (including the problems of the aging) as designated and certified  
3969 by the Department of Mental Health.





3970           (e) To enter into contracts and make such other  
3971 arrangements as may be necessary with any and all private  
3972 businesses, corporations, partnerships, proprietorships or other  
3973 private agencies, whether organized for profit or otherwise, as  
3974 may be approved by and acceptable to the regional commission for  
3975 the purpose of establishing, funding, constructing, operating and  
3976 maintaining facilities and services for the care, treatment and  
3977 rehabilitation of persons suffering from mental illness, an  
3978 intellectual disability, alcoholism, developmental and learning  
3979 disabilities, narcotic addiction, drug abuse, drug dependence and  
3980 other illnesses, disorders, \* \* \* disabilities and problems  
3981 (including the problems of the aging) relating to minimum services  
3982 established by the Department of Mental Health.

3983           (f) To promote the general mental health of the people  
3984 of the region.

3985           (g) To pay the administrative costs of the operation of  
3986 the regional commissions, including per diem for the members of  
3987 the commission and its employees, attorney's fees, if and when  
3988 such are required in the opinion of the commission, and such other  
3989 expenses of the commission as may be necessary. The Department of  
3990 Mental Health standards and audit rules shall determine what  
3991 administrative cost figures shall consist of for the purposes of  
3992 this paragraph. Each regional commission shall submit a cost  
3993 report annually to the Department of Mental Health in accordance  
3994 with guidelines promulgated by the department.



3995           (h) To employ and compensate any personnel that may be  
3996 necessary to effectively carry out the programs and services  
3997 established under the provisions of the aforesaid act, provided  
3998 such person meets the standards established by the Department of  
3999 Mental Health.

4000           (i) To acquire whatever hazard, casualty or workers'  
4001 compensation insurance that may be necessary for any property,  
4002 real or personal, owned, leased or rented by the commissions, or  
4003 any employees or personnel hired by the commissions.

4004           (j) To acquire professional liability insurance on all  
4005 employees as may be deemed necessary and proper by the commission,  
4006 and to pay, out of the funds of the commission, all premiums due  
4007 and payable on account thereof.

4008           (k) To provide and finance within their own facilities,  
4009 or through agreements or contracts with other local, state or  
4010 federal agencies or institutions, nonprofit corporations, or  
4011 political subdivisions or representatives thereof, programs and  
4012 services for persons with mental illness, including treatment for  
4013 alcoholics, and promulgating and administering of programs to  
4014 combat drug abuse and programs for services for persons with an  
4015 intellectual disability.

4016           (l) To borrow money from private lending institutions  
4017 in order to promote any of the foregoing purposes. A commission  
4018 may pledge collateral, including real estate, to secure the  
4019 repayment of money borrowed under the authority of this paragraph.



4020 Any such borrowing undertaken by a commission shall be on terms  
4021 and conditions that are prudent in the sound judgment of the  
4022 members of the commission, and the interest on any such loan shall  
4023 not exceed the amount specified in Section 75-17-105. Any money  
4024 borrowed, debts incurred or other obligations undertaken by a  
4025 commission, regardless of whether borrowed, incurred or undertaken  
4026 before or after March 15, 1995, shall be valid, binding and  
4027 enforceable if it or they are borrowed, incurred or undertaken for  
4028 any purpose specified in this section and otherwise conform to the  
4029 requirements of this paragraph.

4030 (m) To acquire, own and dispose of real and personal  
4031 property. Any real and personal property paid for with state  
4032 and/or county appropriated funds must have the written approval of  
4033 the Department of Mental Health and/or the county board of  
4034 supervisors, depending on the original source of funding, before  
4035 being disposed of under this paragraph.

4036 (n) To enter into managed care contracts and make such  
4037 other arrangements as may be deemed necessary or appropriate by  
4038 the regional commission in order to participate in any managed  
4039 care program. Any such contract or arrangement affecting more  
4040 than one (1) region must have prior written approval of the  
4041 Department of Mental Health before being initiated and annually  
4042 thereafter.

4043 (o) To provide facilities and services on a discounted  
4044 or capitated basis. Any such action when affecting more than one



4045 (1) region must have prior written approval of the Department of  
4046 Mental Health before being initiated and annually thereafter.

4047 (p) To enter into contracts, agreements or other  
4048 arrangements with any person, payor, provider or other entity,  
4049 under which the regional commission assumes financial risk for the  
4050 provision or delivery of any services, when deemed to be necessary  
4051 or appropriate by the regional commission. Any action under this  
4052 paragraph affecting more than one (1) region must have prior  
4053 written approval of the Department of Mental Health before being  
4054 initiated and annually thereafter.

4055 (q) To provide direct or indirect funding, grants,  
4056 financial support and assistance for any health maintenance  
4057 organization, preferred provider organization or other managed  
4058 care entity or contractor, where such organization, entity or  
4059 contractor is operated on a nonprofit basis. Any action under  
4060 this paragraph affecting more than one (1) region must have prior  
4061 written approval of the Department of Mental Health before being  
4062 initiated and annually thereafter.

4063 (r) To form, establish, operate, and/or be a member of  
4064 or participant in, either individually or with one or more other  
4065 regional commissions, any managed care entity as defined in  
4066 Section 83-41-403(c). Any action under this paragraph affecting  
4067 more than one (1) region must have prior written approval of the  
4068 Department of Mental Health before being initiated and annually  
4069 thereafter.



4070 (s) To meet at least annually with the board of  
4071 supervisors of each county in its region for the purpose of  
4072 presenting its total annual budget and total mental  
4073 health/intellectual disability services system. The commission  
4074 shall submit an annual report on the adult mental health services,  
4075 children mental health services and intellectual disability  
4076 services required by the State Board of Mental Health.

4077 (t) To provide alternative living arrangements for  
4078 persons with serious mental illness, including, but not limited  
4079 to, group homes for persons with chronic mental illness.

4080 (u) To make purchases and enter into contracts for  
4081 purchasing in compliance with the public purchasing law, Sections  
4082 31-7-12 and 31-7-13, with compliance with the public purchasing  
4083 law subject to audit by the State Department of Audit.

4084 (v) To insure that all available funds are used for the  
4085 benefit of persons with mental illness, persons with an  
4086 intellectual disability, substance abusers and persons with  
4087 developmental disabilities with maximum efficiency and minimum  
4088 administrative cost. At any time a regional commission, and/or  
4089 other related organization whatever it may be, accumulates surplus  
4090 funds in excess of one-half (1/2) of its annual operating budget,  
4091 the entity must submit a plan to the Department of Mental Health  
4092 stating the capital improvements or other projects that require  
4093 such surplus accumulation. If the required plan is not submitted  
4094 within forty-five (45) days of the end of the applicable fiscal



4095 year, the Department of Mental Health shall withhold all state  
4096 appropriated funds from such regional commission until such time  
4097 as the capital improvement plan is submitted. If the submitted  
4098 capital improvement plan is not accepted by the department, the  
4099 surplus funds shall be expended by the regional commission in the  
4100 local mental health region on group homes for persons with mental  
4101 illness, persons with an intellectual disability, substance  
4102 abusers, children or other mental health/intellectual disability  
4103 services approved by the Department of Mental Health.

4104 (w) Notwithstanding any other provision of law, to  
4105 fingerprint and perform a criminal history record check on every  
4106 employee or volunteer. Every employee or volunteer shall provide  
4107 a valid current social security number and/or driver's license  
4108 number that will be furnished to conduct the criminal history  
4109 record check. If no disqualifying record is identified at the  
4110 state level, fingerprints shall be forwarded to the Federal Bureau  
4111 of Investigation for a national criminal history record check.

4112 (x) Notwithstanding any other provisions of law, each  
4113 regional commission shall have the authority to create and operate  
4114 a primary care health clinic to treat (i) its patients; and (ii)  
4115 its patients' family members related within the third degree; and  
4116 (iii) its patients' household members or caregivers, subject to  
4117 the following requirements:

4118 (i) The regional commission may employ and  
4119 compensate any personnel necessary and must satisfy applicable



4120 state and federal laws and regulations regarding the  
4121 administration and operation of a primary care health clinic.

4122 (ii) A Mississippi licensed physician must be  
4123 employed or under agreement with the regional commission to  
4124 provide medical direction and/or to carry out the physician  
4125 responsibilities as described under applicable state and/or  
4126 federal law and regulations.

4127 (iii) The physician providing medical direction  
4128 for the primary care clinic shall not be certified solely in  
4129 psychiatry.

4130 (iv) A sliding fee scale may be used by the  
4131 regional commission when no other payer source is identified.

4132 (v) The regional commission must ensure services  
4133 will be available and accessible promptly and in a manner that  
4134 preserves human dignity and assures continuity of care.

4135 (vi) The regional commission must provide a  
4136 semiannual report to the Chairmen of the Public Health Committees  
4137 in both the House of Representatives and Senate. At a minimum,  
4138 for each reporting period, these reports shall describe the number  
4139 of patients provided primary care services, the types of services  
4140 provided, and the payer source for the patients. Except for  
4141 patient information and any other information that may be exempt  
4142 from disclosure under the Health Information Portability and  
4143 Accountability Act (HIPAA) and the Mississippi Public Records Act,  
4144 the reports shall be considered public records.



4145 (vii) The regional commission must employ or  
4146 contract with a core clinical staff that is multidisciplinary and  
4147 culturally and linguistically competent.

4148 (viii) The regional commission must ensure that  
4149 its physician as described in subparagraph (ii) of this paragraph  
4150 (x) has admitting privileges at one or more local hospitals or has  
4151 an agreement with a physician who has admitting privileges at one  
4152 or more local hospitals to ensure continuity of care.

4153 (ix) The regional commission must provide an  
4154 independent financial audit report to the State Department of  
4155 Mental Health and, except for patient information and any other  
4156 information that may be exempt from disclosure under HIPAA and the  
4157 Mississippi Public Records Act, the audit report shall be  
4158 considered a public record.

4159 For the purposes of this paragraph (x), the term "caregiver"  
4160 means an individual who has the principal and primary  
4161 responsibility for caring for a child or dependent adult,  
4162 especially in the home setting.

4163 (y) In general to take any action which will promote,  
4164 either directly or indirectly, any and all of the foregoing  
4165 purposes.

4166 (2) The types of services established by the State  
4167 Department of Mental Health that must be provided by the regional  
4168 mental health/intellectual disability centers for certification by  
4169 the department, and the minimum levels and standards for those





4170 services established by the department, shall be provided by the  
4171 regional mental health/intellectual disability centers to children  
4172 when such services are appropriate for children, in the  
4173 determination of the department.

4174 **SECTION 32.** Section 41-19-205, Mississippi Code of 1972, is  
4175 amended as follows:

4176 41-19-205. A person may be deemed eligible for admission to  
4177 the center if:

4178 (a) His parents or guardian or person in loco parentis  
4179 has resided in the state not less than one (1) year prior to the  
4180 date of admission; and

4181 (b) He is at least five (5) years of age and has such  
4182 an intellectual disability that he is incapable of managing  
4183 himself or his affairs, or he has an intellectual disability to  
4184 the extent that special care, training and education provided at  
4185 the center will enable him to better function in society; or

4186 (c) He is committed to the center by the chancery court  
4187 in the manner hereinafter provided; or

4188 (d) He is under five (5) years of age and is approved  
4189 for admission by the board of mental health, upon the  
4190 recommendation of the director, because of having an  
4191 exceptional \* \* \* disability.

4192 **SECTION 33.** Section 41-19-237, Mississippi Code of 1972, is  
4193 amended as follows:



4194           41-19-237. A person may be deemed eligible for admission to  
4195 the center if:

4196           (a) His parents or guardian or person in loco parentis  
4197 has resided in the state not less than one (1) year before the  
4198 date of admission; and

4199           (b) He is at least five (5) years of age and has such  
4200 an intellectual disability that he is incapable of managing  
4201 himself or his affairs, or he has an intellectual disability to  
4202 the extent that special care, training and education provided at  
4203 the center will enable him to better function in society; or

4204           (c) He is committed to the center by the chancery court  
4205 in the manner hereinafter provided; or

4206           (d) He is under five (5) years of age and is approved  
4207 for admission by the Board of Mental Health, upon the  
4208 recommendation of the director, because of having an  
4209 exceptional \* \* \* disability.

4210           **SECTION 34.** Section 41-19-257, Mississippi Code of 1972, is  
4211 amended as follows:

4212           41-19-257. Persons who have attained the age of eighteen  
4213 (18) years, who have been determined to be a \* \* \* person with  
4214 mental illness as defined in Section 41-21-61 and who have been  
4215 committed for treatment by the chancery court pursuant to Section  
4216 41-21-61 et seq. shall be eligible for acute treatment at the  
4217 facilities.



4218           **SECTION 35.** Section 41-19-261, Mississippi Code of 1972, is  
4219 amended as follows:

4220           41-19-261. Any person who (a) under the provisions of  
4221 Section 41-19-251 et seq. knowingly and unlawfully or improperly  
4222 causes a person to be adjudged \* \* \* to have a mental illness, (b)  
4223 procures the escape of a legally committed patient or knowingly  
4224 conceals an escaped legally committed resident of the facility, or  
4225 (c) unlawfully brings any firearm, deadly weapon or explosive into  
4226 the facility or its grounds, or passes any thereof to patient,  
4227 employee or officer of the facility, is guilty of a misdemeanor  
4228 and, upon conviction, shall be punished by a fine of not less than  
4229 Fifty Dollars (\$50.00) nor more than Two Hundred Dollars  
4230 (\$200.00), imprisonment for not less than six (6) months nor more  
4231 than one (1) year, or both.

4232           **SECTION 36.** Section 41-19-291, Mississippi Code of 1972, is  
4233 amended as follows:

4234           41-19-291. (1) The Specialized Treatment Facility for the  
4235 Emotionally Disturbed, located in Harrison County, Mississippi, is  
4236 recognized as now existing and shall be for the care and treatment  
4237 of persons with mental illness. The facility shall have the power  
4238 to receive and hold property, real, personal, and mixed, as a body  
4239 corporate. The facility shall be under the direction and control  
4240 of the State Board of Mental Health.

4241           (2) Admissions shall be limited to mentally or emotionally  
4242 disturbed adolescents who have been committed to the facility by a



4243 youth court judge or chancellor as provided in Section 41-21-109,  
4244 or who are voluntarily admitted to the facility.

4245 (3) With funds provided by the Legislature, by direct  
4246 appropriation or authorized bond issue, with federal matching  
4247 funds, or with any other available funds, the Bureau of Building,  
4248 Grounds and Real Property Management may construct and equip the  
4249 necessary residential and service buildings and other facilities  
4250 to care for the residents of the Specialized Treatment Facility  
4251 for the Emotionally Disturbed. The general design of the facility  
4252 and all construction plans shall be approved and recommended by  
4253 the State Department of Mental Health.

4254 (4) The Specialized Treatment Facility for the Emotionally  
4255 Disturbed shall be administered by the State Board of Mental  
4256 Health. Provisions relating to the admission and care of  
4257 residents at the facility shall be promulgated by the board.

4258 (5) The Specialized Treatment Facility for the Emotionally  
4259 Disturbed is authorized to establish and operate a school to meet  
4260 the educational needs of its patients.

4261 (6) Persons admitted to the Specialized Treatment Facility  
4262 for the Emotionally Disturbed shall be assessed support and  
4263 maintenance costs in accordance with the provisions of the state  
4264 reimbursement laws as they apply to other state institutions.

4265 (7) Any person who (a) knowingly and unlawfully or  
4266 improperly causes a person to be adjudged \* \* \* to have a mental  
4267 illness, (b) procures the escape of a legally committed patient or



4268 knowingly conceals an escaped legally committed patient of the  
4269 facility or (c) unlawfully brings any firearm, deadly weapon or  
4270 explosive into the facility or its grounds, or passes any thereof  
4271 to a resident, employee or officer of the school, is guilty of a  
4272 misdemeanor and, upon conviction, shall be punished by a fine of  
4273 not less than Fifty Dollars (\$50.00), or more than Two Hundred  
4274 Dollars (\$200.00), imprisonment for not less than six (6) months,  
4275 or both.

4276 (8) The Specialized Treatment Facility for the Emotionally  
4277 Disturbed is designated as a state agency for carrying out the  
4278 purposes of any act of the Congress of the United States, now  
4279 existing or at any time hereafter enacted, pertaining to mental  
4280 illness.

4281 (9) If no funding for the Specialized Treatment Facility for  
4282 the Emotionally Disturbed is provided by state appropriation, the  
4283 Department of Mental Health may lease the facility to carry out  
4284 the purposes of the facility as provided in this section and  
4285 Section 41-21-109. Before the facility may be leased, the  
4286 department, in conjunction with the Bureau of Building, Grounds  
4287 and Real Property Management of the Department of Finance and  
4288 Administration, shall publicly issue requests for proposals,  
4289 advertised in the same manner as provided in Section 31-7-13 for  
4290 seeking competitive sealed bids. The requests for proposals shall  
4291 contain terms and conditions relating to submission of proposals,  
4292 evaluation and selection of proposals, financial terms, legal



4293 responsibilities, and any other matters as the department and  
4294 bureau determine to be appropriate for inclusion. Upon receiving  
4295 responses to the request for proposals, the department and bureau  
4296 shall select the most qualified proposal or proposals on the basis  
4297 of experience and qualifications of the proposers, the technical  
4298 approach, the financial arrangements, the best value and overall  
4299 benefits to the state, and any other relevant factors determined  
4300 to be appropriate, and from those proposals, shall negotiate and  
4301 enter a contract or contracts for the lease of the facility with  
4302 one or more of the persons or firms submitting proposals.  
4303 However, if the department and bureau deem none of the proposals  
4304 to be qualified or otherwise acceptable, the request for proposals  
4305 process may be reinitiated.

4306 (10) If the Specialized Treatment Facility for the  
4307 Emotionally Disturbed is leased under subsection (9) of this  
4308 section, the lessee of the facility must give first priority in  
4309 hiring employees for the facility to the current employees at the  
4310 facility. This condition must be included as one (1) of the  
4311 specifications in the request for proposals for leasing the  
4312 facility.

4313 **SECTION 37.** Section 41-21-67, Mississippi Code of 1972, is  
4314 amended as follows:

4315 41-21-67. (1) Whenever the affidavit provided for in  
4316 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
4317 direction of the chancellor of the court, shall issue a writ



4318 directed to the sheriff of the proper county to take into custody  
4319 the person alleged to be in need of treatment and to bring the  
4320 person before the clerk or chancellor, who shall order  
4321 pre-evaluation screening and treatment by the appropriate  
4322 community mental health center established under Section 41-19-31.  
4323 The community mental health center will be designated as the first  
4324 point of entry for screening and treatment. If the community  
4325 mental health center is unavailable, any reputable licensed  
4326 physician, psychologist, nurse practitioner or physician  
4327 assistant, as allowed in the discretion of the court, may conduct  
4328 the pre-evaluation screening and examination as set forth in  
4329 Section 41-21-69. The order may provide where the person shall be  
4330 held before the appearance before the clerk or chancellor.  
4331 However, when the affidavit fails to set forth factual allegations  
4332 and witnesses sufficient to support the need for treatment, the  
4333 chancellor shall refuse to direct issuance of the writ.  
4334 Reapplication may be made to the chancellor. If a pauper's  
4335 affidavit is filed by a guardian for commitment of the ward of the  
4336 guardian, the court shall determine if the ward is a pauper and if  
4337 the ward is determined to be a pauper, the county of the residence  
4338 of the respondent shall bear the costs of commitment, unless funds  
4339 for those purposes are made available by the state.

4340 In any county in which a Crisis Intervention Team has been  
4341 established under the provisions of Sections 41-21-131 through  
4342 41-21-143, the clerk, upon the direction of the chancellor, may



4343 require that the person be referred to the Crisis Intervention  
4344 Team for appropriate psychiatric or other medical services before  
4345 the issuance of the writ.

4346 (2) Upon issuance of the writ, the chancellor shall  
4347 immediately appoint and summon two (2) reputable, licensed  
4348 physicians or one (1) reputable, licensed physician and either one  
4349 (1) psychologist, nurse practitioner or physician assistant to  
4350 conduct a physical and mental examination of the person at a place  
4351 to be designated by the clerk or chancellor and to report their  
4352 findings to the clerk or chancellor. However, any nurse  
4353 practitioner or physician assistant conducting the examination  
4354 shall be independent from, and not under the supervision of, the  
4355 other physician conducting the examination. In all counties in  
4356 which there is a county health officer, the county health officer,  
4357 if available, may be one (1) of the physicians so appointed.  
4358 Neither of the physicians nor the psychologist, nurse practitioner  
4359 or physician assistant selected shall be related to that person in  
4360 any way, nor have any direct or indirect interest in the estate of  
4361 that person nor shall any full-time staff of residential treatment  
4362 facilities operated directly by the State Department of Mental  
4363 Health serve as examiner.

4364 (3) The clerk shall ascertain whether the respondent is  
4365 represented by an attorney, and if it is determined that the  
4366 respondent does not have an attorney, the clerk shall immediately  
4367 notify the chancellor of that fact. If the chancellor determines





4368 that the respondent for any reason does not have the services of  
4369 an attorney, the chancellor shall immediately appoint an attorney  
4370 for the respondent at the time the examiners are appointed.

4371 (4) If the chancellor determines that there is probable  
4372 cause to believe that the respondent \* \* \* has a mental illness  
4373 and that there is no reasonable alternative to detention, the  
4374 chancellor may order that the respondent be retained as an  
4375 emergency patient at any licensed medical facility for evaluation  
4376 by a physician, nurse practitioner or physician assistant and that  
4377 a peace officer transport the respondent to the specified  
4378 facility. If the community mental health center serving the  
4379 county has partnered with Crisis Intervention Teams under the  
4380 provisions of Sections 41-21-131 through 41-21-143, the order may  
4381 specify that the licensed medical facility be a designated single  
4382 point of entry within the county or within an adjacent county  
4383 served by the community mental health center. If the person  
4384 evaluating the respondent finds that the respondent \* \* \* has a  
4385 mental illness and is in need of treatment, the chancellor may  
4386 order that the respondent be retained at the licensed medical  
4387 facility or any other available suitable location as the court may  
4388 so designate pending an admission hearing. If necessary, the  
4389 chancellor may order a peace officer or other person to transport  
4390 the respondent to that facility or suitable location. Any  
4391 respondent so retained may be given such treatment as is indicated  
4392 by standard medical practice. However, the respondent shall not



4393 be held in a hospital operated directly by the State Department of  
4394 Mental Health, and shall not be held in jail unless the court  
4395 finds that there is no reasonable alternative.

4396 (5) (a) Whenever a licensed psychologist, nurse  
4397 practitioner or physician assistant who is certified to complete  
4398 examinations for the purpose of commitment or a licensed physician  
4399 has reason to believe that a person poses an immediate substantial  
4400 likelihood of physical harm to himself or others or is gravely  
4401 disabled and unable to care for himself by virtue of mental  
4402 illness, as defined in Section 41-21-61(e), then the physician,  
4403 psychologist, nurse practitioner or physician assistant may hold  
4404 the person or may admit the person to and treat the person in a  
4405 licensed medical facility, without a civil order or warrant for a  
4406 period not to exceed seventy-two (72) hours. However, if the  
4407 seventy-two-hour period begins or ends when the chancery clerk's  
4408 office is closed, or within three (3) hours of closing, and the  
4409 chancery clerk's office will be continuously closed for a time  
4410 that exceeds seventy-two (72) hours, then the seventy-two-hour  
4411 period is extended until the end of the next business day that the  
4412 chancery clerk's office is open. The person may be held and  
4413 treated as an emergency patient at any licensed medical facility,  
4414 available regional mental health facility, or crisis intervention  
4415 center. The physician or psychologist, nurse practitioner or  
4416 physician assistant who holds the person shall certify in writing  
4417 the reasons for the need for holding.



4418           If a person is being held and treated in a licensed medical  
4419 facility, and that person decides to continue treatment by  
4420 voluntarily signing consent for admission and treatment, the  
4421 seventy-two-hour hold may be discontinued without filing an  
4422 affidavit for commitment. Any respondent so held may be given  
4423 such treatment as indicated by standard medical practice. Persons  
4424 acting in good faith in connection with the detention and  
4425 reporting of a person believed to \* \* \* have a mental illness  
4426 shall incur no liability, civil or criminal, for those acts.

4427           (b) Whenever an individual is held for purposes of  
4428 receiving treatment as prescribed under paragraph (a) of this  
4429 subsection, and it is communicated to the mental health  
4430 professional holding the individual that the individual resides or  
4431 has visitation rights with a minor child, and if the individual is  
4432 considered to be a danger to the minor child, the mental health  
4433 professional shall notify the Department of Human Services prior  
4434 to discharge if the threat of harm continues to exist, as is  
4435 required under Section 43-21-353.

4436           This paragraph shall be known and may be cited as the "Andrew  
4437 Lloyd Law."

4438           **SECTION 38.** Section 41-21-131, Mississippi Code of 1972, is  
4439 amended as follows:

4440           41-21-131. As used in Sections 41-21-131 through 41-21-143,  
4441 the following terms shall have the meanings as defined in this  
4442 section:



4443 (a) "Crisis Intervention Team" means a community  
4444 partnership among a law enforcement agency, a community mental  
4445 health center, a hospital, other mental health providers,  
4446 consumers and family members of consumers.

4447 (b) "Participating partner" means a law enforcement  
4448 agency, a community mental health center or a hospital that has  
4449 each entered into collaborative agreements needed to implement a  
4450 Crisis Intervention Team.

4451 (c) "Catchment area" means a geographical area in which  
4452 a Crisis Intervention Team operates and is defined by the  
4453 jurisdictional boundaries of the law enforcement agency that is  
4454 the participating partner.

4455 (d) "Crisis Intervention Team officer" or "CIT officer"  
4456 means a law enforcement officer who is authorized to make arrests  
4457 under Section 99-3-1 and who is trained and certified in crisis  
4458 intervention and who is working for a law enforcement agency that  
4459 is a participating partner in a Crisis Intervention Team.

4460 (e) "Substantial likelihood of bodily harm" means that:

4461 (i) The person has threatened or attempted suicide  
4462 or to inflict serious bodily harm to himself; or

4463 (ii) The person has threatened or attempted  
4464 homicide or other violent behavior; or

4465 (iii) The person has placed others in reasonable  
4466 fear of violent behavior and serious physical harm to them; or



4467 (iv) The person is unable to avoid severe  
4468 impairment or injury from specific risks; and

4469 (v) There is substantial likelihood that serious  
4470 harm will occur unless the person is placed under emergency  
4471 treatment.

4472 (f) "Single point of entry" means a specific hospital  
4473 that is the participating partner in a Crisis Intervention Team  
4474 and that has agreed to provide psychiatric emergency services and  
4475 triage and referral services.

4476 (g) "Psychiatric emergency services" means services  
4477 designed to reduce the acute psychiatric symptoms of a person  
4478 who \* \* \* has a mental illness or a person who has an impairment  
4479 caused by drugs or alcohol and, when possible, to stabilize that  
4480 person so that continuing treatment can be provided in the local  
4481 community.

4482 (h) "Triage and referral services" means services  
4483 designed to provide evaluation of a person with mental illness or  
4484 a person who has an impairment caused by drugs or alcohol in order  
4485 to direct that person to a mental health facility or other mental  
4486 health provider that can provide appropriate treatment.

4487 (i) "Comprehensive psychiatric emergency service" means  
4488 a specialized psychiatric service operated by the single point of  
4489 entry and located in or near the hospital emergency department  
4490 that can provide psychiatric emergency services for a period of



4491 time greater than can be provided in the hospital emergency  
4492 department.

4493 (j) "Extended observation bed" means a hospital bed  
4494 that is used by a comprehensive psychiatric emergency service and  
4495 is licensed by the State Department of Health for that purpose.

4496 (k) "Psychiatric nurse practitioner" means a registered  
4497 nurse who has completed the educational requirements specified by  
4498 the State Board of Nursing, has successfully passed either the  
4499 adult or family psychiatric nurse practitioner examination and is  
4500 licensed by the State Board of Nursing to work under the  
4501 supervision of a physician at a single point of entry following  
4502 protocols approved by the State Board of Nursing.

4503 (l) "Psychiatric physician assistant" means a physician  
4504 assistant who has completed the educational requirements and  
4505 passed the certification examination as specified in Section  
4506 73-26-3, is licensed by the State Board of Medical Licensure, has  
4507 had at least one (1) year of practice as a physician assistant  
4508 employed by a community mental health center, and is working under  
4509 the supervision of a physician at a single point of entry.

4510 **SECTION 39.** Section 41-21-139, Mississippi Code of 1972, is  
4511 amended as follows:

4512 41-21-139. (1) If a CIT officer determines that a person is  
4513 with substantial likelihood of bodily harm, that officer may take  
4514 the person into custody for the purpose of transporting the person  
4515 to the designated single point of entry serving the catchment area



4516 in which the officer works. The CIT officer shall certify in  
4517 writing the reasons for taking the person into custody.

4518 (2) A CIT officer shall have no further legal responsibility  
4519 or other obligations once a person taken into custody has been  
4520 transported and received at the single point of entry.

4521 (3) A CIT officer acting in good faith in connection with  
4522 the detention of a person believed to be with substantial  
4523 likelihood of bodily harm shall incur no liability, civil or  
4524 criminal, for those acts.

4525 (4) Only CIT officers authorized to operate within a  
4526 catchment area may bring persons in custody to the single point of  
4527 entry for that catchment area. Law enforcement officers working  
4528 outside the designated catchment area are not authorized to  
4529 transport any person into the catchment area for the purpose of  
4530 bringing that person to the single point of entry.

4531 (5) Any person transported by a CIT officer to the single  
4532 point of entry or any person referred by the community mental  
4533 health center following guidelines of the collaborative agreements  
4534 shall be examined by a physician, psychiatric nurse practitioner  
4535 or psychiatric physician assistant. If the person does not  
4536 consent to voluntary evaluation and treatment, and the examiner  
4537 determines that the person is a \* \* \* person with mental illness,  
4538 as defined in Section 41-21-61(e), the examiner shall then  
4539 determine if that person can be held under the provisions of  
4540 Section 41-21-67(5). All other provisions of Section 41-21-67(5)



4541 shall apply and be extended to include licensed psychiatric nurse  
4542 practitioners and psychiatric physician assistants employed by the  
4543 single point of entry, including protection from liability, as  
4544 provided in this section, when acting in good faith. If the  
4545 examiner determines that the person is with substantial likelihood  
4546 of bodily harm because of impairment caused by drugs or alcohol  
4547 and determines that there is no reasonable, less-restrictive  
4548 alternative, the person may be held at the single point of entry  
4549 until the impairment has resolved and the person is no longer with  
4550 substantial likelihood of bodily harm. Persons acting in good  
4551 faith in connection with the detention of a person with impairment  
4552 caused by drugs or alcohol shall incur no liability, civil or  
4553 criminal, for those acts.

4554       **SECTION 40.** Section 41-31-15, Mississippi Code of 1972, is  
4555 amended as follows:

4556       41-31-15. The provisions of the law with respect to the  
4557 costs of commitment and the cost of support, including the  
4558 prohibition in Section 41-21-65 regarding the charging of extra  
4559 fees and expenses to persons initiating commitment proceedings,  
4560 methods of determination of persons liable therefor, and methods  
4561 of determination of financial ability, and all provisions of law  
4562 enabling the state to secure reimbursement of any such items of  
4563 cost, applicable to the commitment to and support of \* \* \*  
4564 persons with mental illness in state hospitals, shall apply with  
4565 equal force in respect to each item of expense incurred by the





4566 state in connection with the commitment, care, custody, treatment,  
4567 and rehabilitation of any person committed to the state hospitals  
4568 and maintained in any institution or hospital operated by the  
4569 State of Mississippi under the provisions of this chapter.

4570         **SECTION 41.** Section 41-79-5, Mississippi Code of 1972, is  
4571 amended as follows:

4572             41-79-5. (1) There is \* \* \* established within the State  
4573 Department of Health a school nurse intervention program,  
4574 available to all public school districts in the state.

4575             (2) By the school year 1998-1999, each public school  
4576 district shall have employed a school nurse, to be known as a  
4577 Health Service Coordinator, pursuant to the school nurse  
4578 intervention program prescribed under this section. The school  
4579 nurse intervention program shall offer any of the following  
4580 specific preventive services, and other additional services  
4581 appropriate to each grade level and the age and maturity of the  
4582 pupils:

4583             (a) Reproductive health education and referral to  
4584 prevent teen pregnancy and sexually transmitted diseases, which  
4585 education shall include abstinence;

4586             (b) Child abuse and neglect identification;

4587             (c) Hearing and vision screening to detect problems  
4588 which can lead to serious sensory losses and behavioral and  
4589 academic problems;



4590 (d) Alcohol, tobacco and drug abuse education to reduce  
4591 abuse of these substances;

4592 (e) Scoliosis screening to detect this condition so  
4593 that costly and painful surgery and lifelong disability can be  
4594 prevented;

4595 (f) Coordination of services for \* \* \* children with  
4596 physical disabilities to ensure that these children receive  
4597 appropriate medical assistance and are able to remain in public  
4598 school;

4599 (g) Nutrition education and counseling to prevent  
4600 obesity and/or other eating disorders which may lead to  
4601 life-threatening conditions, for example, hypertension;

4602 (h) Early detection and treatment of head lice to  
4603 prevent the spread of the parasite and to reduce absenteeism;

4604 (i) Emergency treatment of injury and illness to  
4605 include controlling bleeding, managing fractures, bruises or  
4606 contusions and cardiopulmonary resuscitation (CPR);

4607 (j) Applying appropriate theory as the basis for  
4608 decision making in nursing practice;

4609 (k) Establishing and maintaining a comprehensive school  
4610 health program;

4611 (l) Developing individualized health plans;

4612 (m) Assessing, planning, implementing and evaluating  
4613 programs and other school health activities, in collaboration with  
4614 other professionals;



4615 (n) Providing health education to assist students,  
4616 families and groups to achieve optimal levels of wellness;

4617 (o) Participating in peer review and other means of  
4618 evaluation to assure quality of nursing care provided for students  
4619 and assuming responsibility for continuing education and  
4620 professional development for self while contributing to the  
4621 professional growth of others;

4622 (p) Participating with other key members of the  
4623 community responsible for assessing, planning, implementing and  
4624 evaluating school health services and community services that  
4625 include the broad continuum or promotion of primary, secondary and  
4626 tertiary prevention; and

4627 (q) Contributing to nursing and school health through  
4628 innovations in theory and practice and participation in research.

4629 (3) Public school nurses shall be specifically prohibited  
4630 from providing abortion counseling to any student or referring any  
4631 student to abortion counseling or abortion clinics. Any violation  
4632 of this subsection shall disqualify the school district employing  
4633 such public school nurse from receiving any state administered  
4634 funds under this section.

4635 (4) [Repealed]

4636 (5) Beginning with the 1997-1998 school year, to the extent  
4637 that federal or state funds are available therefor and pursuant to  
4638 appropriation therefor by the Legislature, in addition to the  
4639 school nurse intervention program funds administered under



4640 subsection (4), the State Department of Health shall establish and  
4641 implement a Prevention of Teen Pregnancy Pilot Program to be  
4642 located in the public school districts with the highest numbers of  
4643 teen pregnancies. The Teen Pregnancy Pilot Program shall provide  
4644 the following education services directly through public school  
4645 nurses in the pilot school districts: health education sessions  
4646 in local schools, where contracted for or invited to provide,  
4647 which target issues including reproductive health, teen pregnancy  
4648 prevention and sexually transmitted diseases, including syphilis,  
4649 HIV and AIDS. When these services are provided by a school nurse,  
4650 training and counseling on abstinence shall be included.

4651 (6) In addition to the school nurse intervention program  
4652 funds administered under subsection (4) and the Teen Pregnancy  
4653 Pilot Program funds administered under subsection (5), to the  
4654 extent that federal or state funds are available therefor and  
4655 pursuant to appropriation therefor by the Legislature, the State  
4656 Department of Health shall establish and implement an Abstinence  
4657 Education Pilot Program to provide abstinence education,  
4658 mentoring, counseling and adult supervision to promote abstinence  
4659 from sexual activity, with a focus on those groups which are most  
4660 likely to bear children out of wedlock. Such abstinence education  
4661 services shall be provided by the State Department of Health  
4662 through its clinics, public health nurses, school nurses and  
4663 through contracts with rural and community health centers in order  
4664 to reach a larger number of targeted clients. For purposes of



4665 this subsection, the term "abstinence education" means an  
4666 educational or motivational program which:

4667 (a) Has as its exclusive purpose, teaching the social,  
4668 psychological and health gains to be realized by abstaining from  
4669 sexual activity;

4670 (b) Teaches abstinence from sexual activity outside  
4671 marriage as the expected standard for all school-age children;

4672 (c) Teaches that abstinence from sexual activity is the  
4673 only certain way to avoid out-of-wedlock pregnancy, sexually  
4674 transmitted diseases and other associated health problems;

4675 (d) Teaches that a mutually faithful monogamous  
4676 relationship in context of marriage is the expected standard of  
4677 human sexual activity;

4678 (e) Teaches that sexual activity outside of the context  
4679 of marriage is likely to have harmful psychological and physical  
4680 effects;

4681 (f) Teaches that bearing children out of wedlock is  
4682 likely to have harmful consequences for the child, the child's  
4683 parents and society;

4684 (g) Teaches young people how to reject sexual advances  
4685 and how alcohol and drug use increase vulnerability to sexual  
4686 advances; and

4687 (h) Teaches the importance of attaining  
4688 self-sufficiency before engaging in sexual activity.



4689           (7) Beginning with the 1998-1999 school year and pursuant to  
4690 appropriation therefor by the Legislature, in addition to other  
4691 funds allotted under the minimum education program, each school  
4692 district shall be allotted an additional teacher unit per every  
4693 one hundred (100) teacher units, for the purpose of employing  
4694 qualified public school nurses in such school district, which in  
4695 no event shall be less than one (1) teacher unit per school  
4696 district, for such purpose. In the event the Legislature provides  
4697 less funds than the total state funds needed for the public school  
4698 nurse allotment, those school districts with fewer teacher units  
4699 shall be the first funded for such purpose, to the extent of funds  
4700 available.

4701           (8) Prior to the 1998-1999 school year, nursing staff  
4702 assigned to the program shall be employed through the local county  
4703 health department and shall be subject to the supervision of the  
4704 State Department of Health with input from local school officials.  
4705 Local county health departments may contract with any  
4706 comprehensive private primary health care facilities within their  
4707 county to employ and utilize additional nursing staff. Beginning  
4708 with the 1998-1999 school year, nursing staff assigned to the  
4709 program shall be employed by the local school district and shall  
4710 be designated as "health service coordinators," and shall be  
4711 required to possess a bachelor's degree in nursing as a minimum  
4712 qualification.



4713           (9) Upon each student's enrollment, the parent or guardian  
4714 shall be provided with information regarding the scope of the  
4715 school nurse intervention program. The parent or guardian may  
4716 provide the school administration with a written statement  
4717 refusing all or any part of the nursing service. No child shall  
4718 be required to undergo hearing and vision or scoliosis screening  
4719 or any other physical examination or tests whose parent objects  
4720 thereto on the grounds such screening, physical examination or  
4721 tests are contrary to his sincerely held religious beliefs.

4722           (10) A consent form for reproductive health education shall  
4723 be sent to the parent or guardian of each student upon his  
4724 enrollment. If a response from the parent or guardian is not  
4725 received within seven (7) days after the consent form is sent, the  
4726 school shall send a letter to the student's home notifying the  
4727 parent or guardian of the consent form. If the parent or guardian  
4728 fails to respond to the letter within ten (10) days after it is  
4729 sent, then the school principal shall be authorized to allow the  
4730 student to receive reproductive health education. Reproductive  
4731 health education shall include the teaching of total abstinence  
4732 from premarital sex and, wherever practicable, reproductive health  
4733 education should be taught in classes divided according to gender.  
4734 All materials used in the reproductive health education program  
4735 shall be placed in a convenient and easily accessible location for  
4736 parental inspection. School nurses shall not dispense birth  
4737 control pills or contraceptive devices in the school. Dispensing



4738 of such shall be the responsibility of the State Department of  
4739 Health on a referral basis only.

4740 (11) No provision of this section shall be construed as  
4741 prohibiting local school districts from accepting financial  
4742 assistance of any type from the State of Mississippi or any other  
4743 governmental entity, or any contribution, donation, gift, decree  
4744 or bequest from any source which may be utilized for the  
4745 maintenance or implementation of a school nurse intervention  
4746 program in a public school system of this state.

4747 **SECTION 42.** Section 43-6-1, Mississippi Code of 1972, is  
4748 amended as follows:

4749 43-6-1. As used in this article, "blind," "totally blind,"  
4750 "visually \* \* \* impaired," and "partially blind" mean having  
4751 central visual acuity not to exceed 20/200 in the better eye, with  
4752 corrected lenses as measured by the Snellen test, or having visual  
4753 acuity greater than 20/200, but with a limitation in the field of  
4754 vision such that the widest diameter of the visual field subtends  
4755 an angle not greater than twenty (20) degrees.

4756 As used in this article, "deaf person" means a person who  
4757 cannot readily understand spoken language through hearing alone  
4758 with or without a hearing aid, and who may also have a speech  
4759 defect which renders his speech unintelligible to most people with  
4760 normal hearing.

4761 **SECTION 43.** Section 43-6-3, Mississippi Code of 1972, is  
4762 amended as follows:





4763           43-6-3. Blind persons, visually \* \* \* impaired persons, deaf  
4764 persons and other physically disabled persons shall have the same  
4765 right as the able-bodied to the full and free use of the streets,  
4766 highways, sidewalks, walkways, public buildings, public  
4767 facilities, and other public places.

4768           **SECTION 44.** Section 43-6-5, Mississippi Code of 1972, is  
4769 amended as follows:

4770           43-6-5. Blind persons, visually \* \* \* impaired persons, deaf  
4771 persons and other physically disabled persons shall be entitled to  
4772 full and equal access, as are other members of the general public,  
4773 to accommodations, advantages, facilities and privileges of all  
4774 common carriers, airplanes, motor vehicles, railroad trains,  
4775 motorbuses, streetcars, boats or any other public conveyances or  
4776 modes of transportation, hotels, lodging places, places of public  
4777 accommodation, amusement or resort, and other places to which the  
4778 general public is invited, subject only to the conditions and  
4779 limitations established by law, or state or federal regulation,  
4780 and applicable alike to all persons.

4781           **SECTION 45.** Section 43-6-13, Mississippi Code of 1972, is  
4782 amended as follows:

4783           43-6-13. Each year the Governor shall publicly proclaim  
4784 October 15 as White Cane Safety Day. He shall issue a  
4785 proclamation in which:

4786                   (a) Comments shall be made upon the significance of  
4787 this article.



4788 (b) Citizens of the state are called upon to observe  
4789 the provisions of this article and to take precautions necessary  
4790 to the safety of disabled persons.

4791 (c) Citizens of the state are reminded of the policies  
4792 with respect to disabled persons declared in this article and be  
4793 urged to cooperate in giving effect to them.

4794 (d) Emphasis shall be made on the need of the citizenry  
4795 to be aware of the presence of disabled persons in the community  
4796 and to keep safe and functional for the disabled the streets,  
4797 highways, sidewalks, walkways, public buildings, public  
4798 facilities, other public places, places of public accommodation,  
4799 amusement and resort, and other places to which the public is  
4800 invited, and to offer assistance to disabled persons upon  
4801 appropriate occasions.

4802 (e) It is the policy of this state to encourage and  
4803 enable blind persons, visually \* \* \* impaired persons, and other  
4804 physically disabled persons to participate fully in the social and  
4805 economic life of the state and to engage in remunerative  
4806 employment.

4807 **SECTION 46.** Section 43-6-15, Mississippi Code of 1972, is  
4808 amended as follows:

4809 43-6-15. No person shall be refused employment in state  
4810 services, the service of political subdivisions of the state, in  
4811 public schools, or any other employment supported, in whole or in  
4812 part, by public funds, by reason of his being blind,



4813 visually \* \* \* impaired, deaf, or otherwise physically \* \* \*  
4814 disabled, unless such disability \* \* \* materially affects the  
4815 performance of the work required by the job for which such person  
4816 applies.

4817         **SECTION 47.** Section 43-6-113, Mississippi Code of 1972, is  
4818 amended as follows:

4819             43-6-113. (1) An appropriate number of toilet rooms shall  
4820 be accessible to, and usable by, \* \* \* persons with physical  
4821 disabilities and shall have space to allow traffic of individuals  
4822 in wheelchairs.

4823             (2) Toilet rooms for each sex shall have at least one (1)  
4824 toilet stall that: (a) is three (3') feet wide; (b) is at least  
4825 four (4') feet eight (8") inches, preferably five (5') feet deep;  
4826 (c) has a door (where doors are used) that is thirty-two (32")  
4827 inches wide and swings out; (d) has handrails on each side,  
4828 thirty-three (33") inches high and parallel to the floor, one and  
4829 one-half (1½") inches in outside diameter, with one and one-half  
4830 (1½) inches clearance between rail and wall, and fastened securely  
4831 at ends and center; and (e) has a water closet with the seat  
4832 twenty (20") inches from the floor.

4833             (3) Such toilet rooms shall have at least one (1) lavatory  
4834 with a narrow apron, which when mounted at standard height is  
4835 usable by individuals in wheelchairs, or shall have lavatories  
4836 mounted higher, when particular designs demand, so that they are  
4837 usable by individuals in wheelchairs.



4838 (4) Mirrors and shelves shall be provided above such  
4839 lavatory at a height as low as practicable and no higher than  
4840 forty (40") inches above the floor, measured from the top of the  
4841 shelf and the bottom of the mirror.

4842 (5) Toilet rooms for men which have wall-mounted urinals  
4843 shall have an appropriate number of such urinals with the opening  
4844 of the basin nineteen (19") inches from the floor, or shall have  
4845 floor-mounted urinals that are on level with the main floor of the  
4846 toilet room.

4847 (6) Toilet rooms shall have an appropriate number of towel  
4848 racks, towel dispensers, and other dispensers and disposal units  
4849 mounted with openings of dispensers or receptacles no higher than  
4850 forty (40") inches from the floor.

4851 **SECTION 48.** Section 43-6-125, Mississippi Code of 1972, is  
4852 amended as follows:

4853 43-6-125. All public buildings constructed or remodeled in  
4854 accordance with the standards and requirements of Sections  
4855 43-6-101 through 43-6-123, or containing facilities that are in  
4856 compliance therewith, shall display a symbol which is white on a  
4857 blue background. The specifications for this symbol shall be  
4858 furnished by the State Board of Health indicating the location of  
4859 such facilities designed for \* \* \* persons with physical  
4860 disabilities. When a building contains an entrance other than the  
4861 main entrance which is ramped or level for use by \* \* \* persons  
4862 with physical disabilities, a sign showing its location shall be



4863 posted at or near the main entrance which shall be visible from  
4864 the adjacent public sidewalk or way.

4865           **SECTION 49.** Section 43-7-61, Mississippi Code of 1972, is  
4866 amended as follows:

4867           43-7-61. (1) The Office of the State Long-Term Care  
4868 Facilities Ombudsman shall establish a training and certification  
4869 program. The State Ombudsman shall specify by rule the content of  
4870 the training program. Each long-term care facilities ombudsman  
4871 program shall bear the cost of training its own employees.

4872           (2) The State Ombudsman shall establish minimum  
4873 qualifications and recertification requirements for  
4874 representatives of the Office of the State Long-Term Care  
4875 Facilities Ombudsman. Such training shall include instruction in  
4876 at least the following subjects as they relate to long-term care:

4877                   (a) The responsibilities and duties of community  
4878 ombudsmen;

4879                   (b) The laws and regulations governing the receipt,  
4880 investigation and resolution of issues of the well-being of a  
4881 resident;

4882                   (c) The role of local, state and federal agencies that  
4883 regulate long-term care facilities;

4884                   (d) The different kinds of long-term care facilities in  
4885 Mississippi and the services provided in each kind;

4886                   (e) The special needs of the elderly and of \* \* \*  
4887 persons with physical and mental disabilities;



4888 (f) The role of the family, the sponsor, the legal  
4889 representative, the physician, the church, and other public and  
4890 private agencies, and the community;

4891 (g) How to work with long-term care facility staff;

4892 (h) The aging process and characteristics of the  
4893 long-term care facility resident or institutionalized elderly;

4894 (i) Familiarity with and access to information  
4895 concerning the laws and regulations governing Medicare, Medicaid,  
4896 Social Security, Supplemental Security Income, the Veterans  
4897 Administration and Workers' Compensation; and

4898 (j) The training program shall include an appropriate  
4899 internship to be performed in a long-term care facility.

4900 (3) Persons selected by area agencies on aging who have  
4901 satisfactorily completed the training arranged by the State  
4902 Ombudsman shall be designated as representatives of the Office of  
4903 the State Long-Term Care Facilities Ombudsman by the State  
4904 Ombudsman.

4905 (4) Each area agency on aging may appoint an advisory  
4906 committee to advise it in the operation of its community ombudsman  
4907 program. The number and qualifications of members of the advisory  
4908 committee shall be determined by the area agency on aging.

4909 (5) Ombudsmen who have successfully completed the training  
4910 and certification program under this section shall be given  
4911 identification cards which shall be presented to employees of a  
4912 long-term care facility upon request.



4913           **SECTION 50.** Section 43-13-117, Mississippi Code of 1972, is  
4914 amended as follows:

4915           43-13-117. (A) Medicaid as authorized by this article shall  
4916 include payment of part or all of the costs, at the discretion of  
4917 the division, with approval of the Governor, of the following  
4918 types of care and services rendered to eligible applicants who  
4919 have been determined to be eligible for that care and services,  
4920 within the limits of state appropriations and federal matching  
4921 funds:

4922                   (1) Inpatient hospital services.

4923                           (a) The division shall allow thirty (30) days of  
4924 inpatient hospital care annually for all Medicaid recipients.  
4925 Medicaid recipients requiring transplants shall not have those  
4926 days included in the transplant hospital stay count against the  
4927 thirty-day limit for inpatient hospital care. Precertification of  
4928 inpatient days must be obtained as required by the division.

4929                           (b) From and after July 1, 1994, the Executive  
4930 Director of the Division of Medicaid shall amend the Mississippi  
4931 Title XIX Inpatient Hospital Reimbursement Plan to remove the  
4932 occupancy rate penalty from the calculation of the Medicaid  
4933 Capital Cost Component utilized to determine total hospital costs  
4934 allocated to the Medicaid program.

4935                           (c) Hospitals will receive an additional payment  
4936 for the implantable programmable baclofen drug pump used to treat  
4937 spasticity that is implanted on an inpatient basis. The payment



4938 pursuant to written invoice will be in addition to the facility's  
4939 per diem reimbursement and will represent a reduction of costs on  
4940 the facility's annual cost report, and shall not exceed Ten  
4941 Thousand Dollars (\$10,000.00) per year per recipient.

4942 (d) The division is authorized to implement an  
4943 All-Patient Refined-Diagnosis Related Groups (APR-DRG)  
4944 reimbursement methodology for inpatient hospital services.

4945 (e) No service benefits or reimbursement  
4946 limitations in this section shall apply to payments under an  
4947 APR-DRG or Ambulatory Payment Classification (APC) model or a  
4948 managed care program or similar model described in subsection (H)  
4949 of this section.

4950 (2) Outpatient hospital services.

4951 (a) Emergency services.

4952 (b) Other outpatient hospital services. The  
4953 division shall allow benefits for other medically necessary  
4954 outpatient hospital services (such as chemotherapy, radiation,  
4955 surgery and therapy), including outpatient services in a clinic or  
4956 other facility that is not located inside the hospital, but that  
4957 has been designated as an outpatient facility by the hospital, and  
4958 that was in operation or under construction on July 1, 2009,  
4959 provided that the costs and charges associated with the operation  
4960 of the hospital clinic are included in the hospital's cost report.  
4961 In addition, the Medicare thirty-five-mile rule will apply to  
4962 those hospital clinics not located inside the hospital that are





4963 constructed after July 1, 2009. Where the same services are  
4964 reimbursed as clinic services, the division may revise the rate or  
4965 methodology of outpatient reimbursement to maintain consistency,  
4966 efficiency, economy and quality of care.

4967 (c) The division is authorized to implement an  
4968 Ambulatory Payment Classification (APC) methodology for outpatient  
4969 hospital services.

4970 (d) No service benefits or reimbursement  
4971 limitations in this section shall apply to payments under an  
4972 APR-DRG or APC model or a managed care program or similar model  
4973 described in subsection (H) of this section.

4974 (3) Laboratory and x-ray services.

4975 (4) Nursing facility services.

4976 (a) The division shall make full payment to  
4977 nursing facilities for each day, not exceeding fifty-two (52) days  
4978 per year, that a patient is absent from the facility on home  
4979 leave. Payment may be made for the following home leave days in  
4980 addition to the fifty-two-day limitation: Christmas, the day  
4981 before Christmas, the day after Christmas, Thanksgiving, the day  
4982 before Thanksgiving and the day after Thanksgiving.

4983 (b) From and after July 1, 1997, the division  
4984 shall implement the integrated case-mix payment and quality  
4985 monitoring system, which includes the fair rental system for  
4986 property costs and in which recapture of depreciation is  
4987 eliminated. The division may reduce the payment for hospital



4988 leave and therapeutic home leave days to the lower of the case-mix  
4989 category as computed for the resident on leave using the  
4990 assessment being utilized for payment at that point in time, or a  
4991 case-mix score of 1.000 for nursing facilities, and shall compute  
4992 case-mix scores of residents so that only services provided at the  
4993 nursing facility are considered in calculating a facility's per  
4994 diem.

4995 (c) From and after July 1, 1997, all state-owned  
4996 nursing facilities shall be reimbursed on a full reasonable cost  
4997 basis.

4998 (d) On or after January 1, 2015, the division  
4999 shall update the case-mix payment system resource utilization  
5000 grouper and classifications and fair rental reimbursement system.  
5001 The division shall develop and implement a payment add-on to  
5002 reimburse nursing facilities for ventilator dependent resident  
5003 services.

5004 (e) The division shall develop and implement, not  
5005 later than January 1, 2001, a case-mix payment add-on determined  
5006 by time studies and other valid statistical data that will  
5007 reimburse a nursing facility for the additional cost of caring for  
5008 a resident who has a diagnosis of Alzheimer's or other related  
5009 dementia and exhibits symptoms that require special care. Any  
5010 such case-mix add-on payment shall be supported by a determination  
5011 of additional cost. The division shall also develop and implement  
5012 as part of the fair rental reimbursement system for nursing



5013 facility beds, an Alzheimer's resident bed depreciation enhanced  
5014 reimbursement system that will provide an incentive to encourage  
5015 nursing facilities to convert or construct beds for residents with  
5016 Alzheimer's or other related dementia.

5017 (f) The division shall develop and implement an  
5018 assessment process for long-term care services. The division may  
5019 provide the assessment and related functions directly or through  
5020 contract with the area agencies on aging.

5021 The division shall apply for necessary federal waivers to  
5022 assure that additional services providing alternatives to nursing  
5023 facility care are made available to applicants for nursing  
5024 facility care.

5025 (5) Periodic screening and diagnostic services for  
5026 individuals under age twenty-one (21) years as are needed to  
5027 identify physical and mental defects and to provide health care  
5028 treatment and other measures designed to correct or ameliorate  
5029 defects and physical and mental illness and conditions discovered  
5030 by the screening services, regardless of whether these services  
5031 are included in the state plan. The division may include in its  
5032 periodic screening and diagnostic program those discretionary  
5033 services authorized under the federal regulations adopted to  
5034 implement Title XIX of the federal Social Security Act, as  
5035 amended. The division, in obtaining physical therapy services,  
5036 occupational therapy services, and services for individuals with  
5037 speech, hearing and language disorders, may enter into a



5038 cooperative agreement with the State Department of Education for  
5039 the provision of those services to \* \* \* students with  
5040 disabilities by public school districts using state funds that are  
5041 provided from the appropriation to the Department of Education to  
5042 obtain federal matching funds through the division. The division,  
5043 in obtaining medical and mental health assessments, treatment,  
5044 care and services for children who are in, or at risk of being put  
5045 in, the custody of the Mississippi Department of Human Services  
5046 may enter into a cooperative agreement with the Mississippi  
5047 Department of Human Services for the provision of those services  
5048 using state funds that are provided from the appropriation to the  
5049 Department of Human Services to obtain federal matching funds  
5050 through the division.

5051 (6) Physician's services. The division shall allow  
5052 twelve (12) physician visits annually. The division may develop  
5053 and implement a different reimbursement model or schedule for  
5054 physician's services provided by physicians based at an academic  
5055 health care center and by physicians at rural health centers that  
5056 are associated with an academic health care center. From and  
5057 after January 1, 2010, all fees for physician's services that are  
5058 covered only by Medicaid shall be increased to ninety percent  
5059 (90%) of the rate established on January 1, 2010, and as may be  
5060 adjusted each July thereafter, under Medicare. The division may  
5061 provide for a reimbursement rate for physician's services of up to  
5062 one hundred percent (100%) of the rate established under Medicare



5063 for physician's services that are provided after the normal  
5064 working hours of the physician, as determined in accordance with  
5065 regulations of the division. The division may reimburse eligible  
5066 providers as determined by the Patient Protection and Affordable  
5067 Care Act for certain primary care services as defined by the act  
5068 at one hundred percent (100%) of the rate established under  
5069 Medicare.

5070 (7) (a) Home health services for eligible persons, not  
5071 to exceed in cost the prevailing cost of nursing facility  
5072 services, not to exceed twenty-five (25) visits per year. All  
5073 home health visits must be precertified as required by the  
5074 division.

5075 (b) [Repealed]

5076 (8) Emergency medical transportation services. On  
5077 January 1, 1994, emergency medical transportation services shall  
5078 be reimbursed at seventy percent (70%) of the rate established  
5079 under Medicare (Title XVIII of the federal Social Security Act, as  
5080 amended). "Emergency medical transportation services" shall mean,  
5081 but shall not be limited to, the following services by a properly  
5082 permitted ambulance operated by a properly licensed provider in  
5083 accordance with the Emergency Medical Services Act of 1974  
5084 (Section 41-59-1 et seq.): (i) basic life support, (ii) advanced  
5085 life support, (iii) mileage, (iv) oxygen, (v) intravenous fluids,  
5086 (vi) disposable supplies, (vii) similar services.



5087                   (9)   (a)   Legend and other drugs as may be determined by  
5088 the division.

5089                   The division shall establish a mandatory preferred drug list.  
5090 Drugs not on the mandatory preferred drug list shall be made  
5091 available by utilizing prior authorization procedures established  
5092 by the division.

5093                   The division may seek to establish relationships with other  
5094 states in order to lower acquisition costs of prescription drugs  
5095 to include single source and innovator multiple source drugs or  
5096 generic drugs. In addition, if allowed by federal law or  
5097 regulation, the division may seek to establish relationships with  
5098 and negotiate with other countries to facilitate the acquisition  
5099 of prescription drugs to include single source and innovator  
5100 multiple source drugs or generic drugs, if that will lower the  
5101 acquisition costs of those prescription drugs.

5102                   The division shall allow for a combination of prescriptions  
5103 for single source and innovator multiple source drugs and generic  
5104 drugs to meet the needs of the beneficiaries, not to exceed five  
5105 (5) prescriptions per month for each noninstitutionalized Medicaid  
5106 beneficiary, with not more than two (2) of those prescriptions  
5107 being for single source or innovator multiple source drugs unless  
5108 the single source or innovator multiple source drug is less  
5109 expensive than the generic equivalent.



5110           The executive director may approve specific maintenance drugs  
5111 for beneficiaries with certain medical conditions, which may be  
5112 prescribed and dispensed in three-month supply increments.

5113           Drugs prescribed for a resident of a psychiatric residential  
5114 treatment facility must be provided in true unit doses when  
5115 available. The division may require that drugs not covered by  
5116 Medicare Part D for a resident of a long-term care facility be  
5117 provided in true unit doses when available. Those drugs that were  
5118 originally billed to the division but are not used by a resident  
5119 in any of those facilities shall be returned to the billing  
5120 pharmacy for credit to the division, in accordance with the  
5121 guidelines of the State Board of Pharmacy and any requirements of  
5122 federal law and regulation. Drugs shall be dispensed to a  
5123 recipient and only one (1) dispensing fee per month may be  
5124 charged. The division shall develop a methodology for reimbursing  
5125 for restocked drugs, which shall include a restock fee as  
5126 determined by the division not exceeding Seven Dollars and  
5127 Eighty-two Cents (\$7.82).

5128           The voluntary preferred drug list shall be expanded to  
5129 function in the interim in order to have a manageable prior  
5130 authorization system, thereby minimizing disruption of service to  
5131 beneficiaries.

5132           Except for those specific maintenance drugs approved by the  
5133 executive director, the division shall not reimburse for any



5134 portion of a prescription that exceeds a thirty-one-day supply of  
5135 the drug based on the daily dosage.

5136 The division shall develop and implement a program of payment  
5137 for additional pharmacist services, with payment to be based on  
5138 demonstrated savings, but in no case shall the total payment  
5139 exceed twice the amount of the dispensing fee.

5140 All claims for drugs for dually eligible Medicare/Medicaid  
5141 beneficiaries that are paid for by Medicare must be submitted to  
5142 Medicare for payment before they may be processed by the  
5143 division's online payment system.

5144 The division shall develop a pharmacy policy in which drugs  
5145 in tamper-resistant packaging that are prescribed for a resident  
5146 of a nursing facility but are not dispensed to the resident shall  
5147 be returned to the pharmacy and not billed to Medicaid, in  
5148 accordance with guidelines of the State Board of Pharmacy.

5149 The division shall develop and implement a method or methods  
5150 by which the division will provide on a regular basis to Medicaid  
5151 providers who are authorized to prescribe drugs, information about  
5152 the costs to the Medicaid program of single source drugs and  
5153 innovator multiple source drugs, and information about other drugs  
5154 that may be prescribed as alternatives to those single source  
5155 drugs and innovator multiple source drugs and the costs to the  
5156 Medicaid program of those alternative drugs.

5157 Notwithstanding any law or regulation, information obtained  
5158 or maintained by the division regarding the prescription drug





5159 program, including trade secrets and manufacturer or labeler  
5160 pricing, is confidential and not subject to disclosure except to  
5161 other state agencies.

5162 (b) Payment by the division for covered  
5163 multisource drugs shall be limited to the lower of the upper  
5164 limits established and published by the Centers for Medicare and  
5165 Medicaid Services (CMS) plus a dispensing fee, or the estimated  
5166 acquisition cost (EAC) as determined by the division, plus a  
5167 dispensing fee, or the providers' usual and customary charge to  
5168 the general public.

5169 Payment for other covered drugs, other than multisource drugs  
5170 with CMS upper limits, shall not exceed the lower of the estimated  
5171 acquisition cost as determined by the division, plus a dispensing  
5172 fee or the providers' usual and customary charge to the general  
5173 public.

5174 Payment for nonlegend or over-the-counter drugs covered by  
5175 the division shall be reimbursed at the lower of the division's  
5176 estimated shelf price or the providers' usual and customary charge  
5177 to the general public.

5178 The dispensing fee for each new or refill prescription,  
5179 including nonlegend or over-the-counter drugs covered by the  
5180 division, shall be not less than Three Dollars and Ninety-one  
5181 Cents (\$3.91), as determined by the division.

5182 The division shall not reimburse for single source or  
5183 innovator multiple source drugs if there are equally effective



5184 generic equivalents available and if the generic equivalents are  
5185 the least expensive.

5186         It is the intent of the Legislature that the pharmacists  
5187 providers be reimbursed for the reasonable costs of filling and  
5188 dispensing prescriptions for Medicaid beneficiaries.

5189             (10) (a) Dental care that is an adjunct to treatment  
5190 of an acute medical or surgical condition; services of oral  
5191 surgeons and dentists in connection with surgery related to the  
5192 jaw or any structure contiguous to the jaw or the reduction of any  
5193 fracture of the jaw or any facial bone; and emergency dental  
5194 extractions and treatment related thereto. On July 1, 2007, fees  
5195 for dental care and surgery under authority of this paragraph (10)  
5196 shall be reimbursed as provided in subparagraph (b). It is the  
5197 intent of the Legislature that this rate revision for dental  
5198 services will be an incentive designed to increase the number of  
5199 dentists who actively provide Medicaid services. This dental  
5200 services rate revision shall be known as the "James Russell Dumas  
5201 Medicaid Dental Incentive Program."

5202         The division shall annually determine the effect of this  
5203 incentive by evaluating the number of dentists who are Medicaid  
5204 providers, the number who and the degree to which they are  
5205 actively billing Medicaid, the geographic trends of where dentists  
5206 are offering what types of Medicaid services and other statistics  
5207 pertinent to the goals of this legislative intent. This data



5208 shall be presented to the Chair of the Senate Public Health and  
5209 Welfare Committee and the Chair of the House Medicaid Committee.

5210 (b) The Division of Medicaid shall establish a fee  
5211 schedule, to be effective from and after July 1, 2007, for dental  
5212 services. The schedule shall provide for a fee for each dental  
5213 service that is equal to a percentile of normal and customary  
5214 private provider fees, as defined by the Ingenix Customized Fee  
5215 Analyzer Report, which percentile shall be determined by the  
5216 division. The schedule shall be reviewed annually by the division  
5217 and dental fees shall be adjusted to reflect the percentile  
5218 determined by the division.

5219 (c) For fiscal year 2008, the amount of state  
5220 funds appropriated for reimbursement for dental care and surgery  
5221 shall be increased by ten percent (10%) of the amount of state  
5222 fund expenditures for that purpose for fiscal year 2007. For each  
5223 of fiscal years 2009 and 2010, the amount of state funds  
5224 appropriated for reimbursement for dental care and surgery shall  
5225 be increased by ten percent (10%) of the amount of state fund  
5226 expenditures for that purpose for the preceding fiscal year.

5227 (d) The division shall establish an annual benefit  
5228 limit of Two Thousand Five Hundred Dollars (\$2,500.00) in dental  
5229 expenditures per Medicaid-eligible recipient; however, a recipient  
5230 may exceed the annual limit on dental expenditures provided in  
5231 this paragraph with prior approval of the division.



5232 (e) The division shall include dental services as  
5233 a necessary component of overall health services provided to  
5234 children who are eligible for services.

5235 (f) This paragraph (10) shall stand repealed on  
5236 July 1, 2016.

5237 (11) Eyeglasses for all Medicaid beneficiaries who have  
5238 (a) had surgery on the eyeball or ocular muscle that results in a  
5239 vision change for which eyeglasses or a change in eyeglasses is  
5240 medically indicated within six (6) months of the surgery and is in  
5241 accordance with policies established by the division, or (b) one  
5242 (1) pair every five (5) years and in accordance with policies  
5243 established by the division. In either instance, the eyeglasses  
5244 must be prescribed by a physician skilled in diseases of the eye  
5245 or an optometrist, whichever the beneficiary may select.

5246 (12) Intermediate care facility services.

5247 (a) The division shall make full payment to all  
5248 intermediate care facilities for individuals with intellectual  
5249 disabilities for each day, not exceeding eighty-four (84) days per  
5250 year, that a patient is absent from the facility on home leave.  
5251 Payment may be made for the following home leave days in addition  
5252 to the eighty-four-day limitation: Christmas, the day before  
5253 Christmas, the day after Christmas, Thanksgiving, the day before  
5254 Thanksgiving and the day after Thanksgiving.



5255 (b) All state-owned intermediate care facilities  
5256 for individuals with intellectual disabilities shall be reimbursed  
5257 on a full reasonable cost basis.

5258 (c) Effective January 1, 2015, the division shall  
5259 update the fair rental reimbursement system for intermediate care  
5260 facilities for individuals with intellectual disabilities.

5261 (13) Family planning services, including drugs,  
5262 supplies and devices, when those services are under the  
5263 supervision of a physician or nurse practitioner.

5264 (14) Clinic services. Such diagnostic, preventive,  
5265 therapeutic, rehabilitative or palliative services furnished to an  
5266 outpatient by or under the supervision of a physician or dentist  
5267 in a facility that is not a part of a hospital but that is  
5268 organized and operated to provide medical care to outpatients.  
5269 Clinic services shall include any services reimbursed as  
5270 outpatient hospital services that may be rendered in such a  
5271 facility, including those that become so after July 1, 1991. On  
5272 July 1, 1999, all fees for physicians' services reimbursed under  
5273 authority of this paragraph (14) shall be reimbursed at ninety  
5274 percent (90%) of the rate established on January 1, 1999, and as  
5275 may be adjusted each July thereafter, under Medicare (Title XVIII  
5276 of the federal Social Security Act, as amended). The division may  
5277 develop and implement a different reimbursement model or schedule  
5278 for physician's services provided by physicians based at an  
5279 academic health care center and by physicians at rural health



5280 centers that are associated with an academic health care center.  
5281 The division may provide for a reimbursement rate for physician's  
5282 clinic services of up to one hundred percent (100%) of the rate  
5283 established under Medicare for physician's services that are  
5284 provided after the normal working hours of the physician, as  
5285 determined in accordance with regulations of the division.

5286 (15) Home- and community-based services for the elderly  
5287 and disabled, as provided under Title XIX of the federal Social  
5288 Security Act, as amended, under waivers, subject to the  
5289 availability of funds specifically appropriated for that purpose  
5290 by the Legislature.

5291 The Division of Medicaid is directed to apply for a waiver  
5292 amendment to increase payments for all adult day care facilities  
5293 based on acuity of individual patients, with a maximum of  
5294 Seventy-five Dollars (\$75.00) per day for the most acute patients.

5295 (16) Mental health services. Approved therapeutic and  
5296 case management services (a) provided by an approved regional  
5297 mental health/intellectual disability center established under  
5298 Sections 41-19-31 through 41-19-39, or by another community mental  
5299 health service provider meeting the requirements of the Department  
5300 of Mental Health to be an approved mental health/intellectual  
5301 disability center if determined necessary by the Department of  
5302 Mental Health, using state funds that are provided in the  
5303 appropriation to the division to match federal funds, or (b)  
5304 provided by a facility that is certified by the State Department



5305 of Mental Health to provide therapeutic and case management  
5306 services, to be reimbursed on a fee for service basis, or (c)  
5307 provided in the community by a facility or program operated by the  
5308 Department of Mental Health. Any such services provided by a  
5309 facility described in subparagraph (b) must have the prior  
5310 approval of the division to be reimbursable under this  
5311 section. \* \* \*

5312 (17) Durable medical equipment services and medical  
5313 supplies. Precertification of durable medical equipment and  
5314 medical supplies must be obtained as required by the division.  
5315 The Division of Medicaid may require durable medical equipment  
5316 providers to obtain a surety bond in the amount and to the  
5317 specifications as established by the Balanced Budget Act of 1997.

5318 (18) (a) Notwithstanding any other provision of this  
5319 section to the contrary, as provided in the Medicaid state plan  
5320 amendment or amendments as defined in Section 43-13-145(10), the  
5321 division shall make additional reimbursement to hospitals that  
5322 serve a disproportionate share of low-income patients and that  
5323 meet the federal requirements for those payments as provided in  
5324 Section 1923 of the federal Social Security Act and any applicable  
5325 regulations. It is the intent of the Legislature that the  
5326 division shall draw down all available federal funds allotted to  
5327 the state for disproportionate share hospitals. However, from and  
5328 after January 1, 1999, public hospitals participating in the  
5329 Medicaid disproportionate share program may be required to



5330 participate in an intergovernmental transfer program as provided  
5331 in Section 1903 of the federal Social Security Act and any  
5332 applicable regulations.

5333                   (b) The division shall establish a Medicare Upper  
5334 Payment Limits Program, as defined in Section 1902(a)(30) of the  
5335 federal Social Security Act and any applicable federal  
5336 regulations, for hospitals, and may establish a Medicare Upper  
5337 Payment Limits Program for nursing facilities, and may establish a  
5338 Medicare Upper Payment Limits Program for physicians employed or  
5339 contracted by public hospitals. Upon successful implementation of  
5340 a Medicare Upper Payment Limits Program for physicians employed by  
5341 public hospitals, the division may develop a plan for implementing  
5342 an Upper Payment Limits Program for physicians employed by other  
5343 classes of hospitals. The division shall assess each hospital  
5344 and, if the program is established for nursing facilities, shall  
5345 assess each nursing facility, for the sole purpose of financing  
5346 the state portion of the Medicare Upper Payment Limits Program.  
5347 The hospital assessment shall be as provided in Section  
5348 43-13-145(4)(a) and the nursing facility assessment, if  
5349 established, shall be based on Medicaid utilization or other  
5350 appropriate method consistent with federal regulations. The  
5351 assessment will remain in effect as long as the state participates  
5352 in the Medicare Upper Payment Limits Program. Public hospitals  
5353 with physicians participating in the Medicare Upper Payment Limits  
5354 Program shall be required to participate in an intergovernmental





5355 transfer program. As provided in the Medicaid state plan  
5356 amendment or amendments as defined in Section 43-13-145(10), the  
5357 division shall make additional reimbursement to hospitals and, if  
5358 the program is established for nursing facilities, shall make  
5359 additional reimbursement to nursing facilities, for the Medicare  
5360 Upper Payment Limits, and, if the program is established for  
5361 physicians, shall make additional reimbursement for physicians, as  
5362 defined in Section 1902(a)(30) of the federal Social Security Act  
5363 and any applicable federal regulations. Effective upon  
5364 implementation of the Mississippi Hospital Access Program (MHAP)  
5365 provided in subparagraph (c)(i) below, the hospital portion of the  
5366 inpatient Upper Payment Limits Program shall transition into and  
5367 be replaced by the MHAP program.

5368 (c) (i) Not later than December 1, 2015, the  
5369 division shall, subject to approval by the Centers for Medicare  
5370 and Medicaid Services (CMS), establish, implement and operate a  
5371 Mississippi Hospital Access Program (MHAP) for the purpose of  
5372 protecting patient access to hospital care through hospital  
5373 inpatient reimbursement programs provided in this section designed  
5374 to maintain total hospital reimbursement for inpatient services  
5375 rendered by in-state hospitals and the out-of-state hospital that  
5376 is authorized by federal law to submit intergovernmental transfers  
5377 (IGTs) to the State of Mississippi and is classified as Level I  
5378 trauma center located in a county contiguous to the state line at  
5379 the maximum levels permissible under applicable federal statutes



5380 and regulations, at which time the current inpatient Medicare  
5381 Upper Payment Limits (UPL) Program for hospital inpatient services  
5382 shall transition to the MHAP.

5383 (ii) Subject only to approval by the Centers  
5384 for Medicare and Medicaid Services (CMS) where required, the MHAP  
5385 shall provide increased inpatient capitation (PMPM) payments to  
5386 managed care entities contracting with the division pursuant to  
5387 subsection (H) of this section to support availability of hospital  
5388 services or such other payments permissible under federal law  
5389 necessary to accomplish the intent of this subsection. For  
5390 inpatient services rendered after July 1, 2015, but prior to the  
5391 effective date of CMS approval and full implementation of this  
5392 program, the division may pay lump-sum enhanced, transition  
5393 payments, prorated inpatient UPL payments based upon fiscal year  
5394 2015 June distribution levels, enhanced hospital access (PMPM)  
5395 payments or such other methodologies as are approved by CMS such  
5396 that the level of additional reimbursement required by this  
5397 section is paid for all Medicaid hospital inpatient services  
5398 delivered in fiscal year 2016.

5399 (iii) The intent of this subparagraph (c) is  
5400 that effective for all inpatient hospital Medicaid services during  
5401 state fiscal year 2016, and so long as this provision shall remain  
5402 in effect hereafter, the division shall to the fullest extent  
5403 feasible replace the additional reimbursement for hospital



5404 inpatient services under the inpatient Medicare Upper Payment  
5405 Limits (UPL) Program with additional reimbursement under the MHAP.

5406 (iv) The division shall assess each hospital  
5407 as provided in Section 43-13-145(4) (a) for the purpose of  
5408 financing the state portion of the MHAP and such other purposes as  
5409 specified in Section 43-13-145. The assessment will remain in  
5410 effect as long as the MHAP is in effect.

5411 (v) In the event that the MHAP program under  
5412 this subparagraph (c) is not approved by CMS, the inpatient UPL  
5413 program under subparagraph (b) shall immediately become restored  
5414 in the manner required to provide the maximum permissible level of  
5415 UPL payments to hospital providers for all inpatient services  
5416 rendered from and after July 1, 2015.

5417 (19) (a) Perinatal risk management services. The  
5418 division shall promulgate regulations to be effective from and  
5419 after October 1, 1988, to establish a comprehensive perinatal  
5420 system for risk assessment of all pregnant and infant Medicaid  
5421 recipients and for management, education and follow-up for those  
5422 who are determined to be at risk. Services to be performed  
5423 include case management, nutrition assessment/counseling,  
5424 psychosocial assessment/counseling and health education. The  
5425 division shall contract with the State Department of Health to  
5426 provide the services within this paragraph (Perinatal High Risk  
5427 Management/Infant Services System (PHRM/ISS)). The State



5428 Department of Health as the agency for PHRM/ISS for the Division  
5429 of Medicaid shall be reimbursed on a full reasonable cost basis.

5430 (b) Early intervention system services. The  
5431 division shall cooperate with the State Department of Health,  
5432 acting as lead agency, in the development and implementation of a  
5433 statewide system of delivery of early intervention services, under  
5434 Part C of the Individuals with Disabilities Education Act (IDEA).  
5435 The State Department of Health shall certify annually in writing  
5436 to the executive director of the division the dollar amount of  
5437 state early intervention funds available that will be utilized as  
5438 a certified match for Medicaid matching funds. Those funds then  
5439 shall be used to provide expanded targeted case management  
5440 services for Medicaid eligible children with special needs who are  
5441 eligible for the state's early intervention system.  
5442 Qualifications for persons providing service coordination shall be  
5443 determined by the State Department of Health and the Division of  
5444 Medicaid.

5445 (20) Home- and community-based services for physically  
5446 disabled approved services as allowed by a waiver from the United  
5447 States Department of Health and Human Services for home- and  
5448 community-based services for physically disabled people using  
5449 state funds that are provided from the appropriation to the State  
5450 Department of Rehabilitation Services and used to match federal  
5451 funds under a cooperative agreement between the division and the  
5452 department, provided that funds for these services are



5453 specifically appropriated to the Department of Rehabilitation  
5454 Services.

5455           (21) Nurse practitioner services. Services furnished  
5456 by a registered nurse who is licensed and certified by the  
5457 Mississippi Board of Nursing as a nurse practitioner, including,  
5458 but not limited to, nurse anesthetists, nurse midwives, family  
5459 nurse practitioners, family planning nurse practitioners,  
5460 pediatric nurse practitioners, obstetrics-gynecology nurse  
5461 practitioners and neonatal nurse practitioners, under regulations  
5462 adopted by the division. Reimbursement for those services shall  
5463 not exceed ninety percent (90%) of the reimbursement rate for  
5464 comparable services rendered by a physician. The division may  
5465 provide for a reimbursement rate for nurse practitioner services  
5466 of up to one hundred percent (100%) of the reimbursement rate for  
5467 comparable services rendered by a physician for nurse practitioner  
5468 services that are provided after the normal working hours of the  
5469 nurse practitioner, as determined in accordance with regulations  
5470 of the division.

5471           (22) Ambulatory services delivered in federally  
5472 qualified health centers, rural health centers and clinics of the  
5473 local health departments of the State Department of Health for  
5474 individuals eligible for Medicaid under this article based on  
5475 reasonable costs as determined by the division.

5476           (23) Inpatient psychiatric services. Inpatient  
5477 psychiatric services to be determined by the division for



5478 recipients under age twenty-one (21) that are provided under the  
5479 direction of a physician in an inpatient program in a licensed  
5480 acute care psychiatric facility or in a licensed psychiatric  
5481 residential treatment facility, before the recipient reaches age  
5482 twenty-one (21) or, if the recipient was receiving the services  
5483 immediately before he or she reached age twenty-one (21), before  
5484 the earlier of the date he or she no longer requires the services  
5485 or the date he or she reaches age twenty-two (22), as provided by  
5486 federal regulations. From and after January 1, 2015, the division  
5487 shall update the fair rental reimbursement system for psychiatric  
5488 residential treatment facilities. Precertification of inpatient  
5489 days and residential treatment days must be obtained as required  
5490 by the division. From and after July 1, 2009, all state-owned and  
5491 state-operated facilities that provide inpatient psychiatric  
5492 services to persons under age twenty-one (21) who are eligible for  
5493 Medicaid reimbursement shall be reimbursed for those services on a  
5494 full reasonable cost basis.

5495 (24) [Deleted]

5496 (25) [Deleted]

5497 (26) Hospice care. As used in this paragraph, the term  
5498 "hospice care" means a coordinated program of active professional  
5499 medical attention within the home and outpatient and inpatient  
5500 care that treats the terminally ill patient and family as a unit,  
5501 employing a medically directed interdisciplinary team. The  
5502 program provides relief of severe pain or other physical symptoms



5503 and supportive care to meet the special needs arising out of  
5504 physical, psychological, spiritual, social and economic stresses  
5505 that are experienced during the final stages of illness and during  
5506 dying and bereavement and meets the Medicare requirements for  
5507 participation as a hospice as provided in federal regulations.

5508 (27) Group health plan premiums and cost-sharing if it  
5509 is cost-effective as defined by the United States Secretary of  
5510 Health and Human Services.

5511 (28) Other health insurance premiums that are  
5512 cost-effective as defined by the United States Secretary of Health  
5513 and Human Services. Medicare eligible must have Medicare Part B  
5514 before other insurance premiums can be paid.

5515 (29) The Division of Medicaid may apply for a waiver  
5516 from the United States Department of Health and Human Services for  
5517 home- and community-based services for developmentally disabled  
5518 people using state funds that are provided from the appropriation  
5519 to the State Department of Mental Health and/or funds transferred  
5520 to the department by a political subdivision or instrumentality of  
5521 the state and used to match federal funds under a cooperative  
5522 agreement between the division and the department, provided that  
5523 funds for these services are specifically appropriated to the  
5524 Department of Mental Health and/or transferred to the department  
5525 by a political subdivision or instrumentality of the state.

5526 (30) Pediatric skilled nursing services for eligible  
5527 persons under twenty-one (21) years of age.



5528           (31) Targeted case management services for children  
5529 with special needs, under waivers from the United States  
5530 Department of Health and Human Services, using state funds that  
5531 are provided from the appropriation to the Mississippi Department  
5532 of Human Services and used to match federal funds under a  
5533 cooperative agreement between the division and the department.

5534           (32) Care and services provided in Christian Science  
5535 Sanatoria listed and certified by the Commission for Accreditation  
5536 of Christian Science Nursing Organizations/Facilities, Inc.,  
5537 rendered in connection with treatment by prayer or spiritual means  
5538 to the extent that those services are subject to reimbursement  
5539 under Section 1903 of the federal Social Security Act.

5540           (33) Podiatrist services.

5541           (34) Assisted living services as provided through  
5542 home- and community-based services under Title XIX of the federal  
5543 Social Security Act, as amended, subject to the availability of  
5544 funds specifically appropriated for that purpose by the  
5545 Legislature.

5546           (35) Services and activities authorized in Sections  
5547 43-27-101 and 43-27-103, using state funds that are provided from  
5548 the appropriation to the Mississippi Department of Human Services  
5549 and used to match federal funds under a cooperative agreement  
5550 between the division and the department.

5551           (36) Nonemergency transportation services for  
5552 Medicaid-eligible persons, to be provided by the Division of





5553 Medicaid. The division may contract with additional entities to  
5554 administer nonemergency transportation services as it deems  
5555 necessary. All providers shall have a valid driver's license,  
5556 vehicle inspection sticker, valid vehicle license tags and a  
5557 standard liability insurance policy covering the vehicle. The  
5558 division may pay providers a flat fee based on mileage tiers, or  
5559 in the alternative, may reimburse on actual miles traveled. The  
5560 division may apply to the Center for Medicare and Medicaid  
5561 Services (CMS) for a waiver to draw federal matching funds for  
5562 nonemergency transportation services as a covered service instead  
5563 of an administrative cost. The PEER Committee shall conduct a  
5564 performance evaluation of the nonemergency transportation program  
5565 to evaluate the administration of the program and the providers of  
5566 transportation services to determine the most cost-effective ways  
5567 of providing nonemergency transportation services to the patients  
5568 served under the program. The performance evaluation shall be  
5569 completed and provided to the members of the Senate Public Health  
5570 and Welfare Committee and the House Medicaid Committee not later  
5571 than January 15, 2008.

5572 (37) [Deleted]

5573 (38) Chiropractic services. A chiropractor's manual  
5574 manipulation of the spine to correct a subluxation, if x-ray  
5575 demonstrates that a subluxation exists and if the subluxation has  
5576 resulted in a neuromusculoskeletal condition for which  
5577 manipulation is appropriate treatment, and related spinal x-rays



5578 performed to document these conditions. Reimbursement for  
5579 chiropractic services shall not exceed Seven Hundred Dollars  
5580 (\$700.00) per year per beneficiary.

5581 (39) Dually eligible Medicare/Medicaid beneficiaries.  
5582 The division shall pay the Medicare deductible and coinsurance  
5583 amounts for services available under Medicare, as determined by  
5584 the division. From and after July 1, 2009, the division shall  
5585 reimburse crossover claims for inpatient hospital services and  
5586 crossover claims covered under Medicare Part B in the same manner  
5587 that was in effect on January 1, 2008, unless specifically  
5588 authorized by the Legislature to change this method.

5589 (40) [Deleted]

5590 (41) Services provided by the State Department of  
5591 Rehabilitation Services for the care and rehabilitation of persons  
5592 with spinal cord injuries or traumatic brain injuries, as allowed  
5593 under waivers from the United States Department of Health and  
5594 Human Services, using up to seventy-five percent (75%) of the  
5595 funds that are appropriated to the Department of Rehabilitation  
5596 Services from the Spinal Cord and Head Injury Trust Fund  
5597 established under Section 37-33-261 and used to match federal  
5598 funds under a cooperative agreement between the division and the  
5599 department.

5600 (42) Notwithstanding any other provision in this  
5601 article to the contrary, the division may develop a population  
5602 health management program for women and children health services



5603 through the age of one (1) year. This program is primarily for  
5604 obstetrical care associated with low birth weight and preterm  
5605 babies. The division may apply to the federal Centers for  
5606 Medicare and Medicaid Services (CMS) for a Section 1115 waiver or  
5607 any other waivers that may enhance the program. In order to  
5608 effect cost savings, the division may develop a revised payment  
5609 methodology that may include at-risk capitated payments, and may  
5610 require member participation in accordance with the terms and  
5611 conditions of an approved federal waiver.

5612 (43) The division shall provide reimbursement,  
5613 according to a payment schedule developed by the division, for  
5614 smoking cessation medications for pregnant women during their  
5615 pregnancy and other Medicaid-eligible women who are of  
5616 child-bearing age.

5617 (44) Nursing facility services for the severely  
5618 disabled.

5619 (a) Severe disabilities include, but are not  
5620 limited to, spinal cord injuries, closed-head injuries and  
5621 ventilator dependent patients.

5622 (b) Those services must be provided in a long-term  
5623 care nursing facility dedicated to the care and treatment of  
5624 persons with severe disabilities.

5625 (45) Physician assistant services. Services furnished  
5626 by a physician assistant who is licensed by the State Board of  
5627 Medical Licensure and is practicing with physician supervision



5628 under regulations adopted by the board, under regulations adopted  
5629 by the division. Reimbursement for those services shall not  
5630 exceed ninety percent (90%) of the reimbursement rate for  
5631 comparable services rendered by a physician. The division may  
5632 provide for a reimbursement rate for physician assistant services  
5633 of up to one hundred percent (100%) or the reimbursement rate for  
5634 comparable services rendered by a physician for physician  
5635 assistant services that are provided after the normal working  
5636 hours of the physician assistant, as determined in accordance with  
5637 regulations of the division.

5638 (46) The division shall make application to the federal  
5639 Centers for Medicare and Medicaid Services (CMS) for a waiver to  
5640 develop and provide services for children with serious emotional  
5641 disturbances as defined in Section 43-14-1(1), which may include  
5642 home- and community-based services, case management services or  
5643 managed care services through mental health providers certified by  
5644 the Department of Mental Health. The division may implement and  
5645 provide services under this waived program only if funds for  
5646 these services are specifically appropriated for this purpose by  
5647 the Legislature, or if funds are voluntarily provided by affected  
5648 agencies.

5649 (47) (a) Notwithstanding any other provision in this  
5650 article to the contrary, the division may develop and implement  
5651 disease management programs for individuals with high-cost chronic



5652 diseases and conditions, including the use of grants, waivers,  
5653 demonstrations or other projects as necessary.

5654 (b) Participation in any disease management  
5655 program implemented under this paragraph (47) is optional with the  
5656 individual. An individual must affirmatively elect to participate  
5657 in the disease management program in order to participate, and may  
5658 elect to discontinue participation in the program at any time.

5659 (48) Pediatric long-term acute care hospital services.

5660 (a) Pediatric long-term acute care hospital  
5661 services means services provided to eligible persons under  
5662 twenty-one (21) years of age by a freestanding Medicare-certified  
5663 hospital that has an average length of inpatient stay greater than  
5664 twenty-five (25) days and that is primarily engaged in providing  
5665 chronic or long-term medical care to persons under twenty-one (21)  
5666 years of age.

5667 (b) The services under this paragraph (48) shall  
5668 be reimbursed as a separate category of hospital services.

5669 (49) The division shall establish copayments and/or  
5670 coinsurance for all Medicaid services for which copayments and/or  
5671 coinsurance are allowable under federal law or regulation, and  
5672 shall set the amount of the copayment and/or coinsurance for each  
5673 of those services at the maximum amount allowable under federal  
5674 law or regulation.

5675 (50) Services provided by the State Department of  
5676 Rehabilitation Services for the care and rehabilitation of persons



5677 who are deaf and blind, as allowed under waivers from the United  
5678 States Department of Health and Human Services to provide  
5679 home- and community-based services using state funds that are  
5680 provided from the appropriation to the State Department of  
5681 Rehabilitation Services or if funds are voluntarily provided by  
5682 another agency.

5683 (51) Upon determination of Medicaid eligibility and in  
5684 association with annual redetermination of Medicaid eligibility,  
5685 beneficiaries shall be encouraged to undertake a physical  
5686 examination that will establish a base-line level of health and  
5687 identification of a usual and customary source of care (a medical  
5688 home) to aid utilization of disease management tools. This  
5689 physical examination and utilization of these disease management  
5690 tools shall be consistent with current United States Preventive  
5691 Services Task Force or other recognized authority recommendations.

5692 For persons who are determined ineligible for Medicaid, the  
5693 division will provide information and direction for accessing  
5694 medical care and services in the area of their residence.

5695 (52) Notwithstanding any provisions of this article,  
5696 the division may pay enhanced reimbursement fees related to trauma  
5697 care, as determined by the division in conjunction with the State  
5698 Department of Health, using funds appropriated to the State  
5699 Department of Health for trauma care and services and used to  
5700 match federal funds under a cooperative agreement between the  
5701 division and the State Department of Health. The division, in



5702 conjunction with the State Department of Health, may use grants,  
5703 waivers, demonstrations, or other projects as necessary in the  
5704 development and implementation of this reimbursement program.

5705 (53) Targeted case management services for high-cost  
5706 beneficiaries shall be developed by the division for all services  
5707 under this section.

5708 (54) Adult foster care services pilot program. Social  
5709 and protective services on a pilot program basis in an approved  
5710 foster care facility for vulnerable adults who would otherwise  
5711 need care in a long-term care facility, to be implemented in an  
5712 area of the state with the greatest need for such program, under  
5713 the Medicaid Waivers for the Elderly and Disabled program or an  
5714 assisted living waiver. The division may use grants, waivers,  
5715 demonstrations or other projects as necessary in the development  
5716 and implementation of this adult foster care services pilot  
5717 program.

5718 (55) Therapy services. The plan of care for therapy  
5719 services may be developed to cover a period of treatment for up to  
5720 six (6) months, but in no event shall the plan of care exceed a  
5721 six-month period of treatment. The projected period of treatment  
5722 must be indicated on the initial plan of care and must be updated  
5723 with each subsequent revised plan of care. Based on medical  
5724 necessity, the division shall approve certification periods for  
5725 less than or up to six (6) months, but in no event shall the  
5726 certification period exceed the period of treatment indicated on



5727 the plan of care. The appeal process for any reduction in therapy  
5728 services shall be consistent with the appeal process in federal  
5729 regulations.

5730 (56) Prescribed pediatric extended care centers  
5731 services for medically dependent or technologically dependent  
5732 children with complex medical conditions that require continual  
5733 care as prescribed by the child's attending physician, as  
5734 determined by the division.

5735 (57) No Medicaid benefit shall restrict coverage for  
5736 medically appropriate treatment prescribed by a physician and  
5737 agreed to by a fully informed individual, or if the individual  
5738 lacks legal capacity to consent by a person who has legal  
5739 authority to consent on his or her behalf, based on an  
5740 individual's diagnosis with a terminal condition. As used in this  
5741 paragraph (57), "terminal condition" means any aggressive  
5742 malignancy, chronic end-stage cardiovascular or cerebral vascular  
5743 disease, or any other disease, illness or condition which a  
5744 physician diagnoses as terminal.

5745 (B) Notwithstanding any other provision of this article to  
5746 the contrary, the division shall reduce the rate of reimbursement  
5747 to providers for any service provided under this section by five  
5748 percent (5%) of the allowed amount for that service. However, the  
5749 reduction in the reimbursement rates required by this subsection  
5750 (B) shall not apply to inpatient hospital services, nursing  
5751 facility services, intermediate care facility services,





5752 psychiatric residential treatment facility services, pharmacy  
5753 services provided under subsection (A) (9) of this section, or any  
5754 service provided by the University of Mississippi Medical Center  
5755 or a state agency, a state facility or a public agency that either  
5756 provides its own state match through intergovernmental transfer or  
5757 certification of funds to the division, or a service for which the  
5758 federal government sets the reimbursement methodology and rate.  
5759 From and after January 1, 2010, the reduction in the reimbursement  
5760 rates required by this subsection (B) shall not apply to  
5761 physicians' services. In addition, the reduction in the  
5762 reimbursement rates required by this subsection (B) shall not  
5763 apply to case management services and home-delivered meals  
5764 provided under the home- and community-based services program for  
5765 the elderly and disabled by a planning and development district  
5766 (PDD). Planning and development districts participating in the  
5767 home- and community-based services program for the elderly and  
5768 disabled as case management providers shall be reimbursed for case  
5769 management services at the maximum rate approved by the Centers  
5770 for Medicare and Medicaid Services (CMS).

5771 (C) The division may pay to those providers who participate  
5772 in and accept patient referrals from the division's emergency room  
5773 redirection program a percentage, as determined by the division,  
5774 of savings achieved according to the performance measures and  
5775 reduction of costs required of that program. Federally qualified  
5776 health centers may participate in the emergency room redirection



5777 program, and the division may pay those centers a percentage of  
5778 any savings to the Medicaid program achieved by the centers'  
5779 accepting patient referrals through the program, as provided in  
5780 this subsection (C).

5781 (D) Notwithstanding any provision of this article, except as  
5782 authorized in the following subsection and in Section 43-13-139,  
5783 neither \* \* \* (1) the limitations on quantity or frequency of use  
5784 of or the fees or charges for any of the care or services  
5785 available to recipients under this section, nor \* \* \* (2) the  
5786 payments, payment methodology as provided below in this subsection  
5787 (D), or rates of reimbursement to providers rendering care or  
5788 services authorized under this section to recipients, may be  
5789 increased, decreased or otherwise changed from the levels in  
5790 effect on July 1, 1999, unless they are authorized by an amendment  
5791 to this section by the Legislature. However, the restriction in  
5792 this subsection shall not prevent the division from changing the  
5793 payments, payment methodology as provided below in this subsection  
5794 (D), or rates of reimbursement to providers without an amendment  
5795 to this section whenever those changes are required by federal law  
5796 or regulation, or whenever those changes are necessary to correct  
5797 administrative errors or omissions in calculating those payments  
5798 or rates of reimbursement. The prohibition on any changes in  
5799 payment methodology provided in this subsection (D) shall apply  
5800 only to payment methodologies used for determining the rates of  
5801 reimbursement for inpatient hospital services, outpatient hospital



5802 services, nursing facility services, and/or pharmacy services,  
5803 except as required by federal law, and the federally mandated  
5804 rebasing of rates as required by the Centers for Medicare and  
5805 Medicaid Services (CMS) shall not be considered payment  
5806 methodology for purposes of this subsection (D). No service  
5807 benefits or reimbursement limitations in this section shall apply  
5808 to payments under an APR-DRG or APC model or a managed care  
5809 program or similar model described in subsection (H) of this  
5810 section.

5811 (E) Notwithstanding any provision of this article, no new  
5812 groups or categories of recipients and new types of care and  
5813 services may be added without enabling legislation from the  
5814 Mississippi Legislature, except that the division may authorize  
5815 those changes without enabling legislation when the addition of  
5816 recipients or services is ordered by a court of proper authority.

5817 (F) The executive director shall keep the Governor advised  
5818 on a timely basis of the funds available for expenditure and the  
5819 projected expenditures. If current or projected expenditures of  
5820 the division are reasonably anticipated to exceed the amount of  
5821 funds appropriated to the division for any fiscal year, the  
5822 Governor, after consultation with the executive director, shall  
5823 discontinue any or all of the payment of the types of care and  
5824 services as provided in this section that are deemed to be  
5825 optional services under Title XIX of the federal Social Security  
5826 Act, as amended, and when necessary, shall institute any other



5827 cost containment measures on any program or programs authorized  
5828 under the article to the extent allowed under the federal law  
5829 governing that program or programs. However, the Governor shall  
5830 not be authorized to discontinue or eliminate any service under  
5831 this section that is mandatory under federal law, or to  
5832 discontinue or eliminate, or adjust income limits or resource  
5833 limits for, any eligibility category or group under Section  
5834 43-13-115. Beginning in fiscal year 2010 and in fiscal years  
5835 thereafter, when Medicaid expenditures are projected to exceed  
5836 funds available for any quarter in the fiscal year, the division  
5837 shall submit the expected shortfall information to the PEER  
5838 Committee, which shall review the computations of the division and  
5839 report its findings to the Legislative Budget Office within thirty  
5840 (30) days of such notification by the division, and not later than  
5841 January 7 in any year. If expenditure reductions or cost  
5842 containments are implemented, the Governor may implement a maximum  
5843 amount of state share expenditure reductions to providers, of  
5844 which hospitals will be responsible for twenty-five percent (25%)  
5845 of provider reductions as follows: in fiscal year 2010, the  
5846 maximum amount shall be Twenty-four Million Dollars  
5847 (\$24,000,000.00); in fiscal year 2011, the maximum amount shall be  
5848 Thirty-two Million Dollars (\$32,000,000.00); and in fiscal year  
5849 2012 and thereafter, the maximum amount shall be Forty Million  
5850 Dollars (\$40,000,000.00). However, instead of implementing cuts,  
5851 the hospital share shall be in the form of an additional



5852 assessment not to exceed Ten Million Dollars (\$10,000,000.00) as  
5853 provided in Section 43-13-145(4)(a)(ii). If Medicaid expenditures  
5854 are projected to exceed the amount of funds appropriated to the  
5855 division in any fiscal year in excess of the expenditure  
5856 reductions to providers, then funds shall be transferred by the  
5857 State Fiscal Officer from the Health Care Trust Fund into the  
5858 Health Care Expendable Fund and to the Governor's Office, Division  
5859 of Medicaid, from the Health Care Expendable Fund, in the amount  
5860 and at such time as requested by the Governor to reconcile the  
5861 deficit. If the cost containment measures described above have  
5862 been implemented and there are insufficient funds in the Health  
5863 Care Trust Fund to reconcile any remaining deficit in any fiscal  
5864 year, the Governor shall institute any other additional cost  
5865 containment measures on any program or programs authorized under  
5866 this article to the extent allowed under federal law. Hospitals  
5867 shall be responsible for twenty-five percent (25%) of any  
5868 additional imposed provider cuts. However, instead of  
5869 implementing hospital expenditure reductions, the hospital  
5870 reductions shall be in the form of an additional assessment not to  
5871 exceed twenty-five percent (25%) of provider expenditure  
5872 reductions as provided in Section 43-13-145(4)(a)(ii). It is the  
5873 intent of the Legislature that the expenditures of the division  
5874 during any fiscal year shall not exceed the amounts appropriated  
5875 to the division for that fiscal year.



5876 (G) Notwithstanding any other provision of this article, it  
5877 shall be the duty of each nursing facility, intermediate care  
5878 facility for individuals with intellectual disabilities,  
5879 psychiatric residential treatment facility, and nursing facility  
5880 for the severely disabled that is participating in the Medicaid  
5881 program to keep and maintain books, documents and other records as  
5882 prescribed by the Division of Medicaid in substantiation of its  
5883 cost reports for a period of three (3) years after the date of  
5884 submission to the Division of Medicaid of an original cost report,  
5885 or three (3) years after the date of submission to the Division of  
5886 Medicaid of an amended cost report.

5887 (H) (1) Notwithstanding any other provision of this  
5888 article, the division is authorized to implement (a) a managed  
5889 care program, (b) a coordinated care program, (c) a coordinated  
5890 care organization program, (d) a health maintenance organization  
5891 program, (e) a patient-centered medical home program, (f) an  
5892 accountable care organization program, (g) provider-sponsored  
5893 health plan, or (h) any combination of the above programs.  
5894 Managed care programs, coordinated care programs, coordinated care  
5895 organization programs, health maintenance organization programs,  
5896 patient-centered medical home programs, accountable care  
5897 organization programs, provider-sponsored health plans, or any  
5898 combination of the above programs or other similar programs  
5899 implemented by the division under this section shall be limited to  
5900 the greater of (i) forty-five percent (45%) of the total



5901 enrollment of Medicaid beneficiaries, or (ii) the categories of  
5902 beneficiaries participating in the program as of January 1, 2014,  
5903 plus the categories of beneficiaries composed primarily of persons  
5904 younger than nineteen (19) years of age, and the division is  
5905 authorized to enroll categories of beneficiaries in such  
5906 program(s) as long as the appropriate limitations are not exceeded  
5907 in the aggregate. As a condition for the approval of any program  
5908 under this subsection (H)(1), the division shall require that no  
5909 program may:

5910                   (a) Pay providers at a rate that is less than the  
5911 Medicaid All-Patient Refined-Diagnosis Related Groups (APR-DRG)  
5912 reimbursement rate;

5913                   (b) Override the medical decisions of hospital  
5914 physicians or staff regarding patients admitted to a hospital for  
5915 an emergency medical condition as defined by 42 US Code Section  
5916 1395dd. This restriction (b) does not prohibit the retrospective  
5917 review of the appropriateness of the determination that an  
5918 emergency medical condition exists by chart review or coding  
5919 algorithm, nor does it prohibit prior authorization for  
5920 nonemergency hospital admissions;

5921                   (c) Pay providers at a rate that is less than the  
5922 normal Medicaid reimbursement rate; however, the division may  
5923 approve use of innovative payment models that recognize  
5924 alternative payment models, including quality and value-based  
5925 payments, provided both parties mutually agree and the Division of



5926 Medicaid approves of said models. Participation in the provider  
5927 network of any managed care, coordinated care, provider-sponsored  
5928 health plan, or similar contractor shall not be conditioned on the  
5929 provider's agreement to accept such alternative payment models;

5930 (d) Implement a prior authorization program for  
5931 prescription drugs that is more stringent than the prior  
5932 authorization processes used by the division in its administration  
5933 of the Medicaid program;

5934 (e) Implement a policy that does not comply with  
5935 the prescription drugs payment requirements established in  
5936 subsection (A) (9) of this section;

5937 (f) Implement a preferred drug list that is more  
5938 stringent than the mandatory preferred drug list established by  
5939 the division under subsection (A) (9) of this section;

5940 (g) Implement a policy which denies beneficiaries  
5941 with hemophilia access to the federally funded hemophilia  
5942 treatment centers as part of the Medicaid Managed Care network of  
5943 providers. All Medicaid beneficiaries with hemophilia shall  
5944 receive unrestricted access to anti-hemophilia factor products  
5945 through noncapitated reimbursement programs.

5946 (2) Any contractors providing direct patient care under  
5947 a managed care program established in this section shall provide  
5948 to the Legislature and the division statistical data to be shared  
5949 with provider groups in order to improve patient access,  
5950 appropriate utilization, cost savings and health outcomes.





5951           (3) All health maintenance organizations, coordinated  
5952 care organizations, provider-sponsored health plans, or other  
5953 organizations paid for services on a capitated basis by the  
5954 division under any managed care program or coordinated care  
5955 program implemented by the division under this section shall  
5956 reimburse all providers in those organizations at rates no lower  
5957 than those provided under this section for beneficiaries who are  
5958 not participating in those programs.

5959           (4) No health maintenance organization, coordinated  
5960 care organization, provider-sponsored health plan, or other  
5961 organization paid for services on a capitated basis by the  
5962 division under any managed care program or coordinated care  
5963 program implemented by the division under this section shall  
5964 require its providers or beneficiaries to use any pharmacy that  
5965 ships, mails or delivers prescription drugs or legend drugs or  
5966 devices.

5967           (I) [Deleted]

5968           (J) There shall be no cuts in inpatient and outpatient  
5969 hospital payments, or allowable days or volumes, as long as the  
5970 hospital assessment provided in Section 43-13-145 is in effect.  
5971 This subsection (J) shall not apply to decreases in payments that  
5972 are a result of: reduced hospital admissions, audits or payments  
5973 under the APR-DRG or APC models, or a managed care program or  
5974 similar model described in subsection (H) of this section.

5975           (K) This section shall stand repealed on June 30, 2018.



5976           **SECTION 51.** Section 43-18-1, Mississippi Code of 1972, is  
5977 amended as follows:

5978           43-18-1. The Governor, on behalf of this state, is \* \* \*  
5979 authorized to execute a compact in substantially the following  
5980 form with all other jurisdictions legally joining therein; and  
5981 the Legislature \* \* \* signifies in advance its approval and  
5982 ratification of such compact, which compact is as follows:

5983                   INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

5984                                   **ARTICLE I.**

5985           It is the purpose and policy of the party states to  
5986 cooperate with each other in the interstate placement of children  
5987 to the end that:

5988                   (a) Each child requiring placement shall receive the  
5989 maximum opportunity to be placed in a suitable environment and  
5990 with persons or institutions having appropriate qualifications and  
5991 facilities to provide a necessary and desirable degree and type of  
5992 care.

5993                   (b) The appropriate authorities in a state where a  
5994 child is to be placed may have full opportunity to ascertain the  
5995 circumstances of the proposed placement, thereby promoting full  
5996 compliance with applicable requirements for the protection of the  
5997 child.

5998                   (c) The proper authorities of the state from which the  
5999 placement is made may obtain the most complete information on the



6000 basis on which to evaluate a projected placement before it is  
6001 made.

6002 (d) Appropriate jurisdictional arrangements for the  
6003 care of children will be promoted.

6004 **ARTICLE II.**

6005 As used in this compact:

6006 (a) "Child" means a person who, by reason of minority,  
6007 is legally subject to parental, guardianship or similar control.

6008 (b) "Sending agency" means a party state, officer or  
6009 employee thereof; a subdivision of a party state, or officer or  
6010 employee thereof; a court of a party state; a person, corporation,  
6011 association, charitable agency or other entity which sends, brings  
6012 or causes to be sent or brought any child to another party state.

6013 (c) "Receiving state" means the state to which a child  
6014 is sent, brought, or caused to be sent or brought, whether by  
6015 public authorities or private persons or agencies and whether for  
6016 placement with state or local public authorities or for placement  
6017 with private agencies or persons.

6018 (d) "Placement" means the arrangement for the care of a  
6019 child in a family free or boarding home or in a child-caring  
6020 agency or institution, but does not include any institution caring  
6021 for \* \* \* persons with mental illness or persons with an  
6022 intellectual disability or any institution primarily educational  
6023 in character, and any hospital or other medical facility.

6024 **ARTICLE III.**



6025           (a) No sending agency shall send, bring or cause to be  
6026 sent or brought into any other party state any child for placement  
6027 in foster care or as a preliminary to a possible adoption unless  
6028 the sending agency shall comply with each and every requirement  
6029 set forth in this article and with the applicable laws of the  
6030 receiving state governing the placement of children therein.

6031           (b) Prior to sending, bringing or causing any child to  
6032 be sent or brought into a receiving state for placement in foster  
6033 care or as a preliminary to a possible adoption, the sending  
6034 agency shall furnish the appropriate public authorities in the  
6035 receiving state written notice of the intention to send, bring or  
6036 place the child in the receiving state. The notice shall contain:

6037                   (1) The name, date and place of birth of the  
6038 child.

6039                   (2) The identity and address or addresses of the  
6040 parents or legal guardian.

6041                   (3) The name and address of the person, agency or  
6042 institution to or with which the sending agency proposes to send,  
6043 bring or place the child.

6044                   (4) A full statement of the reasons for such  
6045 proposed action and evidence of the authority pursuant to which  
6046 the placement is proposed to be made.

6047           (c) Any public officer or agency in a receiving state  
6048 which is in receipt of a notice pursuant to paragraph (b) of this  
6049 article may request of the sending agency, or any other



6050 appropriate officer or agency of or in the sending agency's state,  
6051 and shall be entitled to receive therefrom, such supporting or  
6052 additional information as it may deem necessary under the  
6053 circumstances to carry out the purpose and policy of this compact.

6054 (d) The child shall not be sent, brought or caused to  
6055 be sent or brought into the receiving state until the appropriate  
6056 public authorities in the receiving state shall notify the sending  
6057 agency, in writing, to the effect that the proposed placement does  
6058 not appear to be contrary to the interests of the child.

6059 **ARTICLE IV.**

6060 The sending, bringing or causing to be sent or brought into  
6061 any receiving state of a child in violation of the terms of this  
6062 compact shall constitute a violation of the laws respecting the  
6063 placement of children of both the state in which the sending  
6064 agency is located or from which it sends or brings the child and  
6065 of the receiving state. Such violation may be punished or  
6066 subjected to penalty in either jurisdiction in accordance with its  
6067 laws. In addition to liability for any such punishment or  
6068 penalty, any such violation shall constitute full and sufficient  
6069 grounds for the suspension or revocation of any license, permit or  
6070 other legal authorization held by the sending agency which  
6071 empowers or allows it to place or care for children.

6072 **ARTICLE V.**

6073 (a) The sending agency shall retain jurisdiction over  
6074 the child sufficient to determine all matters in relation to the



6075 custody, supervision, care, treatment and disposition of the child  
6076 which it would have had if the child had remained in the sending  
6077 agency's state, until the child is adopted, reaches majority,  
6078 becomes self-supporting or is discharged with the concurrence of  
6079 the appropriate authority in the receiving state. Such  
6080 jurisdiction shall also include the power to effect or cause the  
6081 return of the child or its transfer to another location and  
6082 custody pursuant to law. The sending agency shall continue to  
6083 have financial responsibility for support and maintenance of the  
6084 child during the period of the placement. Nothing contained  
6085 herein shall defeat a claim of jurisdiction by a receiving state  
6086 sufficient to deal with an act of delinquency or crime committed  
6087 therein.

6088 (b) When the sending agency is a public agency, it may  
6089 enter into an agreement with an authorized public or private  
6090 agency in the receiving state providing for the performance of one  
6091 or more services in respect of such case by the latter as agent  
6092 for the sending agency.

6093 (c) Nothing in this compact shall be construed to  
6094 prevent a private charitable agency authorized to place children  
6095 in the receiving state from performing services or acting as agent  
6096 in that state for a private charitable agency of the sending  
6097 state; nor to prevent the agency in the receiving state from  
6098 discharging financial responsibility for the support and  
6099 maintenance of a child who has been placed on behalf of the



6100 sending agency without relieving the responsibility set forth in  
6101 paragraph (a) hereof.

6102 **ARTICLE VI.**

6103 A child adjudicated delinquent may be placed in an  
6104 institution in another party jurisdiction pursuant to this compact  
6105 but no such placement shall be made unless the child is given a  
6106 court hearing on notice to the parent or guardian with opportunity  
6107 to be heard, prior to his being sent to such other party  
6108 jurisdiction for institutional care and the court finds that:

6109 (1) Equivalent facilities for the child are not  
6110 available in the sending agency's jurisdiction; and

6111 (2) Institutional care in the other jurisdiction  
6112 is in the best interest of the child and will not produce undue  
6113 hardship.

6114 **ARTICLE VII.**

6115 The executive head of each jurisdiction party to this compact  
6116 shall designate an officer who shall be general coordinator of  
6117 activities under this compact in his jurisdiction and who, acting  
6118 jointly with like officers of other party jurisdictions, shall  
6119 have power to promulgate rules and regulations to carry out more  
6120 effectively the terms and provisions of this compact.

6121 **ARTICLE VIII.**

6122 This compact shall not apply to:

6123 (a) The sending or bringing of a child into a receiving  
6124 state by his parent, stepparent, grandparent, adult brother or



6125 sister, adult uncle or aunt, or his guardian and leaving the child  
6126 with any such relative or nonagency guardian in the receiving  
6127 state.

6128 (b) Any placement, sending or bringing of a child into  
6129 a receiving state pursuant to any other interstate compact to  
6130 which both the state from which the child is sent or brought and  
6131 the receiving state are party, or to any other agreement  
6132 between \* \* \* those states which has the force of law.

6133 **ARTICLE IX.**

6134 This compact shall be open to joinder by any state, territory  
6135 or possession of the United States, the District of Columbia, the  
6136 Commonwealth of Puerto Rico, and, with the consent of Congress,  
6137 the government of Canada or any province thereof. It shall become  
6138 effective with respect to any such jurisdiction when such  
6139 jurisdiction has enacted the same into law. Withdrawal from this  
6140 compact shall be by the enactment of a statute repealing the same,  
6141 but shall not take effect until written notice of the withdrawal  
6142 has been given by the withdrawing state to the Governor of each  
6143 other party jurisdiction. Withdrawal of a party state shall not  
6144 affect the rights, duties and obligations under this compact of  
6145 any sending agency therein with respect to a placement made prior  
6146 to the effective date of withdrawal.

6147 **ARTICLE X.**

6148 The provisions of this compact shall be liberally construed  
6149 to effectuate the purposes thereof. The provisions of this





6150 compact shall be severable and if any phrase, clause, sentence or  
6151 provision of this compact is declared to be contrary to the  
6152 constitution of any party state or of the United States or the  
6153 applicability thereof to any government, agency, person or  
6154 circumstance is held invalid, the validity of the remainder of  
6155 this compact and the applicability thereof to any government,  
6156 agency, person or circumstance shall not be affected thereby. If  
6157 this compact shall be held contrary to the constitution of any  
6158 state party thereto, the compact shall remain in full force and  
6159 effect as to the remaining states and in full force and effect as  
6160 to the state affected as to all severable matters.

6161         **SECTION 52.** Section 43-27-25, Mississippi Code of 1972, is  
6162 amended as follows:

6163         43-27-25. No person shall be committed to an institution  
6164 under the control of the Department of Youth Services who is  
6165 seriously \* \* \* disabled by having mental illness or an  
6166 intellectual disability. If after a person is referred to the  
6167 training schools it is determined that he has mental illness or an  
6168 intellectual disability to an extent that he could not be properly  
6169 cared for in its custody, the director may institute necessary  
6170 legal action to accomplish the transfer of such person to such  
6171 other state institution as, in his judgment, is best qualified to  
6172 care for him in accordance with the laws of this state. The  
6173 department shall establish standards with regard to the physical  
6174 and mental health of persons which it can accept for commitment.



6175           **SECTION 53.** Section 43-33-703, Mississippi Code of 1972, is  
6176 amended as follows:

6177           43-33-703. For the purposes of this article, the following  
6178 words shall have the meanings ascribed herein unless the context  
6179 clearly requires otherwise:

6180           (a) "Bonds" or "notes" means the bonds or notes,  
6181 respectively, issued by the corporation pursuant to this article;

6182           (b) "Corporation" means the Mississippi Home  
6183 Corporation;

6184           (c) "Energy conservation loan" means a mortgage loan  
6185 made to a person of low or moderate income to finance improvements  
6186 made or to be made to the residential housing owned and occupied  
6187 by such person for the purposes of conserving energy and reducing  
6188 the energy costs attributable to such residential housing, and  
6189 containing such terms and conditions as the corporation may  
6190 require;

6191           (d) "Housing development mortgage loan" means a  
6192 mortgage loan made to finance or refinance the acquisition,  
6193 construction or substantial rehabilitation of a housing  
6194 development, including both construction loans and permanent  
6195 loans;

6196           (e) "Housing development" means any specific work  
6197 located within the state and made available to persons of low or  
6198 moderate income for rental or residential housing purposes,  
6199 including any building, land, equipment, facility or other real or



6200 personal property which may be necessary, convenient or desirable  
6201 in connection therewith including streets, sewers, water and  
6202 utility services;

6203 (f) "Mortgage" means a mortgage, mortgage deed or deed  
6204 of trust on a fee interest in residential housing or a rental  
6205 housing development or, on real property in which the fee interest  
6206 is owned without limitation by a unit of government or other  
6207 entity created by statute, a leasehold on such a fee interest of a  
6208 duration satisfactory to the corporation, which shall in all  
6209 events exceed the term of the security interest created by the  
6210 mortgagee;

6211 (g) "Mortgage lender" means any bank, bank or trust  
6212 company, trust company, mortgage company, mortgage banker,  
6213 national banking association, savings bank, savings and loan  
6214 association, building and loan association, and any other lending  
6215 institution; provided that such lender is domiciled or qualified  
6216 to do business in this state;

6217 (h) "Mortgage loan" means a financial obligation  
6218 secured by a mortgage, including any portion thereof or  
6219 participation therein in any new or existing mortgage loan;

6220 (i) "Municipality" means any county, city, town or  
6221 village of the state;

6222 (j) "Persons of low or moderate income" means persons  
6223 or families, irrespective of race, color, national origin, sex,  
6224 religion, age or \* \* \* disability, within the state, who are



6225 determined by the corporation to require such assistance as is  
6226 made available pursuant to this article on account of insufficient  
6227 personal or family income to reasonably afford decent, safe and  
6228 sanitary residential or rental housing, taking into consideration,  
6229 without limitation, such factors as the following: (i) the amount  
6230 of the total income of such persons and families available for  
6231 housing needs; (ii) the size of the family; (iii) the cost and  
6232 condition of residential or rental housing facilities in their  
6233 locality or in an area reasonably accessible to such locality;  
6234 (iv) the ability of such persons and families to compete  
6235 successfully in the normal, private residential or rental housing  
6236 market and to pay the amounts for which private enterprise is  
6237 providing sanitary, decent and safe residential or rental housing  
6238 in their locality or in an area reasonably accessible to such  
6239 locality; (v) the standards established by various programs of the  
6240 federal government for determining eligibility based on income of  
6241 such persons and families and, in the case of projects with  
6242 respect to which income limits have been established by any agency  
6243 of the federal government having jurisdiction thereover for the  
6244 purpose of defining eligibility of low and moderate income  
6245 families, the corporation may determine that the limits so  
6246 established shall govern; in all other cases income limits for the  
6247 purpose of defining low or moderate income persons shall be  
6248 established by the corporation in its rules and regulations;



6249 (k) "Qualified sponsors" means any person, corporation,  
6250 partnership or association, profit or nonprofit, public or  
6251 private, which provides or develops residential or rental housing  
6252 for low and moderate income families;

6253 (l) "Residential housing" means a specific work or  
6254 improvement undertaken to provide an owner-occupied residence  
6255 within the state, which shall become the principal residence of  
6256 the owner within a reasonable time after the financing is  
6257 provided;

6258 (m) "State" means the State of Mississippi;

6259 (n) "State agency" means any board, authority, agency,  
6260 department, commission, public corporation, body politic or  
6261 instrumentality of the state;

6262 (o) "Local housing authority" or "regional housing  
6263 authority" means a public body corporate and politic organized and  
6264 operating pursuant to Chapter 33, Title 43, \* \* \* Mississippi Code  
6265 of 1972, as amended, or a nonprofit corporation organized under  
6266 the laws of the State of Mississippi and designated by the United  
6267 States Department of Housing and Urban Development as a public  
6268 housing agency within the meaning of Section 3(6) of the United  
6269 States Housing Act of 1937, as amended.

6270 **SECTION 54.** Section 43-33-717, Mississippi Code of 1972, is  
6271 amended as follows:

6272 43-33-717. (1) The corporation shall have all the powers  
6273 necessary or convenient to carry out and effectuate the purposes



6274 and provisions of this article, including, but without limiting  
6275 the generality of the foregoing, the power:

6276 (a) To make and alter bylaws for its organization and  
6277 internal management;

6278 (b) To sue and be sued, have a seal and alter the same  
6279 at pleasure, and maintain an office at such place or places in the  
6280 state as it may determine;

6281 (c) To appoint officers, agents and employees,  
6282 prescribe their duties and qualifications, and fix their  
6283 compensation;

6284 (d) To acquire real or personal property, or any  
6285 interest therein, by purchase, exchange, gift, assignment,  
6286 transfer, foreclosure, lease, condemnation or otherwise, including  
6287 rights or easements; to hold, manage, operate or improve real or  
6288 personal property; to sell, assign, exchange, lease, encumber,  
6289 mortgage or otherwise dispose of any real or personal property, or  
6290 any interest therein, or deed of trust or mortgage lien interest  
6291 owned by it or under its control, custody or in its possession and  
6292 release or relinquish any right, title, claim, lien, interest,  
6293 easement or demand however acquired, including any equity or right  
6294 of redemption in property foreclosed by it and to do any of the  
6295 foregoing by public sale;

6296 (e) To make and execute agreements, contracts and other  
6297 instruments necessary or convenient to the exercise of the powers  
6298 and functions of the corporation under this article;



6299 (f) To employ or contract with architects, engineers,  
6300 attorneys, accountants, financial experts and other advisors as  
6301 may be necessary in its judgment and to fix and pay their  
6302 compensation;

6303 (g) To make and execute contracts for the  
6304 administration, servicing or collection of any mortgage loan and  
6305 pay the reasonable value of services rendered to the corporation  
6306 pursuant to such contracts;

6307 (h) To contract for the employment of a financial  
6308 advisor, underwriting attorneys, trustees, paying agents,  
6309 depositories or any consultants retained in connection with the  
6310 issuance of any bonds or notes including refunding bonds or notes  
6311 or dealing with the disposition of any proceeds thereof;

6312 (i) To issue negotiable bonds and notes and to provide  
6313 for the rights of the holders thereof;

6314 (j) Subject to any agreement with bondholders or  
6315 noteholders, to sell any mortgage loans at public or private sale  
6316 at the fair market value for such a mortgage; and

6317 (k) Subject to any agreement with bondholders and  
6318 noteholders, to make, alter or repeal such rules and regulations  
6319 with respect to the operations, properties and facilities of the  
6320 corporation as are necessary to carry out its functions and duties  
6321 in the administration of this article.

6322 (2) The corporation shall also have the power:



6323 (a) To make loans to mortgage lenders for the purpose  
6324 of:

6325 (i) Making housing development mortgage loans to  
6326 qualified sponsors for low and moderate income rental or  
6327 residential housing;

6328 (ii) Making loans to low and moderate income  
6329 purchasers of residential housing with preference to those who are  
6330 displaced from adequate housing as a result of a major disaster,  
6331 whether it be a man-made, technological or natural disaster, upon  
6332 a declaration by the Governor that a major disaster exists in the  
6333 state;

6334 (b) To purchase from mortgage lenders any of the loans  
6335 enumerated in subparagraphs (i) and (ii);

6336 (c) To insure, reinsure or guarantee any of the types  
6337 of loans enumerated in subparagraphs (i) and (ii);

6338 (d) To make, in such amounts and upon such terms and  
6339 conditions as the corporation shall approve, temporary loans,  
6340 preconstruction loans, interim financing loans to any qualified  
6341 sponsor and permanent financing to any qualified sponsor of  
6342 multifamily housing.

6343 (3) The corporation shall also have the power to make loans  
6344 from funds not otherwise encumbered by pledge or indenture to low  
6345 and moderate income persons for the following purposes:

6346 (a) Purchasing, improving or rehabilitating existing  
6347 residential housing and occupied by the owners;





6348           (b) Making loans to qualified nonprofit sponsors, to  
6349 local housing authorities and to owners of residential housing for  
6350 the development, construction, purchase, rehabilitation,  
6351 weatherization or maintenance of residential housing.

6352           (4) Using funds not otherwise encumbered by pledge or  
6353 indenture, the corporation may:

6354           (a) Establish a rental assistance program;

6355           (b) Provide such advisory consultation, training and  
6356 educational services as will assist in the planning, construction,  
6357 rehabilitation and operation of housing, including but not limited  
6358 to, assistance in community development and organization, home  
6359 management and advisory services for residents, and in promotion  
6360 of community organizations and local governments to assist in  
6361 developing housing;

6362           (c) Encourage research and demonstration projects to  
6363 develop new and better methods for increasing the supply, types  
6364 and financing of housing and to receive and accept contributions,  
6365 grants or aid from any source, public or private, including but  
6366 not limited to the United States and this state, for carrying out  
6367 this purpose;

6368           (d) Encourage and stimulate cooperatives and other  
6369 forms of housing with tenant participation;

6370           (e) Promote innovative programs for home ownership,  
6371 including but not limited to lease-purchase programs,



6372 employer-sponsored housing programs, tenant cooperatives and  
6373 nonprofit associations;

6374 (f) Design and support programs to address special  
6375 needs groups including, but not limited to, \* \* \* disabled,  
6376 elderly, homeless, HIV/AIDS carriers and families with children;

6377 (g) Develop a comprehensive plan for, and engage in a  
6378 yearly planning process for, addressing the housing needs of low  
6379 and moderate income persons in Mississippi.

6380 (5) The corporation also has the power:

6381 (a) To procure, or require the procurement of,  
6382 insurance against any loss in connection with its operations,  
6383 including without limitation the repayment of any mortgage loan or  
6384 loans, in such amounts and from such insurers, including the  
6385 federal government, as it may deem necessary or desirable, and to  
6386 pay any premiums therefor;

6387 (b) Subject to any agreement with bondholders or  
6388 noteholders: (i) to renegotiate any loan in default; (ii) to  
6389 waive any default or consent to the modification of the terms of  
6390 any loan or agreement; (iii) to commence, prosecute and enforce a  
6391 judgment in any action or proceeding, including without limitation  
6392 a foreclosure proceeding, to protect or enforce any right  
6393 conferred upon it by law, mortgage loan agreement, contract or  
6394 other agreement; and (iv) in connection with any such proceeding,  
6395 to bid for and purchase the property or acquire or take possession  
6396 thereof and, in such event, complete, administer and pay the



6397 principal of and interest on any obligations incurred in  
6398 connection with such property and dispose of and otherwise deal  
6399 with such property in such manner as the corporation may deem  
6400 advisable to protect its interest therein;

6401 (c) To fix, revise, charge and collect fees and other  
6402 charges in connection with the making of loans, the purchasing of  
6403 mortgage loans, and any other services rendered by the  
6404 corporation;

6405 (d) To arrange for guarantees of its bonds, notes or  
6406 other obligations by the federal government or by any private  
6407 insurer and to pay any premiums therefor;

6408 (e) Notwithstanding any law to the contrary, but  
6409 subject to any agreement with bondholders or noteholders, to  
6410 invest money of the corporation not required for immediate use,  
6411 including proceeds from the sale of any bonds or notes \* \* \*:

6412 (i) In obligations of any municipality or the  
6413 state or the United States of America;

6414 (ii) In obligations the principal and interest of  
6415 which are guaranteed by the state or the United States of America;

6416 (iii) In obligations of any corporation wholly  
6417 owned by the United States of America;

6418 (iv) In obligations of any corporation sponsored  
6419 by the United States of America which are, or may become, eligible  
6420 as collateral for advances to member banks as determined by the  
6421 Board of Governors of the Federal Reserve System;



6422 (v) In obligations of insurance firms or other  
6423 corporations whose investments are rated "A" or better by  
6424 recognized rating companies;

6425 (vi) In certificates of deposit or time deposits  
6426 of qualified depositories of the state as approved by the State  
6427 Depository Commission, secured in such manner, if any, as the  
6428 corporation shall determine;

6429 (vii) In contracts for the purchase and sale of  
6430 obligations of the type specified in \* \* \* subparagraphs (i)  
6431 through (v) above;

6432 (viii) In repurchase agreements secured by  
6433 obligations specified in \* \* \* subparagraphs (i) through (v)  
6434 above;

6435 (ix) In money market funds, the assets of which  
6436 are required to be invested in obligations specified in \* \* \*  
6437 subparagraphs (i) through (vi) above;

6438 (f) Subject to any agreement with bondholders or  
6439 noteholders, to purchase, and to agree to purchase, bonds or notes  
6440 of the corporation at a price not exceeding: (i) if the bonds or  
6441 notes are then redeemable, the redemption price then applicable  
6442 plus accrued interest to the date of purchase; or (ii) if the  
6443 bonds or notes are not then redeemable, the redemption price  
6444 applicable on the first date after such purchase upon which the  
6445 notes or bonds become subject to redemption at the option of the  
6446 corporation plus accrued interest to the date of purchase;



6447 (g) Subject to the provisions of this article, to  
6448 contract for and to accept any gifts, grants or loans of funds or  
6449 property or financial or other aid in any form from federal, state  
6450 or local governments, private or public entities, or individuals;

6451 (h) To enter into agreements or other transactions with  
6452 the federal or state government, any agency thereof or any  
6453 municipality in furtherance of the purposes of this article; to  
6454 operate and administer loan programs of the federal government,  
6455 the State of Mississippi, or any governmental agency thereof; and  
6456 to operate and administer any program of housing assistance for  
6457 persons and families of low or moderate income, however funded;

6458 (i) To establish a benevolent loan fund, housing  
6459 development fund, or such additional and further funds as may be  
6460 necessary and desirable to accomplish any corporate purpose or to  
6461 comply with the provisions of any agreement made by the  
6462 corporation or any resolution approved by the corporation. The  
6463 resolution establishing such a fund shall specify the source of  
6464 monies from which it shall be funded and the purposes for which  
6465 monies held in the fund shall be disbursed;

6466 (j) In carrying out the provisions of this article, the  
6467 corporation shall cooperate with the housing authorities created  
6468 under Sections 43-33-1 through 43-33-69 and Sections 43-33-101  
6469 through 43-33-137 \* \* \*;



6470 (k) To accept letters of credit and other credit  
6471 facilities necessary to make loans authorized herein to repay  
6472 bonds or notes issued by the corporation;

6473 (l) To do any and all things necessary or convenient to  
6474 carry out its purposes and exercise the powers given and granted  
6475 in this article.

6476 **SECTION 55.** Section 43-33-723, Mississippi Code of 1972, is  
6477 amended as follows:

6478 43-33-723. No person shall be discriminated against because  
6479 of race, religious principles, color, sex, national origin,  
6480 ancestry or \* \* \* disability by the corporation, any qualified  
6481 sponsor, any lender, or any agent or employee thereof in  
6482 connection with any housing development or eligible loan. No  
6483 person shall be discriminated against because of age, nor shall  
6484 any family be discriminated against because of children, in  
6485 admission to, or continuance of occupancy in, any housing project  
6486 receiving assistance under this act except for any housing project  
6487 constructed under a program restricting occupancy to persons  
6488 sixty-two (62) years of age or older and any directors of their  
6489 immediate households or their occupant surviving spouses.

6490 **SECTION 56.** Section 45-1-2, Mississippi Code of 1972, is  
6491 amended as follows:

6492 45-1-2. (1) The Executive Director of the Department of  
6493 Public Safety shall be the Commissioner of Public Safety.



6494 (2) The Commissioner of Public Safety shall establish the  
6495 organizational structure of the Department of Public Safety, which  
6496 shall include the creation of any units necessary to implement the  
6497 duties assigned to the department and consistent with specific  
6498 requirements of law including, but not limited to:

- 6499 (a) Office of Public Safety Planning;
- 6500 (b) Office of Medical Examiner;
- 6501 (c) Office of Mississippi Highway Safety Patrol;
- 6502 (d) Office of Forensics Laboratories;
- 6503 (e) Office of Law Enforcement Officers' Training  
6504 Academy;
- 6505 (f) Office of Support Services;
- 6506 (g) Office of Narcotics, which shall be known as the  
6507 Bureau of Narcotics; and
- 6508 (h) Office of Homeland Security.

6509 (3) The department shall be headed by a commissioner, who  
6510 shall be appointed by and serve at the pleasure of the Governor.  
6511 The appointment of the commissioner shall be made with the advice  
6512 and consent of the Senate. The commissioner may assign to the  
6513 appropriate offices such powers and duties as deemed appropriate  
6514 to carry out the department's lawful functions.

6515 (4) The commissioner of the department shall appoint heads  
6516 of offices, who shall serve at the pleasure of the commissioner.  
6517 The commissioner shall have the authority to organize the offices  
6518 established by subsection (2) of this section as deemed



6519 appropriate to carry out the responsibilities of the department.  
6520 The organization charts of the department shall be presented  
6521 annually with the budget request of the Governor for review by the  
6522 Legislature.

6523 (5) The commissioner of the department shall appoint, from  
6524 within the Department of Public Safety, a statewide safety  
6525 training officer who shall serve at the pleasure of the  
6526 commissioner and whose duty it shall be to perform public training  
6527 for both law enforcement and private persons throughout the state  
6528 concerning proper emergency response to \* \* \* persons with mental  
6529 illness, terroristic threats or acts, domestic conflict, other  
6530 conflict resolution, and such other matters as the commissioner  
6531 may direct.

6532 **SECTION 57.** Section 45-35-53, Mississippi Code of 1972, is  
6533 amended as follows:

6534 45-35-53. (1) The Department of Public Safety shall issue  
6535 personal identification cards to persons with disabilities who  
6536 make application to the department in accordance with rules and  
6537 regulations prescribed by the commissioner by filing with the  
6538 Secretary of State under the Administrative Procedures Act. The  
6539 identification card for persons with disabilities shall  
6540 prominently display the international \* \* \* disabled symbol and,  
6541 in addition to any other information required by this article, may  
6542 contain a recent color photograph of the applicant and the  
6543 following information:





6544 (a) Full legal name;  
6545 (b) Address of residence;  
6546 (c) Birth date;  
6547 (d) Date identification card was issued;  
6548 (e) Date identification card expires;  
6549 (f) Sex;  
6550 (g) Height;  
6551 (h) Weight;  
6552 (i) Eye color;  
6553 (j) Location where the identification card was issued;  
6554 (k) Signature of person identified or facsimile  
6555 thereof; and  
6556 (l) Such other information as required by the  
6557 department.

6558 (2) The identification card for persons with disabilities  
6559 shall bear an identification card number which shall not be the  
6560 same as the applicant's social security number. The commissioner  
6561 shall prescribe the form of identification cards issued pursuant  
6562 to this article to persons who are not United States citizens.  
6563 The identification cards of such persons shall include a number  
6564 and any other identifying information prescribed by the  
6565 commissioner.

6566 **SECTION 58.** Section 47-5-1351, Mississippi Code of 1972, is  
6567 amended as follows:



6568 47-5-1351. The Governor, on behalf of this state may execute  
6569 the Interstate Corrections Compact, with any and all states  
6570 legally joining therein, in substantially the following form and  
6571 the Legislature signifies in advance its approval and ratification  
6572 of such compact:

6573 **INTERSTATE CORRECTIONS COMPACT**

6574 **Article I**

6575 **Purpose and Policy**

6576 The party states, desiring by common action to fully utilize  
6577 and improve their institutional facilities and provide adequate  
6578 programs for the confinement, treatment and rehabilitation of  
6579 various types of offenders, declare that it is the policy of each  
6580 of the party states to provide such facilities and programs on a  
6581 basis of cooperation with one another, thereby serving the best  
6582 interests of such offenders and of society and effecting economies  
6583 in capital expenditures and operational costs. The purpose of  
6584 this compact is to provide for the mutual development and  
6585 execution of such programs of cooperation for the confinement,  
6586 treatment and rehabilitation of offenders with the most economical  
6587 use of human and material resources.

6588 **Article II**

6589 **Definitions**

6590 As used in this compact, unless the context clearly requires  
6591 otherwise:



6592 (a) "State" means a state of the United States, the  
6593 United States of America, a territory or possession of the United  
6594 States, the District of Columbia, the Commonwealth of Puerto Rico;

6595 (b) "Sending state" means a state party to this compact  
6596 in which conviction or court commitment was had;

6597 (c) "Receiving state" means a state party to this  
6598 compact to which an inmate is sent for confinement other than a  
6599 state in which conviction or court commitment was had;

6600 (d) "Inmate" means a male or female offender who is  
6601 committed, under sentence to or confined in, a penal or  
6602 correctional institution; and

6603 (e) "Institution" means any penal or correctional  
6604 facility, including, but not limited to, a facility for \* \* \*  
6605 persons with mental illness or persons with an intellectual  
6606 disability, in which inmates defined in (d) above may lawfully be  
6607 confined.

6608 **Article III**

6609 **Contracts**

6610 (1) Each party state may make one or more contracts with any  
6611 one or more of the other party states for the confinement of  
6612 inmates on behalf of a sending state in institutions situated  
6613 within receiving states. Any such contract shall provide for:

6614 (a) Its duration;

6615 (b) Payments to be made to the receiving state by the  
6616 sending state for inmate maintenance, extraordinary medical and



6617 dental expenses, and any participation in or receipt by inmates of  
6618 rehabilitative or correctional services, facilities, programs or  
6619 treatment not reasonably included as part of normal  
6620 maintenance \* \* \*;

6621 (c) Participation in programs of inmate employment, if  
6622 any; the disposition or crediting of any payments received by  
6623 inmates on account thereof; and the crediting of proceeds from or  
6624 disposal of any products resulting therefrom;

6625 (d) Delivery and retaking of inmates; and

6626 (e) Such other matters as may be necessary and  
6627 appropriate to fix the obligations, responsibilities and rights of  
6628 the sending and receiving states.

6629 (2) The terms and provisions of this compact entered into by  
6630 the authority of or pursuant thereto, and nothing in any such  
6631 contract shall be inconsistent therewith.

6632 **Article IV**

6633 **Procedures and Rights**

6634 (1) Whenever the duly constituted authorities in a state  
6635 party to this compact, and which has entered into a contract  
6636 pursuant to Article III, shall decide that confinement in, or  
6637 transfer of an inmate to, an institution within the territory of  
6638 another party state is necessary or desirable in order to provide  
6639 adequate quarters and care or an appropriate program of  
6640 rehabilitation or treatment, \* \* \* those officials may direct that  
6641 the confinement be within an institution within the territory



6642 of \* \* \* the other party state, the receiving state to act in that  
6643 regard solely as agent for the sending state.

6644 (2) The appropriate officials of any state party to this  
6645 compact shall have access, at all reasonable times, to any  
6646 institution in which it has a contractual right to confine inmates  
6647 for the purpose of inspecting the facilities thereof and visiting  
6648 such of its inmates as may be confined in the institution.

6649 (3) Inmates confined in an institution pursuant to the terms  
6650 of this compact shall at all times be subject to the jurisdiction  
6651 of the sending state and may at any time be removed therefrom for  
6652 transfer to a prison or other institution within the sending  
6653 state, for transfer to another institution in which the sending  
6654 state may have a contractual or other right to confine inmates,  
6655 for release on probation or parole, for discharge or for any other  
6656 purpose permitted by the laws of the sending state, provided, that  
6657 the sending state shall continue to be obligated to such payments  
6658 as may be pursuant to the terms of any contract entered into under  
6659 the terms of Article III.

6660 (4) Each receiving state shall provide regular reports to  
6661 each sending state on the inmates of that sending state in  
6662 institutions pursuant to this compact including a conduct record  
6663 of each inmate and certify \* \* \* the record to the official  
6664 designated by the sending state, in order that each inmate may  
6665 have official review of his or her record in determining and  
6666 altering the disposition of \* \* \* the inmate in accordance with



6667 the law which may obtain in the sending state and in order that  
6668 the same may be a source of information for the sending state.

6669 (5) All inmates who may be confined in an institution  
6670 pursuant to the provisions of this compact shall be treated in a  
6671 reasonable and humane manner and shall be treated equally with  
6672 such similar inmates of the receiving state as may be confined in  
6673 the same institution. The fact of confinement in a receiving  
6674 state shall not deprive any inmate so confined of any legal rights  
6675 which \* \* \* the inmate would have had if in an appropriate  
6676 institution of the sending state.

6677 (6) Any hearing or hearings to which an inmate confined  
6678 pursuant to this compact may be entitled by the laws of the  
6679 sending state may be had before the appropriate authorities of the  
6680 sending state, or of the receiving state if authorized by the  
6681 sending state. The receiving state shall provide adequate  
6682 facilities for such hearings as may be conducted by the  
6683 appropriate officials of a sending state. In the event such  
6684 hearing or hearings are had before officials of the receiving  
6685 state, the governing law shall be that of the sending state and a  
6686 record of the hearing or hearings as prescribed by the sending  
6687 state shall be made. \* \* \* The record together with any  
6688 recommendations of the hearing officials shall be transmitted  
6689 forthwith to the official or officials before whom the hearing  
6690 would have been had if it had taken place in the sending state.  
6691 In any and all proceedings had pursuant to the provisions of this



6692 subdivision, the officials of the receiving state shall act solely  
6693 as agents of the sending state and no final determination shall be  
6694 made in any matter except by the appropriate officials of the  
6695 sending state.

6696 (7) Any inmate confined pursuant to this compact shall be  
6697 released within the territory of the sending state unless the  
6698 inmate, and the sending and receiving states, shall agree upon  
6699 release in some other place. The sending state shall bear the  
6700 cost of such return to its territory.

6701 (8) Any inmate confined pursuant to the terms of this  
6702 compact shall have any and all rights to participate in and derive  
6703 any benefits or incur or be relieved of any obligations, or have  
6704 such obligations modified or his status changed on account of any  
6705 action or proceedings in which he could have participated if  
6706 confined in any appropriate institution of the sending state  
6707 located within such state.

6708 (9) The parent, guardian, trustee or other person or persons  
6709 entitled under the laws of the sending state to act for, advise or  
6710 otherwise function with respect to any inmate shall not be  
6711 deprived of or restricted in his exercise of any power in respect  
6712 of any inmate confined pursuant to the terms of this compact.

6713 **Article V**

6714 **Acts Not Reviewable in Receiving State: Extradition**

6715 (1) Any decisions of the sending state in respect of any  
6716 matter over which it retains jurisdiction pursuant to this compact



6717 shall be conclusive upon and not reviewable within the receiving  
6718 state, but if at the time the sending state seeks to remove an  
6719 inmate from an institution in the receiving state there is pending  
6720 against the inmate within such state any criminal charge or if the  
6721 inmate is formally accused of having committed within such state a  
6722 criminal offense, the inmate shall not be returned without the  
6723 consent of the receiving state until discharged from prosecution  
6724 or other form of proceeding, imprisonment or detention for such  
6725 offense. The duly accredited officers of the sending state shall  
6726 be permitted to transport inmates pursuant to this compact through  
6727 any and all states party to this compact without interference.

6728 (2) An inmate who escapes from an institution in which he is  
6729 confined pursuant to this compact shall be deemed a fugitive from  
6730 the sending state and from the state in which the institution is  
6731 situated. In the case of an escape to a jurisdiction other than  
6732 the sending or receiving state, the responsibility for institution  
6733 of extradition or rendition proceedings shall be that of the  
6734 sending state, but nothing contained herein shall be construed to  
6735 prevent or affect the activities of officers and agencies of any  
6736 jurisdiction directed toward the apprehension and return of an  
6737 escapee.

6738 **Article VI**

6739 **Federal Aid**

6740 Any state party to this compact may accept federal aid for  
6741 use in connection with any institution or program, the use of





6742 which is or may be affected by this compact or any contract  
6743 pursuant hereto and any inmate in a receiving state pursuant to  
6744 this compact may participate in any such federally aided program  
6745 or activity for which the sending or the receiving state have made  
6746 contractual provision; provided, that if such program or activity  
6747 is not part of the customary correctional regimen the express  
6748 consent of the appropriate official of the sending state shall be  
6749 required therefrom.

6750 **Article VII**

6751 **Entry into Force**

6752 This compact shall enter into force and become effective and  
6753 binding upon the states so acting when it has been enacted into  
6754 law by any two (2) states. Thereafter, this compact shall enter  
6755 into force and become effective and binding as to any other  
6756 of \* \* \* those states upon similar action by such state.

6757 **Article VIII**

6758 **Withdrawal and Termination**

6759 This compact shall continue in force and remain binding upon  
6760 a party state until it shall have enacted a statute repealing the  
6761 same and providing for the sending of formal written notice of  
6762 withdrawal from the compact to the appropriate officials of all  
6763 other party states. An actual withdrawal shall not take effect  
6764 until one (1) year after the notices provided in \* \* \* that  
6765 statute have been sent. Such withdrawal shall not relieve the  
6766 withdrawing state from its obligations assumed hereunder prior to



6767 the effective date of withdrawal. Before the effective date of  
6768 withdrawal, a withdrawing state shall remove to its territory, at  
6769 its own expense, such inmates as it may have confined pursuant to  
6770 the provisions of this compact.

6771 **Article IX**

6772 **Other Arrangement Unaffected**

6773 Nothing contained in this compact shall be construed to  
6774 abrogate or impair any agreement or other arrangement which a  
6775 party state may have with a nonparty state for the confinement,  
6776 rehabilitation or treatment of inmates nor to repeal any other  
6777 laws of a party state authorizing the making of cooperative  
6778 institutional arrangements.

6779 **Article X**

6780 **Construction and Severability**

6781 The provisions of this compact shall be liberally construed  
6782 and shall be severable. If any phrase, clause, sentence or  
6783 provision of this compact is declared to be contrary to the  
6784 constitution of any participating state or of the United States or  
6785 the applicability thereof to any government, agency, person or  
6786 circumstance is held invalid, the validity of the remainder of  
6787 this compact and the applicability thereof to any government,  
6788 agency, person or circumstance shall not be affected thereby. If  
6789 this compact shall be held contrary to the constitution of any  
6790 state participating therein, the compact shall remain in full



6791 force and effect as to the remaining states and in full force and  
6792 effect as to the state affected as to all severable matters.

6793 **SECTION 59.** Section 49-7-39, Mississippi Code of 1972, is  
6794 amended as follows:

6795 49-7-39. (1) The commission shall establish a special  
6796 hunting season for youth under the age of sixteen (16) and  
6797 for \* \* \* persons with disabilities in the Natchez State Park.  
6798 The commission shall also establish a primitive weapon season in  
6799 the Natchez State Park. The selection of participants in the  
6800 primitive weapon season shall be by public drawing from all  
6801 qualified applications. The commission shall set the number of  
6802 permits to be issued and the length of the special seasons.

6803 (2) The commission may also establish a special hunting  
6804 season for youth and \* \* \* persons with disabilities or a  
6805 primitive weapon season as provided in this section in any other  
6806 state park under the jurisdiction of the department but shall only  
6807 do so upon the recommendation of the staff of the department as  
6808 approved by the commission. The commission shall select  
6809 participants and set the number of permits to be issued and the  
6810 length of the special seasons.

6811 (3) The commission may establish and regulate special youth  
6812 hunts for all nonmigratory game birds and animals outside of the  
6813 open season on wildlife management areas and on private lands.



6814 (4) The commission shall establish and regulate a special  
6815 hunting season for youth under the age of sixteen (16) to run  
6816 concurrently with the primitive weapons season on deer.

6817 **SECTION 60.** Section 49-7-40, Mississippi Code of 1972, is  
6818 amended as follows:

6819 49-7-40. The commission may adopt regulations to provide for  
6820 a special hunt by \* \* \* persons with disabilities in the natural  
6821 area at Arkabutla Lake designated by the U.S. Corps of Engineers.  
6822 The hunt and any such regulations must be approved by the U.S.  
6823 Corps of Engineers. The following restrictions apply to any such  
6824 hunt:

6825 (a) The hunt shall be open to wheelchair-bound  
6826 physically disabled persons;

6827 (b) Selection of participants shall be by public  
6828 drawing from all qualified applications received;

6829 (c) No more than thirty (30) permits shall be issued;

6830 (d) The hunt shall not exceed a total of six (6) days;

6831 (e) A hunting license shall not be required of resident  
6832 or nonresident applicants;

6833 (f) Any other actions the commission and the U.S. Corps  
6834 of Engineers deem necessary for a safe and productive hunt.

6835 **SECTION 61.** Section 71-3-3, Mississippi Code of 1972, is  
6836 amended as follows:



6837           71-3-3. Unless the context otherwise requires, the  
6838 definitions which follow govern the construction and meaning of  
6839 the terms used in this chapter:

6840           (a) "Person" includes an individual, firm, voluntary  
6841 association or a corporation.

6842           (b) "Injury" means accidental injury or accidental  
6843 death arising out of and in the course of employment without  
6844 regard to fault which results from an untoward event or events, if  
6845 contributed to or aggravated or accelerated by the employment in a  
6846 significant manner. Untoward event includes events causing  
6847 unexpected results. An untoward event or events shall not be  
6848 presumed to have arisen out of and in the course of employment,  
6849 except in the case of an employee found dead in the course of  
6850 employment. This definition includes injuries to artificial  
6851 members, and also includes an injury caused by the willful act of  
6852 a third person directed against an employee because of his  
6853 employment while so employed and working on the job, and  
6854 disability or death due to exposure to ionizing radiation from any  
6855 process in employment involving the use of or direct contact with  
6856 radium or radioactive substances with the use of or direct  
6857 exposure to roentgen (X-rays) or ionizing radiation. In radiation  
6858 cases only, the date of disablement shall be treated as the date  
6859 of the accident. Occupational diseases, or the aggravation  
6860 thereof, are excluded from the term "injury," provided that,



6861 except as otherwise specified, all provisions of this chapter  
6862 apply equally to occupational diseases as well as injury.

6863 (c) "Death," when mentioned as a basis for the right to  
6864 compensation, means only death resulting from such an injury.

6865 (d) "Employee" means any person, including a minor  
6866 whether lawfully or unlawfully employed, in the service of an  
6867 employer under any contract of hire or apprenticeship, written or  
6868 oral, express or implied, provided that there shall be excluded  
6869 therefrom all independent contractors and especially any  
6870 individual performing service in, and at the time of, the sale of  
6871 newspapers or magazines to ultimate consumers under an arrangement  
6872 under which the newspapers or magazines are to be sold by the  
6873 individual at a fixed price, the individual's compensation being  
6874 based on the retention of the excess of such price over the amount  
6875 at which the newspapers or magazines are charged to the  
6876 individual, whether or not the individual is guaranteed a minimum  
6877 amount of compensation for such service or is entitled to be  
6878 credited with the unsold newspapers or magazines returned. A  
6879 student of an educational institution who, as a part of such  
6880 educational institution's curriculum, is receiving practical  
6881 training at any facility, who is under the active and direct  
6882 supervision of the personnel of the facility and/or an instructor  
6883 of the educational institution, and who is not receiving wages as  
6884 a consequence of participation in such practical training shall



6885 not be considered an employee of such facility on account of  
6886 participation in such practical training.

6887 (e) "Employer," except when otherwise expressly stated,  
6888 includes a person, partnership, association, corporation and the  
6889 legal representatives of a deceased employer, or the receiver or  
6890 trustee of a person, partnership, association or corporation.

6891 (f) "Carrier" means any person authorized in accordance  
6892 with the provisions of this chapter to insure under this chapter  
6893 and includes self-insurers.

6894 (g) "Self-insurer" is an employer who has been  
6895 authorized under the provisions of this chapter to carry his own  
6896 liability on his covered employees without insuring in a stock or  
6897 mutual carrier.

6898 (h) "Commission" means the Workers' Compensation  
6899 Commission.

6900 (i) "Disability" means incapacity because of injury to  
6901 earn the wages which the employee was receiving at the time of  
6902 injury in the same or other employment, which incapacity and the  
6903 extent thereof must be supported by medical findings.

6904 (j) "Compensation" means the money allowance payable to  
6905 an injured worker or his dependents as provided in this chapter,  
6906 and includes funeral benefits provided therein.

6907 (k) "Wages" includes the money rate at which the  
6908 service rendered is recompensed under the contract of hiring in  
6909 force at the time of injury, and also the reasonable value of



6910 board, rent, housing, lodging or similar advantage received from  
6911 the employer and gratuities received in the course of employment  
6912 from others than the employer. The term "wages" shall not include  
6913 practical training received by students of an educational  
6914 institution as a part of such educational institution's  
6915 curriculum.

6916 (1) "Child" shall include a posthumous child, a child  
6917 legally adopted prior to the injury of the employee, a child in  
6918 relation to whom the deceased employee stood in the place of a  
6919 parent for at least one (1) year prior to the time of injury and a  
6920 stepchild or acknowledged illegitimate child dependent upon the  
6921 deceased, but does not include married children unless wholly  
6922 dependent on him. "Grandchild" means a child as above defined of  
6923 a child as above defined. "Brother" and "sister" include  
6924 stepbrothers and stepsisters, half brothers and half sisters, and  
6925 brothers and sisters by adoption, but does not include married  
6926 brothers nor married sisters unless wholly dependent on the  
6927 employee. "Child," "grandchild," "brother" and "sister" include  
6928 only persons who are under eighteen (18) years of age, and also  
6929 persons who, though eighteen (18) years of age or over, are wholly  
6930 dependent upon the deceased employee and incapable of self-support  
6931 by reason of mental or physical disability, and also a child  
6932 eighteen (18) years of age or older, until his twenty-third  
6933 birthday, who is dependent upon the deceased and is pursuing a  
6934 full-time education.





6935 (m) "Parent" includes stepparents and parents by  
6936 adoption, parents-in-law or any person who for more than three (3)  
6937 years prior to the death of the deceased employee stood in the  
6938 place of a parent to him, or her, if dependent on the injured  
6939 employee.

6940 (n) The term "surviving spouse" includes the decedent's  
6941 legal wife or husband, living with him or her or dependent for  
6942 support upon him or her at the time of death or living apart for  
6943 justifiable cause or by reason of desertion at such time,  
6944 provided \* \* \* that such separation had not existed for more than  
6945 three (3) years without an award for separate maintenance or  
6946 alimony or the filing of a suit for separate maintenance or  
6947 alimony in the proper court in this state. The term "surviving  
6948 spouse" shall likewise include one not a legal wife or husband but  
6949 who had entered into a ceremonial marriage with the decedent at  
6950 least one (1) year prior to death and who, on the date of the  
6951 decedent's death, stood in the relationship of a wife or husband,  
6952 provided there was no living legal spouse who had protected her or  
6953 his rights for support by affirmative action as hereinabove  
6954 required. The term "surviving spouse" as contemplated in this  
6955 chapter shall not apply to any person who has, since his or her  
6956 separation from decedent, entered into a ceremonial marriage or  
6957 lived in open adultery with another.

6958 (o) The term "adoption" or "adopted" means legal  
6959 adoption prior to the time of the injury.



6960 (p) The singular includes the plural and the masculine  
6961 includes the feminine and neuter.

6962 (q) It is expressly provided, agreed and understood in  
6963 determining beneficiaries under this section that a surviving  
6964 spouse suffering a mental or physical \* \* \* disability and  
6965 children under the age of eighteen (18) years are presumed to be  
6966 dependent.

6967 (r) "Independent contractor" means any individual, firm  
6968 or corporation who contracts to do a piece of work according to  
6969 his own methods without being subject to the control of his  
6970 employer except as to the results of the work, and who has the  
6971 right to employ and direct the outcome of the workers independent  
6972 of the employer and free from any superior authority in the  
6973 employer to say how the specified work shall be done or what the  
6974 laborers shall do as the work progresses, one who undertakes to  
6975 produce a given result without being in any way controlled as to  
6976 the methods by which he attains the result.

6977 (s) "Average weekly wage for the state" means an amount  
6978 determined by the commission as of October 1 of each year based  
6979 upon wage and employment statistics reported to the commission by  
6980 the Mississippi Employment Security Commission. Such amount shall  
6981 be based upon data for the preceding twelve-month period and shall  
6982 be effective from and after January 1 of the following year.

6983 **SECTION 62.** Section 71-3-7, Mississippi Code of 1972, is  
6984 amended as follows:



6985           71-3-7. (1) Compensation shall be payable for disability or  
6986 death of an employee from injury or occupational disease arising  
6987 out of and in the course of employment, without regard to fault as  
6988 to the cause of the injury or occupational disease. An  
6989 occupational disease shall be deemed to arise out of and in the  
6990 course of employment when there is evidence that there is a direct  
6991 causal connection between the work performed and the occupational  
6992 disease. In all claims in which no benefits, including  
6993 disability, death and medical benefits, have been paid, the  
6994 claimant shall file medical records in support of his claim for  
6995 benefits when filing a petition to controvert. If the claimant is  
6996 unable to file the medical records in support of his claim for  
6997 benefits at the time of filing the petition to controvert because  
6998 of a limitation of time established by Section 71-3-35 or Section  
6999 71-3-53, the claimant shall file medical records in support of his  
7000 claim within sixty (60) days after filing the petition to  
7001 controvert.

7002           (2) Where a preexisting physical \* \* \* disability, disease,  
7003 or lesion is shown by medical findings to be a material  
7004 contributing factor in the results following injury, the  
7005 compensation which, but for this subsection, would be payable  
7006 shall be reduced by that proportion which such preexisting  
7007 physical \* \* \* disability, disease, or lesion contributed to the  
7008 production of the results following the injury. The preexisting



7009 condition does not have to be occupationally disabling for this  
7010 apportionment to apply.

7011 (3) The following provisions shall apply to subsections (1)  
7012 and (2) of this section:

7013 (a) Apportionment shall not be applied until the  
7014 claimant has reached maximum medical recovery.

7015 (b) The employer or carrier does not have the power to  
7016 determine the date of maximum medical recovery or percentage of  
7017 apportionment. This must be done by the attorney-referee, subject  
7018 to review by the commission as the ultimate finder of fact.

7019 (c) After the date the claimant reaches maximum medical  
7020 recovery, weekly compensation benefits and maximum recovery shall  
7021 be reduced by that proportion which the preexisting physical \* \* \*  
7022 disability, disease, or lesion contributes to the results  
7023 following injury.

7024 (d) If maximum medical recovery has occurred before the  
7025 hearing and order of the attorney-referee, credit for excess  
7026 payments shall be allowed in future payments. Such allowances and  
7027 method of accomplishment of the same shall be determined by the  
7028 attorney-referee, subject to review by the commission. However,  
7029 no actual repayment of such excess shall be made to the employer  
7030 or carrier.

7031 (4) No compensation shall be payable if the use of drugs  
7032 illegally, or the use of a valid prescription medication(s) taken  
7033 contrary to the prescriber's instructions and/or contrary to label



7034 warnings, or intoxication due to the use of alcohol of the  
7035 employee was the proximate cause of the injury, or if it was the  
7036 willful intention of the employee to injure or kill himself or  
7037 another.

7038 (5) Every employer to whom this chapter applies shall be  
7039 liable for and shall secure the payment to his employees of the  
7040 compensation payable under its provisions.

7041 (6) In the case of an employer who is a subcontractor, the  
7042 contractor shall be liable for and shall secure the payment of  
7043 such compensation to employees of the subcontractor, unless the  
7044 subcontractor has secured such payment.

7045 **SECTION 63.** Section 71-3-105, Mississippi Code of 1972, is  
7046 amended as follows:

7047 71-3-105. The commission shall cooperate with federal,  
7048 state, and local agencies in the rehabilitation of \* \* \* workers  
7049 with disabilities, and shall promptly report to the proper  
7050 authority industrial injury cases in which retraining or job  
7051 placement may be needed.

7052 **SECTION 64.** Section 71-7-13, Mississippi Code of 1972, is  
7053 amended as follows:

7054 71-7-13. (1) An employee or job applicant whose drug and  
7055 alcohol test result is confirmed as positive in accordance with  
7056 the provisions of this chapter shall not, by virtue of the result  
7057 alone, be defined as a person with a " \* \* \* disability."



7058           (2) An employer who discharges or disciplines an employee on  
7059 the basis of a positive confirmed drug and alcohol test in  
7060 accordance with this chapter shall be considered to have  
7061 discharged or disciplined the employee for cause.

7062           (3) An employee discharged on the basis of a confirmed  
7063 positive drug and alcohol test in accordance with this chapter  
7064 shall be considered to have been discharged for willful  
7065 misconduct.

7066           (4) A physician-patient relationship is not created between  
7067 an employee or job applicant, and an employer or any person  
7068 performing or evaluating the drug and alcohol test, solely by the  
7069 establishment or implementation of a drug and alcohol testing  
7070 program.

7071           (5) This chapter does not prevent an employer from  
7072 establishing reasonable work rules related to employee possession,  
7073 use, sale or solicitation of drugs, including convictions for  
7074 drug-related offenses, and taking action based upon a violation of  
7075 any of those rules.

7076           (6) This chapter shall not be retroactive and shall not  
7077 abrogate any right an employer may have to conduct drug and  
7078 alcohol tests prior to July 1, 1991. A drug and alcohol test  
7079 conducted by an employer before July 1, 1991, shall not be subject  
7080 to this chapter.

7081           (7) If an employee refuses to submit to drug and alcohol  
7082 testing administered in accordance with this chapter, the employer



7083 shall not be barred from discharging, or disciplining, or  
7084 referring the employee to a drug abuse assessment, treatment and  
7085 rehabilitation program at a site certified by the Department of  
7086 Mental Health.

7087 (8) An employer, in addition to any appropriate personnel  
7088 actions, may refer any employee found to have violated the  
7089 employer's policy on drug use to an employee assistance program  
7090 for assessment, counseling and referral for treatment or  
7091 rehabilitation as appropriate. Such treatment or rehabilitation  
7092 shall be at a site certified by the Department of Mental Health.

7093 (9) This chapter does not prohibit an employer from  
7094 conducting medical screening or other tests required by any  
7095 statute, rule or regulation for the purpose of monitoring exposure  
7096 of employees to toxic or other unhealthy substances in the  
7097 workplace or in the performance of job responsibilities. Such  
7098 screenings or tests shall be limited to the specific substances  
7099 expressly identified in the applicable statute, rule or  
7100 regulation, unless prior written consent of the employee is  
7101 obtained for other tests.

7102 (10) An employer may temporarily suspend or transfer an  
7103 employee to another position after obtaining the results of a  
7104 positive on-site initial test. An employer may discharge an  
7105 employee after obtaining the results of a positive confirmed test.

7106 (11) Nothing in this chapter shall affect any right of an  
7107 employer to terminate the employment of any person for reasons not



7108 related to a drug and alcohol testing program implemented pursuant  
7109 to the provisions of this chapter.

7110           **SECTION 65.** Section 75-74-9, Mississippi Code of 1972, is  
7111 amended as follows:

7112           75-74-9. (1) The State Board of Health shall have the  
7113 authority and the duty to make and promulgate rules and  
7114 regulations consistent with the policy and purpose of this  
7115 chapter, and to amend any rule or regulation it makes. In  
7116 developing such rules and regulations, the board shall consult  
7117 with appropriate public and private officials and organizations  
7118 and parents and camp operators. It shall be the duty of the board  
7119 to advise all existing youth camps in this state of this chapter  
7120 and any rules and regulations promulgated under this chapter.

7121           (2) There is created within the State Board of Health the  
7122 advisory council on youth camp safety to advise and consult on  
7123 policy matters relating to youth camp safety. The council  
7124 consists of the health officer or his representative and a minimum  
7125 of eight (8) members appointed by the State Health Officer,  
7126 including the following groups: one (1) member representative  
7127 each from a private nonsectarian camp, a church-related or  
7128 sponsored camp, the Girl Scouts of America, the Boy Scouts of  
7129 America, the Mississippi Camping Association, camps for \* \* \*  
7130 persons with disabilities and civic organization camps; and a  
7131 consumer, a parent or an older youth with prior camping  
7132 experience. A member is entitled to hold office for two (2) years





7133 or until his successor is appointed and qualifies. The State  
7134 Health Officer or his representative shall fill vacancies for  
7135 unexpired terms. Council members serve without compensation, but  
7136 are entitled to be reimbursed for actual expenses incurred in the  
7137 performance of their duties. The State Health Officer may appoint  
7138 special advisory or technical experts and consultants as are  
7139 necessary to assist the council in carrying out its functions.

7140 (3) No rule or regulation promulgated or amended by the  
7141 board under this chapter shall be effective until a public hearing  
7142 is held thereon. Notice of a public hearing, including the time,  
7143 date and location of the hearing and the substance of the proposed  
7144 rule, regulation or amendment, shall be given by the board to each  
7145 licensee of a youth camp and the general public not less than ten  
7146 (10) days nor more than thirty (30) days before the hearing. Any  
7147 interested person may appear at the hearing to present evidence or  
7148 testimony concerning the proposed rule, regulation or amendment.

7149 **SECTION 66.** Section 83-9-32, Mississippi Code of 1972, is  
7150 amended as follows:

7151 83-9-32. Every hospital, health or medical expenses  
7152 insurance policy, hospital or medical service contract, health  
7153 maintenance organization and preferred provider organization that  
7154 is delivered or issued for delivery in this state and otherwise  
7155 provides anesthesia benefits shall offer benefits for anesthesia  
7156 and for associated facility charges when the mental or physical  
7157 condition of the child or mentally \* \* \* disabled adult requires



7158 dental treatment to be rendered under physician-supervised general  
7159 anesthesia in a hospital setting, surgical center or dental  
7160 office. This coverage shall be offered on an optional basis, and  
7161 each primary insured must accept or reject such coverage in  
7162 writing and accept responsibility for premium payment.

7163 An insurer may require prior authorization for the anesthesia  
7164 and associated facility charges for dental care procedures in the  
7165 same manner that prior authorization is required for treatment of  
7166 other medical conditions under general anesthesia. An insurer may  
7167 require review for medical necessity and may limit payment of  
7168 facility charges to certified facilities in the same manner that  
7169 medical review is required and payment of facility charges is  
7170 limited for other services. The benefit provided by this coverage  
7171 shall be subject to the same annual deductibles or coinsurance  
7172 established for all other covered benefits within a given policy,  
7173 plan or contract. Private third-party payers may not reduce or  
7174 eliminate coverage due to these requirements.

7175 A dentist shall consider the Indications for General  
7176 Anesthesia as published in the reference manual of the American  
7177 Academy of Pediatric Dentistry as utilization standards for  
7178 determining whether performing dental procedures necessary to  
7179 treat the particular condition or conditions of the patient under  
7180 general anesthesia constitutes appropriate treatment.



7181           The provisions of this section shall apply to anesthesia  
7182 services provided by oral and maxillofacial surgeons as permitted  
7183 by the Mississippi State Board of Dental Examiners.

7184           The provisions of this section shall not apply to treatment  
7185 rendered for temporal mandibular joint (TMJ) disorders.

7186           **SECTION 67.** Section 93-7-3, Mississippi Code of 1972, is  
7187 amended as follows:

7188           93-7-3. A marriage may be annulled for any one (1) of the  
7189 following causes existing at the time of the marriage ceremony:

7190                   (a) Incurable impotency.

7191                   (b) Adjudicated to have a mental illness or adjudicated  
7192 incompetence of either or both parties. Action of a spouse who  
7193 has been adjudicated \* \* \* to have a mental illness or adjudicated  
7194 incompetent may be brought by guardian, or in the absence of a  
7195 guardian, by next friend, provided that the suit is brought within  
7196 six (6) months after marriage.

7197                   (c) Failure to comply with the provisions of Sections  
7198 93-1-5 through 93-1-9 when any marriage affected by that failure  
7199 has not been followed by cohabitation.

7200           Or, in the absence of ratification:

7201                   (d) When either of the parties to a marriage is  
7202 incapable, from want of age or understanding, of consenting to any  
7203 marriage, or is incapable from physical causes of entering into  
7204 the marriage state, or where the consent of either party has been



7205 obtained by force or fraud, the marriage shall be void from the  
7206 time its nullity is declared by a court of competent jurisdiction.

7207 (e) Pregnancy of the wife by another person, if the  
7208 husband did not know of the pregnancy.

7209 Suits for annulment under paragraphs (d) and (e) shall be  
7210 brought within six (6) months after the ground for annulment is or  
7211 should be discovered, and not thereafter.

7212 The causes for annulment of marriage set forth in this  
7213 section are intended to be new remedies and shall in no way affect  
7214 the causes for divorce declared elsewhere to be the law of the  
7215 State of Mississippi as they presently exist or as they may from  
7216 time to time be amended.

7217 **SECTION 68.** Section 93-17-55, Mississippi Code of 1972, is  
7218 amended as follows:

7219 93-17-55. As used in Sections 93-17-51 through 93-17-67, the  
7220 word "child" shall mean a minor as defined by Mississippi law who  
7221 is:

7222 (a) A dependent of a public or voluntary licensed  
7223 child-placing agency, eligible for Supplemental Security Income  
7224 prior to the finalization of the adoption, one (1) for whom  
7225 supplemental benefits were paid pursuant to the aforementioned  
7226 sections in a previous adoption that was dissolved or wherein the  
7227 adoptive parents died, or is the child of a minor parent in foster  
7228 care for whom the board payment was increased on account of the  
7229 birth;



7230 (b) Legally free for adoption; and  
7231 (c) In special circumstances whether:  
7232 (i) Because he has established significant  
7233 emotional ties with prospective adoptive parents while in their  
7234 care as a foster child and it is deemed in the best interest of  
7235 the child by the agency to be adopted by the foster parents, or

7236 (ii) Because he is not likely to be adopted  
7237 because of one or more of the following \* \* \* disabilities: 1.  
7238 severe physical or mental disability, 2. severe emotional  
7239 disturbance, 3. recognized high risk of physical or mental  
7240 disease, or 4. any combination of these \* \* \* disabilities.

7241 **SECTION 69.** Section 93-17-67, Mississippi Code of 1972, is  
7242 amended as follows:

7243 93-17-67. (1) If the adoptive parents of a child eligible  
7244 for adoption supplemental benefits sign an adoption assistance  
7245 agreement with the Department of Human Services, then, whether or  
7246 not they accept such benefits, Medicaid coverage shall be provided  
7247 for the child under the agency's medical payment program from and  
7248 after the commencement date established pursuant to Section  
7249 93-17-61 until the child's eighteenth birthday, provided that  
7250 federal matching funds are available for such payment.

7251 (2) Any child who is adopted in this state through a  
7252 state-supported adoption agency and who immediately prior to such  
7253 adoption was receiving Medicaid benefits because of a severe  
7254 physical or mental \* \* \* disability shall continue to receive such



7255 coverage benefits after adoption age eighteen (18), and such  
7256 benefits shall be payable as provided under the agency's medical  
7257 payment program for so long as the State Department of Human  
7258 Services determines that the treatment or rehabilitation for which  
7259 payment is being made is in the best interest of the child  
7260 concerned, but not past the age of twenty-one (21) years, provided  
7261 that federal matching funds are available for such payment and  
7262 that any state funds used for such payment shall have been  
7263 appropriated specifically for such purpose.

7264 (3) If permitted by federal law without any loss to the  
7265 state of federal matching funds, the financial resources of the  
7266 adopting parents shall not be a factor in such determination  
7267 except that payments on behalf of a child of any age may be  
7268 adjusted when insurance benefits available to the adopting parents  
7269 would pay all or part of such payments being made by the state, or  
7270 if medical or rehabilitation services are otherwise available  
7271 without cost to the adopting parents. The amount of financial  
7272 assistance given shall not exceed the amount that the Division of  
7273 Medicaid \* \* \* would be required to pay for the same medical  
7274 treatment or rehabilitation.

7275 (4) The receipt of Medicaid benefits by an adopted child  
7276 under Sections 93-17-51 through 93-17-67 shall not qualify the  
7277 adopting parents for Medicaid eligibility, unless either parent is  
7278 otherwise eligible under Section 43-13-115 \* \* \*.



7279           **SECTION 70.** Section 97-3-4, Mississippi Code of 1972, is  
7280 amended as follows:

7281           97-3-4. (1) It shall be unlawful for any physician  
7282 performing an abortion that results in the delivery of a living  
7283 child to intentionally allow or cause the child to die.

7284           (2) If the child is viable, such child shall be immediately  
7285 provided appropriate medical care and comfort care necessary to  
7286 sustain life. If the child is not viable, such child shall be  
7287 provided comfort care. The provision of this section shall  
7288 include, but not be limited to, a child born with physical or  
7289 mental \* \* \* disabling conditions which, in the opinion of the  
7290 parent, the physician or other persons, diminishes the quality of  
7291 the child's life, a child born alive during the course of an  
7292 attempted abortion and a child not wanted by the parent.

7293           (3) As used in this section, the term "child" includes every  
7294 infant member of the species homo sapiens who is born alive at any  
7295 stage of development.

7296           (4) Any person who violates this section shall be guilty of  
7297 a felony and, upon conviction, be imprisoned for not less than one  
7298 (1) year nor more than ten (10) years in the State Penitentiary  
7299 and fined not more than Fifty Thousand Dollars (\$50,000.00) but  
7300 not less than Twenty-five Thousand Dollars (\$25,000.00).

7301           **SECTION 71.** This act shall take effect and be in force from  
7302 and after July 1, 2018.

