

By: Representative Clark

To: Public Health and Human Services

HOUSE BILL NO. 98

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 AND 97-3-4, MISSISSIPPI CODE OF 1972, TO
 16 MODERNIZE THE TERMINOLOGY THAT IS USED TO REFER TO PERSONS WITH
 17 MENTAL ILLNESS, PERSONS WITH AN INTELLECTUAL DISABILITY,
 18 HANDICAPPED PERSONS AND CRIPPLED PERSONS; AND FOR RELATED
 19 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) Upon application by any legal resident of the State
236 of Mississippi who has a license tag issued under Section
237 27-19-56.14 properly displayed on his vehicle and has a disability
238 which limits or impairs the ability to walk or has a child, parent
239 or spouse with a disability which limits or impairs the ability to
240 walk and the child, parent or spouse is living with the applicant,
241 the Department of Revenue shall prepare and issue through the
242 county tax collectors a special decal bearing the International
243 Symbol of Access adopted by Rehabilitation International in 1969
244 at its Eleventh World Congress on Rehabilitation of the Disabled
245 for not more than two (2) vehicles that are registered in the
246 applicant's name and properly display a tag issued under Section
247 27-19-56.14. The decal shall be affixed to the tag issued under
248 Section 27-19-56.14. The initial application shall be accompanied



249 by the certification of a licensed physician that (i) the
250 applicant or the applicant's child, parent or spouse meets the
251 definition of persons with disabilities which limit or impair the
252 ability to walk; and (ii) that the physician has determined that
253 the applicant or the applicant's child, parent or spouse will have
254 the disability for at least five (5) years. The special decal is
255 valid for the period of time that the license tag attached upon a
256 motor vehicle is issued pursuant to Section 27-19-56.14. A person
257 to whom the special decal is issued may retain the decal and may
258 renew it by submitting to the county tax collector, on or before
259 its expiration, the certification of a licensed physician that the
260 physician has determined (i) that the applicant or the applicant's
261 child, parent or spouse meets the definition of a person with a
262 disability which limits or impairs the ability to walk; and (ii)
263 that the applicant or the applicant's child, parent or spouse will
264 have the disability for at least five (5) years. If an applicant
265 fails to renew the special decal before its date of expiration,
266 then he shall surrender the decal to the county tax collector.

267 (d) (i) The terms "vehicle" and "motor vehicle," as
268 used in this section, include motorcycles.

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

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



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

277 3. Are restricted by lung disease to such an
278 extent that the person's forced (respiratory) expiratory volume
279 for one (1) second, when measured by spirometry, is less than one
280 (1) liter, or the arterial oxygen tension is less than sixty (60)
281 mm/hg on room air at rest; or

282 4. Use portable oxygen; or

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

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

289 (e) An applicant for a special license plate or decal
290 bearing the International Symbol of Access shall not be required
291 to pay any fee or charge for the issuance of such license plate or
292 decal separate from or in addition to the road and bridge
293 privilege taxes, ad valorem taxes and registration fees otherwise
294 required by law to be paid for the issuance of a regular license
295 plate for such vehicle.

296 (2) The Department of Revenue shall prepare removable
297 windshield placards and such placards shall be issued and
298 periodically renewed upon the applications of persons with



299 disabilities which limit or impair the ability to walk, or upon
300 the applications of owners of motor vehicles who have a child,
301 parent or spouse with a disability which limits or impairs the
302 ability to walk and the child, parent or spouse is living with the
303 owner of the motor vehicle. The placards shall be issued, free of
304 charge, to applicants through the offices of the tax collectors of
305 the counties. The initial application shall be accompanied by the
306 certification of a licensed physician that the applicant or the
307 applicant's child, parent or spouse meets the definition of
308 persons with disabilities which limit or impair the ability to
309 walk. These placards shall be valid for the period of time that
310 the license tag attached upon a motor vehicle is issued pursuant
311 to Section 27-19-31(1) and may be renewed in the same manner as
312 provided for the renewal of the special license plates or decals
313 under subsection (1) of this section. The removable windshield
314 placard must be displayed on the left side of the vehicle
315 dashboard or by hanging it on the rearview mirror of the vehicle.
316 The Department of Revenue shall prescribe the placement for
317 motorcycles.

318 (3) The Department of Revenue shall provide for the issuance
319 of a temporary removable windshield placard, upon the application
320 of a person with a disability which limits or impairs the ability
321 to walk, or upon the application of the owner of a motor vehicle
322 who has a child, parent or spouse with a disability which limits
323 or impairs the ability to walk and the child, parent or spouse is



324 living with the owner of the motor vehicle. Temporary removable
325 windshield placards authorized by this subsection shall be
326 prepared by the Department of Revenue and shall be issued, free of
327 charge, to applicants through the offices of the tax collectors of
328 the counties. Application for a temporary removable windshield
329 placard must be accompanied by the certification of a licensed
330 physician that the applicant or the applicant's child, parent or
331 spouse meets the definition of persons with disabilities which
332 limit or impair the ability to walk. The certification shall also
333 include the period of time that the physician determines the
334 applicant or the applicant's child, parent or spouse will have the
335 disability, not to exceed six (6) months. The temporary removable
336 windshield placard must be displayed on the left side of the
337 vehicle dashboard or by hanging it on the rearview mirror of the
338 vehicle. The temporary removable windshield placard shall be
339 valid for a period of time for which the physician has determined
340 that the applicant will have the disability, not to exceed six (6)
341 months from the date of issuance. The Department of Revenue shall
342 prescribe the placement for motorcycles.

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

345 (a) The International Symbol of Access, which is at
346 least three (3) inches in height, centered on the placard (the
347 color of the removable windshield placard shall be white on a blue



348 shield; and the temporary removable windshield placard shall be
349 white on a red shield);

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

352 (c) A date of expiration; and

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

354 (5) (a) It shall be unlawful to park a motor vehicle in an
355 area set aside for persons * * * with a disability if the motor
356 vehicle does not (i) have displayed the removable windshield
357 placard authorized in this section with the date of expiration
358 visible, (ii) have the special license plate issued under this
359 section properly displayed upon the motor vehicle, (iii) have the
360 disabled American veteran tag or plate issued under Section
361 27-19-53 properly displayed upon the motor vehicle, (iv) have the
362 disabled Purple Heart Medal recipient tag or plate issued under
363 Section 27-19-56.5 properly displayed upon the motor vehicle, (v)
364 have the disabled Bronze Star recipient tag or plate issued under
365 Section 27-19-56.62 properly displayed upon the motor vehicle, or
366 (vi) have a license tag issued under Section 27-19-56.14 and
367 bearing the special decal issued under subsection (1)(c) of this
368 section properly displayed upon the motor vehicle. Any person who
369 unlawfully parks a motor vehicle in such areas, or who blocks such
370 spaces or access thereto, shall be guilty of a misdemeanor and,
371 upon conviction thereof, shall be fined not more than Two Hundred
372 Dollars (\$200.00) for each such violation. For the third and



373 subsequent offenses under this section, the offender's driver's
374 license shall be suspended for ninety (90) days by the
375 Commissioner of Public Safety in accordance with Section 63-1-53
376 in addition to any fine imposed. The court shall not suspend or
377 reduce any fine required to be imposed under this subsection.

378 (b) A person who is charged with a violation of this
379 section by parking a motor vehicle in an area set aside for
380 persons * * * with a disability and failing properly to display
381 (i) a removable windshield placard on the dash of the vehicle or
382 by hanging it on the rearview mirror of the vehicle, (ii) a
383 special license plate issued under this section upon the vehicle,
384 (iii) a disabled American veteran tag or plate issued under
385 Section 27-19-53, (iv) * * * a disabled Purple Heart Medal
386 recipient tag or plate issued under Section 27-19-56.5 * * * upon
387 the motor vehicle, (v) * * * a disabled Bronze Star recipient tag
388 or plate issued under Section 27-19-56.62 * * * upon the motor
389 vehicle, or (vi) a license tag issued under Section 27-19-56.14
390 and bearing the special decal issued under subsection (1)(c) of
391 this section * * * upon the motor vehicle, shall not be convicted
392 and shall have the charge dismissed upon presentation to the court
393 of proof by means of sworn oral testimony or sworn affidavit that
394 at the time of the charged violation, such person or a passenger
395 in the vehicle possessed a valid removable windshield placard
396 issued under this section.



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

403 (7) All law enforcement officers are authorized to enforce
404 this section on public and private property. Provision of spaces
405 restricted to * * * disabled parking and proper marking of such
406 spaces shall be considered as intent and permission to enforce
407 such designated parking on private property. Any owner of private
408 property may tow away a vehicle that is parked on the owner's
409 private property in violation of the disabled parking restrictions
410 set forth in this section at the vehicle owner's expense. In
411 addition, the vehicle owner may be subject to any fines or other
412 penalties provided in this section. Only areas marked in
413 accordance with the Americans with Disabilities Act Accessibility
414 Guidelines or equivalent standards shall be enforced. Spaces
415 shall bear the International Symbol of Access.

416 (8) Motor vehicles displaying a special license plate,
417 license plate decal, placard or parking certificate or permit
418 bearing the International Symbol of Access issued to a person with
419 a disability by any other state or district subject to the laws of
420 the United States shall be allowed the special parking privileges
421 under this section provided the license plate, decal, placard,



422 permit or certificate bears the International Symbol of Access and
423 is displayed in a prominent place on the vehicle.

424 (9) Parking in any area set aside for persons * * * with
425 disabilities is limited to vehicles which, immediately before or
426 after the utilization of such an area, are used to transport a
427 person with a disability which limits or impairs the ability to
428 walk. The identification required to park in such an area, except
429 as provided in subsection (8) of this section, is as follows:

430 (a) For a vehicle used to transport a person with a
431 permanent disability, that person's permanent windshield placard
432 must be displayed or the vehicle must have a special license tag
433 issued under this section or Section 27-19-53 properly displayed
434 or the vehicle must have a license tag issued under Section
435 27-19-56.14 and bearing the special decal issued under subsection
436 (1)(c) of this section properly displayed.

437 (b) For a vehicle being used by a person who has a
438 temporary disability which limits or impairs the ability to walk,
439 or which is being used to transport such a person, a temporary
440 windshield placard must be displayed.

441 Any person who parks in an area set aside for persons * * *
442 with disabilities in violation of this subsection shall be
443 punished as provided for in subsection (5) of this section.

444 (10) Upon application by a nursing home, retirement home or
445 other institution that transports * * * persons with disabilities,
446 the Department of Revenue may issue the special license plate



447 authorized pursuant to this section for not more than one (1)
448 vehicle that is registered in the applicant's name that is used to
449 transport * * * the institution's residents * * * with
450 disabilities. Such institution shall comply with all other laws
451 regarding the registration of such vehicle.

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

454 27-19-56.134. (1) Any owner of a motor vehicle who is a
455 resident of this state, upon payment of the road and bridge
456 privilege taxes, ad valorem taxes and registration fees as
457 prescribed by law for private carriers of passengers, pickup
458 trucks and other noncommercial motor vehicles, and upon payment of
459 an additional fee in the amount provided in subsection (3) of this
460 section, shall be issued a distinctive license tag for any motor
461 vehicle registered in his name identifying such person as a
462 supporter of children with medical * * * disabilities. The
463 distinctive license tags so issued shall be of such color and
464 design as the * * * Department of Revenue, with the advice of the
465 Executive Director of the Children's Defense Fund, may prescribe
466 and shall consist of such letters or numbers, or both, as may be
467 necessary to distinguish each license tag.

468 (2) Application for the distinctive license tags authorized
469 by this section shall be made to the county tax collector on forms
470 prescribed by the * * * Department of Revenue. The application
471 and the additional fee imposed under subsection (3) of this



472 section, less Two Dollars (\$2.00) thereof to be retained by the
473 tax collector, shall be remitted to the * * * Department of
474 Revenue on a monthly basis as prescribed by the commission. The
475 portion of the additional fee retained by the tax collector shall
476 be deposited into the county general fund.

477 (3) Beginning with any registration year commencing on or
478 after July 1, 2006, any person applying for a distinctive license
479 tag under this section shall pay an additional fee in the amount
480 of Thirty Dollars (\$30.00) for each distinctive license tag
481 applied for under this section, which shall be in addition to all
482 other taxes and fees. The additional fee paid shall be for a
483 period of time to run concurrently with the vehicle's established
484 license tag year. The additional fee is due and payable at the
485 time the original application is made for a distinctive license
486 tag under this section and thereafter annually at the time of
487 renewal registration as long as the owner retains the distinctive
488 license tag. If the owner does not wish to retain the distinctive
489 license tag, he must surrender it to the local county tax
490 collector.

491 (4) The * * * Department of Revenue shall deposit all fees
492 into the State Treasury on the day collected. At the end of each
493 month, the * * * Department of Revenue shall certify to the State
494 Treasurer the total fees collected under this section from the
495 issuance of the distinctive license tags issued under this



496 section. The State Treasurer shall distribute such collections as
497 follows:

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

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

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

510 (d) One Dollar (\$1.00) of each additional fee collected
511 on distinctive license tags issued pursuant to this section shall
512 be deposited to the credit of the special fund created in Section
513 27-19-44.2.

514 (5) A regular license tag must be properly displayed as
515 required by law until replaced by a distinctive license tag under
516 this section. The regular license tag must be surrendered to the
517 tax collector upon issuance of the distinctive license tag under
518 this section. The tax collector shall issue up to two (2) license
519 decals for each distinctive license tag issued under this section,



520 which will expire the same month and year as the regular license
521 tag.

522 (6) In the case of loss or theft of a distinctive license
523 tag issued under this section, the owner may make application and
524 affidavit for a replacement distinctive license tag as provided by
525 Section 27-19-37. The fee for a replacement distinctive license
526 tag shall be Ten Dollars (\$10.00). The tax collector receiving
527 such application and affidavit shall be entitled to retain and
528 deposit into the county general fund five percent (5%) of the fee
529 for such replacement license tag and the remainder shall be
530 distributed in the same manner as funds from the sale of regular
531 distinctive license tags issued under this section.

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

534 29-5-65. At any time when the Legislature is in session,
535 the * * * Department of Finance and Administration shall designate
536 and reserve sufficient parking spaces around the New Capitol
537 Building to accommodate the members of the Legislature, and, when
538 such spaces have been so designated and reserved, they shall be
539 identified and marked by means of numbers, one (1) of which shall
540 be assigned to each member of the Legislature, and that space for
541 which he or she holds that number shall be reserved for the
542 exclusive use of the * * * legislator. The * * * department is
543 authorized and directed to reserve and allocate, among those
544 spaces, an individual parking space for use of any member of the



545 Legislature who * * * has a physical disability, so as to make his
546 or her entrance to and exit from the New Capitol Building as
547 convenient as is reasonably possible.

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

550 37-13-91. (1) This section shall be referred to as the
551 "Mississippi Compulsory School Attendance Law."

552 (2) The following terms as used in this section are defined
553 as follows:

554 (a) "Parent" means the father or mother to whom a child
555 has been born, or the father or mother by whom a child has been
556 legally adopted.

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

560 (c) "Custodian" means any person having the present
561 care or custody of a child, other than a parent or guardian of the
562 child.

563 (d) "School day" means not less than five and one-half
564 (5-1/2) and not more than eight (8) hours of actual teaching in
565 which both teachers and pupils are in regular attendance for
566 scheduled schoolwork.

567 (e) "School" means any public school, including a
568 charter school, in this state or any nonpublic school in this
569 state which is in session each school year for at least one



570 hundred eighty (180) school days, except that the "nonpublic"
571 school term shall be the number of days that each school shall
572 require for promotion from grade to grade.

573 (f) "Compulsory-school-age child" means a child who has
574 attained or will attain the age of six (6) years on or before
575 September 1 of the calendar year and who has not attained the age
576 of seventeen (17) years on or before September 1 of the calendar
577 year; and shall include any child who has attained or will attain
578 the age of five (5) years on or before September 1 and has
579 enrolled in a full-day public school kindergarten program.

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

582 (h) "Appropriate school official" means the
583 superintendent of the school district, or his designee, or, in the
584 case of a nonpublic school, the principal or the headmaster.

585 (i) "Nonpublic school" means an institution for the
586 teaching of children, consisting of a physical plant, whether
587 owned or leased, including a home, instructional staff members and
588 students, and which is in session each school year. This
589 definition shall include, but not be limited to, private, church,
590 parochial and home instruction programs.

591 (3) A parent, guardian or custodian of a
592 compulsory-school-age child in this state shall cause the child to
593 enroll in and attend a public school or legitimate nonpublic



594 school for the period of time that the child is of compulsory
595 school age, except under the following circumstances:

596 (a) When a compulsory-school-age child is physically,
597 mentally or emotionally incapable of attending school as
598 determined by the appropriate school official based upon
599 sufficient medical documentation.

600 (b) When a compulsory-school-age child is enrolled in
601 and pursuing a course of special education, remedial education or
602 education for * * * children with physical or * * * mental
603 disadvantages or disabilities.

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

606 The parent, guardian or custodian of a compulsory-school-age
607 child described in this subsection, or the parent, guardian or
608 custodian of a compulsory-school-age child attending any charter
609 school or nonpublic school, or the appropriate school official for
610 any or all children attending a charter school or nonpublic school
611 shall complete a "certificate of enrollment" in order to
612 facilitate the administration of this section.

613 The form of the certificate of enrollment shall be prepared
614 by the Office of Compulsory School Attendance Enforcement of the
615 State Department of Education and shall be designed to obtain the
616 following information only:

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



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

621 (iii) A simple description of the type of
622 education the compulsory-school-age child is receiving and, if the
623 child is enrolled in a nonpublic school, the name and address of
624 the school; and

625 (iv) The signature of the parent, guardian or
626 custodian of the compulsory-school-age child or, for any or all
627 compulsory-school-age child or children attending a charter school
628 or nonpublic school, the signature of the appropriate school
629 official and the date signed.

630 The certificate of enrollment shall be returned to the school
631 attendance officer where the child resides on or before September
632 15 of each year. Any parent, guardian or custodian found by the
633 school attendance officer to be in noncompliance with this section
634 shall comply, after written notice of the noncompliance by the
635 school attendance officer, with this subsection within ten (10)
636 days after the notice or be in violation of this section.

637 However, in the event the child has been enrolled in a public
638 school within fifteen (15) calendar days after the first day of
639 the school year as required in subsection (6), the parent or
640 custodian may, at a later date, enroll the child in a legitimate
641 nonpublic school or legitimate home instruction program and send
642 the certificate of enrollment to the school attendance officer and
643 be in compliance with this subsection.



644 For the purposes of this subsection, a legitimate nonpublic
645 school or legitimate home instruction program shall be those not
646 operated or instituted for the purpose of avoiding or
647 circumventing the compulsory attendance law.

648 (4) An "unlawful absence" is an absence for an entire school
649 day or during part of a school day by a compulsory-school-age
650 child, which absence is not due to a valid excuse for temporary
651 nonattendance. For purposes of reporting absenteeism under
652 subsection (6) of this section, if a compulsory-school-age child
653 has an absence that is more than thirty-seven percent (37%) of the
654 instructional day, as fixed by the school board for the school at
655 which the compulsory-school-age child is enrolled, the child must
656 be considered absent the entire school day. Days missed from
657 school due to disciplinary suspension shall not be considered an
658 "excused" absence under this section. This subsection shall not
659 apply to children enrolled in a nonpublic school.

660 Each of the following shall constitute a valid excuse for
661 temporary nonattendance of a compulsory-school-age child enrolled
662 in a noncharter public school, provided satisfactory evidence of
663 the excuse is provided to the superintendent of the school
664 district, or his designee:

665 (a) An absence is excused when the absence results from
666 the compulsory-school-age child's attendance at an authorized
667 school activity with the prior approval of the superintendent of
668 the school district, or his designee. These activities may



669 include field trips, athletic contests, student conventions,
670 musical festivals and any similar activity.

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

674 (c) An absence is excused when isolation of a
675 compulsory-school-age child is ordered by the county health
676 officer, by the State Board of Health or appropriate school
677 official.

678 (d) An absence is excused when it results from the
679 death or serious illness of a member of the immediate family of a
680 compulsory-school-age child. The immediate family members of a
681 compulsory-school-age child shall include children, spouse,
682 grandparents, parents, brothers and sisters, including
683 stepbrothers and stepsisters.

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

686 (f) An absence is excused when it results from the
687 attendance of a compulsory-school-age child at the proceedings of
688 a court or an administrative tribunal if the child is a party to
689 the action or under subpoena as a witness.

690 (g) An absence may be excused if the religion to which
691 the compulsory-school-age child or the child's parents adheres,
692 requires or suggests the observance of a religious event. The
693 approval of the absence is within the discretion of the



694 superintendent of the school district, or his designee, but
695 approval should be granted unless the religion's observance is of
696 such duration as to interfere with the education of the child.

697 (h) An absence may be excused when it is demonstrated
698 to the satisfaction of the superintendent of the school district,
699 or his designee, that the purpose of the absence is to take
700 advantage of a valid educational opportunity such as travel,
701 including vacations or other family travel. Approval of the
702 absence must be gained from the superintendent of the school
703 district, or his designee, before the absence, but the approval
704 shall not be unreasonably withheld.

705 (i) An absence may be excused when it is demonstrated
706 to the satisfaction of the superintendent of the school district,
707 or his designee, that conditions are sufficient to warrant the
708 compulsory-school-age child's nonattendance. However, no absences
709 shall be excused by the school district superintendent, or his
710 designee, when any student suspensions or expulsions circumvent
711 the intent and spirit of the compulsory attendance law.

712 (j) An absence is excused when it results from the
713 attendance of a compulsory-school-age child participating in
714 official organized events sponsored by the 4-H or Future Farmers
715 of America (FFA). The excuse for the 4-H or FFA event must be
716 provided in writing to the appropriate school superintendent by
717 the Extension Agent or High School Agricultural Instructor/FFA
718 Advisor.



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

723 (5) Any parent, guardian or custodian of a
724 compulsory-school-age child subject to this section who refuses or
725 willfully fails to perform any of the duties imposed upon him or
726 her under this section or who intentionally falsifies any
727 information required to be contained in a certificate of
728 enrollment, shall be guilty of contributing to the neglect of a
729 child and, upon conviction, shall be punished in accordance with
730 Section 97-5-39.

731 Upon prosecution of a parent, guardian or custodian of a
732 compulsory-school-age child for violation of this section, the
733 presentation of evidence by the prosecutor that shows that the
734 child has not been enrolled in school within eighteen (18)
735 calendar days after the first day of the school year of the public
736 school which the child is eligible to attend, or that the child
737 has accumulated twelve (12) unlawful absences during the school
738 year at the public school in which the child has been enrolled,
739 shall establish a prima facie case that the child's parent,
740 guardian or custodian is responsible for the absences and has
741 refused or willfully failed to perform the duties imposed upon him
742 or her under this section. However, no proceedings under this
743 section shall be brought against a parent, guardian or custodian



744 of a compulsory-school-age child unless the school attendance
745 officer has contacted promptly the home of the child and has
746 provided written notice to the parent, guardian or custodian of
747 the requirement for the child's enrollment or attendance.

748 (6) If a compulsory-school-age child has not been enrolled
749 in a school within fifteen (15) calendar days after the first day
750 of the school year of the school which the child is eligible to
751 attend or the child has accumulated five (5) unlawful absences
752 during the school year of the public school in which the child is
753 enrolled, the school district superintendent, or his designee,
754 shall report, within two (2) school days or within five (5)
755 calendar days, whichever is less, the absences to the school
756 attendance officer. The State Department of Education shall
757 prescribe a uniform method for schools to utilize in reporting the
758 unlawful absences to the school attendance officer. The
759 superintendent, or his designee, also shall report any student
760 suspensions or student expulsions to the school attendance officer
761 when they occur.

762 (7) When a school attendance officer has made all attempts
763 to secure enrollment and/or attendance of a compulsory-school-age
764 child and is unable to effect the enrollment and/or attendance,
765 the attendance officer shall file a petition with the youth court
766 under Section 43-21-451 or shall file a petition in a court of
767 competent jurisdiction as it pertains to parent or child.
768 Sheriffs, deputy sheriffs and municipal law enforcement officers



769 shall be fully authorized to investigate all cases of
770 nonattendance and unlawful absences by compulsory-school-age
771 children, and shall be authorized to file a petition with the
772 youth court under Section 43-21-451 or file a petition or
773 information in the court of competent jurisdiction as it pertains
774 to parent or child for violation of this section. The youth court
775 shall expedite a hearing to make an appropriate adjudication and a
776 disposition to ensure compliance with the Compulsory School
777 Attendance Law, and may order the child to enroll or re-enroll in
778 school. The superintendent of the school district to which the
779 child is ordered may assign, in his discretion, the child to the
780 alternative school program of the school established pursuant to
781 Section 37-13-92.

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

786 (9) Notwithstanding any provision or implication herein to
787 the contrary, it is not the intention of this section to impair
788 the primary right and the obligation of the parent or parents, or
789 person or persons in loco parentis to a child, to choose the
790 proper education and training for such child, and nothing in this
791 section shall ever be construed to grant, by implication or
792 otherwise, to the State of Mississippi, any of its officers,
793 agencies or subdivisions any right or authority to control,



794 manage, supervise or make any suggestion as to the control,
795 management or supervision of any private or parochial school or
796 institution for the education or training of children, of any kind
797 whatsoever that is not a public school according to the laws of
798 this state; and this section shall never be construed so as to
799 grant, by implication or otherwise, any right or authority to any
800 state agency or other entity to control, manage, supervise,
801 provide for or affect the operation, management, program,
802 curriculum, admissions policy or discipline of any such school or
803 home instruction program.

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

806 37-16-9. (1) The state board shall, after a public hearing
807 and consideration, make provision for appropriate accommodations
808 for testing instruments and procedures for students with
809 identified * * * disabilities in order to ensure that the results
810 of the testing represent the student's achievement, rather than
811 reflecting the student's impaired sensory, manual, speaking or
812 psychological process skills, except when such skills are the
813 factors the test purports to measure.

814 (2) The public hearing and consideration required hereunder
815 shall not be construed to amend or nullify the requirements of
816 security relating to the contents of examinations or assessment
817 instruments and related materials or data.



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

822 (a) Develop policies and procedures for the
823 participation of children with disabilities in alternate
824 assessments for those children who cannot participate in statewide
825 and district-wide assessment programs; and

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

828 (4) The State Department of Education shall make available
829 to the public, and report to the public with the same frequency
830 and in the same detail as it reports on the assessment of
831 nondisabled children, the following:

832 (a) The number of children with disabilities
833 participating in regular assessments;

834 (b) The number of children participating in alternate
835 assessments;

836 (c) The performance of those children on regular
837 assessments, beginning not later than July 1, 1998, and on
838 alternate assessments, not later than July 1, 2000, if doing so
839 would be statistically sound and would not result in the
840 disclosure of performance results identifiable to individual
841 children; and



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

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

847 37-23-63. Every child who is a resident citizen of the State
848 of Mississippi under twenty-one (21) years of age, who cannot
849 pursue all regular class work due to reasons of defective hearing,
850 vision, speech, intellectual disability or other mental or
851 physical conditions as determined by competent medical authorities
852 and psychologists, who has not finished or graduated from high
853 school, and who is in attendance in a private school, parochial
854 school or speech, hearing and/or language clinic that is
855 accredited by a state or regional accrediting agency or
856 approved/licensed by the State Department of Education, shall be
857 eligible and entitled to receive state financial assistance in the
858 amount set forth in Section 37-23-69. Exceptional children as
859 defined in Section 37-23-3(1) and who are certified by the
860 designated state authority as requiring inpatient care in a
861 private intermediate care facility for * * * individuals with
862 intellectual disabilities or psychiatric residential treatment
863 facility, with Medicaid reimbursement, shall be eligible and
864 entitled to receive state and federal financial assistance under
865 the provisions of Section 37-23-69, as allowable and available, if
866 an approved private school is operated as an integral part of the



867 facility that provides twenty-four (24) hours a day monitoring,
868 treatment and education.

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

871 37-31-31. The intention of Sections 37-31-31 through
872 37-31-41 is to enable the State of Mississippi, by and through the
873 State Board of Education, to secure the benefits of the federal
874 Social Security Act pertaining to services for * * * children with
875 physical disabilities, and * * * those sections shall be liberally
876 construed in order to effectuate such intention.

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

879 37-31-33. For the purpose of enabling the State Board of
880 Education to comply with the provisions of the federal Social
881 Security Act and to continue to extend and improve as far as
882 practicable the services now maintained by * * * the state board
883 for locating * * * children with physical disabilities and for
884 providing medical, surgical, corrective, and other services, care
885 and treatment, and facilities for diagnosis, hospitalization, and
886 after-care for children * * * with physical disabilities or * * *
887 conditions * * * that lead to * * * physical disabilities, any and
888 all funds appropriated for physical restoration of * * * children
889 with physical disabilities for the above purposes may be used for
890 the purposes set forth in this section.



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

893 37-31-35. Sections 37-31-31 through 37-31-41, together with
894 funds made available through that section of those sections of the
895 federal Social Security Act * * * that relates to * * * children
896 with physical disabilities, together with any and all available
897 state and federal appropriations, shall be administered by the
898 State Board of Education, and shall be used in the further
899 development of the state's program of physical restoration of
900 * * * children with physical disabilities. The State Board of
901 Education is * * * authorized to accept donations, gifts and
902 bequests and to expend same on approval of the executive officer
903 of the board, for purposes approved under regulations of the State
904 Board of Education.

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

907 37-31-39. The State Board of Education shall cooperate with
908 medical, health, nursing and * * * human services groups and
909 organizations and with any other agencies in the state charged
910 with administering state laws providing for vocational
911 rehabilitation of * * * children with physical disabilities.
912 * * * The state board * * * shall cooperate with the federal
913 government in such manner as to obtain the benefits of the
914 provisions of the federal Social Security Act pertaining to * * *
915 children with physical disabilities.



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

918 37-41-3. Pupils of legal school age, which shall include
919 kindergarten pupils, and in actual attendance in the public
920 schools who live a distance of one (1) mile or more by the nearest
921 traveled road from the school to which they are assigned by the
922 school district in which they are enrolled shall be entitled to
923 transportation within the meaning of this chapter. Nothing
924 contained in this section shall be construed to bar any child from
925 such transportation where he or she lives less than one (1) mile
926 and is on the regular route of travel of a school bus and space is
927 available in such bus for such transportation. No state funds
928 shall be paid for the transportation of children living within one
929 (1) mile of the school, except as otherwise provided in this
930 chapter, and such children shall not be included in transportation
931 reports. In the development of route plans, economy shall be a
932 prime consideration. There shall be no duplication of routes
933 except in circumstances where it is totally unavoidable. The
934 State Department of Education shall have authority to investigate
935 school bus routing when there is reason to believe the provisions
936 of this statute are being violated. The State Board of Education
937 shall have authority to withhold transportation funds when school
938 districts fail to correct unnecessary route duplication. * * *
939 All school districts are * * * authorized to lease or contract
940 with any public or private individual, partnership, corporation,



941 association, agency or other organization for the implementation
942 of transportation of pupils as provided for in this section.

943 The school boards may provide transportation to such * * *
944 children with physical disabilities as may be designated by such
945 boards, when the failure to do so would result in undue hardship,
946 even though the children are not otherwise entitled to
947 transportation under the provisions of this chapter. The State
948 Department of Education shall require all school districts * * *
949 to equip school buses with properly designed seat belts to protect
950 such * * * children with physical disabilities, and school
951 districts are authorized to expend funds therefor from * * *
952 sources other than adequate education program funds.

953 Where space is available, students attending public community
954 or junior colleges shall be allowed transportation on established
955 routes in district-owned buses. However, no additional funds
956 shall be allocated or expended for such purposes, and such persons
957 shall not be included in transportation reports.

958 Children enrolled in special or alternative programs approved
959 by school boards may be provided transportation even though such
960 children are not otherwise entitled to transportation under the
961 provisions of this chapter. No additional funds shall be
962 allocated or expended for such purpose, and such children shall
963 not be included in transportation reports.

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



966 37-151-5. As used in Sections 37-151-5 and 37-151-7:

967 (a) "Adequate program" or "adequate education program"
968 or "Mississippi Adequate Education Program (MAEP)" shall mean the
969 program to establish adequate current operation funding levels
970 necessary for the programs of such school district to meet at
971 least a successful Level III rating of the accreditation system as
972 established by the State Board of Education using current
973 statistically relevant state assessment data.

974 (b) "Educational programs or elements of programs not
975 included in the adequate education program calculations, but which
976 may be included in appropriations and transfers to school
977 districts" shall mean:

978 (i) "Capital outlay" shall mean those funds used
979 for the constructing, improving, equipping, renovating or major
980 repairing of school buildings or other school facilities, or the
981 cost of acquisition of land whereon to construct or establish such
982 school facilities.

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

987 (iii) "Adult education" shall mean public
988 education dealing primarily with students above eighteen (18)
989 years of age not enrolled as full-time public school students and



990 not classified as students of technical schools, colleges or
991 universities of the state.

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

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

999 (d) "Base student cost" shall mean the funding level
1000 necessary for providing an adequate education program for one (1)
1001 base student, subject to any minimum amounts prescribed in Section
1002 37-151-7(1).

1003 (e) "Add-on program costs" shall mean those items which
1004 are included in the adequate education program appropriations and
1005 are outside of the program calculations:

1006 (i) "Transportation" shall mean transportation to
1007 and from public schools for the students of Mississippi's public
1008 schools provided for under law and funded from state funds.

1009 (ii) "Vocational or technical education program"
1010 shall mean a secondary vocational or technical program approved by
1011 the State Department of Education and provided for from state
1012 funds.

1013 (iii) "Special education program" shall mean a
1014 program for exceptional children as defined and authorized by



1015 Sections 37-23-1 through 37-23-9, and approved by the State
1016 Department of Education and provided from state funds.

1017 (iv) "Gifted education program" shall mean those
1018 programs for the instruction of intellectually or academically
1019 gifted children as defined and provided for in Section 37-23-175
1020 et seq.

1021 (v) "Alternative school program" shall mean those
1022 programs for certain compulsory-school-age students as defined and
1023 provided for in Sections 37-13-92 and 37-19-22.

1024 (vi) "Extended school year programs" shall mean
1025 those programs authorized by law which extend beyond the normal
1026 school year.

1027 (vii) "University-based programs" shall mean those
1028 university-based programs for * * * exceptional children as
1029 defined and provided for in Section 37-23- * * * 31 et seq.

1030 (viii) "Bus driver training" programs shall mean
1031 those driver training programs as provided for in Section 37-41-1.

1032 (f) "Teacher" shall include any employee of a local
1033 school who is required by law to obtain a teacher's license from
1034 the State Board of Education and who is assigned to an
1035 instructional area of work as defined by the State Department of
1036 Education.

1037 (g) "Principal" shall mean the head of an attendance
1038 center or division thereof.



1039 (h) "Superintendent" shall mean the head of a school
1040 district.

1041 (i) "School district" shall mean any type of school
1042 district in the State of Mississippi, and shall include
1043 agricultural high schools.

1044 (j) "Minimum school term" shall mean a term of at least
1045 one hundred eighty (180) days of school in which both teachers and
1046 pupils are in regular attendance for scheduled classroom
1047 instruction for not less than sixty-three percent (63%) of the
1048 instructional day, as fixed by the local school board for each
1049 school in the school district. It is the intent of the
1050 Legislature that any tax levies generated to produce additional
1051 local funds required by any school district to operate school
1052 terms in excess of one hundred seventy-five (175) days shall not
1053 be construed to constitute a new program for the purposes of
1054 exemption from the limitation on tax revenues as allowed under
1055 Sections 27-39-321 and 37-57-107 for new programs mandated by the
1056 Legislature.

1057 (k) The term "transportation density" shall mean the
1058 number of transported children in average daily attendance per
1059 square mile of area served in a school district, as determined by
1060 the State Department of Education.

1061 (l) The term "transported children" shall mean children
1062 being transported to school who live within legal limits for
1063 transportation and who are otherwise qualified for being



1064 transported to school at public expense as fixed by Mississippi
1065 state law.

1066 (m) The term "year of teaching experience" shall mean
1067 nine (9) months of actual teaching in the public or private
1068 elementary and secondary schools and shall also include nine (9)
1069 months of actual teaching at postsecondary institutions accredited
1070 by the Southern Association of Colleges and Schools (SACS) or
1071 equivalent regional accrediting body for degree-granting
1072 postsecondary institutions. In no case shall more than one (1)
1073 year of teaching experience be given for all services in one (1)
1074 calendar or school year. In determining a teacher's experience,
1075 no deduction shall be made because of the temporary absence of the
1076 teacher because of illness or other good cause, and the teacher
1077 shall be given credit therefor. Beginning with the 2003-2004
1078 school year, the State Board of Education shall fix a number of
1079 days, not to exceed forty-five (45) consecutive school days,
1080 during which a teacher may not be under contract of employment
1081 during any school year and still be considered to have been in
1082 full-time employment for a regular scholastic term. If a teacher
1083 exceeds the number of days established by the State Board of
1084 Education that a teacher may not be under contract but may still
1085 be employed, that teacher shall not be credited with a year of
1086 teaching experience. In determining the experience of school
1087 librarians, each complete year of continuous, full-time employment
1088 as a professional librarian in a public library in this or some



1089 other state shall be considered a year of teaching experience. If
1090 a full-time school administrator returns to actual teaching in the
1091 public schools, the term "year of teaching experience" shall
1092 include the period of time he or she served as a school
1093 administrator. In determining the salaries of teachers who have
1094 experience in any branch of the military, the term "year of
1095 teaching experience" shall include each complete year of actual
1096 classroom instruction while serving in the military. In
1097 determining the experience of speech-language pathologists and
1098 audiologists, each complete year of continuous full-time post
1099 master's degree employment in an educational setting in this or
1100 some other state shall be considered a year of teaching
1101 experience. * * * However, * * * school districts are authorized,
1102 in their discretion, to negotiate the salary levels applicable
1103 to * * * licensed employees employed after July 1, 2009, who are
1104 receiving retirement benefits from the retirement system of
1105 another state, and the annual experience increment provided in
1106 Section 37-19-7 shall not be applicable to any such retired * * *
1107 licensed employee.

1108 (n) * * * The term "average daily attendance" shall be
1109 the figure which results when the total aggregate full-day
1110 attendance during the period or months counted is divided by the
1111 number of days during the period or months counted upon which both
1112 teachers and pupils are in regular attendance for scheduled
1113 classroom instruction, * * * less the average daily attendance for



1114 self-contained special education classes. For purposes of
1115 determining and reporting attendance, a pupil must be present for
1116 at least sixty-three percent (63%) of the instructional day, as
1117 fixed by the local school board for each school in the school
1118 district, in order to be considered in full-day attendance. Prior
1119 to full implementation of the adequate education program the
1120 department shall deduct the average daily attendance for the
1121 alternative school program provided for in Section 37-19-22.

1122 * * *

1123 (o) The term "local supplement" shall mean the amount
1124 paid to an individual teacher over and above the adequate
1125 education program salary schedule for regular teaching duties.

1126 (p) The term "aggregate amount of support from ad
1127 valorem taxation" shall mean the amounts produced by the
1128 district's total tax levies for operations.

1129 (q) The term "adequate education program funds" shall
1130 mean all funds, both state and local, constituting the
1131 requirements for meeting the cost of the adequate program as
1132 provided for in Section 37-151-7.

1133 (r) "Department" shall mean the State Department of
1134 Education.

1135 (s) "Commission" shall mean the Mississippi Commission
1136 on School Accreditation created under Section 37-17-3.

1137 (t) The term "successful school district" shall mean a
1138 Level III school district as designated by the State Board of



1139 Education using current statistically relevant state assessment
1140 data.

1141 (u) "Dual enrollment-dual credit programs" shall mean
1142 programs for potential or recent high school student dropouts to
1143 dually enroll in their home high school and a local community
1144 college in a dual credit program consisting of high school
1145 completion coursework and a credential, certificate or degree
1146 program at the community college, as provided in Section
1147 37-15-38(19).

1148 (v) "Charter school" means a public school that is
1149 established and operating under the terms of a charter contract
1150 between the school's governing board and the Mississippi Charter
1151 School Authorizer Board.

1152 **SECTION 19.** Section 37-151-7, Mississippi Code of 1972, is
1153 amended as follows:

1154 37-151-7. The annual allocation to each school district for
1155 the operation of the adequate education program shall be
1156 determined as follows:

1157 (1) **Computation of the basic amount to be included for**
1158 **current operation in the adequate education program.** The
1159 following procedure shall be followed in determining the annual
1160 allocation to each school district:

1161 (a) **Determination of average daily attendance.**
1162 Effective with fiscal year 2011, the State Department of Education
1163 shall determine the percentage change from the prior year of each



1164 year of each school district's average of months two (2) and three
1165 (3) average daily attendance (ADA) for the three (3) immediately
1166 preceding school years of the year for which funds are being
1167 appropriated. For any school district that experiences a positive
1168 growth in the average of months two (2) and three (3) ADA each
1169 year of the three (3) years, the average percentage growth over
1170 the three-year period shall be multiplied times the school
1171 district's average of months two (2) and three (3) ADA for the
1172 year immediately preceding the year for which MAEP funds are being
1173 appropriated. The resulting amount shall be added to the school
1174 district's average of months two (2) and three (3) ADA for the
1175 year immediately preceding the year for which MAEP funds are being
1176 appropriated to arrive at the ADA to be used in determining a
1177 school district's MAEP allocation. Otherwise, months two (2) and
1178 three (3) ADA for the year immediately preceding the year for
1179 which MAEP funds are being appropriated will be used in
1180 determining a school district's MAEP allocation. In any fiscal
1181 year prior to 2010 in which the MAEP formula is not fully funded,
1182 for those districts that do not demonstrate a three-year positive
1183 growth in months two (2) and three (3) ADA, months one (1) through
1184 nine (9) ADA of the second preceding year for which funds are
1185 being appropriated or months two (2) and three (3) ADA of the
1186 preceding year for which funds are being appropriated, whichever
1187 is greater, shall be used to calculate the district's MAEP
1188 allocation. The district's average daily attendance shall be



1189 computed and currently maintained in accordance with regulations
1190 promulgated by the State Board of Education. The district's
1191 average daily attendance shall include any student enrolled in a
1192 Dual Enrollment-Dual Credit Program as defined and provided in
1193 Section 37-15-38(19). The State Department of Education shall
1194 make payments for Dual Enrollment-Dual Credit Programs to the home
1195 school in which the student is enrolled, in accordance with
1196 regulations promulgated by the State Board of Education. The
1197 community college providing services to students in a Dual
1198 Enrollment-Dual Credit Program shall require payment from the home
1199 school district for services provided to such students at a rate
1200 of one hundred percent (100%) of ADA. All MAEP/state funding
1201 shall cease upon completion of high school graduation
1202 requirements.

1203 (b) **Determination of base student cost.** Effective with
1204 fiscal year 2011 and every fourth fiscal year thereafter, the
1205 State Board of Education, on or before August 1, with adjusted
1206 estimate no later than January 2, shall submit to the Legislative
1207 Budget Office and the Governor a proposed base student cost
1208 adequate to provide the following cost components of educating a
1209 pupil in a successful school district: (i) instructional cost;
1210 (ii) administrative cost; (iii) operation and maintenance of
1211 plant; and (iv) ancillary support cost. For purposes of these
1212 calculations, the State Department of Education shall utilize



1213 financial data from the second preceding year of the year for
1214 which funds are being appropriated.

1215 For the instructional cost component, the State Department of
1216 Education shall select districts that have been identified as
1217 instructionally successful and have a ratio of a number of
1218 teachers per one thousand (1,000) students that is between one (1)
1219 standard deviation above the mean and two (2) standard deviations
1220 below the mean of the statewide average of teachers per one
1221 thousand (1,000) students. The instructional cost component shall
1222 be calculated by dividing the latest available months one (1)
1223 through nine (9) ADA into the instructional expenditures of these
1224 selected districts. For the purpose of this calculation, the
1225 State Department of Education shall use the following funds,
1226 functions and objects:

1227 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
1228 1210, 1220, 2150-2159 Objects 210 and 215;

1229 Fund 1130 All Functions, Object Code 210 and 215;

1230 Fund 2001 Functions 1110-1199 Objects 100-999;

1231 Fund 2070 Functions 1110-1199 Objects 100-999;

1232 Fund 2420 Functions 1110-1199 Objects 100-999;

1233 Fund 2711 All Functions, Object Code 210 and 215.

1234 Prior to the calculation of the instructional cost component,
1235 there shall be subtracted from the above expenditures any revenue
1236 received for Chickasaw Cession payments, Master Teacher



1237 Certification payments and the district's portion of state revenue
1238 received from the MAEP at-risk allocation.

1239 For the administrative cost component, the State Department
1240 of Education shall select districts that have been identified as
1241 instructionally successful and have a ratio of an administrative
1242 staff to nonadministrative staff between one (1) standard
1243 deviation above the mean and two (2) standard deviations below the
1244 mean of the statewide average administrative staff to
1245 nonadministrative staff. The administrative cost component shall
1246 be calculated by dividing the latest available months one (1)
1247 through nine (9) ADA of the selected districts into the
1248 administrative expenditures of these selected districts. For the
1249 purpose of this calculation, the State Department of Education
1250 shall use the following funds, functions and objects:

1251 Fund 1120 Functions 2300-2599, Functions 2800-2899,
1252 Objects 100-999;

1253 Fund 2711 Functions 2300-2599, Functions 2800-2899,
1254 Objects 100-999.

1255 For the plant and maintenance cost component, the State
1256 Department of Education shall select districts that have been
1257 identified as instructionally successful and have a ratio of plant
1258 and maintenance expenditures per one hundred thousand (100,000)
1259 square feet of building space and a ratio of maintenance workers
1260 per one hundred thousand (100,000) square feet of building space
1261 that are both between one (1) standard deviation above the mean



1262 and two (2) standard deviations below the mean of the statewide
1263 average. The plant and maintenance cost component shall be
1264 calculated by dividing the latest available months one (1) through
1265 nine (9) ADA of the selected districts into the plant and
1266 maintenance expenditures of these selected districts. For the
1267 purpose of this calculation, the State Department of Education
1268 shall use the following funds, functions and objects:

1269 Fund 1120 Functions 2600-2699, Objects 100-699
1270 and Objects 800-999;

1271 Fund 2711 Functions 2600-2699, Objects 100-699
1272 and Objects 800-999;

1273 Fund 2430 Functions 2600-2699, Objects 100-699
1274 and Objects 800-999.

1275 For the ancillary support cost component, the State
1276 Department of Education shall select districts that have been
1277 identified as instructionally successful and have a ratio of a
1278 number of librarians, media specialists, guidance counselors and
1279 psychologists per one thousand (1,000) students that is between
1280 one (1) standard deviation above the mean and two (2) standard
1281 deviations below the mean of the statewide average of librarians,
1282 media specialists, guidance counselors and psychologists per one
1283 thousand (1,000) students. The ancillary cost component shall be
1284 calculated by dividing the latest available months one (1) through
1285 nine (9) ADA into the ancillary expenditures instructional
1286 expenditures of these selected districts. For the purpose of this



1287 calculation, the State Department of Education shall use the
1288 following funds, functions and objects:

- 1289 Fund 1120 Functions 2110-2129, Objects 100-999;
- 1290 Fund 1120 Functions 2140-2149, Objects 100-999;
- 1291 Fund 1120 Functions 2220-2229, Objects 100-999;
- 1292 Fund 2001 Functions 2100-2129, Objects 100-999;
- 1293 Fund 2001 Functions 2140-2149, Objects 100-999;
- 1294 Fund 2001 Functions 2220-2229, Objects 100-999.

1295 The total base cost for each year shall be the sum of the
1296 instructional cost component, administrative cost component, plant
1297 and maintenance cost component and ancillary support cost
1298 component, and any estimated adjustments for additional state
1299 requirements as determined by the State Board of Education. * * *

1300 However, * * * the base student cost in fiscal year 1998 shall be
1301 Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

1302 For each of the fiscal years between the recalculation of the
1303 base student cost under the provisions of this paragraph (b), the
1304 base student cost shall be increased by an amount equal to forty
1305 percent (40%) of the base student cost for the previous fiscal
1306 year, multiplied by the latest annual rate of inflation for the
1307 State of Mississippi as determined by the State Economist, plus
1308 any adjustments for additional state requirements such as, but not
1309 limited to, teacher pay raises and health insurance premium
1310 increases.



1311 (c) **Determination of the basic adequate education**

1312 **program cost.** The basic amount for current operation to be
1313 included in the Mississippi Adequate Education Program for each
1314 school district shall be computed as follows:

1315 Multiply the average daily attendance of the district by the
1316 base student cost as established by the Legislature, which yields
1317 the total base program cost for each school district.

1318 (d) **Adjustment to the base student cost for at-risk**

1319 **pupils.** The amount to be included for at-risk pupil programs for
1320 each school district shall be computed as follows: Multiply the
1321 base student cost for the appropriate fiscal year as determined
1322 under paragraph (b) by five percent (5%), and multiply that
1323 product by the number of pupils participating in the federal free
1324 school lunch program in such school district, which yields the
1325 total adjustment for at-risk pupil programs for such school
1326 district.

1327 (e) **Add-on program cost.** The amount to be allocated to
1328 school districts in addition to the adequate education program
1329 cost for add-on programs for each school district shall be
1330 computed as follows:

1331 (i) Transportation cost shall be the amount
1332 allocated to such school district for the operational support of
1333 the district transportation system from state funds.



1334 (ii) Vocational or technical education program
1335 cost shall be the amount allocated to such school district from
1336 state funds for the operational support of such programs.

1337 (iii) Special education program cost shall be the
1338 amount allocated to such school district from state funds for the
1339 operational support of such programs.

1340 (iv) Gifted education program cost shall be the
1341 amount allocated to such school district from state funds for the
1342 operational support of such programs.

1343 (v) Alternative school program cost shall be the
1344 amount allocated to such school district from state funds for the
1345 operational support of such programs.

1346 (vi) Extended school year programs shall be the
1347 amount allocated to school districts for those programs authorized
1348 by law which extend beyond the normal school year.

1349 (vii) University-based programs shall be the
1350 amount allocated to school districts for those university-based
1351 programs for * * * exceptional children as defined and provided
1352 for in Section 37-23- * * * 31 et seq. * * *

1353 (viii) Bus driver training programs shall be the
1354 amount provided for those driver training programs as provided for
1355 in Section 37-41-1 * * *.

1356 The sum of the items listed above (i) transportation, (ii)
1357 vocational or technical education, (iii) special education, (iv)
1358 gifted education, (v) alternative school, (vi) extended school



1359 year, (vii) university-based, and (viii) bus driver training shall
1360 yield the add-on cost for each school district.

1361 (f) **Total projected adequate education program cost.**

1362 The total Mississippi Adequate Education Program cost shall be the
1363 sum of the total basic adequate education program cost (paragraph
1364 (c)), and the adjustment to the base student cost for at-risk
1365 pupils (paragraph (d)) for each school district. In any year in
1366 which the MAEP is not fully funded, the Legislature shall direct
1367 the Department of Education in the K-12 appropriation bill as to
1368 how to allocate MAEP funds to school districts for that year.

1369 (g) The State Auditor shall annually verify the State
1370 Board of Education's estimated calculations for the Mississippi
1371 Adequate Education Program that are submitted each year to the
1372 Legislative Budget Office on August 1 and the final calculation
1373 that is submitted on January 2.

1374 (2) **Computation of the required local revenue in support of**
1375 **the adequate education program.** The amount that each district
1376 shall provide toward the cost of the adequate education program
1377 shall be calculated as follows:

1378 (a) The State Department of Education shall certify to
1379 each school district that twenty-eight (28) mills, less the
1380 estimated amount of the yield of the School Ad Valorem Tax
1381 Reduction Fund grants as determined by the State Department of
1382 Education, is the millage rate required to provide the district
1383 required local effort for that year, or twenty-seven percent (27%)



1384 of the basic adequate education program cost for such school
1385 district as determined under paragraph (c), whichever is a lesser
1386 amount. In the case of an agricultural high school, the millage
1387 requirement shall be set at a level which generates an equitable
1388 amount per pupil to be determined by the State Board of Education.
1389 The local contribution amount for school districts in which there
1390 is located one or more charter schools will be calculated using
1391 the following methodology: using the adequate education program
1392 twenty-eight (28) mill value, or the twenty-seven percent (27%)
1393 cap amount (whichever is less) for each school district in which a
1394 charter school is located, an average per pupil amount will be
1395 calculated. This average per pupil amount will be multiplied
1396 times the number of students attending the charter school in that
1397 school district. The sum becomes the charter school's local
1398 contribution to the adequate education program.

1399 (b) The State Department of Education shall determine
1400 the following from the annual assessment information submitted to
1401 the department by the tax assessors of the various counties: (i)
1402 the total assessed valuation of nonexempt property for school
1403 purposes in each school district; (ii) assessed value of exempt
1404 property owned by homeowners aged sixty-five (65) or older or
1405 disabled as defined in Section 27-33-67(2) * * *; (iii) the school
1406 district's tax loss from exemptions provided to applicants under
1407 the age of sixty-five (65) and not disabled as defined in Section



1408 27-33-67(1) * * *; and (iv) the school district's homestead
1409 reimbursement revenues.

1410 (c) The amount of the total adequate education program
1411 funding which shall be contributed by each school district shall
1412 be the sum of the ad valorem receipts generated by the millage
1413 required under this subsection plus the following local revenue
1414 sources for the appropriate fiscal year which are or may be
1415 available for current expenditure by the school district:

1416 One hundred percent (100%) of Grand Gulf income as prescribed
1417 in Section 27-35-309.

1418 One hundred percent (100%) of any fees in lieu of taxes as
1419 prescribed in Section 27-31-104.

1420 (3) **Computation of the required state effort in support of**
1421 **the adequate education program.**

1422 (a) The required state effort in support of the
1423 adequate education program shall be determined by subtracting the
1424 sum of the required local tax effort as set forth in subsection
1425 (2) (a) of this section and the other local revenue sources as set
1426 forth in subsection (2) (c) of this section in an amount not to
1427 exceed twenty-seven percent (27%) of the total projected adequate
1428 education program cost as set forth in subsection (1) (f) of this
1429 section from the total projected adequate education program cost
1430 as set forth in subsection (1) (f) of this section.

1431 (b) * * * However, * * * in fiscal year 2015, any
1432 increase in the * * * state contribution to any district



1433 calculated under this section shall be not less than six percent
1434 (6%) in excess of the amount received by * * * the district from
1435 state funds for fiscal year 2002; in fiscal year 2016, any
1436 increase in the * * * state contribution to any district
1437 calculated under this section shall be not less than four percent
1438 (4%) in excess of the amount received by * * * the district from
1439 state funds for fiscal year 2002; in fiscal year 2017, any
1440 increase in the * * * state contribution to any district
1441 calculated under this section shall be not less than two percent
1442 (2%) in excess of the amount received by * * * the district from
1443 state funds for fiscal year 2002; and in fiscal year 2018 and
1444 thereafter, any increase in the * * * state contribution to any
1445 district calculated under this section shall be zero percent (0%).
1446 For purposes of this paragraph (b), state funds shall include
1447 minimum program funds less the add-on programs, State Uniform
1448 Millage Assistance Grant Funds, Education Enhancement Funds
1449 appropriated for Uniform Millage Assistance Grants and state
1450 textbook allocations, and State General Funds allocated for
1451 textbooks.

1452 (c) If the school board of any school district shall
1453 determine that it is not economically feasible or practicable to
1454 operate any school within the district for the full one hundred
1455 eighty (180) days required for a school term of a scholastic year
1456 as required in Section 37-13-63 * * * due to an enemy attack, a
1457 man-made, technological or natural disaster in which the Governor



1458 has declared a disaster emergency under the laws of this state or
1459 the President of the United States has declared an emergency or
1460 major disaster to exist in this state, * * * the school board may
1461 notify the State Department of Education of such disaster and
1462 submit a plan for altering the school term. If the State Board of
1463 Education finds such disaster to be the cause of the school not
1464 operating for the contemplated school term and that such school
1465 was in a school district covered by the Governor's or President's
1466 disaster declaration, it may permit * * * the school board to
1467 operate the schools in its district for less than one hundred
1468 eighty (180) days and, in such case, the State Department of
1469 Education shall not reduce the state contributions to the adequate
1470 education program allotment for such district, because of the
1471 failure to operate * * * the schools for one hundred eighty (180)
1472 days.

1473 (4) The Interim School District Capital Expenditure Fund
1474 is * * * established in the State Treasury which shall be used to
1475 distribute any funds specifically appropriated by the Legislature
1476 to such fund to school districts entitled to increased allocations
1477 of state funds under the adequate education program funding
1478 formula prescribed in Sections 37-151-3 through 37-151-7 * * *
1479 until such time as the * * * adequate education program is fully
1480 funded by the Legislature. The following percentages of the total
1481 state cost of increased allocations of funds under the adequate
1482 education program funding formula shall be appropriated by the



1483 Legislature into the Interim School District Capital Expenditure
1484 Fund to be distributed to all school districts under the formula:
1485 Nine and two-tenths percent (9.2%) shall be appropriated in fiscal
1486 year 1998, twenty percent (20%) shall be appropriated in fiscal
1487 year 1999, forty percent (40%) shall be appropriated in fiscal
1488 year 2000, sixty percent (60%) shall be appropriated in fiscal
1489 year 2001, eighty percent (80%) shall be appropriated in fiscal
1490 year 2002, and one hundred percent (100%) shall be appropriated in
1491 fiscal year 2003 into the State Adequate Education Program Fund.
1492 Until July 1, 2002, such money shall be used by school districts
1493 for the following purposes:

1494 (a) Purchasing, erecting, repairing, equipping,
1495 remodeling and enlarging school buildings and related facilities,
1496 including gymnasiums, auditoriums, lunchrooms, vocational training
1497 buildings, libraries, school barns and garages for transportation
1498 vehicles, school athletic fields and necessary facilities
1499 connected therewith, and purchasing land therefor. Any such
1500 capital improvement project by a school district shall be approved
1501 by the State Board of Education, and based on an approved
1502 long-range plan. The State Board of Education shall promulgate
1503 minimum requirements for the approval of school district capital
1504 expenditure plans.

1505 (b) Providing necessary water, light, heating,
1506 air-conditioning, and sewerage facilities for school buildings,
1507 and purchasing land therefor.



1508 (c) Paying debt service on existing capital improvement
1509 debt of the district or refinancing outstanding debt of a district
1510 if such refinancing will result in an interest cost savings to the
1511 district.

1512 (d) From and after October 1, 1997, through June 30,
1513 1998, pursuant to a school district capital expenditure plan
1514 approved by the State Department of Education, a school district
1515 may pledge such funds until July 1, 2002, plus funds provided for
1516 in paragraph (e) of this subsection (4) that are not otherwise
1517 permanently pledged under such paragraph (e) to pay all or a
1518 portion of the debt service on debt issued by the school district
1519 under Sections 37-59-1 through 37-59-45, 37-59-101 through
1520 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
1521 37-7-301, 37-7-302 and 37-41-81, * * * or debt issued by boards of
1522 supervisors for agricultural high schools pursuant to Section
1523 37-27-65, * * * or lease-purchase contracts entered into pursuant
1524 to Section 31-7-13, * * * or to retire or refinance outstanding
1525 debt of a district, if such pledge is accomplished pursuant to a
1526 written contract or resolution approved and spread upon the
1527 minutes of an official meeting of the district's school board or
1528 board of supervisors. It is the intent of this provision to allow
1529 school districts to irrevocably pledge their Interim School
1530 District Capital Expenditure Fund allotments as a constant stream
1531 of revenue to secure a debt issued under the foregoing code
1532 sections. To allow school districts to make such an irrevocable



1533 pledge, the state shall take all action necessary to ensure that
1534 the amount of a district's Interim School District Capital
1535 Expenditure Fund allotments shall not be reduced below the amount
1536 certified by the department or the district's total allotment
1537 under the Interim Capital Expenditure Fund if fully funded, so
1538 long as such debt remains outstanding.

1539 (e) [Repealed]

1540 (f) [Repealed]

1541 (g) The State Board of Education may authorize the
1542 school district to expend not more than twenty percent (20%) of
1543 its annual allotment of such funds or Twenty Thousand Dollars
1544 (\$20,000.00), whichever is greater, for technology needs of the
1545 school district, including computers, software,
1546 telecommunications, cable television, interactive video, film,
1547 low-power television, satellite communications, microwave
1548 communications, technology-based equipment installation and
1549 maintenance, and the training of staff in the use of such
1550 technology-based instruction. Any such technology expenditure
1551 shall be reflected in the local district technology plan approved
1552 by the State Board of Education under Section 37-151-17 * * *.

1553 (h) To the extent a school district has not utilized
1554 twenty percent (20%) of its annual allotment for technology
1555 purposes under paragraph (g), a school district may expend not
1556 more than twenty percent (20%) of its annual allotment or Twenty
1557 Thousand Dollars (\$20,000.00), whichever is greater, for



1558 instructional purposes. The State Board of Education may
1559 authorize a school district to expend more than * * * twenty
1560 percent (20%) of its annual allotment for instructional purposes
1561 if it determines that such expenditures are needed for
1562 accreditation purposes.

1563 (i) The State Department of Education or the State
1564 Board of Education may require that any project commenced under
1565 this section with an estimated project cost of not less than Five
1566 Million Dollars (\$5,000,000.00) shall be done only pursuant to
1567 program management of the process with respect to design and
1568 construction. Any individuals, partnerships, companies or other
1569 entities acting as a program manager on behalf of a local school
1570 district and performing program management services for projects
1571 covered under this subsection shall be approved by the State
1572 Department of Education.

1573 Any interest accruing on any unexpended balance in the
1574 Interim School District Capital Expenditure Fund shall be invested
1575 by the State Treasurer and placed to the credit of each school
1576 district participating in such fund in its proportionate share.

1577 The provisions of this subsection (4) shall be cumulative and
1578 supplemental to any existing funding programs or other authority
1579 conferred upon school districts or school boards.

1580 (5) The State Department of Education shall make payments to
1581 charter schools for each student in average daily attendance at
1582 the charter school equal to the state share of the adequate



1583 education program payments for each student in average daily
1584 attendance at the school district in which the public charter
1585 school is located. In calculating the local contribution for
1586 purposes of determining the state share of the adequate education
1587 program payments, the department shall deduct the pro rata local
1588 contribution of the school district in which the student resides
1589 as determined in subsection (2)(a) of this section.

1590 **SECTION 20.** Section 37-151-81, Mississippi Code of 1972, is
1591 amended as follows:

1592 37-151-81. (1) In addition to other funds provided for in
1593 this chapter, there shall be added to the allotment for each
1594 school district for each teacher employed in a State Department of
1595 Education approved program for exceptional children as defined in
1596 Section 37-23-3 * * * the value of one hundred percent (100%) of
1597 the adequate education program salary schedule prescribed in
1598 Section 37-19-7, * * * based on the type of * * * license and
1599 number of years' teaching experience held by each approved special
1600 education teacher plus one hundred percent (100%) of the
1601 applicable employer's rate for social security and state
1602 retirement, except that only seventy percent (70%) of the value
1603 will be added for the program for three- and four-year old
1604 exceptional children.

1605 (2) In addition to the allowances provided above, for
1606 each * * * exceptional child who is being educated by a public
1607 school district or is placed in accord with Section



1608 37-23-77, * * * and whose individualized educational program (IEP)
1609 requires an extended school year in accord with the State
1610 Department of Education criteria, a sufficient amount of funds
1611 shall be allocated for the purpose of providing the educational
1612 services the student requires. The State Board of Education shall
1613 promulgate such regulations as are required to insure the
1614 equitable distribution of these funds. All costs for the extended
1615 school year for a particular summer shall be reimbursed from funds
1616 appropriated for the fiscal year beginning July 1 of that summer.
1617 If sufficient funds are not made available to finance all of the
1618 required educational services, the State Department of Education
1619 shall expend available funds in such a manner that it does not
1620 limit the availability of appropriate education to * * *
1621 exceptional students more severely than it does to * * * other
1622 students.

1623 (3) The State Department of Education is * * * authorized to
1624 match adequate education program and other funds allocated for
1625 provision of services to * * * exceptional children with Division
1626 of Medicaid funds to provide language-speech services, physical
1627 therapy and occupational therapy to * * * exceptional students who
1628 meet State Department of Education or Division of Medicaid
1629 standards and who are Medicaid eligible. Provided further, that
1630 the State Department of Education is authorized to pay such funds
1631 as may be required as a match directly to the Division of Medicaid



1632 pursuant to an agreement to be developed between the State
1633 Department of Education and the Division of Medicaid.

1634 (4) In addition to other funds provided for in this chapter,
1635 there shall be added to the allotment for each school district for
1636 each teacher employed in a State Department of Education approved
1637 program for gifted education as defined in Sections 37-23-173
1638 through 37-23-181 * * * the value of one hundred percent (100%) of
1639 the adequate education program salary schedule prescribed in
1640 Section 37-19-7, * * * based on the type of * * * license and
1641 number of years' teaching experience held by each approved gifted
1642 education teacher plus one hundred percent (100%) of the
1643 applicable employer's rate for social security and state
1644 retirement.

1645 (5) When any children who are residents of the State of
1646 Mississippi and qualify under the provisions of Section
1647 37-23-31 * * * shall be provided a program of education,
1648 instruction and training within a school under the provisions
1649 of * * * that section, the State Department of Education shall
1650 allocate the value of one hundred percent (100%) of the adequate
1651 education program salary schedule prescribed in Section
1652 37-19-7 * * * for each approved program based on the type of * * *
1653 license and number of years' teaching experience held by each
1654 approved teacher plus one hundred percent (100%) of the applicable
1655 employer's rate for social security and state retirement. The
1656 university or college shall be eligible for state and federal



1657 funds for such programs on the same basis as local school
1658 districts. The university or college shall be responsible for
1659 providing for the additional costs of the program.

1660 (6) In addition to the allotments provided above, a school
1661 district may provide a program of education and instruction to
1662 children ages five (5) years through twenty-one (21) years, who
1663 are resident citizens of the State of Mississippi, who cannot have
1664 their educational needs met in a regular public school program and
1665 who have not finished or graduated from high school, if those
1666 children are determined by competent medical authorities and
1667 psychologists to need placement in a state licensed facility for
1668 inpatient treatment, day treatment or residential treatment or a
1669 therapeutic group home. Such program shall operate under rules,
1670 regulations, policies and standards of school districts as
1671 determined by the State Board of Education. If a private school
1672 approved by the State Board of Education is operated as an
1673 integral part of the state licensed facility that provides for the
1674 treatment of such children, the private school within the facility
1675 may provide a program of education, instruction and training to
1676 such children by requesting the State Department of Education to
1677 allocate one (1) teacher unit or a portion of a teacher unit for
1678 each approved class. The facility shall be responsible for
1679 providing any additional costs of the program.

1680 Such funds will be allotted based on the type of * * *
1681 license and number of years' teaching experience held by each



1682 approved teacher. Such children shall not be counted in average
1683 daily attendance when determining regular teacher unit allocation.

1684 **SECTION 21.** Section 41-3-15, Mississippi Code of 1972, is
1685 amended as follows:

1686 41-3-15. (1) (a) There shall be a State Department of
1687 Health.

1688 (b) The State Board of Health shall have the following
1689 powers and duties:

1690 (i) To formulate the policy of the State
1691 Department of Health regarding public health matters within the
1692 jurisdiction of the department;

1693 (ii) To adopt, modify, repeal and promulgate,
1694 after due notice and hearing, and enforce rules and regulations
1695 implementing or effectuating the powers and duties of the
1696 department under any and all statutes within the department's
1697 jurisdiction, and as the board may deem necessary;

1698 (iii) To apply for, receive, accept and expend any
1699 federal or state funds or contributions, gifts, trusts, devises,
1700 bequests, grants, endowments or funds from any other source or
1701 transfers of property of any kind;

1702 (iv) To enter into, and to authorize the executive
1703 officer to execute contracts, grants and cooperative agreements
1704 with any federal or state agency or subdivision thereof, or any
1705 public or private institution located inside or outside the State
1706 of Mississippi, or any person, corporation or association in



1707 connection with carrying out the provisions of this chapter, if it
1708 finds those actions to be in the public interest and the contracts
1709 or agreements do not have a financial cost that exceeds the
1710 amounts appropriated for those purposes by the Legislature;

1711 (v) To appoint, upon recommendation of the
1712 Executive Officer of the State Department of Health, a Director of
1713 Internal Audit who shall be either a Certified Public Accountant
1714 or Certified Internal Auditor, and whose employment shall be
1715 continued at the discretion of the board, and who shall report
1716 directly to the board, or its designee; and

1717 (vi) To discharge such other duties,
1718 responsibilities and powers as are necessary to implement the
1719 provisions of this chapter.

1720 (c) The Executive Officer of the State Department of
1721 Health shall have the following powers and duties:

1722 (i) To administer the policies of the State Board
1723 of Health within the authority granted by the board;

1724 (ii) To supervise and direct all administrative
1725 and technical activities of the department, except that the
1726 department's internal auditor shall be subject to the sole
1727 supervision and direction of the board;

1728 (iii) To organize the administrative units of the
1729 department in accordance with the plan adopted by the board and,
1730 with board approval, alter the organizational plan and reassign



1731 responsibilities as he or she may deem necessary to carry out the
1732 policies of the board;

1733 (iv) To coordinate the activities of the various
1734 offices of the department;

1735 (v) To employ, subject to regulations of the State
1736 Personnel Board, qualified professional personnel in the subject
1737 matter or fields of each office, and such other technical and
1738 clerical staff as may be required for the operation of the
1739 department. The executive officer shall be the appointing
1740 authority for the department, and shall have the power to delegate
1741 the authority to appoint or dismiss employees to appropriate
1742 subordinates, subject to the rules and regulations of the State
1743 Personnel Board;

1744 (vi) To recommend to the board such studies and
1745 investigations as he or she may deem appropriate, and to carry out
1746 the approved recommendations in conjunction with the various
1747 offices;

1748 (vii) To prepare and deliver to the Legislature
1749 and the Governor on or before January 1 of each year, and at such
1750 other times as may be required by the Legislature or Governor, a
1751 full report of the work of the department and the offices thereof,
1752 including a detailed statement of expenditures of the department
1753 and any recommendations the board may have;

1754 (viii) To prepare and deliver to the Chairmen of
1755 the Public Health and Welfare/Human Services Committees of the



1756 Senate and House on or before January 1 of each year, a plan for
1757 monitoring infant mortality in Mississippi and a full report of
1758 the work of the department on reducing Mississippi's infant
1759 mortality and morbidity rates and improving the status of maternal
1760 and infant health; and

1761 (ix) To enter into contracts, grants and
1762 cooperative agreements with any federal or state agency or
1763 subdivision thereof, or any public or private institution located
1764 inside or outside the State of Mississippi, or any person,
1765 corporation or association in connection with carrying out the
1766 provisions of this chapter, if he or she finds those actions to be
1767 in the public interest and the contracts or agreements do not have
1768 a financial cost that exceeds the amounts appropriated for those
1769 purposes by the Legislature. Each contract or agreement entered
1770 into by the executive officer shall be submitted to the board
1771 before its next meeting.

1772 (2) The State Board of Health shall have the authority to
1773 establish an Office of Rural Health within the department. The
1774 duties and responsibilities of this office shall include the
1775 following:

1776 (a) To collect and evaluate data on rural health
1777 conditions and needs;

1778 (b) To engage in policy analysis, policy development
1779 and economic impact studies with regard to rural health issues;



1780 (c) To develop and implement plans and provide
1781 technical assistance to enable community health systems to respond
1782 to various changes in their circumstances;

1783 (d) To plan and assist in professional recruitment and
1784 retention of medical professionals and assistants; and

1785 (e) To establish information clearinghouses to improve
1786 access to and sharing of rural health care information.

1787 (3) The State Board of Health shall have general supervision
1788 of the health interests of the people of the state and to exercise
1789 the rights, powers and duties of those acts which it is authorized
1790 by law to enforce.

1791 (4) The State Board of Health shall have authority:

1792 (a) To make investigations and inquiries with respect
1793 to the causes of disease and death, and to investigate the effect
1794 of environment, including conditions of employment and other
1795 conditions that may affect health, and to make such other
1796 investigations as it may deem necessary for the preservation and
1797 improvement of health.

1798 (b) To make such sanitary investigations as it may,
1799 from time to time, deem necessary for the protection and
1800 improvement of health and to investigate nuisance questions that
1801 affect the security of life and health within the state.

1802 (c) To direct and control sanitary and quarantine
1803 measures for dealing with all diseases within the state possible
1804 to suppress same and prevent their spread.



1805 (d) To obtain, collect and preserve such information
1806 relative to mortality, morbidity, disease and health as may be
1807 useful in the discharge of its duties or may contribute to the
1808 prevention of disease or the promotion of health in this state.

1809 (e) To charge and collect reasonable fees for health
1810 services, including immunizations, inspections and related
1811 activities, and the board shall charge fees for those services;
1812 however, if it is determined that a person receiving services is
1813 unable to pay the total fee, the board shall collect any amount
1814 that the person is able to pay. Any increase in the fees charged
1815 by the board under this paragraph shall be in accordance with the
1816 provisions of Section 41-3-65.

1817 (f) (i) To establish standards for, issue permits and
1818 exercise control over, any cafes, restaurants, food or drink
1819 stands, sandwich manufacturing establishments, and all other
1820 establishments, other than churches, church-related and private
1821 schools, and other nonprofit or charitable organizations, where
1822 food or drink is regularly prepared, handled and served for pay;
1823 and

1824 (ii) To require that a permit be obtained from the
1825 Department of Health before those persons begin operation. If any
1826 such person fails to obtain the permit required in this
1827 subparagraph (ii), the State Board of Health, after due notice and
1828 opportunity for a hearing, may impose a monetary penalty not to
1829 exceed One Thousand Dollars (\$1,000.00) for each violation.



1830 However, the department is not authorized to impose a monetary
1831 penalty against any person whose gross annual prepared food sales
1832 are less than Five Thousand Dollars (\$5,000.00). Money collected
1833 by the board under this subparagraph (ii) shall be deposited to
1834 the credit of the State General Fund of the State Treasury.

1835 (g) To promulgate rules and regulations and exercise
1836 control over the production and sale of milk pursuant to the
1837 provisions of Sections 75-31-41 through 75-31-49.

1838 (h) On presentation of proper authority, to enter into
1839 and inspect any public place or building where the State Health
1840 Officer or his representative deems it necessary and proper to
1841 enter for the discovery and suppression of disease and for the
1842 enforcement of any health or sanitary laws and regulations in the
1843 state.

1844 (i) To conduct investigations, inquiries and hearings,
1845 and to issue subpoenas for the attendance of witnesses and the
1846 production of books and records at any hearing when authorized and
1847 required by statute to be conducted by the State Health Officer or
1848 the State Board of Health.

1849 (j) To promulgate rules and regulations, and to collect
1850 data and information, on (i) the delivery of services through the
1851 practice of telemedicine; and (ii) the use of electronic records
1852 for the delivery of telemedicine services.

1853 (k) To enforce and regulate domestic and imported fish
1854 as authorized under Section 69-7-601 et seq.



1855 (5) (a) The State Board of Health shall have the authority,
1856 in its discretion, to establish programs to promote the public
1857 health, to be administered by the State Department of Health.
1858 Specifically, those programs may include, but shall not be limited
1859 to, programs in the following areas:

- 1860 (i) Maternal and child health;
- 1861 (ii) Family planning;
- 1862 (iii) Pediatric services;
- 1863 (iv) Services to * * * children with disabilities;
- 1864 (v) Control of communicable and noncommunicable
1865 disease;
- 1866 (vi) Chronic disease;
- 1867 (vii) Accidental deaths and injuries;
- 1868 (viii) Child care licensure;
- 1869 (ix) Radiological health;
- 1870 (x) Dental health;
- 1871 (xi) Milk sanitation;
- 1872 (xii) Occupational safety and health;
- 1873 (xiii) Food, vector control and general
1874 sanitation;
- 1875 (xiv) Protection of drinking water;
- 1876 (xv) Sanitation in food handling establishments
1877 open to the public;
- 1878 (xvi) Registration of births and deaths and other
1879 vital events;



1880 (xvii) Such public health programs and services as
1881 may be assigned to the State Board of Health by the Legislature or
1882 by executive order; and

1883 (xviii) Regulation of domestic and imported fish
1884 for human consumption.

1885 (b) The State Board of Health and State Department of
1886 Health shall not be authorized to sell, transfer, alienate or
1887 otherwise dispose of any of the home health agencies owned and
1888 operated by the department on January 1, 1995, and shall not be
1889 authorized to sell, transfer, assign, alienate or otherwise
1890 dispose of the license of any of those home health agencies,
1891 except upon the specific authorization of the Legislature by an
1892 amendment to this section. However, this paragraph (b) shall not
1893 prevent the board or the department from closing or terminating
1894 the operation of any home health agency owned and operated by the
1895 department, or closing or terminating any office, branch office or
1896 clinic of any such home health agency, or otherwise discontinuing
1897 the providing of home health services through any such home health
1898 agency, office, branch office or clinic, if the board first
1899 demonstrates that there are other providers of home health
1900 services in the area being served by the department's home health
1901 agency, office, branch office or clinic that will be able to
1902 provide adequate home health services to the residents of the area
1903 if the department's home health agency, office, branch office or
1904 clinic is closed or otherwise discontinues the providing of home



1905 health services. This demonstration by the board that there are
1906 other providers of adequate home health services in the area shall
1907 be spread at length upon the minutes of the board at a regular or
1908 special meeting of the board at least thirty (30) days before a
1909 home health agency, office, branch office or clinic is proposed to
1910 be closed or otherwise discontinue the providing of home health
1911 services.

1912 (c) The State Department of Health may undertake such
1913 technical programs and activities as may be required for the
1914 support and operation of those programs, including maintaining
1915 physical, chemical, bacteriological and radiological laboratories,
1916 and may make such diagnostic tests for diseases and tests for the
1917 evaluation of health hazards as may be deemed necessary for the
1918 protection of the people of the state.

1919 (6) (a) The State Board of Health shall administer the
1920 local governments and rural water systems improvements loan
1921 program in accordance with the provisions of Section 41-3-16.

1922 (b) The State Board of Health shall have authority:

1923 (i) To enter into capitalization grant agreements
1924 with the United States Environmental Protection Agency, or any
1925 successor agency thereto;

1926 (ii) To accept capitalization grant awards made
1927 under the federal Safe Drinking Water Act, as amended;



1928 (iii) To provide annual reports and audits to the
1929 United States Environmental Protection Agency, as may be required
1930 by federal capitalization grant agreements; and

1931 (iv) To establish and collect fees to defray the
1932 reasonable costs of administering the revolving fund or emergency
1933 fund if the State Board of Health determines that those costs will
1934 exceed the limitations established in the federal Safe Drinking
1935 Water Act, as amended. The administration fees may be included in
1936 loan amounts to loan recipients for the purpose of facilitating
1937 payment to the board; however, those fees may not exceed five
1938 percent (5%) of the loan amount.

1939 (7) Notwithstanding any other provision to the contrary, the
1940 State Department of Health shall have the following specific
1941 powers: The department shall issue a license to Alexander Milne
1942 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
1943 construction, conversion, expansion and operation of not more than
1944 forty-five (45) beds for * * * adults with developmental
1945 disabilities who have been displaced from New Orleans, Louisiana,
1946 with the beds to be located in a certified ICF- * * * IID facility
1947 in the City of Laurel, Mississippi. There shall be no prohibition
1948 or restrictions on participation in the Medicaid program for the
1949 person receiving the license under this subsection (7). The
1950 license described in this subsection shall expire five (5) years
1951 from the date of its issue. The license authorized by this
1952 subsection shall be issued upon the initial payment by the



1953 licensee of an application fee of Sixty-seven Thousand Dollars
1954 (\$67,000.00) and a monthly fee of Sixty-seven Thousand Dollars
1955 (\$67,000.00) after the issuance of the license, to be paid as long
1956 as the licensee continues to operate. The initial and monthly
1957 licensing fees shall be deposited by the State Department of
1958 Health into the special fund created under Section 41-7-188.

1959 (8) Notwithstanding any other provision to the contrary, the
1960 State Department of Health shall have the following specific
1961 powers: The State Department of Health is authorized to issue a
1962 license to an existing home health agency for the transfer of a
1963 county from that agency to another existing home health agency,
1964 and to charge a fee for reviewing and making a determination on
1965 the application for such transfer not to exceed one-half (1/2) of
1966 the authorized fee assessed for the original application for the
1967 home health agency, with the revenue to be deposited by the State
1968 Department of Health into the special fund created under Section
1969 41-7-188.

1970 (9) Notwithstanding any other provision to the contrary, the
1971 State Department of Health shall have the following specific
1972 powers: For the period beginning July 1, 2010, through July 1,
1973 2017, the State Department of Health is authorized and empowered
1974 to assess a fee in addition to the fee prescribed in Section
1975 41-7-188 for reviewing applications for certificates of need in an
1976 amount not to exceed twenty-five one-hundredths of one percent
1977 (.25 of 1%) of the amount of a proposed capital expenditure, but



1978 shall be not less than Two Hundred Fifty Dollars (\$250.00)
1979 regardless of the amount of the proposed capital expenditure, and
1980 the maximum additional fee permitted shall not exceed Fifty
1981 Thousand Dollars (\$50,000.00). Provided that the total
1982 assessments of fees for certificate of need applications under
1983 Section 41-7-188 and this section shall not exceed the actual cost
1984 of operating the certificate of need program.

1985 (10) Notwithstanding any other provision to the contrary,
1986 the State Department of Health shall have the following specific
1987 powers: The State Department of Health is authorized to extend
1988 and renew any certificate of need that has expired, and to charge
1989 a fee for reviewing and making a determination on the application
1990 for such action not to exceed one-half (1/2) of the authorized fee
1991 assessed for the original application for the certificate of need,
1992 with the revenue to be deposited by the State Department of Health
1993 into the special fund created under Section 41-7-188.

1994 (11) Notwithstanding any other provision to the contrary,
1995 the State Department of Health shall have the following specific
1996 powers: The State Department of Health is authorized and
1997 empowered, to revoke, immediately, the license and require closure
1998 of any institution for the aged or infirm, including any other
1999 remedy less than closure to protect the health and safety of the
2000 residents of * * * the institution or the health and safety of the
2001 general public.



2002 (12) Notwithstanding any other provision to the contrary,
2003 the State Department of Health shall have the following specific
2004 powers: The State Department of Health is authorized and
2005 empowered, to require the temporary detainment of individuals for
2006 disease control purposes based upon violation of any order of the
2007 State Health Officer, as provided in Section 41-23-5. For the
2008 purpose of enforcing such orders of the State Health Officer,
2009 persons employed by the department as investigators shall have
2010 general arrest powers. All law enforcement officers are
2011 authorized and directed to assist in the enforcement of such
2012 orders of the State Health Officer.

2013 **SECTION 22.** Section 41-4-18, Mississippi Code of 1972, is
2014 amended as follows:

2015 41-4-18. (1) Notwithstanding Section 41-7-191(11) and
2016 Section 41-7-171 et seq. * * * or any other section of law, the
2017 Department of Mental Health shall have the authority to contract
2018 with private and/or public entities to transfer beds within
2019 intermediate care facilities for * * * individuals with
2020 intellectual disabilities owned and operated by the Department of
2021 Mental Health to locations owned and operated by private and/or
2022 public entities for the purpose of serving individuals with
2023 intellectual disabilities in the settings most appropriate to meet
2024 their needs.

2025 (2) Any license granted to the Department of Mental Health
2026 by the Department of Health for the operation of transferred



2027 intermediate care facility for * * * individuals with intellectual
2028 disabilities beds shall remain in the name of the Department of
2029 Mental Health and shall not be transferred into the name of the
2030 contractor unless the contractor has received the appropriate
2031 certificates of need.

2032 **SECTION 23.** Section 41-7-173, Mississippi Code of 1972, is
2033 amended as follows:

2034 41-7-173. For the purposes of Section 41-7-171 et seq., the
2035 following words shall have the meanings ascribed herein, unless
2036 the context otherwise requires:

2037 (a) "Affected person" means (i) the applicant; (ii) a
2038 person residing within the geographic area to be served by the
2039 applicant's proposal; (iii) a person who regularly uses health
2040 care facilities or HMOs located in the geographic area of the
2041 proposal which provide similar service to that which is proposed;
2042 (iv) health care facilities and HMOs which have, prior to receipt
2043 of the application under review, formally indicated an intention
2044 to provide service similar to that of the proposal being
2045 considered at a future date; (v) third-party payers who reimburse
2046 health care facilities located in the geographical area of the
2047 proposal; or (vi) any agency that establishes rates for health
2048 care services or HMOs located in the geographic area of the
2049 proposal.

2050 (b) "Certificate of need" means a written order of the
2051 State Department of Health setting forth the affirmative finding



2052 that a proposal in prescribed application form, sufficiently
2053 satisfies the plans, standards and criteria prescribed for such
2054 service or other project by Section 41-7-171 et seq., and by rules
2055 and regulations promulgated thereunder by the State Department of
2056 Health.

2057 (c) (i) "Capital expenditure," when pertaining to
2058 defined major medical equipment, shall mean an expenditure which,
2059 under generally accepted accounting principles consistently
2060 applied, is not properly chargeable as an expense of operation and
2061 maintenance and which exceeds One Million Five Hundred Thousand
2062 Dollars (\$1,500,000.00).

2063 (ii) "Capital expenditure," when pertaining to
2064 other than major medical equipment, shall mean any expenditure
2065 which under generally accepted accounting principles consistently
2066 applied is not properly chargeable as an expense of operation and
2067 maintenance and which exceeds, for clinical health services, as
2068 defined in * * * paragraph (k) below, Five Million Dollars
2069 (\$5,000,000.00), adjusted for inflation as published by the State
2070 Department of Health or which exceeds, for nonclinical health
2071 services, as defined in * * * paragraph (k) below, Ten Million
2072 Dollars (\$10,000,000.00), adjusted for inflation as published by
2073 the State Department of Health.

2074 (iii) A "capital expenditure" shall include the
2075 acquisition, whether by lease, sufferance, gift, devise, legacy,
2076 settlement of a trust or other means, of any facility or part



2077 thereof, or equipment for a facility, the expenditure for which
2078 would have been considered a capital expenditure if acquired by
2079 purchase. Transactions which are separated in time but are
2080 planned to be undertaken within twelve (12) months of each other
2081 and are components of an overall plan for meeting patient care
2082 objectives shall, for purposes of this definition, be viewed in
2083 their entirety without regard to their timing.

2084 (iv) In those instances where a health care
2085 facility or other provider of health services proposes to provide
2086 a service in which the capital expenditure for major medical
2087 equipment or other than major medical equipment or a combination
2088 of the two (2) may have been split between separate parties, the
2089 total capital expenditure required to provide the proposed service
2090 shall be considered in determining the necessity of certificate of
2091 need review and in determining the appropriate certificate of need
2092 review fee to be paid. The capital expenditure associated with
2093 facilities and equipment to provide services in Mississippi shall
2094 be considered regardless of where the capital expenditure was
2095 made, in state or out of state, and regardless of the domicile of
2096 the party making the capital expenditure, in state or out of
2097 state.

2098 (d) "Change of ownership" includes, but is not limited
2099 to, inter vivos gifts, purchases, transfers, lease arrangements,
2100 cash and/or stock transactions or other comparable arrangements
2101 whenever any person or entity acquires or controls a majority



2102 interest of an existing health care facility, and/or the change of
2103 ownership of major medical equipment, a health service, or an
2104 institutional health service. Changes of ownership from
2105 partnerships, single proprietorships or corporations to another
2106 form of ownership are specifically included. However, "change of
2107 ownership" shall not include any inherited interest acquired as a
2108 result of a testamentary instrument or under the laws of descent
2109 and distribution of the State of Mississippi.

2110 (e) "Commencement of construction" means that all of
2111 the following have been completed with respect to a proposal or
2112 project proposing construction, renovating, remodeling or
2113 alteration:

2114 (i) A legally binding written contract has been
2115 consummated by the proponent and a lawfully licensed contractor to
2116 construct and/or complete the intent of the proposal within a
2117 specified period of time in accordance with final architectural
2118 plans which have been approved by the licensing authority of the
2119 State Department of Health;

2120 (ii) Any and all permits and/or approvals deemed
2121 lawfully necessary by all authorities with responsibility for such
2122 have been secured; and

2123 (iii) Actual bona fide undertaking of the subject
2124 proposal has commenced, and a progress payment of at least one
2125 percent (1%) of the total cost price of the contract has been paid
2126 to the contractor by the proponent, and the requirements of this



2127 paragraph (e) have been certified to in writing by the State
2128 Department of Health.

2129 Force account expenditures, such as deposits, securities,
2130 bonds, et cetera, may, in the discretion of the State Department
2131 of Health, be excluded from any or all of the provisions of
2132 defined commencement of construction.

2133 (f) "Consumer" means an individual who is not a
2134 provider of health care as defined in paragraph (q) of this
2135 section.

2136 (g) "Develop," when used in connection with health
2137 services, means to undertake those activities which, on their
2138 completion, will result in the offering of a new institutional
2139 health service or the incurring of a financial obligation as
2140 defined under applicable state law in relation to the offering of
2141 such services.

2142 (h) "Health care facility" includes hospitals,
2143 psychiatric hospitals, chemical dependency hospitals, skilled
2144 nursing facilities, end-stage renal disease (ESRD) facilities,
2145 including freestanding hemodialysis units, intermediate care
2146 facilities, ambulatory surgical facilities, intermediate care
2147 facilities for * * * individuals with intellectual disabilities,
2148 home health agencies, psychiatric residential treatment
2149 facilities, pediatric skilled nursing facilities, long-term care
2150 hospitals, comprehensive medical rehabilitation facilities,
2151 including facilities owned or operated by the state or a political



2152 subdivision or instrumentality of the state, but does not include
2153 Christian Science sanatoriums operated or listed and certified by
2154 the First Church of Christ, Scientist, Boston, Massachusetts.
2155 This definition shall not apply to facilities for the private
2156 practice, either independently or by incorporated medical groups,
2157 of physicians, dentists or health care professionals except where
2158 such facilities are an integral part of an institutional health
2159 service. The various health care facilities listed in this
2160 paragraph shall be defined as follows:

2161 (i) "Hospital" means an institution which is
2162 primarily engaged in providing to inpatients, by or under the
2163 supervision of physicians, diagnostic services and therapeutic
2164 services for medical diagnosis, treatment and care of injured,
2165 disabled or sick persons, or rehabilitation services for the
2166 rehabilitation of injured, disabled or sick persons. Such term
2167 does not include psychiatric hospitals.

2168 (ii) "Psychiatric hospital" means an institution
2169 which is primarily engaged in providing to inpatients, by or under
2170 the supervision of a physician, psychiatric services for the
2171 diagnosis and treatment of persons with mental illness.

2172 (iii) "Chemical dependency hospital" means an
2173 institution which is primarily engaged in providing to inpatients,
2174 by or under the supervision of a physician, medical and related
2175 services for the diagnosis and treatment of chemical dependency
2176 such as alcohol and drug abuse.



2177 (iv) "Skilled nursing facility" means an
2178 institution or a distinct part of an institution which is
2179 primarily engaged in providing to inpatients skilled nursing care
2180 and related services for patients who require medical or nursing
2181 care or rehabilitation services for the rehabilitation of injured,
2182 disabled or sick persons.

2183 (v) "End-stage renal disease (ESRD) facilities"
2184 means kidney disease treatment centers, which includes
2185 freestanding hemodialysis units and limited care facilities. The
2186 term "limited care facility" generally refers to an
2187 off-hospital-premises facility, regardless of whether it is
2188 provider or nonprovider operated, which is engaged primarily in
2189 furnishing maintenance hemodialysis services to stabilized
2190 patients.

2191 (vi) "Intermediate care facility" means an
2192 institution which provides, on a regular basis, health-related
2193 care and services to individuals who do not require the degree of
2194 care and treatment which a hospital or skilled nursing facility is
2195 designed to provide, but who, because of their mental or physical
2196 condition, require health-related care and services (above the
2197 level of room and board).

2198 (vii) "Ambulatory surgical facility" means a
2199 facility primarily organized or established for the purpose of
2200 performing surgery for outpatients and is a separate identifiable
2201 legal entity from any other health care facility. Such term does



2202 not include the offices of private physicians or dentists, whether
2203 for individual or group practice, and does not include any
2204 abortion facility as defined in Section 41-75-1(f).

2205 (viii) "Intermediate care facility for * * *
2206 individuals with intellectual disabilities" means an intermediate
2207 care facility that provides health or rehabilitative services in a
2208 planned program of activities to persons with an intellectual
2209 disability, also including, but not limited to, cerebral palsy and
2210 other conditions covered by the Federal Developmentally Disabled
2211 Assistance and Bill of Rights Act, Public Law 94-103.

2212 (ix) "Home health agency" means a public or
2213 privately owned agency or organization, or a subdivision of such
2214 an agency or organization, properly authorized to conduct business
2215 in Mississippi, which is primarily engaged in providing to
2216 individuals at the written direction of a licensed physician, in
2217 the individual's place of residence, skilled nursing services
2218 provided by or under the supervision of a registered nurse
2219 licensed to practice in Mississippi, and one or more of the
2220 following services or items:

- 2221 1. Physical, occupational or speech therapy;
- 2222 2. Medical social services;
- 2223 3. Part-time or intermittent services of a
2224 home health aide;
- 2225 4. Other services as approved by the
2226 licensing agency for home health agencies;



2227 5. Medical supplies, other than drugs and
2228 biologicals, and the use of medical appliances; or

2229 6. Medical services provided by an intern or
2230 resident-in-training at a hospital under a teaching program of
2231 such hospital.

2232 Further, all skilled nursing services and those services
2233 listed in items 1 through 4 of this subparagraph (ix) must be
2234 provided directly by the licensed home health agency. For
2235 purposes of this subparagraph, "directly" means either through an
2236 agency employee or by an arrangement with another individual not
2237 defined as a health care facility.

2238 This subparagraph (ix) shall not apply to health care
2239 facilities which had contracts for the above services with a home
2240 health agency on January 1, 1990.

2241 (x) "Psychiatric residential treatment facility"
2242 means any nonhospital establishment with permanent licensed
2243 facilities which provides a twenty-four-hour program of care by
2244 qualified therapists, including, but not limited to, duly licensed
2245 mental health professionals, psychiatrists, psychologists,
2246 psychotherapists and licensed certified social workers, for * * *
2247 children and adolescents with emotional disturbances who are
2248 referred to such facility by a court, local school district or by
2249 the Department of Human Services, who are not in an acute phase of
2250 illness requiring the services of a psychiatric hospital, and are
2251 in need of such restorative treatment services. For purposes of



2252 this subparagraph, the term " * * * emotional disturbance" means a
2253 condition exhibiting one or more of the following characteristics
2254 over a long period of time and to a marked degree, which adversely
2255 affects educational performance:

2256 1. An inability to learn which cannot be
2257 explained by intellectual, sensory or health factors;

2258 2. An inability to build or maintain
2259 satisfactory relationships with peers and teachers;

2260 3. Inappropriate types of behavior or
2261 feelings under normal circumstances;

2262 4. A general pervasive mood of unhappiness or
2263 depression; or

2264 5. A tendency to develop physical symptoms or
2265 fears associated with personal or school problems. An
2266 establishment furnishing primarily domiciliary care is not within
2267 this definition.

2268 (xi) "Pediatric skilled nursing facility" means an
2269 institution or a distinct part of an institution that is primarily
2270 engaged in providing to inpatients skilled nursing care and
2271 related services for persons under twenty-one (21) years of age
2272 who require medical or nursing care or rehabilitation services for
2273 the rehabilitation of injured, disabled or sick persons.

2274 (xii) "Long-term care hospital" means a
2275 freestanding, Medicare-certified hospital that has an average
2276 length of inpatient stay greater than twenty-five (25) days, which



2277 is primarily engaged in providing chronic or long-term medical
2278 care to patients who do not require more than three (3) hours of
2279 rehabilitation or comprehensive rehabilitation per day, and has a
2280 transfer agreement with an acute care medical center and a
2281 comprehensive medical rehabilitation facility. Long-term care
2282 hospitals shall not use rehabilitation, comprehensive medical
2283 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
2284 nursing home, skilled nursing facility or sub-acute care facility
2285 in association with its name.

2286 (xiii) "Comprehensive medical rehabilitation
2287 facility" means a hospital or hospital unit that is licensed
2288 and/or certified as a comprehensive medical rehabilitation
2289 facility which provides specialized programs that are accredited
2290 by the Commission on Accreditation of Rehabilitation Facilities
2291 and supervised by a physician board certified or board eligible in
2292 physiatry or other doctor of medicine or osteopathy with at least
2293 two (2) years of training in the medical direction of a
2294 comprehensive rehabilitation program that:

2295 1. Includes evaluation and treatment of
2296 individuals with physical disabilities;

2297 2. Emphasizes education and training of
2298 individuals with disabilities;

2299 3. Incorporates at least the following core
2300 disciplines:

2301 * * *a. Physical Therapy;



- 2302 * * *b. Occupational Therapy;
- 2303 * * *c. Speech and Language Therapy;
- 2304 * * *d. Rehabilitation Nursing; and
- 2305 4. Incorporates at least three (3) of the
- 2306 following disciplines:
- 2307 * * *a. Psychology;
- 2308 * * *b. Audiology;
- 2309 * * *c. Respiratory Therapy;
- 2310 * * *d. Therapeutic Recreation;
- 2311 * * *e. Orthotics;
- 2312 * * *f. Prosthetics;
- 2313 * * *g. Special Education;
- 2314 * * *h. Vocational Rehabilitation;
- 2315 * * *i. Psychotherapy;
- 2316 * * *j. Social Work;
- 2317 * * *k. Rehabilitation Engineering.

2318 These specialized programs include, but are not limited to:

2319 spinal cord injury programs, head injury programs and infant and

2320 early childhood development programs.

2321 (i) "Health maintenance organization" or "HMO" means a

2322 public or private organization organized under the laws of this

2323 state or the federal government which:

2324 (i) Provides or otherwise makes available to

2325 enrolled participants health care services, including

2326 substantially the following basic health care services: usual



2327 physician services, hospitalization, laboratory, x-ray, emergency
2328 and preventive services, and out-of-area coverage;

2329 (ii) Is compensated (except for copayments) for
2330 the provision of the basic health care services listed in
2331 subparagraph (i) of this paragraph to enrolled participants on a
2332 predetermined basis; and

2333 (iii) Provides physician services primarily:

2334 1. Directly through physicians who are either
2335 employees or partners of such organization; or

2336 2. Through arrangements with individual
2337 physicians or one or more groups of physicians (organized on a
2338 group practice or individual practice basis).

2339 (j) "Health service area" means a geographic area of
2340 the state designated in the State Health Plan as the area to be
2341 used in planning for specified health facilities and services and
2342 to be used when considering certificate of need applications to
2343 provide health facilities and services.

2344 (k) "Health services" means clinically related (i.e.,
2345 diagnostic, treatment or rehabilitative) services and includes
2346 alcohol, drug abuse, mental health and home health care services.

2347 "Clinical health services" shall only include those activities
2348 which contemplate any change in the existing bed complement of any
2349 health care facility through the addition or conversion of any
2350 beds, under Section 41-7-191(1)(c) or propose to offer any health
2351 services if those services have not been provided on a regular



2352 basis by the proposed provider of such services within the period
2353 of twelve (12) months prior to the time such services would be
2354 offered, under Section 41-7-191(1)(d). "Nonclinical health
2355 services" shall be all other services which do not involve any
2356 change in the existing bed complement or offering health services
2357 as described above.

2358 (l) "Institutional health services" shall mean health
2359 services provided in or through health care facilities and shall
2360 include the entities in or through which such services are
2361 provided.

2362 (m) "Major medical equipment" means medical equipment
2363 designed for providing medical or any health-related service which
2364 costs in excess of One Million Five Hundred Thousand Dollars
2365 (\$1,500,000.00). However, this definition shall not be applicable
2366 to clinical laboratories if they are determined by the State
2367 Department of Health to be independent of any physician's office,
2368 hospital or other health care facility or otherwise not so defined
2369 by federal or state law, or rules and regulations promulgated
2370 thereunder.

2371 (n) "State Department of Health" or "department" shall
2372 mean the state agency created under Section 41-3-15, which shall
2373 be considered to be the State Health Planning and Development
2374 Agency, as defined in paragraph (u) of this section.

2375 (o) "Offer," when used in connection with health
2376 services, means that it has been determined by the State



2377 Department of Health that the health care facility is capable of
2378 providing specified health services.

2379 (p) "Person" means an individual, a trust or estate,
2380 partnership, corporation (including associations, joint-stock
2381 companies and insurance companies), the state or a political
2382 subdivision or instrumentality of the state.

2383 (q) "Provider" shall mean any person who is a provider
2384 or representative of a provider of health care services requiring
2385 a certificate of need under Section 41-7-171 et seq., or who has
2386 any financial or indirect interest in any provider of services.

2387 (r) "Radiation therapy services" means the treatment of
2388 cancer and other diseases using ionizing radiation of either high
2389 energy photons (x-rays or gamma rays) or charged particles
2390 (electrons, protons or heavy nuclei). However, for purposes of a
2391 certificate of need, radiation therapy services shall not include
2392 low energy, superficial, external beam x-ray treatment of
2393 superficial skin lesions.

2394 (s) "Secretary" means the Secretary of Health and Human
2395 Services, and any officer or employee of the Department of Health
2396 and Human Services to whom the authority involved has been
2397 delegated.

2398 (t) "State Health Plan" means the sole and official
2399 statewide health plan for Mississippi which identifies priority
2400 state health needs and establishes standards and criteria for



2401 health-related activities which require certificate of need review
2402 in compliance with Section 41-7-191.

2403 (u) "State Health Planning and Development Agency"
2404 means the agency of state government designated to perform health
2405 planning and resource development programs for the State of
2406 Mississippi.

2407 **SECTION 24.** Section 41-7-191, Mississippi Code of 1972, is
2408 amended as follows:

2409 41-7-191. (1) No person shall engage in any of the
2410 following activities without obtaining the required certificate of
2411 need:

2412 (a) The construction, development or other
2413 establishment of a new health care facility, which establishment
2414 shall include the reopening of a health care facility that has
2415 ceased to operate for a period of sixty (60) months or more;

2416 (b) The relocation of a health care facility or portion
2417 thereof, or major medical equipment, unless such relocation of a
2418 health care facility or portion thereof, or major medical
2419 equipment, which does not involve a capital expenditure by or on
2420 behalf of a health care facility, is within five thousand two
2421 hundred eighty (5,280) feet from the main entrance of the health
2422 care facility;

2423 (c) Any change in the existing bed complement of any
2424 health care facility through the addition or conversion of any
2425 beds or the alteration, modernizing or refurbishing of any unit or



2426 department in which the beds may be located; however, if a health
2427 care facility has voluntarily delicensed some of its existing bed
2428 complement, it may later relicense some or all of its delicensed
2429 beds without the necessity of having to acquire a certificate of
2430 need. The State Department of Health shall maintain a record of
2431 the delicensing health care facility and its voluntarily
2432 delicensed beds and continue counting those beds as part of the
2433 state's total bed count for health care planning purposes. If a
2434 health care facility that has voluntarily delicensed some of its
2435 beds later desires to relicense some or all of its voluntarily
2436 delicensed beds, it shall notify the State Department of Health of
2437 its intent to increase the number of its licensed beds. The State
2438 Department of Health shall survey the health care facility within
2439 thirty (30) days of that notice and, if appropriate, issue the
2440 health care facility a new license reflecting the new contingent
2441 of beds. However, in no event may a health care facility that has
2442 voluntarily delicensed some of its beds be reissued a license to
2443 operate beds in excess of its bed count before the voluntary
2444 delicensure of some of its beds without seeking certificate of
2445 need approval;

2446 (d) Offering of the following health services if those
2447 services have not been provided on a regular basis by the proposed
2448 provider of such services within the period of twelve (12) months
2449 prior to the time such services would be offered:

2450 (i) Open-heart surgery services;



2451 (ii) Cardiac catheterization services;
2452 (iii) Comprehensive inpatient rehabilitation
2453 services;
2454 (iv) Licensed psychiatric services;
2455 (v) Licensed chemical dependency services;
2456 (vi) Radiation therapy services;
2457 (vii) Diagnostic imaging services of an invasive
2458 nature, i.e. invasive digital angiography;
2459 (viii) Nursing home care as defined in
2460 subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);
2461 (ix) Home health services;
2462 (x) Swing-bed services;
2463 (xi) Ambulatory surgical services;
2464 (xii) Magnetic resonance imaging services;
2465 (xiii) [Deleted]
2466 (xiv) Long-term care hospital services;
2467 (xv) Positron emission tomography (PET) services;
2468 (e) The relocation of one or more health services from
2469 one physical facility or site to another physical facility or
2470 site, unless such relocation, which does not involve a capital
2471 expenditure by or on behalf of a health care facility, (i) is to a
2472 physical facility or site within five thousand two hundred eighty
2473 (5,280) feet from the main entrance of the health care facility
2474 where the health care service is located, or (ii) is the result of
2475 an order of a court of appropriate jurisdiction or a result of



2476 pending litigation in such court, or by order of the State
2477 Department of Health, or by order of any other agency or legal
2478 entity of the state, the federal government, or any political
2479 subdivision of either, whose order is also approved by the State
2480 Department of Health;

2481 (f) The acquisition or otherwise control of any major
2482 medical equipment for the provision of medical services; however,
2483 (i) the acquisition of any major medical equipment used only for
2484 research purposes, and (ii) the acquisition of major medical
2485 equipment to replace medical equipment for which a facility is
2486 already providing medical services and for which the State
2487 Department of Health has been notified before the date of such
2488 acquisition shall be exempt from this paragraph; an acquisition
2489 for less than fair market value must be reviewed, if the
2490 acquisition at fair market value would be subject to review;

2491 (g) Changes of ownership of existing health care
2492 facilities in which a notice of intent is not filed with the State
2493 Department of Health at least thirty (30) days prior to the date
2494 such change of ownership occurs, or a change in services or bed
2495 capacity as prescribed in paragraph (c) or (d) of this subsection
2496 as a result of the change of ownership; an acquisition for less
2497 than fair market value must be reviewed, if the acquisition at
2498 fair market value would be subject to review;

2499 (h) The change of ownership of any health care facility
2500 defined in subparagraphs (iv), (vi) and (viii) of Section



2501 41-7-173(h), in which a notice of intent as described in paragraph
2502 (g) has not been filed and if the Executive Director, Division of
2503 Medicaid, Office of the Governor, has not certified in writing
2504 that there will be no increase in allowable costs to Medicaid from
2505 revaluation of the assets or from increased interest and
2506 depreciation as a result of the proposed change of ownership;

2507 (i) Any activity described in paragraphs (a) through
2508 (h) if undertaken by any person if that same activity would
2509 require certificate of need approval if undertaken by a health
2510 care facility;

2511 (j) Any capital expenditure or deferred capital
2512 expenditure by or on behalf of a health care facility not covered
2513 by paragraphs (a) through (h);

2514 (k) The contracting of a health care facility as
2515 defined in subparagraphs (i) through (viii) of Section 41-7-173(h)
2516 to establish a home office, subunit, or branch office in the space
2517 operated as a health care facility through a formal arrangement
2518 with an existing health care facility as defined in subparagraph
2519 (ix) of Section 41-7-173(h);

2520 (l) The replacement or relocation of a health care
2521 facility designated as a critical access hospital shall be exempt
2522 from subsection (1) of this section so long as the critical access
2523 hospital complies with all applicable federal law and regulations
2524 regarding such replacement or relocation;



2525 (m) Reopening a health care facility that has ceased to
2526 operate for a period of sixty (60) months or more, which reopening
2527 requires a certificate of need for the establishment of a new
2528 health care facility.

2529 (2) The State Department of Health shall not grant approval
2530 for or issue a certificate of need to any person proposing the new
2531 construction of, addition to, or expansion of any health care
2532 facility defined in subparagraphs (iv) (skilled nursing facility)
2533 and (vi) (intermediate care facility) of Section 41-7-173(h) or
2534 the conversion of vacant hospital beds to provide skilled or
2535 intermediate nursing home care, except as hereinafter authorized:

2536 (a) The department may issue a certificate of need to
2537 any person proposing the new construction of any health care
2538 facility defined in subparagraphs (iv) and (vi) of Section
2539 41-7-173(h) as part of a life care retirement facility, in any
2540 county bordering on the Gulf of Mexico in which is located a
2541 National Aeronautics and Space Administration facility, not to
2542 exceed forty (40) beds. From and after July 1, 1999, there shall
2543 be no prohibition or restrictions on participation in the Medicaid
2544 program (Section 43-13-101 et seq.) for the beds in the health
2545 care facility that were authorized under this paragraph (a).

2546 (b) The department may issue certificates of need in
2547 Harrison County to provide skilled nursing home care for
2548 Alzheimer's disease patients and other patients, not to exceed one
2549 hundred fifty (150) beds. From and after July 1, 1999, there



2550 shall be no prohibition or restrictions on participation in the
2551 Medicaid program (Section 43-13-101 et seq.) for the beds in the
2552 nursing facilities that were authorized under this paragraph (b).

2553 (c) The department may issue a certificate of need for
2554 the addition to or expansion of any skilled nursing facility that
2555 is part of an existing continuing care retirement community
2556 located in Madison County, provided that the recipient of the
2557 certificate of need agrees in writing that the skilled nursing
2558 facility will not at any time participate in the Medicaid program
2559 (Section 43-13-101 et seq.) or admit or keep any patients in the
2560 skilled nursing facility who are participating in the Medicaid
2561 program. This written agreement by the recipient of the
2562 certificate of need shall be fully binding on any subsequent owner
2563 of the skilled nursing facility, if the ownership of the facility
2564 is transferred at any time after the issuance of the certificate
2565 of need. Agreement that the skilled nursing facility will not
2566 participate in the Medicaid program shall be a condition of the
2567 issuance of a certificate of need to any person under this
2568 paragraph (c), and if such skilled nursing facility at any time
2569 after the issuance of the certificate of need, regardless of the
2570 ownership of the facility, participates in the Medicaid program or
2571 admits or keeps any patients in the facility who are participating
2572 in the Medicaid program, the State Department of Health shall
2573 revoke the certificate of need, if it is still outstanding, and
2574 shall deny or revoke the license of the skilled nursing facility,



2575 at the time that the department determines, after a hearing
2576 complying with due process, that the facility has failed to comply
2577 with any of the conditions upon which the certificate of need was
2578 issued, as provided in this paragraph and in the written agreement
2579 by the recipient of the certificate of need. The total number of
2580 beds that may be authorized under the authority of this paragraph
2581 (c) shall not exceed sixty (60) beds.

2582 (d) The State Department of Health may issue a
2583 certificate of need to any hospital located in DeSoto County for
2584 the new construction of a skilled nursing facility, not to exceed
2585 one hundred twenty (120) beds, in DeSoto County. From and after
2586 July 1, 1999, there shall be no prohibition or restrictions on
2587 participation in the Medicaid program (Section 43-13-101 et seq.)
2588 for the beds in the nursing facility that were authorized under
2589 this paragraph (d).

2590 (e) The State Department of Health may issue a
2591 certificate of need for the construction of a nursing facility or
2592 the conversion of beds to nursing facility beds at a personal care
2593 facility for the elderly in Lowndes County that is owned and
2594 operated by a Mississippi nonprofit corporation, not to exceed
2595 sixty (60) beds. From and after July 1, 1999, there shall be no
2596 prohibition or restrictions on participation in the Medicaid
2597 program (Section 43-13-101 et seq.) for the beds in the nursing
2598 facility that were authorized under this paragraph (e).



2599 (f) The State Department of Health may issue a
2600 certificate of need for conversion of a county hospital facility
2601 in Itawamba County to a nursing facility, not to exceed sixty (60)
2602 beds, including any necessary construction, renovation or
2603 expansion. From and after July 1, 1999, there shall be no
2604 prohibition or restrictions on participation in the Medicaid
2605 program (Section 43-13-101 et seq.) for the beds in the nursing
2606 facility that were authorized under this paragraph (f).

2607 (g) The State Department of Health may issue a
2608 certificate of need for the construction or expansion of nursing
2609 facility beds or the conversion of other beds to nursing facility
2610 beds in either Hinds, Madison or Rankin County, not to exceed
2611 sixty (60) beds. From and after July 1, 1999, there shall be no
2612 prohibition or restrictions on participation in the Medicaid
2613 program (Section 43-13-101 et seq.) for the beds in the nursing
2614 facility that were authorized under this paragraph (g).

2615 (h) The State Department of Health may issue a
2616 certificate of need for the construction or expansion of nursing
2617 facility beds or the conversion of other beds to nursing facility
2618 beds in either Hancock, Harrison or Jackson County, not to exceed
2619 sixty (60) beds. From and after July 1, 1999, there shall be no
2620 prohibition or restrictions on participation in the Medicaid
2621 program (Section 43-13-101 et seq.) for the beds in the facility
2622 that were authorized under this paragraph (h).



2623 (i) The department may issue a certificate of need for
2624 the new construction of a skilled nursing facility in Leake
2625 County, provided that the recipient of the certificate of need
2626 agrees in writing that the skilled nursing facility will not at
2627 any time participate in the Medicaid program (Section 43-13-101 et
2628 seq.) or admit or keep any patients in the skilled nursing
2629 facility who are participating in the Medicaid program. This
2630 written agreement by the recipient of the certificate of need
2631 shall be fully binding on any subsequent owner of the skilled
2632 nursing facility, if the ownership of the facility is transferred
2633 at any time after the issuance of the certificate of need.
2634 Agreement that the skilled nursing facility will not participate
2635 in the Medicaid program shall be a condition of the issuance of a
2636 certificate of need to any person under this paragraph (i), and if
2637 such skilled nursing facility at any time after the issuance of
2638 the certificate of need, regardless of the ownership of the
2639 facility, participates in the Medicaid program or admits or keeps
2640 any patients in the facility who are participating in the Medicaid
2641 program, the State Department of Health shall revoke the
2642 certificate of need, if it is still outstanding, and shall deny or
2643 revoke the license of the skilled nursing facility, at the time
2644 that the department determines, after a hearing complying with due
2645 process, that the facility has failed to comply with any of the
2646 conditions upon which the certificate of need was issued, as
2647 provided in this paragraph and in the written agreement by the



2648 recipient of the certificate of need. The provision of Section
2649 41-7-193(1) regarding substantial compliance of the projection of
2650 need as reported in the current State Health Plan is waived for
2651 the purposes of this paragraph. The total number of nursing
2652 facility beds that may be authorized by any certificate of need
2653 issued under this paragraph (i) shall not exceed sixty (60) beds.
2654 If the skilled nursing facility authorized by the certificate of
2655 need issued under this paragraph is not constructed and fully
2656 operational within eighteen (18) months after July 1, 1994, the
2657 State Department of Health, after a hearing complying with due
2658 process, shall revoke the certificate of need, if it is still
2659 outstanding, and shall not issue a license for the skilled nursing
2660 facility at any time after the expiration of the eighteen-month
2661 period.

2662 (j) The department may issue certificates of need to
2663 allow any existing freestanding long-term care facility in
2664 Tishomingo County and Hancock County that on July 1, 1995, is
2665 licensed with fewer than sixty (60) beds. For the purposes of
2666 this paragraph (j), the provisions of Section 41-7-193(1)
2667 requiring substantial compliance with the projection of need as
2668 reported in the current State Health Plan are waived. From and
2669 after July 1, 1999, there shall be no prohibition or restrictions
2670 on participation in the Medicaid program (Section 43-13-101 et
2671 seq.) for the beds in the long-term care facilities that were
2672 authorized under this paragraph (j).



2673 (k) The department may issue a certificate of need for
2674 the construction of a nursing facility at a continuing care
2675 retirement community in Lowndes County. The total number of beds
2676 that may be authorized under the authority of this paragraph (k)
2677 shall not exceed sixty (60) beds. From and after July 1, 2001,
2678 the prohibition on the facility participating in the Medicaid
2679 program (Section 43-13-101 et seq.) that was a condition of
2680 issuance of the certificate of need under this paragraph (k) shall
2681 be revised as follows: The nursing facility may participate in
2682 the Medicaid program from and after July 1, 2001, if the owner of
2683 the facility on July 1, 2001, agrees in writing that no more than
2684 thirty (30) of the beds at the facility will be certified for
2685 participation in the Medicaid program, and that no claim will be
2686 submitted for Medicaid reimbursement for more than thirty (30)
2687 patients in the facility in any month or for any patient in the
2688 facility who is in a bed that is not Medicaid-certified. This
2689 written agreement by the owner of the facility shall be a
2690 condition of licensure of the facility, and the agreement shall be
2691 fully binding on any subsequent owner of the facility if the
2692 ownership of the facility is transferred at any time after July 1,
2693 2001. After this written agreement is executed, the Division of
2694 Medicaid and the State Department of Health shall not certify more
2695 than thirty (30) of the beds in the facility for participation in
2696 the Medicaid program. If the facility violates the terms of the
2697 written agreement by admitting or keeping in the facility on a



2698 regular or continuing basis more than thirty (30) patients who are
2699 participating in the Medicaid program, the State Department of
2700 Health shall revoke the license of the facility, at the time that
2701 the department determines, after a hearing complying with due
2702 process, that the facility has violated the written agreement.

2703 (l) Provided that funds are specifically appropriated
2704 therefor by the Legislature, the department may issue a
2705 certificate of need to a rehabilitation hospital in Hinds County
2706 for the construction of a sixty-bed long-term care nursing
2707 facility dedicated to the care and treatment of persons with
2708 severe disabilities including persons with spinal cord and
2709 closed-head injuries and ventilator dependent patients. The
2710 provisions of Section 41-7-193(1) regarding substantial compliance
2711 with projection of need as reported in the current State Health
2712 Plan are waived for the purpose of this paragraph.

2713 (m) The State Department of Health may issue a
2714 certificate of need to a county-owned hospital in the Second
2715 Judicial District of Panola County for the conversion of not more
2716 than seventy-two (72) hospital beds to nursing facility beds,
2717 provided that the recipient of the certificate of need agrees in
2718 writing that none of the beds at the nursing facility will be
2719 certified for participation in the Medicaid program (Section
2720 43-13-101 et seq.), and that no claim will be submitted for
2721 Medicaid reimbursement in the nursing facility in any day or for
2722 any patient in the nursing facility. This written agreement by



2723 the recipient of the certificate of need shall be a condition of
2724 the issuance of the certificate of need under this paragraph, and
2725 the agreement shall be fully binding on any subsequent owner of
2726 the nursing facility if the ownership of the nursing facility is
2727 transferred at any time after the issuance of the certificate of
2728 need. After this written agreement is executed, the Division of
2729 Medicaid and the State Department of Health shall not certify any
2730 of the beds in the nursing facility for participation in the
2731 Medicaid program. If the nursing facility violates the terms of
2732 the written agreement by admitting or keeping in the nursing
2733 facility on a regular or continuing basis any patients who are
2734 participating in the Medicaid program, the State Department of
2735 Health shall revoke the license of the nursing facility, at the
2736 time that the department determines, after a hearing complying
2737 with due process, that the nursing facility has violated the
2738 condition upon which the certificate of need was issued, as
2739 provided in this paragraph and in the written agreement. If the
2740 certificate of need authorized under this paragraph is not issued
2741 within twelve (12) months after July 1, 2001, the department shall
2742 deny the application for the certificate of need and shall not
2743 issue the certificate of need at any time after the twelve-month
2744 period, unless the issuance is contested. If the certificate of
2745 need is issued and substantial construction of the nursing
2746 facility beds has not commenced within eighteen (18) months after
2747 July 1, 2001, the State Department of Health, after a hearing



2748 complying with due process, shall revoke the certificate of need
2749 if it is still outstanding, and the department shall not issue a
2750 license for the nursing facility at any time after the
2751 eighteen-month period. However, if the issuance of the
2752 certificate of need is contested, the department shall require
2753 substantial construction of the nursing facility beds within six
2754 (6) months after final adjudication on the issuance of the
2755 certificate of need.

2756 (n) The department may issue a certificate of need for
2757 the new construction, addition or conversion of skilled nursing
2758 facility beds in Madison County, provided that the recipient of
2759 the certificate of need agrees in writing that the skilled nursing
2760 facility will not at any time participate in the Medicaid program
2761 (Section 43-13-101 et seq.) or admit or keep any patients in the
2762 skilled nursing facility who are participating in the Medicaid
2763 program. This written agreement by the recipient of the
2764 certificate of need shall be fully binding on any subsequent owner
2765 of the skilled nursing facility, if the ownership of the facility
2766 is transferred at any time after the issuance of the certificate
2767 of need. Agreement that the skilled nursing facility will not
2768 participate in the Medicaid program shall be a condition of the
2769 issuance of a certificate of need to any person under this
2770 paragraph (n), and if such skilled nursing facility at any time
2771 after the issuance of the certificate of need, regardless of the
2772 ownership of the facility, participates in the Medicaid program or



2773 admits or keeps any patients in the facility who are participating
2774 in the Medicaid program, the State Department of Health shall
2775 revoke the certificate of need, if it is still outstanding, and
2776 shall deny or revoke the license of the skilled nursing facility,
2777 at the time that the department determines, after a hearing
2778 complying with due process, that the facility has failed to comply
2779 with any of the conditions upon which the certificate of need was
2780 issued, as provided in this paragraph and in the written agreement
2781 by the recipient of the certificate of need. The total number of
2782 nursing facility beds that may be authorized by any certificate of
2783 need issued under this paragraph (n) shall not exceed sixty (60)
2784 beds. If the certificate of need authorized under this paragraph
2785 is not issued within twelve (12) months after July 1, 1998, the
2786 department shall deny the application for the certificate of need
2787 and shall not issue the certificate of need at any time after the
2788 twelve-month period, unless the issuance is contested. If the
2789 certificate of need is issued and substantial construction of the
2790 nursing facility beds has not commenced within eighteen (18)
2791 months after July 1, 1998, the State Department of Health, after a
2792 hearing complying with due process, shall revoke the certificate
2793 of need if it is still outstanding, and the department shall not
2794 issue a license for the nursing facility at any time after the
2795 eighteen-month period. However, if the issuance of the
2796 certificate of need is contested, the department shall require
2797 substantial construction of the nursing facility beds within six



2798 (6) months after final adjudication on the issuance of the
2799 certificate of need.

2800 (o) The department may issue a certificate of need for
2801 the new construction, addition or conversion of skilled nursing
2802 facility beds in Leake County, provided that the recipient of the
2803 certificate of need agrees in writing that the skilled nursing
2804 facility will not at any time participate in the Medicaid program
2805 (Section 43-13-101 et seq.) or admit or keep any patients in the
2806 skilled nursing facility who are participating in the Medicaid
2807 program. This written agreement by the recipient of the
2808 certificate of need shall be fully binding on any subsequent owner
2809 of the skilled nursing facility, if the ownership of the facility
2810 is transferred at any time after the issuance of the certificate
2811 of need. Agreement that the skilled nursing facility will not
2812 participate in the Medicaid program shall be a condition of the
2813 issuance of a certificate of need to any person under this
2814 paragraph (o), and if such skilled nursing facility at any time
2815 after the issuance of the certificate of need, regardless of the
2816 ownership of the facility, participates in the Medicaid program or
2817 admits or keeps any patients in the facility who are participating
2818 in the Medicaid program, the State Department of Health shall
2819 revoke the certificate of need, if it is still outstanding, and
2820 shall deny or revoke the license of the skilled nursing facility,
2821 at the time that the department determines, after a hearing
2822 complying with due process, that the facility has failed to comply



2823 with any of the conditions upon which the certificate of need was
2824 issued, as provided in this paragraph and in the written agreement
2825 by the recipient of the certificate of need. The total number of
2826 nursing facility beds that may be authorized by any certificate of
2827 need issued under this paragraph (o) shall not exceed sixty (60)
2828 beds. If the certificate of need authorized under this paragraph
2829 is not issued within twelve (12) months after July 1, 2001, the
2830 department shall deny the application for the certificate of need
2831 and shall not issue the certificate of need at any time after the
2832 twelve-month period, unless the issuance is contested. If the
2833 certificate of need is issued and substantial construction of the
2834 nursing facility beds has not commenced within eighteen (18)
2835 months after July 1, 2001, the State Department of Health, after a
2836 hearing complying with due process, shall revoke the certificate
2837 of need if it is still outstanding, and the department shall not
2838 issue a license for the nursing facility at any time after the
2839 eighteen-month period. However, if the issuance of the
2840 certificate of need is contested, the department shall require
2841 substantial construction of the nursing facility beds within six
2842 (6) months after final adjudication on the issuance of the
2843 certificate of need.

2844 (p) The department may issue a certificate of need for
2845 the construction of a municipally owned nursing facility within
2846 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
2847 beds, provided that the recipient of the certificate of need



2848 agrees in writing that the skilled nursing facility will not at
2849 any time participate in the Medicaid program (Section 43-13-101 et
2850 seq.) or admit or keep any patients in the skilled nursing
2851 facility who are participating in the Medicaid program. This
2852 written agreement by the recipient of the certificate of need
2853 shall be fully binding on any subsequent owner of the skilled
2854 nursing facility, if the ownership of the facility is transferred
2855 at any time after the issuance of the certificate of need.
2856 Agreement that the skilled nursing facility will not participate
2857 in the Medicaid program shall be a condition of the issuance of a
2858 certificate of need to any person under this paragraph (p), and if
2859 such skilled nursing facility at any time after the issuance of
2860 the certificate of need, regardless of the ownership of the
2861 facility, participates in the Medicaid program or admits or keeps
2862 any patients in the facility who are participating in the Medicaid
2863 program, the State Department of Health shall revoke the
2864 certificate of need, if it is still outstanding, and shall deny or
2865 revoke the license of the skilled nursing facility, at the time
2866 that the department determines, after a hearing complying with due
2867 process, that the facility has failed to comply with any of the
2868 conditions upon which the certificate of need was issued, as
2869 provided in this paragraph and in the written agreement by the
2870 recipient of the certificate of need. The provision of Section
2871 41-7-193(1) regarding substantial compliance of the projection of
2872 need as reported in the current State Health Plan is waived for



2873 the purposes of this paragraph. If the certificate of need
2874 authorized under this paragraph is not issued within twelve (12)
2875 months after July 1, 1998, the department shall deny the
2876 application for the certificate of need and shall not issue the
2877 certificate of need at any time after the twelve-month period,
2878 unless the issuance is contested. If the certificate of need is
2879 issued and substantial construction of the nursing facility beds
2880 has not commenced within eighteen (18) months after July 1, 1998,
2881 the State Department of Health, after a hearing complying with due
2882 process, shall revoke the certificate of need if it is still
2883 outstanding, and the department shall not issue a license for the
2884 nursing facility at any time after the eighteen-month period.
2885 However, if the issuance of the certificate of need is contested,
2886 the department shall require substantial construction of the
2887 nursing facility beds within six (6) months after final
2888 adjudication on the issuance of the certificate of need.

2889 (q) (i) Beginning on July 1, 1999, the State
2890 Department of Health shall issue certificates of need during each
2891 of the next four (4) fiscal years for the construction or
2892 expansion of nursing facility beds or the conversion of other beds
2893 to nursing facility beds in each county in the state having a need
2894 for fifty (50) or more additional nursing facility beds, as shown
2895 in the fiscal year 1999 State Health Plan, in the manner provided
2896 in this paragraph (q). The total number of nursing facility beds



2897 that may be authorized by any certificate of need authorized under
2898 this paragraph (q) shall not exceed sixty (60) beds.

2899 (ii) Subject to the provisions of subparagraph
2900 (v), during each of the next four (4) fiscal years, the department
2901 shall issue six (6) certificates of need for new nursing facility
2902 beds, as follows: During fiscal years 2000, 2001 and 2002, one
2903 (1) certificate of need shall be issued for new nursing facility
2904 beds in the county in each of the four (4) Long-Term Care Planning
2905 Districts designated in the fiscal year 1999 State Health Plan
2906 that has the highest need in the district for those beds; and two
2907 (2) certificates of need shall be issued for new nursing facility
2908 beds in the two (2) counties from the state at large that have the
2909 highest need in the state for those beds, when considering the
2910 need on a statewide basis and without regard to the Long-Term Care
2911 Planning Districts in which the counties are located. During
2912 fiscal year 2003, one (1) certificate of need shall be issued for
2913 new nursing facility beds in any county having a need for fifty
2914 (50) or more additional nursing facility beds, as shown in the
2915 fiscal year 1999 State Health Plan, that has not received a
2916 certificate of need under this paragraph (q) during the three (3)
2917 previous fiscal years. During fiscal year 2000, in addition to
2918 the six (6) certificates of need authorized in this subparagraph,
2919 the department also shall issue a certificate of need for new
2920 nursing facility beds in Amite County and a certificate of need
2921 for new nursing facility beds in Carroll County.



2922 (iii) Subject to the provisions of subparagraph
2923 (v), the certificate of need issued under subparagraph (ii) for
2924 nursing facility beds in each Long-Term Care Planning District
2925 during each fiscal year shall first be available for nursing
2926 facility beds in the county in the district having the highest
2927 need for those beds, as shown in the fiscal year 1999 State Health
2928 Plan. If there are no applications for a certificate of need for
2929 nursing facility beds in the county having the highest need for
2930 those beds by the date specified by the department, then the
2931 certificate of need shall be available for nursing facility beds
2932 in other counties in the district in descending order of the need
2933 for those beds, from the county with the second highest need to
2934 the county with the lowest need, until an application is received
2935 for nursing facility beds in an eligible county in the district.

2936 (iv) Subject to the provisions of subparagraph
2937 (v), the certificate of need issued under subparagraph (ii) for
2938 nursing facility beds in the two (2) counties from the state at
2939 large during each fiscal year shall first be available for nursing
2940 facility beds in the two (2) counties that have the highest need
2941 in the state for those beds, as shown in the fiscal year 1999
2942 State Health Plan, when considering the need on a statewide basis
2943 and without regard to the Long-Term Care Planning Districts in
2944 which the counties are located. If there are no applications for
2945 a certificate of need for nursing facility beds in either of the
2946 two (2) counties having the highest need for those beds on a



2947 statewide basis by the date specified by the department, then the
2948 certificate of need shall be available for nursing facility beds
2949 in other counties from the state at large in descending order of
2950 the need for those beds on a statewide basis, from the county with
2951 the second highest need to the county with the lowest need, until
2952 an application is received for nursing facility beds in an
2953 eligible county from the state at large.

2954 (v) If a certificate of need is authorized to be
2955 issued under this paragraph (q) for nursing facility beds in a
2956 county on the basis of the need in the Long-Term Care Planning
2957 District during any fiscal year of the four-year period, a
2958 certificate of need shall not also be available under this
2959 paragraph (q) for additional nursing facility beds in that county
2960 on the basis of the need in the state at large, and that county
2961 shall be excluded in determining which counties have the highest
2962 need for nursing facility beds in the state at large for that
2963 fiscal year. After a certificate of need has been issued under
2964 this paragraph (q) for nursing facility beds in a county during
2965 any fiscal year of the four-year period, a certificate of need
2966 shall not be available again under this paragraph (q) for
2967 additional nursing facility beds in that county during the
2968 four-year period, and that county shall be excluded in determining
2969 which counties have the highest need for nursing facility beds in
2970 succeeding fiscal years.



2971 (vi) If more than one (1) application is made for
2972 a certificate of need for nursing home facility beds available
2973 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
2974 County, and one (1) of the applicants is a county-owned hospital
2975 located in the county where the nursing facility beds are
2976 available, the department shall give priority to the county-owned
2977 hospital in granting the certificate of need if the following
2978 conditions are met:

2979 1. The county-owned hospital fully meets all
2980 applicable criteria and standards required to obtain a certificate
2981 of need for the nursing facility beds; and

2982 2. The county-owned hospital's qualifications
2983 for the certificate of need, as shown in its application and as
2984 determined by the department, are at least equal to the
2985 qualifications of the other applicants for the certificate of
2986 need.

2987 (r) (i) Beginning on July 1, 1999, the State
2988 Department of Health shall issue certificates of need during each
2989 of the next two (2) fiscal years for the construction or expansion
2990 of nursing facility beds or the conversion of other beds to
2991 nursing facility beds in each of the four (4) Long-Term Care
2992 Planning Districts designated in the fiscal year 1999 State Health
2993 Plan, to provide care exclusively to patients with Alzheimer's
2994 disease.



2995 (ii) Not more than twenty (20) beds may be
2996 authorized by any certificate of need issued under this paragraph
2997 (r), and not more than a total of sixty (60) beds may be
2998 authorized in any Long-Term Care Planning District by all
2999 certificates of need issued under this paragraph (r). However,
3000 the total number of beds that may be authorized by all
3001 certificates of need issued under this paragraph (r) during any
3002 fiscal year shall not exceed one hundred twenty (120) beds, and
3003 the total number of beds that may be authorized in any Long-Term
3004 Care Planning District during any fiscal year shall not exceed
3005 forty (40) beds. Of the certificates of need that are issued for
3006 each Long-Term Care Planning District during the next two (2)
3007 fiscal years, at least one (1) shall be issued for beds in the
3008 northern part of the district, at least one (1) shall be issued
3009 for beds in the central part of the district, and at least one (1)
3010 shall be issued for beds in the southern part of the district.

3011 (iii) The State Department of Health, in
3012 consultation with the Department of Mental Health and the Division
3013 of Medicaid, shall develop and prescribe the staffing levels,
3014 space requirements and other standards and requirements that must
3015 be met with regard to the nursing facility beds authorized under
3016 this paragraph (r) to provide care exclusively to patients with
3017 Alzheimer's disease.

3018 (s) The State Department of Health may issue a
3019 certificate of need to a nonprofit skilled nursing facility using



3020 the Green House model of skilled nursing care and located in Yazoo
3021 City, Yazoo County, Mississippi, for the construction, expansion
3022 or conversion of not more than nineteen (19) nursing facility
3023 beds. For purposes of this paragraph (s), the provisions of
3024 Section 41-7-193(1) requiring substantial compliance with the
3025 projection of need as reported in the current State Health Plan
3026 and the provisions of Section 41-7-197 requiring a formal
3027 certificate of need hearing process are waived. There shall be no
3028 prohibition or restrictions on participation in the Medicaid
3029 program for the person receiving the certificate of need
3030 authorized under this paragraph (s).

3031 (t) The State Department of Health shall issue
3032 certificates of need to the owner of a nursing facility in
3033 operation at the time of Hurricane Katrina in Hancock County that
3034 was not operational on December 31, 2005, because of damage
3035 sustained from Hurricane Katrina to authorize the following: (i)
3036 the construction of a new nursing facility in Harrison County;
3037 (ii) the relocation of forty-nine (49) nursing facility beds from
3038 the Hancock County facility to the new Harrison County facility;
3039 (iii) the establishment of not more than twenty (20) non-Medicaid
3040 nursing facility beds at the Hancock County facility; and (iv) the
3041 establishment of not more than twenty (20) non-Medicaid beds at
3042 the new Harrison County facility. The certificates of need that
3043 authorize the non-Medicaid nursing facility beds under
3044 subparagraphs (iii) and (iv) of this paragraph (t) shall be



3045 subject to the following conditions: The owner of the Hancock
3046 County facility and the new Harrison County facility must agree in
3047 writing that no more than fifty (50) of the beds at the Hancock
3048 County facility and no more than forty-nine (49) of the beds at
3049 the Harrison County facility will be certified for participation
3050 in the Medicaid program, and that no claim will be submitted for
3051 Medicaid reimbursement for more than fifty (50) patients in the
3052 Hancock County facility in any month, or for more than forty-nine
3053 (49) patients in the Harrison County facility in any month, or for
3054 any patient in either facility who is in a bed that is not
3055 Medicaid-certified. This written agreement by the owner of the
3056 nursing facilities shall be a condition of the issuance of the
3057 certificates of need under this paragraph (t), and the agreement
3058 shall be fully binding on any later owner or owners of either
3059 facility if the ownership of either facility is transferred at any
3060 time after the certificates of need are issued. After this
3061 written agreement is executed, the Division of Medicaid and the
3062 State Department of Health shall not certify more than fifty (50)
3063 of the beds at the Hancock County facility or more than forty-nine
3064 (49) of the beds at the Harrison County facility for participation
3065 in the Medicaid program. If the Hancock County facility violates
3066 the terms of the written agreement by admitting or keeping in the
3067 facility on a regular or continuing basis more than fifty (50)
3068 patients who are participating in the Medicaid program, or if the
3069 Harrison County facility violates the terms of the written



3070 agreement by admitting or keeping in the facility on a regular or
3071 continuing basis more than forty-nine (49) patients who are
3072 participating in the Medicaid program, the State Department of
3073 Health shall revoke the license of the facility that is in
3074 violation of the agreement, at the time that the department
3075 determines, after a hearing complying with due process, that the
3076 facility has violated the agreement.

3077 (u) The State Department of Health shall issue a
3078 certificate of need to a nonprofit venture for the establishment,
3079 construction and operation of a skilled nursing facility of not
3080 more than sixty (60) beds to provide skilled nursing care for
3081 ventilator dependent or otherwise medically dependent pediatric
3082 patients who require medical and nursing care or rehabilitation
3083 services to be located in a county in which an academic medical
3084 center and a children's hospital are located, and for any
3085 construction and for the acquisition of equipment related to those
3086 beds. The facility shall be authorized to keep such ventilator
3087 dependent or otherwise medically dependent pediatric patients
3088 beyond age twenty-one (21) in accordance with regulations of the
3089 State Board of Health. For purposes of this paragraph (u), the
3090 provisions of Section 41-7-193(1) requiring substantial compliance
3091 with the projection of need as reported in the current State
3092 Health Plan are waived, and the provisions of Section 41-7-197
3093 requiring a formal certificate of need hearing process are waived.
3094 The beds authorized by this paragraph shall be counted as



3095 pediatric skilled nursing facility beds for health planning
3096 purposes under Section 41-7-171 et seq. There shall be no
3097 prohibition of or restrictions on participation in the Medicaid
3098 program for the person receiving the certificate of need
3099 authorized by this paragraph.

3100 (3) The State Department of Health may grant approval for
3101 and issue certificates of need to any person proposing the new
3102 construction of, addition to, conversion of beds of or expansion
3103 of any health care facility defined in subparagraph (x)
3104 (psychiatric residential treatment facility) of Section
3105 41-7-173(h). The total number of beds which may be authorized by
3106 such certificates of need shall not exceed three hundred
3107 thirty-four (334) beds for the entire state.

3108 (a) Of the total number of beds authorized under this
3109 subsection, the department shall issue a certificate of need to a
3110 privately owned psychiatric residential treatment facility in
3111 Simpson County for the conversion of sixteen (16) intermediate
3112 care facility for * * * individuals with intellectual disabilities
3113 (ICF- * * * IID) beds to psychiatric residential treatment facility
3114 beds, provided that facility agrees in writing that the facility
3115 shall give priority for the use of those sixteen (16) beds to
3116 Mississippi residents who are presently being treated in
3117 out-of-state facilities.

3118 (b) Of the total number of beds authorized under this
3119 subsection, the department may issue a certificate or certificates



3120 of need for the construction or expansion of psychiatric
3121 residential treatment facility beds or the conversion of other
3122 beds to psychiatric residential treatment facility beds in Warren
3123 County, not to exceed sixty (60) psychiatric residential treatment
3124 facility beds, provided that the facility agrees in writing that
3125 no more than thirty (30) of the beds at the psychiatric
3126 residential treatment facility will be certified for participation
3127 in the Medicaid program (Section 43-13-101 et seq.) for the use of
3128 any patients other than those who are participating only in the
3129 Medicaid program of another state, and that no claim will be
3130 submitted to the Division of Medicaid for Medicaid reimbursement
3131 for more than thirty (30) patients in the psychiatric residential
3132 treatment facility in any day or for any patient in the
3133 psychiatric residential treatment facility who is in a bed that is
3134 not Medicaid-certified. This written agreement by the recipient
3135 of the certificate of need shall be a condition of the issuance of
3136 the certificate of need under this paragraph, and the agreement
3137 shall be fully binding on any subsequent owner of the psychiatric
3138 residential treatment facility if the ownership of the facility is
3139 transferred at any time after the issuance of the certificate of
3140 need. After this written agreement is executed, the Division of
3141 Medicaid and the State Department of Health shall not certify more
3142 than thirty (30) of the beds in the psychiatric residential
3143 treatment facility for participation in the Medicaid program for
3144 the use of any patients other than those who are participating



3145 only in the Medicaid program of another state. If the psychiatric
3146 residential treatment facility violates the terms of the written
3147 agreement by admitting or keeping in the facility on a regular or
3148 continuing basis more than thirty (30) patients who are
3149 participating in the Mississippi Medicaid program, the State
3150 Department of Health shall revoke the license of the facility, at
3151 the time that the department determines, after a hearing complying
3152 with due process, that the facility has violated the condition
3153 upon which the certificate of need was issued, as provided in this
3154 paragraph and in the written agreement.

3155 The State Department of Health, on or before July 1, 2002,
3156 shall transfer the certificate of need authorized under the
3157 authority of this paragraph (b), or reissue the certificate of
3158 need if it has expired, to River Region Health System.

3159 (c) Of the total number of beds authorized under this
3160 subsection, the department shall issue a certificate of need to a
3161 hospital currently operating Medicaid-certified acute psychiatric
3162 beds for adolescents in DeSoto County, for the establishment of a
3163 forty-bed psychiatric residential treatment facility in DeSoto
3164 County, provided that the hospital agrees in writing (i) that the
3165 hospital shall give priority for the use of those forty (40) beds
3166 to Mississippi residents who are presently being treated in
3167 out-of-state facilities, and (ii) that no more than fifteen (15)
3168 of the beds at the psychiatric residential treatment facility will
3169 be certified for participation in the Medicaid program (Section



3170 43-13-101 et seq.), and that no claim will be submitted for
3171 Medicaid reimbursement for more than fifteen (15) patients in the
3172 psychiatric residential treatment facility in any day or for any
3173 patient in the psychiatric residential treatment facility who is
3174 in a bed that is not Medicaid-certified. This written agreement
3175 by the recipient of the certificate of need shall be a condition
3176 of the issuance of the certificate of need under this paragraph,
3177 and the agreement shall be fully binding on any subsequent owner
3178 of the psychiatric residential treatment facility if the ownership
3179 of the facility is transferred at any time after the issuance of
3180 the certificate of need. After this written agreement is
3181 executed, the Division of Medicaid and the State Department of
3182 Health shall not certify more than fifteen (15) of the beds in the
3183 psychiatric residential treatment facility for participation in
3184 the Medicaid program. If the psychiatric residential treatment
3185 facility violates the terms of the written agreement by admitting
3186 or keeping in the facility on a regular or continuing basis more
3187 than fifteen (15) patients who are participating in the Medicaid
3188 program, the State Department of Health shall revoke the license
3189 of the facility, at the time that the department determines, after
3190 a hearing complying with due process, that the facility has
3191 violated the condition upon which the certificate of need was
3192 issued, as provided in this paragraph and in the written
3193 agreement.



3194 (d) Of the total number of beds authorized under this
3195 subsection, the department may issue a certificate or certificates
3196 of need for the construction or expansion of psychiatric
3197 residential treatment facility beds or the conversion of other
3198 beds to psychiatric treatment facility beds, not to exceed thirty
3199 (30) psychiatric residential treatment facility beds, in either
3200 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
3201 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

3202 (e) Of the total number of beds authorized under this
3203 subsection (3) the department shall issue a certificate of need to
3204 a privately owned, nonprofit psychiatric residential treatment
3205 facility in Hinds County for an eight-bed expansion of the
3206 facility, provided that the facility agrees in writing that the
3207 facility shall give priority for the use of those eight (8) beds
3208 to Mississippi residents who are presently being treated in
3209 out-of-state facilities.

3210 (f) The department shall issue a certificate of need to
3211 a one-hundred-thirty-four-bed specialty hospital located on
3212 twenty-nine and forty-four one-hundredths (29.44) commercial acres
3213 at 5900 Highway 39 North in Meridian (Lauderdale County),
3214 Mississippi, for the addition, construction or expansion of
3215 child/adolescent psychiatric residential treatment facility beds
3216 in Lauderdale County. As a condition of issuance of the
3217 certificate of need under this paragraph, the facility shall give
3218 priority in admissions to the child/adolescent psychiatric



3219 residential treatment facility beds authorized under this
3220 paragraph to patients who otherwise would require out-of-state
3221 placement. The Division of Medicaid, in conjunction with the
3222 Department of Human Services, shall furnish the facility a list of
3223 all out-of-state patients on a quarterly basis. Furthermore,
3224 notice shall also be provided to the parent, custodial parent or
3225 guardian of each out-of-state patient notifying them of the
3226 priority status granted by this paragraph. For purposes of this
3227 paragraph, the provisions of Section 41-7-193(1) requiring
3228 substantial compliance with the projection of need as reported in
3229 the current State Health Plan are waived. The total number of
3230 child/adolescent psychiatric residential treatment facility beds
3231 that may be authorized under the authority of this paragraph shall
3232 be sixty (60) beds. There shall be no prohibition or restrictions
3233 on participation in the Medicaid program (Section 43-13-101 et
3234 seq.) for the person receiving the certificate of need authorized
3235 under this paragraph or for the beds converted pursuant to the
3236 authority of that certificate of need.

3237 (4) (a) From and after March 25, 2021, the department may
3238 issue a certificate of need to any person for the new construction
3239 of any hospital, psychiatric hospital or chemical dependency
3240 hospital that will contain any child/adolescent psychiatric or
3241 child/adolescent chemical dependency beds, or for the conversion
3242 of any other health care facility to a hospital, psychiatric
3243 hospital or chemical dependency hospital that will contain any



3244 child/adolescent psychiatric or child/adolescent chemical
3245 dependency beds. There shall be no prohibition or restrictions on
3246 participation in the Medicaid program (Section 43-13-101 et seq.)
3247 for the person(s) receiving the certificate(s) of need authorized
3248 under this paragraph (a) or for the beds converted pursuant to the
3249 authority of that certificate of need. In issuing any new
3250 certificate of need for any child/adolescent psychiatric or
3251 child/adolescent chemical dependency beds, either by new
3252 construction or conversion of beds of another category, the
3253 department shall give preference to beds which will be located in
3254 an area of the state which does not have such beds located in it,
3255 and to a location more than sixty-five (65) miles from existing
3256 beds. Upon receiving 2020 census data, the department may amend
3257 the State Health Plan regarding child/adolescent psychiatric and
3258 child/adolescent chemical dependency beds to reflect the need
3259 based on new census data.

3260 (i) [Deleted]

3261 (ii) The department may issue a certificate of
3262 need for the conversion of existing beds in a county hospital in
3263 Choctaw County from acute care beds to child/adolescent chemical
3264 dependency beds. For purposes of this subparagraph (ii), the
3265 provisions of Section 41-7-193(1) requiring substantial compliance
3266 with the projection of need as reported in the current State
3267 Health Plan are waived. The total number of beds that may be
3268 authorized under authority of this subparagraph shall not exceed



3269 twenty (20) beds. There shall be no prohibition or restrictions
3270 on participation in the Medicaid program (Section 43-13-101 et
3271 seq.) for the hospital receiving the certificate of need
3272 authorized under this subparagraph or for the beds converted
3273 pursuant to the authority of that certificate of need.

3274 (iii) The department may issue a certificate or
3275 certificates of need for the construction or expansion of
3276 child/adolescent psychiatric beds or the conversion of other beds
3277 to child/adolescent psychiatric beds in Warren County. For
3278 purposes of this subparagraph (iii), the provisions of Section
3279 41-7-193(1) requiring substantial compliance with the projection
3280 of need as reported in the current State Health Plan are waived.
3281 The total number of beds that may be authorized under the
3282 authority of this subparagraph shall not exceed twenty (20) beds.
3283 There shall be no prohibition or restrictions on participation in
3284 the Medicaid program (Section 43-13-101 et seq.) for the person
3285 receiving the certificate of need authorized under this
3286 subparagraph or for the beds converted pursuant to the authority
3287 of that certificate of need.

3288 If by January 1, 2002, there has been no significant
3289 commencement of construction of the beds authorized under this
3290 subparagraph (iii), or no significant action taken to convert
3291 existing beds to the beds authorized under this subparagraph, then
3292 the certificate of need that was previously issued under this
3293 subparagraph shall expire. If the previously issued certificate



3294 of need expires, the department may accept applications for
3295 issuance of another certificate of need for the beds authorized
3296 under this subparagraph, and may issue a certificate of need to
3297 authorize the construction, expansion or conversion of the beds
3298 authorized under this subparagraph.

3299 (iv) The department shall issue a certificate of
3300 need to the Region 7 Mental Health/Retardation Commission for the
3301 construction or expansion of child/adolescent psychiatric beds or
3302 the conversion of other beds to child/adolescent psychiatric beds
3303 in any of the counties served by the commission. For purposes of
3304 this subparagraph (iv), the provisions of Section 41-7-193(1)
3305 requiring substantial compliance with the projection of need as
3306 reported in the current State Health Plan are waived. The total
3307 number of beds that may be authorized under the authority of this
3308 subparagraph shall not exceed twenty (20) beds. There shall be no
3309 prohibition or restrictions on participation in the Medicaid
3310 program (Section 43-13-101 et seq.) for the person receiving the
3311 certificate of need authorized under this subparagraph or for the
3312 beds converted pursuant to the authority of that certificate of
3313 need.

3314 (v) The department may issue a certificate of need
3315 to any county hospital located in Leflore County for the
3316 construction or expansion of adult psychiatric beds or the
3317 conversion of other beds to adult psychiatric beds, not to exceed
3318 twenty (20) beds, provided that the recipient of the certificate



3319 of need agrees in writing that the adult psychiatric beds will not
3320 at any time be certified for participation in the Medicaid program
3321 and that the hospital will not admit or keep any patients who are
3322 participating in the Medicaid program in any of such adult
3323 psychiatric beds. This written agreement by the recipient of the
3324 certificate of need shall be fully binding on any subsequent owner
3325 of the hospital if the ownership of the hospital is transferred at
3326 any time after the issuance of the certificate of need. Agreement
3327 that the adult psychiatric beds will not be certified for
3328 participation in the Medicaid program shall be a condition of the
3329 issuance of a certificate of need to any person under this
3330 subparagraph (v), and if such hospital at any time after the
3331 issuance of the certificate of need, regardless of the ownership
3332 of the hospital, has any of such adult psychiatric beds certified
3333 for participation in the Medicaid program or admits or keeps any
3334 Medicaid patients in such adult psychiatric beds, the State
3335 Department of Health shall revoke the certificate of need, if it
3336 is still outstanding, and shall deny or revoke the license of the
3337 hospital at the time that the department determines, after a
3338 hearing complying with due process, that the hospital has failed
3339 to comply with any of the conditions upon which the certificate of
3340 need was issued, as provided in this subparagraph and in the
3341 written agreement by the recipient of the certificate of need.

3342 (vi) The department may issue a certificate or
3343 certificates of need for the expansion of child psychiatric beds



3344 or the conversion of other beds to child psychiatric beds at the
3345 University of Mississippi Medical Center. For purposes of this
3346 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
3347 substantial compliance with the projection of need as reported in
3348 the current State Health Plan are waived. The total number of
3349 beds that may be authorized under the authority of this
3350 subparagraph shall not exceed fifteen (15) beds. There shall be
3351 no prohibition or restrictions on participation in the Medicaid
3352 program (Section 43-13-101 et seq.) for the hospital receiving the
3353 certificate of need authorized under this subparagraph or for the
3354 beds converted pursuant to the authority of that certificate of
3355 need.

3356 (b) From and after July 1, 1990, no hospital,
3357 psychiatric hospital or chemical dependency hospital shall be
3358 authorized to add any child/adolescent psychiatric or
3359 child/adolescent chemical dependency beds or convert any beds of
3360 another category to child/adolescent psychiatric or
3361 child/adolescent chemical dependency beds without a certificate of
3362 need under the authority of subsection (1)(c) and subsection
3363 (4)(a) of this section.

3364 (5) The department may issue a certificate of need to a
3365 county hospital in Winston County for the conversion of fifteen
3366 (15) acute care beds to geriatric psychiatric care beds.

3367 (6) The State Department of Health shall issue a certificate
3368 of need to a Mississippi corporation qualified to manage a



3369 long-term care hospital as defined in Section 41-7-173(h) (xii) in
3370 Harrison County, not to exceed eighty (80) beds, including any
3371 necessary renovation or construction required for licensure and
3372 certification, provided that the recipient of the certificate of
3373 need agrees in writing that the long-term care hospital will not
3374 at any time participate in the Medicaid program (Section 43-13-101
3375 et seq.) or admit or keep any patients in the long-term care
3376 hospital who are participating in the Medicaid program. This
3377 written agreement by the recipient of the certificate of need
3378 shall be fully binding on any subsequent owner of the long-term
3379 care hospital, if the ownership of the facility is transferred at
3380 any time after the issuance of the certificate of need. Agreement
3381 that the long-term care hospital will not participate in the
3382 Medicaid program shall be a condition of the issuance of a
3383 certificate of need to any person under this subsection (6), and
3384 if such long-term care hospital at any time after the issuance of
3385 the certificate of need, regardless of the ownership of the
3386 facility, participates in the Medicaid program or admits or keeps
3387 any patients in the facility who are participating in the Medicaid
3388 program, the State Department of Health shall revoke the
3389 certificate of need, if it is still outstanding, and shall deny or
3390 revoke the license of the long-term care hospital, at the time
3391 that the department determines, after a hearing complying with due
3392 process, that the facility has failed to comply with any of the
3393 conditions upon which the certificate of need was issued, as



3394 provided in this subsection and in the written agreement by the
3395 recipient of the certificate of need. For purposes of this
3396 subsection, the provisions of Section 41-7-193(1) requiring
3397 substantial compliance with the projection of need as reported in
3398 the current State Health Plan are waived.

3399 (7) The State Department of Health may issue a certificate
3400 of need to any hospital in the state to utilize a portion of its
3401 beds for the "swing-bed" concept. Any such hospital must be in
3402 conformance with the federal regulations regarding such swing-bed
3403 concept at the time it submits its application for a certificate
3404 of need to the State Department of Health, except that such
3405 hospital may have more licensed beds or a higher average daily
3406 census (ADC) than the maximum number specified in federal
3407 regulations for participation in the swing-bed program. Any
3408 hospital meeting all federal requirements for participation in the
3409 swing-bed program which receives such certificate of need shall
3410 render services provided under the swing-bed concept to any
3411 patient eligible for Medicare (Title XVIII of the Social Security
3412 Act) who is certified by a physician to be in need of such
3413 services, and no such hospital shall permit any patient who is
3414 eligible for both Medicaid and Medicare or eligible only for
3415 Medicaid to stay in the swing beds of the hospital for more than
3416 thirty (30) days per admission unless the hospital receives prior
3417 approval for such patient from the Division of Medicaid, Office of
3418 the Governor. Any hospital having more licensed beds or a higher



3419 average daily census (ADC) than the maximum number specified in
3420 federal regulations for participation in the swing-bed program
3421 which receives such certificate of need shall develop a procedure
3422 to ensure that before a patient is allowed to stay in the swing
3423 beds of the hospital, there are no vacant nursing home beds
3424 available for that patient located within a fifty-mile radius of
3425 the hospital. When any such hospital has a patient staying in the
3426 swing beds of the hospital and the hospital receives notice from a
3427 nursing home located within such radius that there is a vacant bed
3428 available for that patient, the hospital shall transfer the
3429 patient to the nursing home within a reasonable time after receipt
3430 of the notice. Any hospital which is subject to the requirements
3431 of the two (2) preceding sentences of this subsection may be
3432 suspended from participation in the swing-bed program for a
3433 reasonable period of time by the State Department of Health if the
3434 department, after a hearing complying with due process, determines
3435 that the hospital has failed to comply with any of those
3436 requirements.

3437 (8) The Department of Health shall not grant approval for or
3438 issue a certificate of need to any person proposing the new
3439 construction of, addition to or expansion of a health care
3440 facility as defined in subparagraph (viii) of Section 41-7-173(h),
3441 except as hereinafter provided: The department may issue a
3442 certificate of need to a nonprofit corporation located in Madison
3443 County, Mississippi, for the construction, expansion or conversion



3444 of not more than twenty (20) beds in a community living program
3445 for developmentally disabled adults in a facility as defined in
3446 subparagraph (viii) of Section 41-7-173(h). For purposes of this
3447 subsection (8), the provisions of Section 41-7-193(1) requiring
3448 substantial compliance with the projection of need as reported in
3449 the current State Health Plan and the provisions of Section
3450 41-7-197 requiring a formal certificate of need hearing process
3451 are waived. There shall be no prohibition or restrictions on
3452 participation in the Medicaid program for the person receiving the
3453 certificate of need authorized under this subsection (8).

3454 (9) The Department of Health shall not grant approval for or
3455 issue a certificate of need to any person proposing the
3456 establishment of, or expansion of the currently approved territory
3457 of, or the contracting to establish a home office, subunit or
3458 branch office within the space operated as a health care facility
3459 as defined in Section 41-7-173(h) (i) through (viii) by a health
3460 care facility as defined in subparagraph (ix) of Section
3461 41-7-173(h).

3462 (10) Health care facilities owned and/or operated by the
3463 state or its agencies are exempt from the restraints in this
3464 section against issuance of a certificate of need if such addition
3465 or expansion consists of repairing or renovation necessary to
3466 comply with the state licensure law. This exception shall not
3467 apply to the new construction of any building by such state
3468 facility. This exception shall not apply to any health care



3469 facilities owned and/or operated by counties, municipalities,
3470 districts, unincorporated areas, other defined persons, or any
3471 combination thereof.

3472 (11) The new construction, renovation or expansion of or
3473 addition to any health care facility defined in subparagraph (ii)
3474 (psychiatric hospital), subparagraph (iv) (skilled nursing
3475 facility), subparagraph (vi) (intermediate care facility),
3476 subparagraph (viii) (intermediate care facility for * * *
3477 individuals with intellectual disabilities) and subparagraph (x)
3478 (psychiatric residential treatment facility) of Section
3479 41-7-173(h) which is owned by the State of Mississippi and under
3480 the direction and control of the State Department of Mental
3481 Health, and the addition of new beds or the conversion of beds
3482 from one category to another in any such defined health care
3483 facility which is owned by the State of Mississippi and under the
3484 direction and control of the State Department of Mental Health,
3485 shall not require the issuance of a certificate of need under
3486 Section 41-7-171 et seq., notwithstanding any provision in Section
3487 41-7-171 et seq. to the contrary.

3488 (12) The new construction, renovation or expansion of or
3489 addition to any veterans homes or domiciliaries for eligible
3490 veterans of the State of Mississippi as authorized under Section
3491 35-1-19 shall not require the issuance of a certificate of need,
3492 notwithstanding any provision in Section 41-7-171 et seq. to the
3493 contrary.



3494 (13) The repair or the rebuilding of an existing, operating
3495 health care facility that sustained significant damage from a
3496 natural disaster that occurred after April 15, 2014, in an area
3497 that is proclaimed a disaster area or subject to a state of
3498 emergency by the Governor or by the President of the United States
3499 shall be exempt from all of the requirements of the Mississippi
3500 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
3501 rules and regulations promulgated under that law, subject to the
3502 following conditions:

3503 (a) The repair or the rebuilding of any such damaged
3504 health care facility must be within one (1) mile of the
3505 pre-disaster location of the campus of the damaged health care
3506 facility, except that any temporary post-disaster health care
3507 facility operating location may be within five (5) miles of the
3508 pre-disaster location of the damaged health care facility;

3509 (b) The repair or the rebuilding of the damaged health
3510 care facility (i) does not increase or change the complement of
3511 its bed capacity that it had before the Governor's or the
3512 President's proclamation, (ii) does not increase or change its
3513 levels and types of health care services that it provided before
3514 the Governor's or the President's proclamation, and (iii) does not
3515 rebuild in a different county; however, this paragraph does not
3516 restrict or prevent a health care facility from decreasing its bed
3517 capacity that it had before the Governor's or the President's
3518 proclamation, or from decreasing the levels of or decreasing or



3519 eliminating the types of health care services that it provided
3520 before the Governor's or the President's proclamation, when the
3521 damaged health care facility is repaired or rebuilt;

3522 (c) The exemption from Certificate of Need Law provided
3523 under this subsection (13) is valid for only five (5) years from
3524 the date of the Governor's or the President's proclamation. If
3525 actual construction has not begun within that five-year period,
3526 the exemption provided under this subsection is inapplicable; and

3527 (d) The Division of Health Facilities Licensure and
3528 Certification of the State Department of Health shall provide the
3529 same oversight for the repair or the rebuilding of the damaged
3530 health care facility that it provides to all health care facility
3531 construction projects in the state.

3532 For the purposes of this subsection (13), "significant
3533 damage" to a health care facility means damage to the health care
3534 facility requiring an expenditure of at least One Million Dollars
3535 (\$1,000,000.00).

3536 (14) The State Department of Health shall issue a
3537 certificate of need to any hospital which is currently licensed
3538 for two hundred fifty (250) or more acute care beds and is located
3539 in any general hospital service area not having a comprehensive
3540 cancer center, for the establishment and equipping of such a
3541 center which provides facilities and services for outpatient
3542 radiation oncology therapy, outpatient medical oncology therapy,
3543 and appropriate support services including the provision of



3544 radiation therapy services. The provisions of Section 41-7-193(1)
3545 regarding substantial compliance with the projection of need as
3546 reported in the current State Health Plan are waived for the
3547 purpose of this subsection.

3548 (15) The State Department of Health may authorize the
3549 transfer of hospital beds, not to exceed sixty (60) beds, from the
3550 North Panola Community Hospital to the South Panola Community
3551 Hospital. The authorization for the transfer of those beds shall
3552 be exempt from the certificate of need review process.

3553 (16) The State Department of Health shall issue any
3554 certificates of need necessary for Mississippi State University
3555 and a public or private health care provider to jointly acquire
3556 and operate a linear accelerator and a magnetic resonance imaging
3557 unit. Those certificates of need shall cover all capital
3558 expenditures related to the project between Mississippi State
3559 University and the health care provider, including, but not
3560 limited to, the acquisition of the linear accelerator, the
3561 magnetic resonance imaging unit and other radiological modalities;
3562 the offering of linear accelerator and magnetic resonance imaging
3563 services; and the cost of construction of facilities in which to
3564 locate these services. The linear accelerator and the magnetic
3565 resonance imaging unit shall be (a) located in the City of
3566 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
3567 Mississippi State University and the public or private health care
3568 provider selected by Mississippi State University through a



3569 request for proposals (RFP) process in which Mississippi State
3570 University selects, and the Board of Trustees of State
3571 Institutions of Higher Learning approves, the health care provider
3572 that makes the best overall proposal; (c) available to Mississippi
3573 State University for research purposes two-thirds (2/3) of the
3574 time that the linear accelerator and magnetic resonance imaging
3575 unit are operational; and (d) available to the public or private
3576 health care provider selected by Mississippi State University and
3577 approved by the Board of Trustees of State Institutions of Higher
3578 Learning one-third (1/3) of the time for clinical, diagnostic and
3579 treatment purposes. For purposes of this subsection, the
3580 provisions of Section 41-7-193(1) requiring substantial compliance
3581 with the projection of need as reported in the current State
3582 Health Plan are waived.

3583 (17) The State Department of Health shall issue a
3584 certificate of need for the construction of an acute care hospital
3585 in Kemper County, not to exceed twenty-five (25) beds, which shall
3586 be named the "John C. Stennis Memorial Hospital." In issuing the
3587 certificate of need under this subsection, the department shall
3588 give priority to a hospital located in Lauderdale County that has
3589 two hundred fifteen (215) beds. For purposes of this subsection,
3590 the provisions of Section 41-7-193(1) requiring substantial
3591 compliance with the projection of need as reported in the current
3592 State Health Plan and the provisions of Section 41-7-197 requiring
3593 a formal certificate of need hearing process are waived. There



3594 shall be no prohibition or restrictions on participation in the
3595 Medicaid program (Section 43-13-101 et seq.) for the person or
3596 entity receiving the certificate of need authorized under this
3597 subsection or for the beds constructed under the authority of that
3598 certificate of need.

3599 (18) The planning, design, construction, renovation,
3600 addition, furnishing and equipping of a clinical research unit at
3601 any health care facility defined in Section 41-7-173(h) that is
3602 under the direction and control of the University of Mississippi
3603 Medical Center and located in Jackson, Mississippi, and the
3604 addition of new beds or the conversion of beds from one (1)
3605 category to another in any such clinical research unit, shall not
3606 require the issuance of a certificate of need under Section
3607 41-7-171 et seq., notwithstanding any provision in Section
3608 41-7-171 et seq. to the contrary.

3609 (19) [Repealed]

3610 (20) Nothing in this section or in any other provision of
3611 Section 41-7-171 et seq. shall prevent any nursing facility from
3612 designating an appropriate number of existing beds in the facility
3613 as beds for providing care exclusively to patients with
3614 Alzheimer's disease.

3615 (21) Nothing in this section or any other provision of
3616 Section 41-7-171 et seq. shall prevent any health care facility
3617 from the new construction, renovation, conversion or expansion of
3618 new beds in the facility designated as intensive care units,



3619 negative pressure rooms, or isolation rooms pursuant to the
3620 provisions of Sections 41-14-1 through 41-14-11, or Section
3621 41-14-31. For purposes of this subsection, the provisions of
3622 Section 41-7-193(1) requiring substantial compliance with the
3623 projection of need as reported in the current State Health Plan
3624 and the provisions of Section 41-7-197 requiring a formal
3625 certificate of need hearing process are waived.

3626 **SECTION 25.** Section 41-11-102, Mississippi Code of 1972, is
3627 amended as follows:

3628 41-11-102. The administration, supervision, duties and all
3629 aspects of the Children's Rehabilitation Center shall be
3630 transferred to the University of Mississippi Medical Center in a
3631 division to be called Division of Children's Rehabilitation. It
3632 is the intent that there shall be cooperation between the center,
3633 the Blake Center and the Department of Health, Children's
3634 Services.

3635 The University of Mississippi Medical Center is authorized
3636 and empowered to minister to the educational, medical and total
3637 needs of those affected by cerebral palsy and other * * *
3638 disabling conditions which are amenable to such treatment. The
3639 center shall be used to the greatest extent possible for such
3640 treatment.

3641 **SECTION 26.** Section 41-11-105, Mississippi Code of 1972, is
3642 amended as follows:



3643 41-11-105. The * * * Department of Finance and
3644 Administration is * * * authorized and empowered to erect,
3645 construct, and equip the Mississippi Children's Rehabilitation
3646 Center, which shall have as its purpose the treatment and
3647 education of persons afflicted with cerebral palsy and other * * *
3648 disabling conditions which are amenable to such treatment. The
3649 cost of constructing, erecting, and equipping such hospital may be
3650 paid from such funds as may be appropriated, or may heretofore
3651 have been appropriated, for such purpose by the Legislature; and
3652 funds which are available to the * * * Department of Finance and
3653 Administration or which have been set aside and earmarked for the
3654 construction, erection, and equipping of the "Crippled Children's
3655 Hospital" under the provisions of Chapter 291, Laws of 1954, or
3656 the "Mississippi Hospital School for Cerebral Palsy," under the
3657 provisions of Chapter 308, Laws of 1956, are * * * designated and
3658 shall be applied to the constructing, erecting and equipping of
3659 the Mississippi Children's Rehabilitation Center.

3660 **SECTION 27.** Section 41-11-109, Mississippi Code of 1972, is
3661 amended as follows:

3662 41-11-109. When the Mississippi Children's Rehabilitation
3663 Center has been completed and made ready for occupancy, the
3664 buildings and land on which they are located, together with any
3665 and all equipment therefor, shall be conveyed and transferred by
3666 the * * * Department of Finance and Administration to the
3667 University of Mississippi Medical Center for the use and benefit



3668 of the State of Mississippi in accordance with the provisions of
3669 Sections 41-11-101 through 41-11-113. Title to all land,
3670 buildings and equipment held by the board of trustees of the
3671 Mississippi Hospital School for Cerebral Palsy shall be conveyed
3672 to the University of Mississippi Medical Center for the use and
3673 benefit of the state in accordance with the provisions of such
3674 sections.

3675 The University of Mississippi Medical Center may contract for
3676 and obtain the services of the State Board of Education for the
3677 purpose of conducting educational programs for children in the
3678 Mississippi Children's Rehabilitation Center, and all institutions
3679 and agencies of the state government are requested and directed to
3680 participate and cooperate to the fullest extent authorized by law
3681 in rendering assistance towards the rehabilitation and restoration
3682 of such cerebral palsy patients and patients with other * * *
3683 disabling conditions which are amenable to such treatment.

3684 No member of the family of any member of the board of
3685 trustees shall be eligible for treatment in the center. * * *
3686 Children with physical disabilities shall be admitted to the
3687 center insofar as practicable in proportion to the number of such
3688 children in the counties of the State of Mississippi, so that all
3689 such * * * children with physical disabilities shall have equal
3690 opportunity for admission to the center.

3691 **SECTION 28.** Section 41-11-111, Mississippi Code of 1972, is
3692 amended as follows:



3693 41-11-111. The University of Mississippi Medical Center is
3694 authorized to accept any and all grants, donations or matching
3695 funds from private, public or federal sources in order to add to,
3696 improve and enlarge the physical facilities and equipment of the
3697 Mississippi Children's Rehabilitation Center. The State
3698 Department of Health and the * * * Disabled Children's Service
3699 are * * * specifically authorized and empowered to provide
3700 crutches, braces and any and all other mechanical devices
3701 available and designed for the assistance of those persons
3702 afflicted with cerebral palsy and other * * * disabling conditions
3703 which are amenable to such treatment.

3704 **SECTION 29.** Section 41-11-113, Mississippi Code of 1972, is
3705 amended as follows:

3706 41-11-113. It is the intent of Sections 41-11-101 through
3707 41-11-113 to change the name of the "Mississippi Crippled
3708 Children's Treatment and Training Center" to the Mississippi
3709 Children's Rehabilitation Center and to place it under the
3710 supervision and control of the University of Mississippi Medical
3711 Center. Sections 41-11-100 through 41-11-113 should be construed
3712 liberally in order to accomplish the broad objectives in aiding
3713 persons afflicted with cerebral palsy and other * * * disabling
3714 conditions which are amenable to such treatment, in any and every
3715 manner possible by the use of new techniques as they are developed
3716 and become known, and by use of the combination of education and
3717 medical services for the rehabilitation of such persons.



3718 **SECTION 30.** Section 41-13-35, Mississippi Code of 1972, is
3719 amended as follows:

3720 41-13-35. (1) The board of trustees of any community
3721 hospital shall have full authority to appoint an administrator,
3722 who shall not be a member of the board of trustees, and to
3723 delegate reasonable authority to such administrator for the
3724 operation and maintenance of such hospital and all property and
3725 facilities otherwise appertaining thereto.

3726 (2) The board of trustees shall have full authority to
3727 select from its members, officers and committees and, by
3728 resolution or through the board bylaws, to delegate to such
3729 officers and committees reasonable authority to carry out and
3730 enforce the powers and duties of the board of trustees during the
3731 interim periods between regular meetings of the board of
3732 trustees; * * * however, * * * any such action taken by an officer
3733 or committee shall be subject to review by the board, and actions
3734 may be withdrawn or nullified at the next subsequent meeting of
3735 the board of trustees if the action is in excess of delegated
3736 authority.

3737 (3) The board of trustees shall be responsible for governing
3738 the community hospital under its control and shall make and
3739 enforce staff and hospital bylaws and/or rules and regulations
3740 necessary for the administration, government, maintenance and/or
3741 expansion of such hospitals. The board of trustees shall keep



3742 minutes of its official business and shall comply with Section
3743 41-9-68.

3744 (4) The decisions of the board of trustees of the community
3745 hospital shall be valid and binding unless expressly prohibited by
3746 applicable statutory or constitutional provisions.

3747 (5) The powers and duties of the board of trustees shall
3748 specifically include, but not be limited to, the following:

3749 (a) To deposit and invest funds of the community
3750 hospital in accordance with Section 27-105-365;

3751 (b) To establish such equitable wage and salary
3752 programs and other employment benefits as may be deemed expedient
3753 or proper, and in so doing, to expend reasonable funds for such
3754 employee salary and benefits. Allowable employee programs shall
3755 specifically include, but not be limited to, medical benefit,
3756 life, accidental death and dismemberment, disability, retirement
3757 and other employee coverage plans. The hospital may offer and
3758 fund such programs directly or by contract with any third party
3759 and shall be authorized to take all actions necessary to
3760 implement, administer and operate such plans, including payroll
3761 deductions for such plans;

3762 (c) To authorize employees to attend and to pay actual
3763 expenses incurred by employees while engaged in hospital business
3764 or in attending recognized educational or professional meetings;

3765 (d) To enter into loan or scholarship agreements with
3766 employees or students to provide educational assistance where such



3767 student or employee agrees to work for a stipulated period of time
3768 for the hospital;

3769 (e) To devise and implement employee incentive
3770 programs;

3771 (f) To recruit and financially assist physicians and
3772 other health care practitioners in establishing, or relocating
3773 practices within the service area of the community hospital
3774 including, without limitation, direct and indirect financial
3775 assistance, loan agreements, agreements guaranteeing minimum
3776 incomes for a stipulated period from opening of the practice and
3777 providing free office space or reduced rental rates for office
3778 space where such recruitment would directly benefit the community
3779 hospital and/or the health and welfare of the citizens of the
3780 service area;

3781 (g) To contract by way of lease, lease-purchase or
3782 otherwise, with any agency, department or other office of
3783 government or any individual, partnership, corporation, owner,
3784 other board of trustees, or other health care facility, for the
3785 providing of property, equipment or services by or to the
3786 community hospital or other entity or regarding any facet of the
3787 construction, management, funding or operation of the community
3788 hospital or any division or department thereof, or any related
3789 activity, including, without limitation, shared management
3790 expertise or employee insurance and retirement programs, and to



3791 terminate those contracts when deemed in the best interests of the
3792 community hospital;

3793 (h) To file suit on behalf of the community hospital to
3794 enforce any right or claims accruing to the hospital and to defend
3795 and/or settle claims against the community hospital and/or its
3796 board of trustees;

3797 (i) To sell or otherwise dispose of any chattel
3798 property of the community hospital by any method deemed
3799 appropriate by the board where such disposition is consistent with
3800 the hospital purposes or where such property is deemed by the
3801 board to be surplus or otherwise unneeded;

3802 (j) To let contracts for the construction, remodeling,
3803 expansion or acquisition, by lease or purchase, of hospital or
3804 health care facilities, including real property, within the
3805 service area for community hospital purposes where such may be
3806 done with operational funds without encumbering the general
3807 funds of the county or municipality, provided that any contract
3808 for the purchase or lease of real property must have the prior
3809 approval of the owner;

3810 (k) To borrow money and enter other financing
3811 arrangements for community hospital and related purposes and to
3812 grant security interests in hospital equipment and other hospital
3813 assets and to pledge a percentage of hospital revenues as security
3814 for such financings where needed; provided that the owner shall
3815 specify by resolution the maximum borrowing authority and maximum



3816 percent of revenue that may be pledged by the board of trustees
3817 during any given fiscal year;

3818 (l) To expend hospital funds for public relations or
3819 advertising programs;

3820 (m) To offer the following inpatient and outpatient
3821 services, after complying with applicable health planning,
3822 licensure statutes and regulations, whether or not heretofore
3823 offered by such hospital or other similar hospitals in this state
3824 and whether or not heretofore authorized to be offered, long-term
3825 care, extended care, home care, after-hours clinic services,
3826 ambulatory surgical clinic services, preventative health care
3827 services including wellness services, health education,
3828 rehabilitation and diagnostic and treatment services; to promote,
3829 develop, operate and maintain a center providing care or
3830 residential facilities for * * * persons who are aged,
3831 convalescent or * * * disabled; and to promote, develop and
3832 institute any other services having an appropriate place in the
3833 operation of a hospital offering complete community health care;

3834 (n) To promote, develop, acquire, operate and maintain
3835 on a nonprofit basis, or on a profit basis if the community
3836 hospital's share of profits is used solely for community hospital
3837 and related purposes in accordance with this chapter, either
3838 separately or jointly with one or more other hospitals or
3839 health-related organizations, facilities and equipment for
3840 providing goods, services and programs for hospitals, other health



3841 care providers, and other persons or entities in need of such
3842 goods, services and programs and, in doing so, to provide for
3843 contracts of employment or contracts for services and ownership of
3844 property on terms that will protect the public interest;

3845 (o) To establish and operate medical offices, child
3846 care centers, wellness or fitness centers and other facilities and
3847 programs which the board determines are appropriate in the
3848 operation of a community hospital for the benefit of its
3849 employees, personnel and/or medical staff which shall be operated
3850 as an integral part of the hospital and which may, in the
3851 direction of the board of trustees, be offered to the general
3852 public. If such programs are not established in existing
3853 facilities or constructed on real estate previously acquired by
3854 the owners, the board of trustees shall also have authority to
3855 acquire, by lease or purchase, such facilities and real property
3856 within the service area, whether or not adjacent to existing
3857 facilities, provided that any contract for the purchase of real
3858 property shall be ratified by the owner. The trustees shall lease
3859 any such medical offices to members of the medical staff at rates
3860 deemed appropriate and may, in its discretion, establish rates to
3861 be paid for the use of other facilities or programs by its
3862 employees or personnel or members of the public whom the trustees
3863 may determine may properly use such other facilities or programs;



3864 (p) Provide, at its discretion, ambulance service
3865 and/or to contract with any third party, public or private, for
3866 the providing of such service;

3867 (q) Establish a fair and equitable system for the
3868 billing of patients for care or users of services received through
3869 the community hospital, which in the exercise of the board of
3870 trustees' prudent fiscal discretion, may allow for rates to be
3871 classified according to the potential usage by an identified group
3872 or groups of patients of the community hospital's services and may
3873 allow for standard discounts where the discount is designed to
3874 reduce the operating costs or increase the revenues of the
3875 community hospital. Such billing system may also allow for the
3876 payment of charges by means of a credit card or similar device and
3877 allow for payment of administrative fees as may be regularly
3878 imposed by a banking institution or other credit service
3879 organization for the use of such cards;

3880 (r) To establish as an organizational part of the
3881 hospital or to aid in establishing as a separate entity from the
3882 hospital, hospital auxiliaries designed to aid the hospital, its
3883 patients, and/or families and visitors of patients, and when the
3884 auxiliary is established as a separate entity from the hospital,
3885 the board of trustees may cooperate with the auxiliary in its
3886 operations as the board of trustees deems appropriate;

3887 (s) To make any agreements or contracts with the
3888 federal government or any agency thereof, the State of Mississippi



3889 or any agency thereof, and any county, city, town, supervisors
3890 district or election district within this state, jointly or
3891 separately, for the maintenance of charity facilities;

3892 (t) To acquire hospitals, health care facilities and
3893 other health care-related operations and assets, through direct
3894 purchase, merger, consolidation, lease or other means;

3895 (u) To enter into joint ventures, joint-operating
3896 agreements or similar arrangements with other public or private
3897 health care-related organizations, or with for-profit or nonprofit
3898 corporations, for-profit or nonprofit limited liability companies
3899 or other similar organizations, either directly or through a
3900 nonprofit corporation formed or owned by the community hospital,
3901 for the joint operation of all or part of the community hospital,
3902 or the joint operation of any health care facilities or health
3903 care services, and in doing so, to convey the community hospital's
3904 assets, service lines or facilities to the joint venture or to any
3905 other organization or entity for fair market value, and to provide
3906 for contracts of employment or contracts for services and
3907 ownership of property that will protect the public interest;

3908 (v) To form, establish, fund and operate nonprofit
3909 corporations, nonprofit limited liability companies,
3910 state-sponsored entities or other similar organizations, either
3911 directly or through a nonprofit corporation formed by the
3912 community hospital, which are jointly owned with other public or
3913 private hospitals, for-profit or nonprofit corporations, or other



3914 health care-related organizations, for the purpose of conducting
3915 activities within or outside of the community hospital's service
3916 area for the benefit of the community hospital, including, but not
3917 limited to, joint hospital acquisitions, group purchasing,
3918 clinically integrated networks, payor contracting, and joint
3919 requests for federal and state grants and funding;

3920 (w) To make capital contributions, loans, debt or
3921 equity financing to or for any joint venture or similar
3922 arrangement in which the community hospital, or any nonprofit
3923 corporation formed, leased or owned by the community hospital, has
3924 or acquires an ownership interest, and to guarantee loans and any
3925 other obligations for such purposes;

3926 (x) To establish arrangements for the community
3927 hospital to participate in financial integration and/or clinical
3928 integration or clinically integrated networks with a joint
3929 venture, with other public or private or nonprofit health-related
3930 organizations, or through a joint-operating agreement;

3931 (y) To have an ownership interest in, make capital
3932 contributions to, and assume financial risk under, accountable
3933 care organizations or similar organizations;

3934 (z) To enter into any contract for a term of any
3935 length, regardless of whether the length or term of the contract
3936 exceeds the term of the board of trustees of the community
3937 hospital;



3938 (aa) To elect some, any or all of the members of the
3939 board of directors of any nonprofit corporation of which the
3940 community hospital is a member;

3941 (bb) To create, establish, acquire, operate or support
3942 subsidiaries and affiliates, either for-profit or nonprofit or
3943 other similar entity, to assist the community hospital in
3944 fulfilling its purposes;

3945 (cc) To create, establish or support nonaffiliated
3946 for-profit or nonprofit corporations or other similar lawful
3947 business organizations that operate and have as their purposes the
3948 furtherance of the community hospital's purposes;

3949 (dd) Without limiting the generality of any provisions
3950 of this section, to accomplish and facilitate the creation,
3951 establishment, acquisition, operation or support of any such
3952 subsidiary, affiliate, nonaffiliated corporation or other lawful
3953 business organization, by means of loans of funds, acquisition or
3954 transfer of assets, leases of real or personal property, gifts and
3955 grants of funds or guarantees of indebtedness of such
3956 subsidiaries, affiliates and nonaffiliated corporations;

3957 (ee) To exercise all powers granted under this section
3958 in such a manner as the community hospital, through its board of
3959 trustees, may determine to be consistent with the purposes of this
3960 chapter, including the state action immunity provided by this
3961 section from state and federal antitrust laws to the fullest
3962 extent possible, notwithstanding that as a consequence of such



3963 exercise of such powers it engages in activities that may be
3964 deemed "anticompetitive" or which displace competition within the
3965 meaning or contemplation of the antitrust laws of this state or of
3966 the United States; and

3967 (ff) The board of trustees shall not sell, purchase,
3968 convey, lease, or enter into agreements that have the effect of
3969 selling, purchasing, conveying, or leasing any real property or
3970 enter into management agreements, merger agreements, joint
3971 ventures, joint-operating agreements or similar arrangements that
3972 transfer control of any real property or the operations of a
3973 community hospital described in this subsection without the prior
3974 approval of the owners of the real property.

3975 (6) No board of trustees of any community hospital may
3976 accept any grant of money or other thing of value from any
3977 not-for-profit or for-profit organization established for the
3978 purpose of supporting health care in the area served by the
3979 facility unless two-thirds (2/3) of the trustees vote to accept
3980 the grant.

3981 (7) No board of trustees, individual trustee or any other
3982 person who is an agent or servant of the trustees of any community
3983 hospital shall have any personal financial interest in any
3984 not-for-profit or for-profit organization which, regardless of its
3985 stated purpose of incorporation, provides assistance in the form
3986 of grants of money or property to community hospitals or provides



3987 services to community hospitals in the form of performance of
3988 functions normally associated with the operations of a hospital.

3989 (8) The Legislature finds and declares as follows:

3990 (a) The needs of the residents of Mississippi can best
3991 be served by community hospitals having the legal, financial and
3992 operational flexibility to take full advantage of opportunities
3993 and challenges presented by the evolving health care environment
3994 and to take whatever actions are necessary to enable the community
3995 hospitals' continuation as health care systems that provide the
3996 finest possible quality of care consistent with reasonable costs.

3997 (b) In this environment, the community hospitals must
3998 have the ability to respond to changing conditions by having the
3999 power to develop efficient and cost-effective methods and
4000 structures to provide for health care needs, while maintaining a
4001 public mission and character. In addition, community hospitals in
4002 Mississippi are political subdivisions of the state. Accordingly,
4003 the Legislature finds that there is a compelling interest in
4004 establishing a structure and process for a community hospital to
4005 adapt to this dynamic environment, to operate efficiently, to
4006 offer competitive health care services, to respond more
4007 effectively to new developments and regulatory changes in the
4008 health care area, and to continue to serve and promote the health,
4009 wellness and welfare of the citizens of Mississippi. The
4010 acquisition, operation and financing of hospitals and other health
4011 care facilities by the community hospitals are declared to be for



4012 a public and governmental purpose and a matter of public
4013 necessity.

4014 (c) The geographic areas served by community hospitals
4015 include rural populations and other groups that experience
4016 significant health disparities. Health disparities are
4017 differences in health status when compared to the population
4018 overall, often characterized by indicators such as higher
4019 incidence of disease and/or disability, increased mortality rates,
4020 and lower life expectancies. Rural risk factors for health
4021 disparities include geographic isolation, lower socioeconomic
4022 status, higher rates of health risk behaviors and limited access
4023 to health care specialists and subspecialists. As a result of
4024 these health disparities, the residents of areas served by
4025 community hospitals have high rates of mortality and morbidity,
4026 heart disease, cancer, diabetes and other illnesses. The areas
4027 also include a high percentage of uninsured individuals and
4028 Medicaid patients, which are medically underserved groups.
4029 Community hospitals have demonstrated their ability to provide
4030 high-quality health care and to improve health conditions and
4031 outcomes as well as access to care. This section will
4032 significantly strengthen the ability of community hospitals to
4033 serve the health care needs of the residents of their service
4034 areas.

4035 (d) The community hospitals' investment of significant
4036 public assets and their efforts to provide high quality health



4037 care services to medically underserved populations are jeopardized
4038 by potential limits on the ability of community hospitals to
4039 collaborate and consolidate with other public, private, for-profit
4040 and nonprofit health care facilities and providers. The
4041 Legislature expressly finds that the benefits of collaboration and
4042 consolidation by the community hospitals outweigh any adverse
4043 impact on competition. The benefits of the community hospitals'
4044 efforts to collaborate and consolidate include, but are not
4045 limited to, preserving and expanding needed health care services
4046 in its service area; consolidating unneeded or duplicative health
4047 care services; enhancing the quality of, and expanding access to,
4048 health care delivered to medically underserved and rural
4049 populations; and lowering costs and improving the efficiency of
4050 the health care services it delivers. Based on the findings
4051 contained in this section, the Legislature affirmatively expresses
4052 a policy to allow community hospitals to consolidate with other
4053 public, private, for-profit or nonprofit hospitals, health care
4054 facilities and providers and to engage in collaborative activities
4055 consistent with their health care purposes, notwithstanding that
4056 those consolidations and collaborations may have the effect of
4057 displacing competition in the provision of hospital or other
4058 health care-related services. In engaging in such consolidations
4059 and collaborations with other public, private, for-profit or
4060 nonprofit hospitals, health care facilities and providers, the
4061 community hospital shall be considered to be acting pursuant to



4062 clearly articulated state policy as established in this section
4063 and shall not be subject to federal or state antitrust laws while
4064 so acting. With respect to the consolidations, collaborative
4065 activities and other activities contemplated in this section, the
4066 community hospital and the public, private, for-profit or
4067 nonprofit entities with which it consolidates, collaborates, or
4068 enters into any of the transactions set forth in this section,
4069 shall be immune from liability under the federal and state
4070 antitrust laws and those activities are provided with state action
4071 immunity from federal and state antitrust laws to the fullest
4072 extent possible.

4073 **SECTION 31.** Section 41-19-33, Mississippi Code of 1972, is
4074 amended as follows:

4075 41-19-33. (1) Each region so designated or established
4076 under Section 41-19-31 shall establish a regional commission to be
4077 composed of members appointed by the boards of supervisors of the
4078 various counties in the region. Each regional commission shall
4079 employ or contract with an accountant for the purpose of managing
4080 the finances of the commission. The accountant shall provide an
4081 annual audit to the commission in addition to his or her other
4082 duties. It shall be the duty of such regional commission to
4083 administer mental health/intellectual disability programs
4084 certified and required by the State Board of Mental Health and as
4085 specified in Section 41-4-1(2). In addition, once designated and
4086 established as provided hereinabove, a regional commission shall



4087 have the following authority and shall pursue and promote the
4088 following general purposes:

4089 (a) To establish, own, lease, acquire, construct,
4090 build, operate and maintain mental illness, mental health,
4091 intellectual disability, alcoholism and general rehabilitative
4092 facilities and services designed to serve the needs of the people
4093 of the region so designated, provided that the services supplied
4094 by the regional commissions shall include those services
4095 determined by the Department of Mental Health to be necessary and
4096 may include, in addition to the above, services for persons with
4097 developmental and learning disabilities; for persons suffering
4098 from narcotic addiction and problems of drug abuse and drug
4099 dependence; and for the aging as designated and certified by the
4100 Department of Mental Health. Such regional mental health and
4101 intellectual disability commissions and other community service
4102 providers shall, on or before July 1 of each year, submit an
4103 annual operational plan to the Department of Mental Health for
4104 approval or disapproval based on the minimum standards and minimum
4105 required services established by the department for certification
4106 and itemize the services as specified in Section 41-4-1(2),
4107 including financial statements. As part of the annual operation
4108 plan required by Section 41-4-7(h) submitted by any regional
4109 community mental health center or by any other reasonable
4110 certification deemed acceptable by the department, the community
4111 mental health center shall state those services specified in



4112 Section 41-4-1(2) that it will provide and also those services
4113 that it will not provide. If the department finds deficiencies in
4114 the plan of any regional commission or community service provider
4115 based on the minimum standards and minimum required services
4116 established for certification, the department shall give the
4117 regional commission or community service provider a six-month
4118 probationary period to bring its standards and services up to the
4119 established minimum standards and minimum required services. The
4120 regional commission or community service provider shall develop a
4121 sustainability business plan within thirty (30) days of being
4122 placed on probation, which shall be signed by all commissioners
4123 and shall include policies to address one or more of the
4124 following: the deficiencies in programmatic services, clinical
4125 service staff expectations, timely and appropriate billing,
4126 processes to obtain credentialing for staff, monthly reporting
4127 processes, third-party financial reporting and any other required
4128 documentation as determined by the department. After the
4129 six-month probationary period, if the department determines that
4130 the regional commission or community service provider still does
4131 not meet the minimum standards and minimum required services
4132 established for certification, the department may remove the
4133 certification of the commission or provider, and from and after
4134 July 1, 2011, the commission or provider shall be ineligible for
4135 state funds from Medicaid reimbursement or other funding sources
4136 for those services. After the six-month probationary period, the



4137 Department of Mental Health may identify an appropriate community
4138 service provider to provide any core services in that county that
4139 are not provided by a community mental health center. However,
4140 the department shall not offer reimbursement or other
4141 accommodations to a community service provider of core services
4142 that were not offered to the decertified community mental health
4143 center for the same or similar services.

4144 (b) To provide facilities and services for the
4145 prevention of mental illness, mental disorders, developmental and
4146 learning disabilities, alcoholism, narcotic addiction, drug abuse,
4147 drug dependence and other related * * * disabilities or problems
4148 (including the problems of the aging) among the people of the
4149 region so designated, and for the rehabilitation of persons
4150 suffering from such illnesses, disorders, * * * disabilities or
4151 problems as designated and certified by the Department of Mental
4152 Health.

4153 (c) To promote increased understanding of the problems
4154 of mental illness, intellectual disabilities, alcoholism,
4155 developmental and learning disabilities, narcotic addiction, drug
4156 abuse and drug dependence and other related problems (including
4157 the problems of the aging) by the people of the region, and also
4158 to promote increased understanding of the purposes and methods of
4159 the rehabilitation of persons suffering from such illnesses,
4160 disorders, * * * disabilities or problems as designated and
4161 certified by the Department of Mental Health.



4162 (d) To enter into contracts and to make such other
4163 arrangements as may be necessary, from time to time, with the
4164 United States government, the government of the State of
4165 Mississippi and such other agencies or governmental bodies as may
4166 be approved by and acceptable to the regional commission for the
4167 purpose of establishing, funding, constructing, operating and
4168 maintaining facilities and services for the care, treatment and
4169 rehabilitation of persons suffering from mental illness, an
4170 intellectual disability, alcoholism, developmental and learning
4171 disabilities, narcotic addiction, drug abuse, drug dependence and
4172 other illnesses, disorders, * * * disabilities and problems
4173 (including the problems of the aging) as designated and certified
4174 by the Department of Mental Health.

4175 (e) To enter into contracts and make such other
4176 arrangements as may be necessary with any and all private
4177 businesses, corporations, partnerships, proprietorships or other
4178 private agencies, whether organized for profit or otherwise, as
4179 may be approved by and acceptable to the regional commission for
4180 the purpose of establishing, funding, constructing, operating and
4181 maintaining facilities and services for the care, treatment and
4182 rehabilitation of persons suffering from mental illness, an
4183 intellectual disability, alcoholism, developmental and learning
4184 disabilities, narcotic addiction, drug abuse, drug dependence and
4185 other illnesses, disorders, * * * disabilities and problems



4186 (including the problems of the aging) relating to minimum services
4187 established by the Department of Mental Health.

4188 (f) To promote the general mental health of the people
4189 of the region.

4190 (g) To pay the administrative costs of the operation of
4191 the regional commissions, including per diem for the members of
4192 the commission and its employees, attorney's fees, if and when
4193 such are required in the opinion of the commission, and such other
4194 expenses of the commission as may be necessary. The Department of
4195 Mental Health standards and audit rules shall determine what
4196 administrative cost figures shall consist of for the purposes of
4197 this paragraph. Each regional commission shall submit a cost
4198 report annually to the Department of Mental Health in accordance
4199 with guidelines promulgated by the department.

4200 (h) To employ and compensate any personnel that may be
4201 necessary to effectively carry out the programs and services
4202 established under the provisions of the aforesaid act, provided
4203 such person meets the standards established by the Department of
4204 Mental Health.

4205 (i) To acquire whatever hazard, casualty or workers'
4206 compensation insurance that may be necessary for any property,
4207 real or personal, owned, leased or rented by the commissions, or
4208 any employees or personnel hired by the commissions.

4209 (j) To acquire professional liability insurance on all
4210 employees as may be deemed necessary and proper by the commission,



4211 and to pay, out of the funds of the commission, all premiums due
4212 and payable on account thereof.

4213 (k) To provide and finance within their own facilities,
4214 or through agreements or contracts with other local, state or
4215 federal agencies or institutions, nonprofit corporations, or
4216 political subdivisions or representatives thereof, programs and
4217 services for persons with mental illness, including treatment for
4218 alcoholics, and promulgating and administering of programs to
4219 combat drug abuse and programs for services for persons with an
4220 intellectual disability.

4221 (l) To borrow money from private lending institutions
4222 in order to promote any of the foregoing purposes. A commission
4223 may pledge collateral, including real estate, to secure the
4224 repayment of money borrowed under the authority of this paragraph.
4225 Any such borrowing undertaken by a commission shall be on terms
4226 and conditions that are prudent in the sound judgment of the
4227 members of the commission, and the interest on any such loan shall
4228 not exceed the amount specified in Section 75-17-105. Any money
4229 borrowed, debts incurred or other obligations undertaken by a
4230 commission, regardless of whether borrowed, incurred or undertaken
4231 before or after March 15, 1995, shall be valid, binding and
4232 enforceable if it or they are borrowed, incurred or undertaken for
4233 any purpose specified in this section and otherwise conform to the
4234 requirements of this paragraph.



4235 (m) To acquire, own and dispose of real and personal
4236 property. Any real and personal property paid for with state
4237 and/or county appropriated funds must have the written approval of
4238 the Department of Mental Health and/or the county board of
4239 supervisors, depending on the original source of funding, before
4240 being disposed of under this paragraph.

4241 (n) To enter into managed care contracts and make such
4242 other arrangements as may be deemed necessary or appropriate by
4243 the regional commission in order to participate in any managed
4244 care program. Any such contract or arrangement affecting more
4245 than one (1) region must have prior written approval of the
4246 Department of Mental Health before being initiated and annually
4247 thereafter.

4248 (o) To provide facilities and services on a discounted
4249 or capitated basis. Any such action when affecting more than one
4250 (1) region must have prior written approval of the Department of
4251 Mental Health before being initiated and annually thereafter.

4252 (p) To enter into contracts, agreements or other
4253 arrangements with any person, payor, provider or other entity,
4254 under which the regional commission assumes financial risk for the
4255 provision or delivery of any services, when deemed to be necessary
4256 or appropriate by the regional commission. Any action under this
4257 paragraph affecting more than one (1) region must have prior
4258 written approval of the Department of Mental Health before being
4259 initiated and annually thereafter.



4260 (q) To provide direct or indirect funding, grants,
4261 financial support and assistance for any health maintenance
4262 organization, preferred provider organization or other managed
4263 care entity or contractor, where such organization, entity or
4264 contractor is operated on a nonprofit basis. Any action under
4265 this paragraph affecting more than one (1) region must have prior
4266 written approval of the Department of Mental Health before being
4267 initiated and annually thereafter.

4268 (r) To form, establish, operate, and/or be a member of
4269 or participant in, either individually or with one or more other
4270 regional commissions, any managed care entity as defined in
4271 Section 83-41-403(c). Any action under this paragraph affecting
4272 more than one (1) region must have prior written approval of the
4273 Department of Mental Health before being initiated and annually
4274 thereafter.

4275 (s) To meet at least annually with the board of
4276 supervisors of each county in its region for the purpose of
4277 presenting its total annual budget and total mental
4278 health/intellectual disability services system. The commission
4279 shall submit an annual report on the adult mental health services,
4280 children mental health services and intellectual disability
4281 services required by the State Board of Mental Health.

4282 (t) To provide alternative living arrangements for
4283 persons with serious mental illness, including, but not limited
4284 to, group homes for persons with chronic mental illness.



4285 (u) To make purchases and enter into contracts for
4286 purchasing in compliance with the public purchasing law, Sections
4287 31-7-12 and 31-7-13, with compliance with the public purchasing
4288 law subject to audit by the State Department of Audit.

4289 (v) To ensure that all available funds are used for the
4290 benefit of persons with mental illness, persons with an
4291 intellectual disability, substance abusers and persons with
4292 developmental disabilities with maximum efficiency and minimum
4293 administrative cost. At any time a regional commission, and/or
4294 other related organization whatever it may be, accumulates surplus
4295 funds in excess of one-half (1/2) of its annual operating budget,
4296 the entity must submit a plan to the Department of Mental Health
4297 stating the capital improvements or other projects that require
4298 such surplus accumulation. If the required plan is not submitted
4299 within forty-five (45) days of the end of the applicable fiscal
4300 year, the Department of Mental Health shall withhold all state
4301 appropriated funds from such regional commission until such time
4302 as the capital improvement plan is submitted. If the submitted
4303 capital improvement plan is not accepted by the department, the
4304 surplus funds shall be expended by the regional commission in the
4305 local mental health region on group homes for persons with mental
4306 illness, persons with an intellectual disability, substance
4307 abusers, children or other mental health/intellectual disability
4308 services approved by the Department of Mental Health.



4309 (w) Notwithstanding any other provision of law, to
4310 fingerprint and perform a criminal history record check on every
4311 employee or volunteer. Every employee or volunteer shall provide
4312 a valid current social security number and/or driver's license
4313 number that will be furnished to conduct the criminal history
4314 record check. If no disqualifying record is identified at the
4315 state level, fingerprints shall be forwarded to the Federal Bureau
4316 of Investigation for a national criminal history record check.

4317 (x) Notwithstanding any other provisions of law, each
4318 regional commission shall have the authority to create and operate
4319 a primary care health clinic to treat (i) its patients; and (ii)
4320 its patients' family members related within the third degree; and
4321 (iii) its patients' household members or caregivers, subject to
4322 the following requirements:

4323 (i) The regional commission may employ and
4324 compensate any personnel necessary and must satisfy applicable
4325 state and federal laws and regulations regarding the
4326 administration and operation of a primary care health clinic.

4327 (ii) A Mississippi licensed physician must be
4328 employed or under agreement with the regional commission to
4329 provide medical direction and/or to carry out the physician
4330 responsibilities as described under applicable state and/or
4331 federal law and regulations.



4332 (iii) The physician providing medical direction
4333 for the primary care clinic shall not be certified solely in
4334 psychiatry.

4335 (iv) A sliding fee scale may be used by the
4336 regional commission when no other payer source is identified.

4337 (v) The regional commission must ensure services
4338 will be available and accessible promptly and in a manner that
4339 preserves human dignity and assures continuity of care.

4340 (vi) The regional commission must provide a
4341 semiannual report to the Chairmen of the Public Health Committees
4342 in both the House of Representatives and Senate. At a minimum,
4343 for each reporting period, these reports shall describe the number
4344 of patients provided primary care services, the types of services
4345 provided, and the payer source for the patients. Except for
4346 patient information and any other information that may be exempt
4347 from disclosure under the Health Information Portability and
4348 Accountability Act (HIPAA) and the Mississippi Public Records Act,
4349 the reports shall be considered public records.

4350 (vii) The regional commission must employ or
4351 contract with a core clinical staff that is multidisciplinary and
4352 culturally and linguistically competent.

4353 (viii) The regional commission must ensure that
4354 its physician as described in subparagraph (ii) of this paragraph
4355 (x) has admitting privileges at one or more local hospitals or has



4356 an agreement with a physician who has admitting privileges at one
4357 or more local hospitals to ensure continuity of care.

4358 (ix) The regional commission must provide an
4359 independent financial audit report to the State Department of
4360 Mental Health and, except for patient information and any other
4361 information that may be exempt from disclosure under HIPAA and the
4362 Mississippi Public Records Act, the audit report shall be
4363 considered a public record.

4364 For the purposes of this paragraph (x), the term "caregiver"
4365 means an individual who has the principal and primary
4366 responsibility for caring for a child or dependent adult,
4367 especially in the home setting.

4368 (y) In general to take any action which will promote,
4369 either directly or indirectly, any and all of the foregoing
4370 purposes.

4371 (z) All regional commissioners shall receive new
4372 orientation training and annual training with continuing education
4373 regarding the Mississippi mental health system and services as
4374 developed by the State Department of Mental Health. Training
4375 shall be provided at the expense of the department except for
4376 travel expenses which shall be paid by the regional commission.

4377 (2) The types of services established by the State
4378 Department of Mental Health that must be provided by the regional
4379 mental health/intellectual disability centers for certification by
4380 the department, and the minimum levels and standards for those



4381 services established by the department, shall be provided by the
4382 regional mental health/intellectual disability centers to children
4383 when such services are appropriate for children, in the
4384 determination of the department.

4385 (3) Each regional commission shall compile quarterly
4386 financial statements and status reports from each individual
4387 community health center. The compiled reports shall be submitted
4388 to the coordinator quarterly. The reports shall contain a:

- 4389 (a) Balance sheet;
- 4390 (b) Statement of operations;
- 4391 (c) Statement of cash flows; and
- 4392 (d) Description of the status of individual community
4393 health center's actions taken to increase access to and
4394 availability of community mental health services.

4395 **SECTION 32.** Section 41-19-205, Mississippi Code of 1972, is
4396 amended as follows:

4397 41-19-205. A person may be deemed eligible for admission to
4398 the center if:

4399 (a) His parents or guardian or person in loco parentis
4400 has resided in the state not less than one (1) year prior to the
4401 date of admission; and

4402 (b) He is at least five (5) years of age and has such
4403 an intellectual disability that he is incapable of managing
4404 himself or his affairs, or he has an intellectual disability to



4405 the extent that special care, training and education provided at
4406 the center will enable him to better function in society; or

4407 (c) He is committed to the center by the chancery court
4408 in the manner hereinafter provided; or

4409 (d) He is under five (5) years of age and is approved
4410 for admission by the board of mental health, upon the
4411 recommendation of the director, because of having an
4412 exceptional * * * disability.

4413 **SECTION 33.** Section 41-19-237, Mississippi Code of 1972, is
4414 amended as follows:

4415 41-19-237. A person may be deemed eligible for admission to
4416 the center if:

4417 (a) His parents or guardian or person in loco parentis
4418 has resided in the state not less than one (1) year before the
4419 date of admission; and

4420 (b) He is at least five (5) years of age and has such
4421 an intellectual disability that he is incapable of managing
4422 himself or his affairs, or he has an intellectual disability to
4423 the extent that special care, training and education provided at
4424 the center will enable him to better function in society; or

4425 (c) He is committed to the center by the chancery court
4426 in the manner hereinafter provided; or

4427 (d) He is under five (5) years of age and is approved
4428 for admission by the Board of Mental Health, upon the



4429 recommendation of the director, because of having an
4430 exceptional * * * disability.

4431 **SECTION 34.** Section 41-19-257, Mississippi Code of 1972, is
4432 amended as follows:

4433 41-19-257. Persons who have attained the age of eighteen
4434 (18) years, who have been determined to be a * * * person with
4435 mental illness as defined in Section 41-21-61 and who have been
4436 committed for treatment by the chancery court pursuant to Section
4437 41-21-61 et seq. shall be eligible for acute treatment at the
4438 facilities.

4439 **SECTION 35.** Section 41-19-261, Mississippi Code of 1972, is
4440 amended as follows:

4441 41-19-261. Any person who (a) under the provisions of
4442 Section 41-19-251 et seq. knowingly and unlawfully or improperly
4443 causes a person to be adjudged * * * to have a mental illness, (b)
4444 procures the escape of a legally committed patient or knowingly
4445 conceals an escaped legally committed resident of the facility, or
4446 (c) unlawfully brings any firearm, deadly weapon or explosive into
4447 the facility or its grounds, or passes any thereof to patient,
4448 employee or officer of the facility, is guilty of a misdemeanor
4449 and, upon conviction, shall be punished by a fine of not less than
4450 Fifty Dollars (\$50.00) nor more than Two Hundred Dollars
4451 (\$200.00), imprisonment for not less than six (6) months nor more
4452 than one (1) year, or both.



4453 **SECTION 36.** Section 41-19-291, Mississippi Code of 1972, is
4454 amended as follows:

4455 41-19-291. (1) The Specialized Treatment Facility for the
4456 Emotionally Disturbed, located in Harrison County, Mississippi, is
4457 recognized as now existing and shall be for the care and treatment
4458 of persons with mental illness. The facility shall have the power
4459 to receive and hold property, real, personal, and mixed, as a body
4460 corporate. The facility shall be under the direction and control
4461 of the State Board of Mental Health.

4462 (2) Admissions shall be limited to * * * adolescents with
4463 mental or emotional disturbances who have been committed to the
4464 facility by a youth court judge or chancellor as provided in
4465 Section 41-21-109, or who are voluntarily admitted to the
4466 facility.

4467 (3) With funds provided by the Legislature, by direct
4468 appropriation or authorized bond issue, with federal matching
4469 funds, or with any other available funds, the Bureau of Building,
4470 Grounds and Real Property Management may construct and equip the
4471 necessary residential and service buildings and other facilities
4472 to care for the residents of the Specialized Treatment Facility
4473 for the Emotionally Disturbed. The general design of the facility
4474 and all construction plans shall be approved and recommended by
4475 the State Department of Mental Health.

4476 (4) The Specialized Treatment Facility for the Emotionally
4477 Disturbed shall be administered by the State Board of Mental



4478 Health. Provisions relating to the admission and care of
4479 residents at the facility shall be promulgated by the board.

4480 (5) The Specialized Treatment Facility for the Emotionally
4481 Disturbed is authorized to establish and operate a school to meet
4482 the educational needs of its patients.

4483 (6) Persons admitted to the Specialized Treatment Facility
4484 for the Emotionally Disturbed shall be assessed support and
4485 maintenance costs in accordance with the provisions of the state
4486 reimbursement laws as they apply to other state institutions.

4487 (7) Any person who (a) knowingly and unlawfully or
4488 improperly causes a person to be adjudged * * * to have a mental
4489 illness, (b) procures the escape of a legally committed patient or
4490 knowingly conceals an escaped legally committed patient of the
4491 facility or (c) unlawfully brings any firearm, deadly weapon or
4492 explosive into the facility or its grounds, or passes any thereof
4493 to a resident, employee or officer of the school, is guilty of a
4494 misdemeanor and, upon conviction, shall be punished by a fine of
4495 not less than Fifty Dollars (\$50.00), or more than Two Hundred
4496 Dollars (\$200.00), imprisonment for not less than six (6) months,
4497 or both.

4498 (8) The Specialized Treatment Facility for the Emotionally
4499 Disturbed is designated as a state agency for carrying out the
4500 purposes of any act of the Congress of the United States, now
4501 existing or at any time hereafter enacted, pertaining to mental
4502 illness.



4503 (9) If no funding for the Specialized Treatment Facility for
4504 the Emotionally Disturbed is provided by state appropriation, the
4505 Department of Mental Health may lease the facility to carry out
4506 the purposes of the facility as provided in this section and
4507 Section 41-21-109. Before the facility may be leased, the
4508 department, in conjunction with the Bureau of Building, Grounds
4509 and Real Property Management of the Department of Finance and
4510 Administration, shall publicly issue requests for proposals,
4511 advertised in the same manner as provided in Section 31-7-13 for
4512 seeking competitive sealed bids. The requests for proposals shall
4513 contain terms and conditions relating to submission of proposals,
4514 evaluation and selection of proposals, financial terms, legal
4515 responsibilities, and any other matters as the department and
4516 bureau determine to be appropriate for inclusion. Upon receiving
4517 responses to the request for proposals, the department and bureau
4518 shall select the most qualified proposal or proposals on the basis
4519 of experience and qualifications of the proposers, the technical
4520 approach, the financial arrangements, the best value and overall
4521 benefits to the state, and any other relevant factors determined
4522 to be appropriate, and from those proposals, shall negotiate and
4523 enter a contract or contracts for the lease of the facility with
4524 one or more of the persons or firms submitting proposals.
4525 However, if the department and bureau deem none of the proposals
4526 to be qualified or otherwise acceptable, the request for proposals
4527 process may be reinitiated.



4528 (10) If the Specialized Treatment Facility for the
4529 Emotionally Disturbed is leased under subsection (9) of this
4530 section, the lessee of the facility must give first priority in
4531 hiring employees for the facility to the current employees at the
4532 facility. This condition must be included as one (1) of the
4533 specifications in the request for proposals for leasing the
4534 facility.

4535 **SECTION 37.** Section 41-21-67, Mississippi Code of 1972, is
4536 amended as follows:

4537 41-21-67. (1) Whenever the affidavit provided for in
4538 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
4539 direction of the chancellor of the court, shall issue a writ
4540 directed to the sheriff of the proper county to take into custody
4541 the person alleged to be in need of treatment and to take the
4542 person for pre-evaluation screening and treatment by the
4543 appropriate community mental health center established under
4544 Section 41-19-31. The community mental health center will be
4545 designated as the first point of entry for pre-evaluation
4546 screening and treatment. If the community mental health center is
4547 unavailable, any reputable licensed physician, psychologist, nurse
4548 practitioner or physician assistant, as allowed in the discretion
4549 of the court, may conduct the pre-evaluation screening and
4550 examination as set forth in Section 41-21-69. The order may
4551 provide where the person shall be held before being taken for
4552 pre-evaluation screening and treatment. However, when the



4553 affidavit fails to set forth factual allegations and witnesses
4554 sufficient to support the need for treatment, the chancellor shall
4555 refuse to direct issuance of the writ. Reapplication may be made
4556 to the chancellor. If a pauper's affidavit is filed by an affiant
4557 who is a guardian or conservator of a person in need of treatment,
4558 the court shall determine if either the affiant or the person in
4559 need of treatment is a pauper and if * * * the affiant or the
4560 person in need of treatment is determined to be a pauper, the
4561 county of the residence of the respondent shall bear the costs of
4562 commitment, unless funds for those purposes are made available by
4563 the state.

4564 In any county in which a Crisis Intervention Team has been
4565 established under the provisions of Sections 41-21-131 through
4566 41-21-143, the clerk, upon the direction of the chancellor, may
4567 require that the person be referred to the Crisis Intervention
4568 Team for appropriate psychiatric or other medical services before
4569 the issuance of the writ.

4570 (2) Upon issuance of the writ, the chancellor shall
4571 immediately appoint and summon two (2) reputable, licensed
4572 physicians or one (1) reputable, licensed physician and either one
4573 (1) psychologist, nurse practitioner or physician assistant to
4574 conduct a physical and mental examination of the person at a place
4575 to be designated by the clerk or chancellor and to report their
4576 findings to the clerk or chancellor. However, any nurse
4577 practitioner or physician assistant conducting the examination



4578 shall be independent from, and not under the supervision of, the
4579 other physician conducting the examination. A nurse practitioner
4580 or psychiatric nurse practitioner conducting an examination under
4581 this chapter must be functioning within a collaborative or
4582 consultative relationship with a physician as required under
4583 Section 73-15-20(3). In all counties in which there is a county
4584 health officer, the county health officer, if available, may be
4585 one (1) of the physicians so appointed. If a licensed physician
4586 is not available to conduct the physical and mental examination
4587 within forty-eight (48) hours of the issuance of the writ, the
4588 court, in its discretion and upon good cause shown, may permit the
4589 examination to be conducted by the following: (a) two (2) nurse
4590 practitioners, one (1) of whom must be a psychiatric nurse
4591 practitioner; or (b) one (1) psychiatric nurse practitioner and
4592 one (1) psychologist or physician assistant. Neither of the
4593 physicians nor the psychologist, nurse practitioner or physician
4594 assistant selected shall be related to that person in any way, nor
4595 have any direct or indirect interest in the estate of that person
4596 nor shall any full-time staff of residential treatment facilities
4597 operated directly by the State Department of Mental Health serve
4598 as examiner.

4599 (3) The clerk shall ascertain whether the respondent is
4600 represented by an attorney, and if it is determined that the
4601 respondent does not have an attorney, the clerk shall immediately
4602 notify the chancellor of that fact. If the chancellor determines



4603 that the respondent for any reason does not have the services of
4604 an attorney, the chancellor shall immediately appoint an attorney
4605 for the respondent at the time the examiners are appointed.

4606 (4) If the chancellor determines that there is probable
4607 cause to believe that the respondent * * * has a mental illness
4608 and that there is no reasonable alternative to detention, the
4609 chancellor may order that the respondent be retained as an
4610 emergency patient at any licensed medical facility for evaluation
4611 by a physician, nurse practitioner or physician assistant and that
4612 a peace officer transport the respondent to the specified
4613 facility. If the community mental health center serving the
4614 county has partnered with Crisis Intervention Teams under the
4615 provisions of Sections 41-21-131 through 41-21-143, the order may
4616 specify that the licensed medical facility be a designated single
4617 point of entry within the county or within an adjacent county
4618 served by the community mental health center. If the person
4619 evaluating the respondent finds that the respondent * * * has a
4620 mental illness and is in need of treatment, the chancellor may
4621 order that the respondent be retained at the licensed medical
4622 facility or any other available suitable location as the court may
4623 so designate pending an admission hearing. If necessary, the
4624 chancellor may order a peace officer or other person to transport
4625 the respondent to that facility or suitable location. Any
4626 respondent so retained may be given such treatment as is indicated
4627 by standard medical practice. However, the respondent shall not



4628 be held in a hospital operated directly by the State Department of
4629 Mental Health, and shall not be held in jail unless the court
4630 finds that there is no reasonable alternative.

4631 (5) (a) Whenever a licensed psychologist, nurse
4632 practitioner or physician assistant who is certified to complete
4633 examinations for the purpose of commitment or a licensed physician
4634 has reason to believe that a person poses an immediate substantial
4635 likelihood of physical harm to himself or others or is gravely
4636 disabled and unable to care for himself by virtue of mental
4637 illness, as defined in Section 41-21-61(e), then the physician,
4638 psychologist, nurse practitioner or physician assistant may hold
4639 the person or may admit the person to and treat the person in a
4640 licensed medical facility, without a civil order or warrant for a
4641 period not to exceed seventy-two (72) hours. However, if the
4642 seventy-two-hour period begins or ends when the chancery clerk's
4643 office is closed, or within three (3) hours of closing, and the
4644 chancery clerk's office will be continuously closed for a time
4645 that exceeds seventy-two (72) hours, then the seventy-two-hour
4646 period is extended until the end of the next business day that the
4647 chancery clerk's office is open. The person may be held and
4648 treated as an emergency patient at any licensed medical facility,
4649 available regional mental health facility, or crisis intervention
4650 center. The physician or psychologist, nurse practitioner or
4651 physician assistant who holds the person shall certify in writing
4652 the reasons for the need for holding.



4653 If a person is being held and treated in a licensed medical
4654 facility, and that person decides to continue treatment by
4655 voluntarily signing consent for admission and treatment, the
4656 seventy-two-hour hold may be discontinued without filing an
4657 affidavit for commitment. Any respondent so held may be given
4658 such treatment as indicated by standard medical practice. Persons
4659 acting in good faith in connection with the detention and
4660 reporting of a person believed to * * * have a mental illness
4661 shall incur no liability, civil or criminal, for those acts.

4662 (b) Whenever an individual is held for purposes of
4663 receiving treatment as prescribed under paragraph (a) of this
4664 subsection, and it is communicated to the mental health
4665 professional holding the individual that the individual resides or
4666 has visitation rights with a minor child, and if the individual is
4667 considered to be a danger to the minor child, the mental health
4668 professional shall notify the Department of Child Protection
4669 Services prior to discharge if the threat of harm continues to
4670 exist, as is required under Section 43-21-353.

4671 This paragraph (b) shall be known and may be cited as the
4672 "Andrew Lloyd Law."

4673 **SECTION 38.** Section 41-21-131, Mississippi Code of 1972, is
4674 amended as follows:

4675 41-21-131. As used in Sections 41-21-131 through 41-21-143,
4676 the following terms shall have the meanings as defined in this
4677 section:



4678 (a) "Crisis Intervention Team" means a community
4679 partnership among a law enforcement agency, a community mental
4680 health center, a hospital, other mental health providers,
4681 consumers and family members of consumers.

4682 (b) "Participating partner" means a law enforcement
4683 agency, a community mental health center or a hospital that has
4684 each entered into collaborative agreements needed to implement a
4685 Crisis Intervention Team.

4686 (c) "Catchment area" means a geographical area in which
4687 a Crisis Intervention Team operates and is defined by the
4688 jurisdictional boundaries of the law enforcement agency that is
4689 the participating partner.

4690 (d) "Crisis Intervention Team officer" or "CIT officer"
4691 means a law enforcement officer who is authorized to make arrests
4692 under Section 99-3-1 and who is trained and certified in crisis
4693 intervention and who is working for a law enforcement agency that
4694 is a participating partner in a Crisis Intervention Team.

4695 (e) "Substantial likelihood of bodily harm" means that:

4696 (i) The person has threatened or attempted suicide
4697 or to inflict serious bodily harm to himself; or

4698 (ii) The person has threatened or attempted
4699 homicide or other violent behavior; or

4700 (iii) The person has placed others in reasonable
4701 fear of violent behavior and serious physical harm to them; or



4702 (iv) The person is unable to avoid severe
4703 impairment or injury from specific risks; and
4704 (v) There is substantial likelihood that serious
4705 harm will occur unless the person is placed under emergency
4706 treatment.
4707 (f) "Single point of entry" means a specific hospital
4708 that is the participating partner in a Crisis Intervention Team
4709 and that has agreed to provide psychiatric emergency services and
4710 triage and referral services.
4711 (g) "Psychiatric emergency services" means services
4712 designed to reduce the acute psychiatric symptoms of a person
4713 who * * * has a mental illness or a person who has an impairment
4714 caused by drugs or alcohol and, when possible, to stabilize that
4715 person so that continuing treatment can be provided in the local
4716 community.
4717 (h) "Triage and referral services" means services
4718 designed to provide evaluation of a person with mental illness or
4719 a person who has an impairment caused by drugs or alcohol in order
4720 to direct that person to a mental health facility or other mental
4721 health provider that can provide appropriate treatment.
4722 (i) "Comprehensive psychiatric emergency service" means
4723 a specialized psychiatric service operated by the single point of
4724 entry and located in or near the hospital emergency department
4725 that can provide psychiatric emergency services for a period of



4726 time greater than can be provided in the hospital emergency
4727 department.

4728 (j) "Extended observation bed" means a hospital bed
4729 that is used by a comprehensive psychiatric emergency service and
4730 is licensed by the State Department of Health for that purpose.

4731 (k) "Psychiatric nurse practitioner" means a registered
4732 nurse who has completed the educational requirements specified by
4733 the State Board of Nursing, has successfully passed either the
4734 adult or family psychiatric nurse practitioner examination and is
4735 licensed by the State Board of Nursing to work under the
4736 supervision of a physician at a single point of entry following
4737 protocols approved by the State Board of Nursing.

4738 (l) "Psychiatric physician assistant" means a physician
4739 assistant who has completed the educational requirements and
4740 passed the certification examination as specified in Section
4741 73-26-3, is licensed by the State Board of Medical Licensure, has
4742 had at least one (1) year of practice as a physician assistant
4743 employed by a community mental health center, and is working under
4744 the supervision of a physician at a single point of entry.

4745 **SECTION 39.** Section 41-21-139, Mississippi Code of 1972, is
4746 amended as follows:

4747 41-21-139. (1) If a CIT officer determines that a person is
4748 with substantial likelihood of bodily harm, that officer may take
4749 the person into custody for the purpose of transporting the person
4750 to the designated single point of entry serving the catchment area



4751 in which the officer works. The CIT officer shall certify in
4752 writing the reasons for taking the person into custody.

4753 (2) A CIT officer shall have no further legal responsibility
4754 or other obligations once a person taken into custody has been
4755 transported and received at the single point of entry.

4756 (3) A CIT officer acting in good faith in connection with
4757 the detention of a person believed to be with substantial
4758 likelihood of bodily harm shall incur no liability, civil or
4759 criminal, for those acts.

4760 (4) Only CIT officers authorized to operate within a
4761 catchment area may bring persons in custody to the single point of
4762 entry for that catchment area. Law enforcement officers working
4763 outside the designated catchment area are not authorized to
4764 transport any person into the catchment area for the purpose of
4765 bringing that person to the single point of entry.

4766 (5) Any person transported by a CIT officer to the single
4767 point of entry or any person referred by the community mental
4768 health center following guidelines of the collaborative agreements
4769 shall be examined by a physician, psychiatric nurse practitioner
4770 or psychiatric physician assistant. If the person does not
4771 consent to voluntary evaluation and treatment, and the examiner
4772 determines that the person is a * * * person with mental illness,
4773 as defined in Section 41-21-61(e), the examiner shall then
4774 determine if that person can be held under the provisions of
4775 Section 41-21-67(5). All other provisions of Section 41-21-67(5)



4776 shall apply and be extended to include licensed psychiatric nurse
4777 practitioners and psychiatric physician assistants employed by the
4778 single point of entry, including protection from liability, as
4779 provided in this section, when acting in good faith. If the
4780 examiner determines that the person is with substantial likelihood
4781 of bodily harm because of impairment caused by drugs or alcohol
4782 and determines that there is no reasonable, less-restrictive
4783 alternative, the person may be held at the single point of entry
4784 until the impairment has resolved and the person is no longer with
4785 substantial likelihood of bodily harm. Persons acting in good
4786 faith in connection with the detention of a person with impairment
4787 caused by drugs or alcohol shall incur no liability, civil or
4788 criminal, for those acts.

4789 **SECTION 40.** Section 41-31-15, Mississippi Code of 1972, is
4790 amended as follows:

4791 41-31-15. The provisions of the law with respect to the
4792 costs of commitment and the cost of support, including the
4793 prohibition in Section 41-21-65 regarding the charging of extra
4794 fees and expenses to persons initiating commitment proceedings,
4795 methods of determination of persons liable therefor, and methods
4796 of determination of financial ability, and all provisions of law
4797 enabling the state to secure reimbursement of any such items of
4798 cost, applicable to the commitment to and support of * * *
4799 persons with mental illness in state hospitals, shall apply with
4800 equal force in respect to each item of expense incurred by the



4801 state in connection with the commitment, care, custody, treatment,
4802 and rehabilitation of any person committed to the state hospitals
4803 and maintained in any institution or hospital operated by the
4804 State of Mississippi under the provisions of this chapter.

4805 **SECTION 41.** Section 41-79-5, Mississippi Code of 1972, is
4806 amended as follows:

4807 41-79-5. (1) There is * * * established within the State
4808 Department of Health a school nurse intervention program,
4809 available to all public school districts in the state.

4810 (2) * * * Each public school district shall * * * employ a
4811 school nurse, to be known as a Health Service Coordinator,
4812 pursuant to the school nurse intervention program prescribed under
4813 this section. The school nurse intervention program shall offer
4814 any of the following specific preventive services, and other
4815 additional services appropriate to each grade level and the age
4816 and maturity of the pupils:

4817 (a) Reproductive health education and referral to
4818 prevent teen pregnancy and sexually transmitted diseases, which
4819 education shall include abstinence;

4820 (b) Child abuse and neglect identification;

4821 (c) Hearing and vision screening to detect problems
4822 which can lead to serious sensory losses and behavioral and
4823 academic problems;

4824 (d) Alcohol, tobacco and drug abuse education to reduce
4825 abuse of these substances;



4826 (e) Scoliosis screening to detect this condition so
4827 that costly and painful surgery and lifelong disability can be
4828 prevented;

4829 (f) Coordination of services for * * * children with
4830 physical disabilities to ensure that these children receive
4831 appropriate medical assistance and are able to remain in public
4832 school;

4833 (g) Nutrition education and counseling to prevent
4834 obesity and/or other eating disorders which may lead to
4835 life-threatening conditions, for example, hypertension;

4836 (h) Early detection and treatment of head lice to
4837 prevent the spread of the parasite and to reduce absenteeism;

4838 (i) Emergency treatment of injury and illness to
4839 include controlling bleeding, managing fractures, bruises or
4840 contusions and cardiopulmonary resuscitation (CPR);

4841 (j) Applying appropriate theory as the basis for
4842 decision making in nursing practice;

4843 (k) Establishing and maintaining a comprehensive school
4844 health program;

4845 (l) Developing individualized health plans;

4846 (m) Assessing, planning, implementing and evaluating
4847 programs and other school health activities, in collaboration with
4848 other professionals;

4849 (n) Providing health education to assist students,
4850 families and groups to achieve optimal levels of wellness;



4851 (o) Participating in peer review and other means of
4852 evaluation to assure quality of nursing care provided for students
4853 and assuming responsibility for continuing education and
4854 professional development for self while contributing to the
4855 professional growth of others;

4856 (p) Participating with other key members of the
4857 community responsible for assessing, planning, implementing and
4858 evaluating school health services and community services that
4859 include the broad continuum or promotion of primary, secondary and
4860 tertiary prevention; and

4861 (q) Contributing to nursing and school health through
4862 innovations in theory and practice and participation in research.

4863 (3) Public school nurses shall be specifically prohibited
4864 from providing abortion counseling to any student or referring any
4865 student to abortion counseling or abortion clinics. Any violation
4866 of this subsection shall disqualify the school district employing
4867 such public school nurse from receiving any state administered
4868 funds under this section.

4869 (4) [Repealed]

4870 (5) Beginning with the 1997-1998 school year, to the extent
4871 that federal or state funds are available therefor and pursuant to
4872 appropriation therefor by the Legislature, in addition to the
4873 school nurse intervention program funds administered under
4874 subsection (4), the State Department of Health shall establish and
4875 implement a Prevention of Teen Pregnancy Pilot Program to be



4876 located in the public school districts with the highest numbers of
4877 teen pregnancies. The Teen Pregnancy Pilot Program shall provide
4878 the following education services directly through public school
4879 nurses in the pilot school districts: health education sessions
4880 in local schools, where contracted for or invited to provide,
4881 which target issues including reproductive health, teen pregnancy
4882 prevention and sexually transmitted diseases, including syphilis,
4883 HIV and AIDS. When these services are provided by a school nurse,
4884 training and counseling on abstinence shall be included.

4885 (6) In addition to the school nurse intervention program
4886 funds administered under subsection (4) and the Teen Pregnancy
4887 Pilot Program funds administered under subsection (5), to the
4888 extent that federal or state funds are available therefor and
4889 pursuant to appropriation therefor by the Legislature, the State
4890 Department of Health shall establish and implement an Abstinence
4891 Education Pilot Program to provide abstinence education,
4892 mentoring, counseling and adult supervision to promote abstinence
4893 from sexual activity, with a focus on those groups which are most
4894 likely to bear children out of wedlock. Such abstinence education
4895 services shall be provided by the State Department of Health
4896 through its clinics, public health nurses, school nurses and
4897 through contracts with rural and community health centers in order
4898 to reach a larger number of targeted clients. For purposes of
4899 this subsection, the term "abstinence education" means an
4900 educational or motivational program which:



4901 (a) Has as its exclusive purpose, teaching the social,
4902 psychological and health gains to be realized by abstaining from
4903 sexual activity;

4904 (b) Teaches abstinence from sexual activity outside
4905 marriage as the expected standard for all school-age children;

4906 (c) Teaches that abstinence from sexual activity is the
4907 only certain way to avoid out-of-wedlock pregnancy, sexually
4908 transmitted diseases and other associated health problems;

4909 (d) Teaches that a mutually faithful monogamous
4910 relationship in context of marriage is the expected standard of
4911 human sexual activity;

4912 (e) Teaches that sexual activity outside of the context
4913 of marriage is likely to have harmful psychological and physical
4914 effects;

4915 (f) Teaches that bearing children out of wedlock is
4916 likely to have harmful consequences for the child, the child's
4917 parents and society;

4918 (g) Teaches young people how to reject sexual advances
4919 and how alcohol and drug use increase vulnerability to sexual
4920 advances; and

4921 (h) Teaches the importance of attaining
4922 self-sufficiency before engaging in sexual activity.

4923 (7) Beginning with the 1998-1999 school year and pursuant to
4924 appropriation therefor by the Legislature, in addition to other
4925 funds allotted under the * * * adequate education program, each



4926 school district shall be allotted an additional teacher unit per
4927 every one hundred (100) teacher units, for the purpose of
4928 employing qualified public school nurses in such school district,
4929 which in no event shall be less than one (1) teacher unit per
4930 school district, for such purpose. In the event the Legislature
4931 provides less funds than the total state funds needed for the
4932 public school nurse allotment, those school districts with fewer
4933 teacher units shall be the first funded for such purpose, to the
4934 extent of funds available.

4935 (8) Prior to the 1998-1999 school year, nursing staff
4936 assigned to the program shall be employed through the local county
4937 health department and shall be subject to the supervision of the
4938 State Department of Health with input from local school officials.
4939 Local county health departments may contract with any
4940 comprehensive private primary health care facilities within their
4941 county to employ and utilize additional nursing staff. Beginning
4942 with the 1998-1999 school year, nursing staff assigned to the
4943 program shall be employed by the local school district and shall
4944 be designated as "health service coordinators," and shall be
4945 required to possess a bachelor's degree in nursing as a minimum
4946 qualification.

4947 (9) Upon each student's enrollment, the parent or guardian
4948 shall be provided with information regarding the scope of the
4949 school nurse intervention program. The parent or guardian may
4950 provide the school administration with a written statement



4951 refusing all or any part of the nursing service. No child shall
4952 be required to undergo hearing and vision or scoliosis screening
4953 or any other physical examination or tests whose parent objects
4954 thereto on the grounds such screening, physical examination or
4955 tests are contrary to his sincerely held religious beliefs.

4956 (10) A consent form for reproductive health education shall
4957 be sent to the parent or guardian of each student upon his
4958 enrollment. If a response from the parent or guardian is not
4959 received within seven (7) days after the consent form is sent, the
4960 school shall send a letter to the student's home notifying the
4961 parent or guardian of the consent form. If the parent or guardian
4962 fails to respond to the letter within ten (10) days after it is
4963 sent, then the school principal shall be authorized to allow the
4964 student to receive reproductive health education. Reproductive
4965 health education shall include the teaching of total abstinence
4966 from premarital sex and, wherever practicable, reproductive health
4967 education should be taught in classes divided according to gender.
4968 All materials used in the reproductive health education program
4969 shall be placed in a convenient and easily accessible location for
4970 parental inspection. School nurses shall not dispense birth
4971 control pills or contraceptive devices in the school. Dispensing
4972 of such shall be the responsibility of the State Department of
4973 Health on a referral basis only.

4974 (11) No provision of this section shall be construed as
4975 prohibiting local school districts from accepting financial



4976 assistance of any type from the State of Mississippi or any other
4977 governmental entity, or any contribution, donation, gift, decree
4978 or bequest from any source which may be utilized for the
4979 maintenance or implementation of a school nurse intervention
4980 program in a public school system of this state.

4981 **SECTION 42.** Section 43-6-1, Mississippi Code of 1972, is
4982 amended as follows:

4983 43-6-1. As used in this article, "blind," "totally blind,"
4984 "visually * * * impaired," and "partially blind" mean having
4985 central visual acuity not to exceed 20/200 in the better eye, with
4986 corrected lenses as measured by the Snellen test, or having visual
4987 acuity greater than 20/200, but with a limitation in the field of
4988 vision such that the widest diameter of the visual field subtends
4989 an angle not greater than twenty (20) degrees.

4990 As used in this article, "deaf person" means a person who
4991 cannot readily understand spoken language through hearing alone
4992 with or without a hearing aid, and who may also have a speech
4993 defect which renders his speech unintelligible to most people with
4994 normal hearing.

4995 **SECTION 43.** Section 43-6-3, Mississippi Code of 1972, is
4996 amended as follows:

4997 43-6-3. Blind persons, visually * * * impaired persons, deaf
4998 persons and * * * persons with other physical disabilities shall
4999 have the same right as the able-bodied to the full and free use of



5000 the streets, highways, sidewalks, walkways, public buildings,
5001 public facilities, and other public places.

5002 **SECTION 44.** Section 43-6-5, Mississippi Code of 1972, is
5003 amended as follows:

5004 43-6-5. Blind persons, visually * * * impaired persons, deaf
5005 persons and * * * persons with other physical disabilities shall
5006 be entitled to full and equal access, as are other members of the
5007 general public, to accommodations, advantages, facilities and
5008 privileges of all common carriers, airplanes, motor vehicles,
5009 railroad trains, motorbuses, streetcars, boats or any other public
5010 conveyances or modes of transportation, hotels, lodging places,
5011 places of public accommodation, amusement or resort, and other
5012 places to which the general public is invited, subject only to the
5013 conditions and limitations established by law, or state or federal
5014 regulation, and applicable alike to all persons.

5015 **SECTION 45.** Section 43-6-13, Mississippi Code of 1972, is
5016 amended as follows:

5017 43-6-13. Each year the Governor shall publicly proclaim
5018 October 15 as White Cane Safety Day. He shall issue a
5019 proclamation in which:

5020 (a) Comments shall be made upon the significance of
5021 this article.

5022 (b) Citizens of the state are called upon to observe
5023 the provisions of this article and to take precautions necessary
5024 to the safety of * * * persons with disabilities.



5025 (c) Citizens of the state are reminded of the policies
5026 with respect to * * * persons with disabilities which are declared
5027 in this article and be urged to cooperate in giving effect to
5028 them.

5029 (d) Emphasis shall be made on the need of the citizenry
5030 to be aware of the presence of * * * persons with disabilities in
5031 the community and to keep safe and functional for * * * those
5032 persons the streets, highways, sidewalks, walkways, public
5033 buildings, public facilities, other public places, places of
5034 public accommodation, amusement and resort, and other places to
5035 which the public is invited, and to offer assistance to * * *
5036 persons with disabilities upon appropriate occasions.

5037 (e) It is the policy of this state to encourage and
5038 enable blind persons, visually * * * impaired persons, and * * *
5039 persons with other physical disabilities to participate fully in
5040 the social and economic life of the state and to engage in
5041 remunerative employment.

5042 **SECTION 46.** Section 43-6-15, Mississippi Code of 1972, is
5043 amended as follows:

5044 43-6-15. No person shall be refused employment in state
5045 services, the service of political subdivisions of the state, in
5046 public schools, or any other employment supported, in whole or in
5047 part, by public funds, by reason of his being blind,
5048 visually * * * impaired, deaf, or otherwise physically * * *
5049 disabled, unless such disability * * * materially affects the



5050 performance of the work required by the job for which such person
5051 applies.

5052 **SECTION 47.** Section 43-6-113, Mississippi Code of 1972, is
5053 amended as follows:

5054 43-6-113. (1) An appropriate number of toilet rooms shall
5055 be accessible to, and usable by, * * * persons with physical
5056 disabilities and shall have space to allow traffic of individuals
5057 in wheelchairs.

5058 (2) Toilet rooms for each sex shall have at least one (1)
5059 toilet stall that: (a) is three (3') feet wide; (b) is at least
5060 four (4') feet eight (8") inches, preferably five (5') feet deep;
5061 (c) has a door (where doors are used) that is thirty-two (32")
5062 inches wide and swings out; (d) has handrails on each side,
5063 thirty-three (33") inches high and parallel to the floor, one and
5064 one-half (1½") inches in outside diameter, with one and one-half
5065 (1½) inches clearance between rail and wall, and fastened securely
5066 at ends and center; and (e) has a water closet with the seat
5067 twenty (20") inches from the floor.

5068 (3) Such toilet rooms shall have at least one (1) lavatory
5069 with a narrow apron, which when mounted at standard height is
5070 usable by individuals in wheelchairs, or shall have lavatories
5071 mounted higher, when particular designs demand, so that they are
5072 usable by individuals in wheelchairs.

5073 (4) Mirrors and shelves shall be provided above such
5074 lavatory at a height as low as practicable and no higher than



5075 forty (40") inches above the floor, measured from the top of the
5076 shelf and the bottom of the mirror.

5077 (5) Toilet rooms for men which have wall-mounted urinals
5078 shall have an appropriate number of such urinals with the opening
5079 of the basin nineteen (19") inches from the floor, or shall have
5080 floor-mounted urinals that are on level with the main floor of the
5081 toilet room.

5082 (6) Toilet rooms shall have an appropriate number of towel
5083 racks, towel dispensers, and other dispensers and disposal units
5084 mounted with openings of dispensers or receptacles no higher than
5085 forty (40") inches from the floor.

5086 **SECTION 48.** Section 43-6-125, Mississippi Code of 1972, is
5087 amended as follows:

5088 43-6-125. All public buildings constructed or remodeled in
5089 accordance with the standards and requirements of Sections
5090 43-6-101 through 43-6-123, or containing facilities that are in
5091 compliance therewith, shall display a symbol which is white on a
5092 blue background. The specifications for this symbol shall be
5093 furnished by the State Board of Health indicating the location of
5094 such facilities designed for * * * persons with physical
5095 disabilities. When a building contains an entrance other than the
5096 main entrance which is ramped or level for use by * * * persons
5097 with physical disabilities, a sign showing its location shall be
5098 posted at or near the main entrance which shall be visible from
5099 the adjacent public sidewalk or way.



5100 **SECTION 49.** Section 43-7-61, Mississippi Code of 1972, is
5101 amended as follows:

5102 43-7-61. (1) The Office of the State Long-Term Care
5103 Facilities Ombudsman shall establish a training and certification
5104 program. The State Ombudsman shall specify by rule the content of
5105 the training program. Each long-term care facilities ombudsman
5106 program shall bear the cost of training its own employees.

5107 (2) The State Ombudsman shall establish minimum
5108 qualifications and recertification requirements for
5109 representatives of the Office of the State Long-Term Care
5110 Facilities Ombudsman. Such training shall include instruction in
5111 at least the following subjects as they relate to long-term care:

5112 (a) The responsibilities and duties of community
5113 ombudsmen;

5114 (b) The laws and regulations governing the receipt,
5115 investigation and resolution of issues of the well-being of a
5116 resident;

5117 (c) The role of local, state and federal agencies that
5118 regulate long-term care facilities;

5119 (d) The different kinds of long-term care facilities in
5120 Mississippi and the services provided in each kind;

5121 (e) The special needs of the elderly and of * * *
5122 persons with physical and mental disabilities;



5123 (f) The role of the family, the sponsor, the legal
5124 representative, the physician, the church, and other public and
5125 private agencies, and the community;

5126 (g) How to work with long-term care facility staff;

5127 (h) The aging process and characteristics of the
5128 long-term care facility resident or institutionalized elderly;

5129 (i) Familiarity with and access to information
5130 concerning the laws and regulations governing Medicare, Medicaid,
5131 Social Security, Supplemental Security Income, the Veterans
5132 Administration and Workers' Compensation; and

5133 (j) The training program shall include an appropriate
5134 internship to be performed in a long-term care facility.

5135 (3) Persons selected by area agencies on aging who have
5136 satisfactorily completed the training arranged by the State
5137 Ombudsman shall be designated as representatives of the Office of
5138 the State Long-Term Care Facilities Ombudsman by the State
5139 Ombudsman.

5140 (4) Each area agency on aging may appoint an advisory
5141 committee to advise it in the operation of its community ombudsman
5142 program. The number and qualifications of members of the advisory
5143 committee shall be determined by the area agency on aging.

5144 (5) Ombudsmen who have successfully completed the training
5145 and certification program under this section shall be given
5146 identification cards which shall be presented to employees of a
5147 long-term care facility upon request.



5148 **SECTION 50.** Section 43-13-117, Mississippi Code of 1972, is
5149 amended as follows:

5150 43-13-117. (A) Medicaid as authorized by this article shall
5151 include payment of part or all of the costs, at the discretion of
5152 the division, with approval of the Governor and the Centers for
5153 Medicare and Medicaid Services, of the following types of care and
5154 services rendered to eligible applicants who have been determined
5155 to be eligible for that care and services, within the limits of
5156 state appropriations and federal matching funds:

5157 (1) Inpatient hospital services.

5158 (a) The division is authorized to implement an All
5159 Patient Refined Diagnosis Related Groups (APR-DRG) reimbursement
5160 methodology for inpatient hospital services.

5161 (b) No service benefits or reimbursement
5162 limitations in this subsection (A)(1) shall apply to payments
5163 under an APR-DRG or Ambulatory Payment Classification (APC) model
5164 or a managed care program or similar model described in subsection
5165 (H) of this section unless specifically authorized by the
5166 division.

5167 (2) Outpatient hospital services.

5168 (a) Emergency services.

5169 (b) Other outpatient hospital services. The
5170 division shall allow benefits for other medically necessary
5171 outpatient hospital services (such as chemotherapy, radiation,
5172 surgery and therapy), including outpatient services in a clinic or



5173 other facility that is not located inside the hospital, but that
5174 has been designated as an outpatient facility by the hospital, and
5175 that was in operation or under construction on July 1, 2009,
5176 provided that the costs and charges associated with the operation
5177 of the hospital clinic are included in the hospital's cost report.
5178 In addition, the Medicare thirty-five-mile rule will apply to
5179 those hospital clinics not located inside the hospital that are
5180 constructed after July 1, 2009. Where the same services are
5181 reimbursed as clinic services, the division may revise the rate or
5182 methodology of outpatient reimbursement to maintain consistency,
5183 efficiency, economy and quality of care.

5184 (c) The division is authorized to implement an
5185 Ambulatory Payment Classification (APC) methodology for outpatient
5186 hospital services. The division shall give rural hospitals that
5187 have fifty (50) or fewer licensed beds the option to not be
5188 reimbursed for outpatient hospital services using the APC
5189 methodology, but reimbursement for outpatient hospital services
5190 provided by those hospitals shall be based on one hundred one
5191 percent (101%) of the rate established under Medicare for
5192 outpatient hospital services. Those hospitals choosing to not be
5193 reimbursed under the APC methodology shall remain under cost-based
5194 reimbursement for a two-year period.

5195 (d) No service benefits or reimbursement
5196 limitations in this subsection (A) (2) shall apply to payments
5197 under an APR-DRG or APC model or a managed care program or similar



5198 model described in subsection (H) of this section unless
5199 specifically authorized by the division.

5200 (3) Laboratory and x-ray services.

5201 (4) Nursing facility services.

5202 (a) The division shall make full payment to
5203 nursing facilities for each day, not exceeding forty-two (42) days
5204 per year, that a patient is absent from the facility on home
5205 leave. Payment may be made for the following home leave days in
5206 addition to the forty-two-day limitation: Christmas, the day
5207 before Christmas, the day after Christmas, Thanksgiving, the day
5208 before Thanksgiving and the day after Thanksgiving.

5209 (b) From and after July 1, 1997, the division
5210 shall implement the integrated case-mix payment and quality
5211 monitoring system, which includes the fair rental system for
5212 property costs and in which recapture of depreciation is
5213 eliminated. The division may reduce the payment for hospital
5214 leave and therapeutic home leave days to the lower of the case-mix
5215 category as computed for the resident on leave using the
5216 assessment being utilized for payment at that point in time, or a
5217 case-mix score of 1.000 for nursing facilities, and shall compute
5218 case-mix scores of residents so that only services provided at the
5219 nursing facility are considered in calculating a facility's per
5220 diem.



5221 (c) From and after July 1, 1997, all state-owned
5222 nursing facilities shall be reimbursed on a full reasonable cost
5223 basis.

5224 (d) On or after January 1, 2015, the division
5225 shall update the case-mix payment system resource utilization
5226 grouper and classifications and fair rental reimbursement system.
5227 The division shall develop and implement a payment add-on to
5228 reimburse nursing facilities for ventilator-dependent resident
5229 services.

5230 (e) The division shall develop and implement, not
5231 later than January 1, 2001, a case-mix payment add-on determined
5232 by time studies and other valid statistical data that will
5233 reimburse a nursing facility for the additional cost of caring for
5234 a resident who has a diagnosis of Alzheimer's or other related
5235 dementia and exhibits symptoms that require special care. Any
5236 such case-mix add-on payment shall be supported by a determination
5237 of additional cost. The division shall also develop and implement
5238 as part of the fair rental reimbursement system for nursing
5239 facility beds, an Alzheimer's resident bed depreciation enhanced
5240 reimbursement system that will provide an incentive to encourage
5241 nursing facilities to convert or construct beds for residents with
5242 Alzheimer's or other related dementia.

5243 (f) The division shall develop and implement an
5244 assessment process for long-term care services. The division may



5245 provide the assessment and related functions directly or through
5246 contract with the area agencies on aging.

5247 The division shall apply for necessary federal waivers to
5248 assure that additional services providing alternatives to nursing
5249 facility care are made available to applicants for nursing
5250 facility care.

5251 (5) Periodic screening and diagnostic services for
5252 individuals under age twenty-one (21) years as are needed to
5253 identify physical and mental defects and to provide health care
5254 treatment and other measures designed to correct or ameliorate
5255 defects and physical and mental illness and conditions discovered
5256 by the screening services, regardless of whether these services
5257 are included in the state plan. The division may include in its
5258 periodic screening and diagnostic program those discretionary
5259 services authorized under the federal regulations adopted to
5260 implement Title XIX of the federal Social Security Act, as
5261 amended. The division, in obtaining physical therapy services,
5262 occupational therapy services, and services for individuals with
5263 speech, hearing and language disorders, may enter into a
5264 cooperative agreement with the State Department of Education for
5265 the provision of those services to * * * students with
5266 disabilities by public school districts using state funds that are
5267 provided from the appropriation to the Department of Education to
5268 obtain federal matching funds through the division. The division,
5269 in obtaining medical and mental health assessments, treatment,



5270 care and services for children who are in, or at risk of being put
5271 in, the custody of the Mississippi Department of Human Services
5272 may enter into a cooperative agreement with the Mississippi
5273 Department of Human Services for the provision of those services
5274 using state funds that are provided from the appropriation to the
5275 Department of Human Services to obtain federal matching funds
5276 through the division.

5277 (6) Physician services. Fees for physician's services
5278 that are covered only by Medicaid shall be reimbursed at ninety
5279 percent (90%) of the rate established on January 1, 2018, and as
5280 may be adjusted each July thereafter, under Medicare. The
5281 division may provide for a reimbursement rate for physician's
5282 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. The
5286 division may reimburse eligible providers, as determined by the
5287 division, for certain primary care services at one hundred percent
5288 (100%) of the rate established under Medicare. The division shall
5289 reimburse obstetricians and gynecologists for certain primary care
5290 services as defined by the division at one hundred percent (100%)
5291 of the rate established under Medicare.

5292 (7) (a) Home health services for eligible persons, not
5293 to exceed in cost the prevailing cost of nursing facility
5294 services. All home health visits must be precertified as required



5295 by the division. In addition to physicians, certified registered
5296 nurse practitioners, physician assistants and clinical nurse
5297 specialists are authorized to prescribe or order home health
5298 services and plans of care, sign home health plans of care,
5299 certify and recertify eligibility for home health services and
5300 conduct the required initial face-to-face visit with the recipient
5301 of the services.

5302 (b) [Repealed]

5303 (8) Emergency medical transportation services as
5304 determined by the division.

5305 (9) Prescription drugs and other covered drugs and
5306 services as determined by the division.

5307 The division shall establish a mandatory preferred drug list.
5308 Drugs not on the mandatory preferred drug list shall be made
5309 available by utilizing prior authorization procedures established
5310 by the division.

5311 The division may seek to establish relationships with other
5312 states in order to lower acquisition costs of prescription drugs
5313 to include single-source and innovator multiple-source drugs or
5314 generic drugs. In addition, if allowed by federal law or
5315 regulation, the division may seek to establish relationships with
5316 and negotiate with other countries to facilitate the acquisition
5317 of prescription drugs to include single-source and innovator
5318 multiple-source drugs or generic drugs, if that will lower the
5319 acquisition costs of those prescription drugs.



5320 The division may allow for a combination of prescriptions for
5321 single-source and innovator multiple-source drugs and generic
5322 drugs to meet the needs of the beneficiaries.

5323 The executive director may approve specific maintenance drugs
5324 for beneficiaries with certain medical conditions, which may be
5325 prescribed and dispensed in three-month supply increments.

5326 Drugs prescribed for a resident of a psychiatric residential
5327 treatment facility must be provided in true unit doses when
5328 available. The division may require that drugs not covered by
5329 Medicare Part D for a resident of a long-term care facility be
5330 provided in true unit doses when available. Those drugs that were
5331 originally billed to the division but are not used by a resident
5332 in any of those facilities shall be returned to the billing
5333 pharmacy for credit to the division, in accordance with the
5334 guidelines of the State Board of Pharmacy and any requirements of
5335 federal law and regulation. Drugs shall be dispensed to a
5336 recipient and only one (1) dispensing fee per month may be
5337 charged. The division shall develop a methodology for reimbursing
5338 for restocked drugs, which shall include a restock fee as
5339 determined by the division not exceeding Seven Dollars and
5340 Eighty-two Cents (\$7.82).

5341 Except for those specific maintenance drugs approved by the
5342 executive director, the division shall not reimburse for any
5343 portion of a prescription that exceeds a thirty-one-day supply of
5344 the drug based on the daily dosage.



5345 The division is authorized to develop and implement a program
5346 of payment for additional pharmacist services as determined by the
5347 division.

5348 All claims for drugs for dually eligible Medicare/Medicaid
5349 beneficiaries that are paid for by Medicare must be submitted to
5350 Medicare for payment before they may be processed by the
5351 division's online payment system.

5352 The division shall develop a pharmacy policy in which drugs
5353 in tamper-resistant packaging that are prescribed for a resident
5354 of a nursing facility but are not dispensed to the resident shall
5355 be returned to the pharmacy and not billed to Medicaid, in
5356 accordance with guidelines of the State Board of Pharmacy.

5357 The division shall develop and implement a method or methods
5358 by which the division will provide on a regular basis to Medicaid
5359 providers who are authorized to prescribe drugs, information about
5360 the costs to the Medicaid program of single-source drugs and
5361 innovator multiple-source drugs, and information about other drugs
5362 that may be prescribed as alternatives to those single-source
5363 drugs and innovator multiple-source drugs and the costs to the
5364 Medicaid program of those alternative drugs.

5365 Notwithstanding any law or regulation, information obtained
5366 or maintained by the division regarding the prescription drug
5367 program, including trade secrets and manufacturer or labeler
5368 pricing, is confidential and not subject to disclosure except to
5369 other state agencies.



5370 The dispensing fee for each new or refill prescription,
5371 including nonlegend or over-the-counter drugs covered by the
5372 division, shall be not less than Three Dollars and Ninety-one
5373 Cents (\$3.91), as determined by the division.

5374 The division shall not reimburse for single-source or
5375 innovator multiple-source drugs if there are equally effective
5376 generic equivalents available and if the generic equivalents are
5377 the least expensive.

5378 It is the intent of the Legislature that the pharmacists
5379 providers be reimbursed for the reasonable costs of filling and
5380 dispensing prescriptions for Medicaid beneficiaries.

5381 The division shall allow certain drugs, including
5382 physician-administered drugs, and implantable drug system devices,
5383 and medical supplies, with limited distribution or limited access
5384 for beneficiaries and administered in an appropriate clinical
5385 setting, to be reimbursed as either a medical claim or pharmacy
5386 claim, as determined by the division.

5387 It is the intent of the Legislature that the division and any
5388 managed care entity described in subsection (H) of this section
5389 encourage the use of Alpha-Hydroxyprogesterone Caproate (17P) to
5390 prevent recurrent preterm birth.

5391 (10) Dental and orthodontic services to be determined
5392 by the division.

5393 The division shall increase the amount of the reimbursement
5394 rate for diagnostic and preventative dental services for each of



5395 the fiscal years 2022, 2023 and 2024 by five percent (5%) above
5396 the amount of the reimbursement rate for the previous fiscal year.
5397 The division shall increase the amount of the reimbursement rate
5398 for restorative dental services for each of the fiscal years 2023,
5399 2024 and 2025 by five percent (5%) above the amount of the
5400 reimbursement rate for the previous fiscal year. It is the intent
5401 of the Legislature that the reimbursement rate revision for
5402 preventative dental services will be an incentive to increase the
5403 number of dentists who actively provide Medicaid services. This
5404 dental services reimbursement rate revision shall be known as the
5405 "James Russell Dumas Medicaid Dental Services Incentive Program."

5406 The Medical Care Advisory Committee, assisted by the Division
5407 of Medicaid, shall annually determine the effect of this incentive
5408 by evaluating the number of dentists who are Medicaid providers,
5409 the number who and the degree to which they are actively billing
5410 Medicaid, the geographic trends of where dentists are offering
5411 what types of Medicaid services and other statistics pertinent to
5412 the goals of this legislative intent. This data shall annually be
5413 presented to the Chair of the Senate Medicaid Committee and the
5414 Chair of the House Medicaid Committee.

5415 The division shall include dental services as a necessary
5416 component of overall health services provided to children who are
5417 eligible for services.

5418 (11) Eyeglasses for all Medicaid beneficiaries who have
5419 (a) had surgery on the eyeball or ocular muscle that results in a



5420 vision change for which eyeglasses or a change in eyeglasses is
5421 medically indicated within six (6) months of the surgery and is in
5422 accordance with policies established by the division, or (b) one
5423 (1) pair every five (5) years and in accordance with policies
5424 established by the division. In either instance, the eyeglasses
5425 must be prescribed by a physician skilled in diseases of the eye
5426 or an optometrist, whichever the beneficiary may select.

5427 (12) Intermediate care facility services.

5428 (a) The division shall make full payment to all
5429 intermediate care facilities for individuals with intellectual
5430 disabilities for each day, not exceeding sixty-three (63) days per
5431 year, that a patient is absent from the facility on home leave.
5432 Payment may be made for the following home leave days in addition
5433 to the sixty-three-day limitation: Christmas, the day before
5434 Christmas, the day after Christmas, Thanksgiving, the day before
5435 Thanksgiving and the day after Thanksgiving.

5436 (b) All state-owned intermediate care facilities
5437 for individuals with intellectual disabilities shall be reimbursed
5438 on a full reasonable cost basis.

5439 (c) Effective January 1, 2015, the division shall
5440 update the fair rental reimbursement system for intermediate care
5441 facilities for individuals with intellectual disabilities.

5442 (13) Family planning services, including drugs,
5443 supplies and devices, when those services are under the
5444 supervision of a physician or nurse practitioner.



5445 (14) Clinic services. Preventive, diagnostic,
5446 therapeutic, rehabilitative or palliative services that are
5447 furnished by a facility that is not part of a hospital but is
5448 organized and operated to provide medical care to outpatients.
5449 Clinic services include, but are not limited to:

5450 (a) Services provided by ambulatory surgical
5451 centers (ACSS) as defined in Section 41-75-1(a); and

5452 (b) Dialysis center services.

5453 (15) Home- and community-based services for the elderly
5454 and disabled, as provided under Title XIX of the federal Social
5455 Security Act, as amended, under waivers, subject to the
5456 availability of funds specifically appropriated for that purpose
5457 by the Legislature.

5458 (16) Mental health services. Certain services provided
5459 by a psychiatrist shall be reimbursed at up to one hundred percent
5460 (100%) of the Medicare rate. Approved therapeutic and case
5461 management services (a) provided by an approved regional mental
5462 health/intellectual disability center established under Sections
5463 41-19-31 through 41-19-39, or by another community mental health
5464 service provider meeting the requirements of the Department of
5465 Mental Health to be an approved mental health/intellectual
5466 disability center if determined necessary by the Department of
5467 Mental Health, using state funds that are provided in the
5468 appropriation to the division to match federal funds, or (b)
5469 provided by a facility that is certified by the State Department



5470 of Mental Health to provide therapeutic and case management
5471 services, to be reimbursed on a fee for service basis, or (c)
5472 provided in the community by a facility or program operated by the
5473 Department of Mental Health. Any such services provided by a
5474 facility described in subparagraph (b) must have the prior
5475 approval of the division to be reimbursable under this section.

5476 (17) Durable medical equipment services and medical
5477 supplies. Precertification of durable medical equipment and
5478 medical supplies must be obtained as required by the division.
5479 The Division of Medicaid may require durable medical equipment
5480 providers to obtain a surety bond in the amount and to the
5481 specifications as established by the Balanced Budget Act of 1997.
5482 A maximum dollar amount of reimbursement for noninvasive
5483 ventilators or ventilation treatments properly ordered and being
5484 used in an appropriate care setting shall not be set by any health
5485 maintenance organization, coordinated care organization,
5486 provider-sponsored health plan, or other organization paid for
5487 services on a capitated basis by the division under any managed
5488 care program or coordinated care program implemented by the
5489 division under this section. Reimbursement by these organizations
5490 to durable medical equipment suppliers for home use of noninvasive
5491 and invasive ventilators shall be on a continuous monthly payment
5492 basis for the duration of medical need throughout a patient's
5493 valid prescription period.



5494 (18) (a) Notwithstanding any other provision of this
5495 section to the contrary, as provided in the Medicaid state plan
5496 amendment or amendments as defined in Section 43-13-145(10), the
5497 division shall make additional reimbursement to hospitals that
5498 serve a disproportionate share of low-income patients and that
5499 meet the federal requirements for those payments as provided in
5500 Section 1923 of the federal Social Security Act and any applicable
5501 regulations. It is the intent of the Legislature that the
5502 division shall draw down all available federal funds allotted to
5503 the state for disproportionate share hospitals. However, from and
5504 after January 1, 1999, public hospitals participating in the
5505 Medicaid disproportionate share program may be required to
5506 participate in an intergovernmental transfer program as provided
5507 in Section 1903 of the federal Social Security Act and any
5508 applicable regulations.

5509 (b) (i) 1. The division may establish a Medicare
5510 Upper Payment Limits Program, as defined in Section 1902(a)(30) of
5511 the federal Social Security Act and any applicable federal
5512 regulations, or an allowable delivery system or provider payment
5513 initiative authorized under 42 CFR 438.6(c), for hospitals,
5514 nursing facilities and physicians employed or contracted by
5515 hospitals.

5516 2. The division shall establish a
5517 Medicaid Supplemental Payment Program, as permitted by the federal
5518 Social Security Act and a comparable allowable delivery system or



5519 provider payment initiative authorized under 42 CFR 438.6(c), for
5520 emergency ambulance transportation providers in accordance with
5521 this subsection (A) (18) (b).

5522 (ii) The division shall assess each hospital,
5523 nursing facility, and emergency ambulance transportation provider
5524 for the sole purpose of financing the state portion of the
5525 Medicare Upper Payment Limits Program or other program(s)
5526 authorized under this subsection (A) (18) (b). The hospital
5527 assessment shall be as provided in Section 43-13-145(4) (a), and
5528 the nursing facility and the emergency ambulance transportation
5529 assessments, if established, shall be based on Medicaid
5530 utilization or other appropriate method, as determined by the
5531 division, consistent with federal regulations. The assessments
5532 will remain in effect as long as the state participates in the
5533 Medicare Upper Payment Limits Program or other program(s)
5534 authorized under this subsection (A) (18) (b). In addition to the
5535 hospital assessment provided in Section 43-13-145(4) (a), hospitals
5536 with physicians participating in the Medicare Upper Payment Limits
5537 Program or other program(s) authorized under this subsection
5538 (A) (18) (b) shall be required to participate in an
5539 intergovernmental transfer or assessment, as determined by the
5540 division, for the purpose of financing the state portion of the
5541 physician UPL payments or other payment(s) authorized under this
5542 subsection (A) (18) (b).



5543 (iii) Subject to approval by the Centers for
5544 Medicare and Medicaid Services (CMS) and the provisions of this
5545 subsection (A) (18) (b), the division shall make additional
5546 reimbursement to hospitals, nursing facilities, and emergency
5547 ambulance transportation providers for the Medicare Upper Payment
5548 Limits Program or other program(s) authorized under this
5549 subsection (A) (18) (b), and, if the program is established for
5550 physicians, shall make additional reimbursement for physicians, as
5551 defined in Section 1902(a) (30) of the federal Social Security Act
5552 and any applicable federal regulations, provided the assessment in
5553 this subsection (A) (18) (b) is in effect.

5554 (iv) Notwithstanding any other provision of
5555 this article to the contrary, effective upon implementation of the
5556 Mississippi Hospital Access Program (MHAP) provided in
5557 subparagraph (c) (i) below, the hospital portion of the inpatient
5558 Upper Payment Limits Program shall transition into and be replaced
5559 by the MHAP program. However, the division is authorized to
5560 develop and implement an alternative fee-for-service Upper Payment
5561 Limits model in accordance with federal laws and regulations if
5562 necessary to preserve supplemental funding. Further, the
5563 division, in consultation with the hospital industry shall develop
5564 alternative models for distribution of medical claims and
5565 supplemental payments for inpatient and outpatient hospital
5566 services, and such models may include, but shall not be limited to
5567 the following: increasing rates for inpatient and outpatient



5568 services; creating a low-income utilization pool of funds to
5569 reimburse hospitals for the costs of uncompensated care, charity
5570 care and bad debts as permitted and approved pursuant to federal
5571 regulations and the Centers for Medicare and Medicaid Services;
5572 supplemental payments based upon Medicaid utilization, quality,
5573 service lines and/or costs of providing such services to Medicaid
5574 beneficiaries and to uninsured patients. The goals of such
5575 payment models shall be to ensure access to inpatient and
5576 outpatient care and to maximize any federal funds that are
5577 available to reimburse hospitals for services provided. Any such
5578 documents required to achieve the goals described in this
5579 paragraph shall be submitted to the Centers for Medicare and
5580 Medicaid Services, with a proposed effective date of July 1, 2019,
5581 to the extent possible, but in no event shall the effective date
5582 of such payment models be later than July 1, 2020. The Chairmen
5583 of the Senate and House Medicaid Committees shall be provided a
5584 copy of the proposed payment model(s) prior to submission.
5585 Effective July 1, 2018, and until such time as any payment
5586 model(s) as described above become effective, the division, in
5587 consultation with the hospital industry, is authorized to
5588 implement a transitional program for inpatient and outpatient
5589 payments and/or supplemental payments (including, but not limited
5590 to, MHAP and directed payments), to redistribute available
5591 supplemental funds among hospital providers, provided that when
5592 compared to a hospital's prior year supplemental payments,



5593 supplemental payments made pursuant to any such transitional
5594 program shall not result in a decrease of more than five percent
5595 (5%) and shall not increase by more than the amount needed to
5596 maximize the distribution of the available funds.

5597 (v) 1. To preserve and improve access to
5598 ambulance transportation provider services, the division shall
5599 seek CMS approval to make ambulance service access payments as set
5600 forth in this subsection (A) (18) (b) for all covered emergency
5601 ambulance services rendered on or after July 1, 2022, and shall
5602 make such ambulance service access payments for all covered
5603 services rendered on or after the effective date of CMS approval.

5604 2. The division shall calculate the
5605 ambulance service access payment amount as the balance of the
5606 portion of the Medical Care Fund related to ambulance
5607 transportation service provider assessments plus any federal
5608 matching funds earned on the balance, up to, but not to exceed,
5609 the upper payment limit gap for all emergency ambulance service
5610 providers.

5611 3. a. Except for ambulance services
5612 exempt from the assessment provided in this paragraph (18) (b), all
5613 ambulance transportation service providers shall be eligible for
5614 ambulance service access payments each state fiscal year as set
5615 forth in this paragraph (18) (b).

5616 b. In addition to any other funds
5617 paid to ambulance transportation service providers for emergency



5643 is authorized by federal law to submit intergovernmental transfers
5644 (IGTs) to the State of Mississippi and is classified as Level I
5645 trauma center located in a county contiguous to the state line at
5646 the maximum levels permissible under applicable federal statutes
5647 and regulations, at which time the current inpatient Medicare
5648 Upper Payment Limits (UPL) Program for hospital inpatient services
5649 shall transition to the MHAP.

5650 (ii) Subject to approval by the Centers for
5651 Medicare and Medicaid Services (CMS), the MHAP shall provide
5652 increased inpatient capitation (PMPM) payments to managed care
5653 entities contracting with the division pursuant to subsection (H)
5654 of this section to support availability of hospital services or
5655 such other payments permissible under federal law necessary to
5656 accomplish the intent of this subsection.

5657 (iii) The intent of this subparagraph (c) is
5658 that effective for all inpatient hospital Medicaid services during
5659 state fiscal year 2016, and so long as this provision shall remain
5660 in effect hereafter, the division shall to the fullest extent
5661 feasible replace the additional reimbursement for hospital
5662 inpatient services under the inpatient Medicare Upper Payment
5663 Limits (UPL) Program with additional reimbursement under the MHAP
5664 and other payment programs for inpatient and/or outpatient
5665 payments which may be developed under the authority of this
5666 paragraph.



5667 (iv) The division shall assess each hospital
5668 as provided in Section 43-13-145(4) (a) for the purpose of
5669 financing the state portion of the MHAP, supplemental payments and
5670 such other purposes as specified in Section 43-13-145. The
5671 assessment will remain in effect as long as the MHAP and
5672 supplemental payments are in effect.

5673 (19) (a) Perinatal risk management services. The
5674 division shall promulgate regulations to be effective from and
5675 after October 1, 1988, to establish a comprehensive perinatal
5676 system for risk assessment of all pregnant and infant Medicaid
5677 recipients and for management, education and follow-up for those
5678 who are determined to be at risk. Services to be performed
5679 include case management, nutrition assessment/counseling,
5680 psychosocial assessment/counseling and health education. The
5681 division shall contract with the State Department of Health to
5682 provide services within this paragraph (Perinatal High Risk
5683 Management/Infant Services System (PHRM/ISS)). The State
5684 Department of Health shall be reimbursed on a full reasonable cost
5685 basis for services provided under this subparagraph (a).

5686 (b) Early intervention system services. The
5687 division shall cooperate with the State Department of Health,
5688 acting as lead agency, in the development and implementation of a
5689 statewide system of delivery of early intervention services, under
5690 Part C of the Individuals with Disabilities Education Act (IDEA).
5691 The State Department of Health shall certify annually in writing



5692 to the executive director of the division the dollar amount of
5693 state early intervention funds available that will be utilized as
5694 a certified match for Medicaid matching funds. Those funds then
5695 shall be used to provide expanded targeted case management
5696 services for Medicaid eligible children with special needs who are
5697 eligible for the state's early intervention system.

5698 Qualifications for persons providing service coordination shall be
5699 determined by the State Department of Health and the Division of
5700 Medicaid.

5701 (20) Home- and community-based services for physically
5702 disabled approved services as allowed by a waiver from the United
5703 States Department of Health and Human Services for home- and
5704 community-based services for physically disabled people using
5705 state funds that are provided from the appropriation to the State
5706 Department of Rehabilitation Services and used to match federal
5707 funds under a cooperative agreement between the division and the
5708 department, provided that funds for these services are
5709 specifically appropriated to the Department of Rehabilitation
5710 Services.

5711 (21) Nurse practitioner services. Services furnished
5712 by a registered nurse who is licensed and certified by the
5713 Mississippi Board of Nursing as a nurse practitioner, including,
5714 but not limited to, nurse anesthetists, nurse midwives, family
5715 nurse practitioners, family planning nurse practitioners,
5716 pediatric nurse practitioners, obstetrics-gynecology nurse



5717 practitioners and neonatal nurse practitioners, under regulations
5718 adopted by the division. Reimbursement for those services shall
5719 not exceed ninety percent (90%) of the reimbursement rate for
5720 comparable services rendered by a physician. The division may
5721 provide for a reimbursement rate for nurse practitioner services
5722 of up to one hundred percent (100%) of the reimbursement rate for
5723 comparable services rendered by a physician for nurse practitioner
5724 services that are provided after the normal working hours of the
5725 nurse practitioner, as determined in accordance with regulations
5726 of the division.

5727 (22) Ambulatory services delivered in federally
5728 qualified health centers, rural health centers and clinics of the
5729 local health departments of the State Department of Health for
5730 individuals eligible for Medicaid under this article based on
5731 reasonable costs as determined by the division. Federally
5732 qualified health centers shall be reimbursed by the Medicaid
5733 prospective payment system as approved by the Centers for Medicare
5734 and Medicaid Services. The division shall recognize federally
5735 qualified health centers (FQHCs), rural health clinics (RHCs) and
5736 community mental health centers (CMHCs) as both an originating and
5737 distant site provider for the purposes of telehealth
5738 reimbursement. The division is further authorized and directed to
5739 reimburse FQHCs, RHCs and CMHCs for both distant site and
5740 originating site services when such services are appropriately
5741 provided by the same organization.



5742 (23) Inpatient psychiatric services.

5743 (a) Inpatient psychiatric services to be
5744 determined by the division for recipients under age twenty-one
5745 (21) that are provided under the direction of a physician in an
5746 inpatient program in a licensed acute care psychiatric facility or
5747 in a licensed psychiatric residential treatment facility, before
5748 the recipient reaches age twenty-one (21) or, if the recipient was
5749 receiving the services immediately before he or she reached age
5750 twenty-one (21), before the earlier of the date he or she no
5751 longer requires the services or the date he or she reaches age
5752 twenty-two (22), as provided by federal regulations. From and
5753 after January 1, 2015, the division shall update the fair rental
5754 reimbursement system for psychiatric residential treatment
5755 facilities. Precertification of inpatient days and residential
5756 treatment days must be obtained as required by the division. From
5757 and after July 1, 2009, all state-owned and state-operated
5758 facilities that provide inpatient psychiatric services to persons
5759 under age twenty-one (21) who are eligible for Medicaid
5760 reimbursement shall be reimbursed for those services on a full
5761 reasonable cost basis.

5762 (b) The division may reimburse for services
5763 provided by a licensed freestanding psychiatric hospital to
5764 Medicaid recipients over the age of twenty-one (21) in a method
5765 and manner consistent with the provisions of Section 43-13-117.5.

5766 (24) [Deleted]



5767 (25) [Deleted]

5768 (26) Hospice care. As used in this paragraph, the term
5769 "hospice care" means a coordinated program of active professional
5770 medical attention within the home and outpatient and inpatient
5771 care that treats the terminally ill patient and family as a unit,
5772 employing a medically directed interdisciplinary team. The
5773 program provides relief of severe pain or other physical symptoms
5774 and supportive care to meet the special needs arising out of
5775 physical, psychological, spiritual, social and economic stresses
5776 that are experienced during the final stages of illness and during
5777 dying and bereavement and meets the Medicare requirements for
5778 participation as a hospice as provided in federal regulations.

5779 (27) Group health plan premiums and cost-sharing if it
5780 is cost-effective as defined by the United States Secretary of
5781 Health and Human Services.

5782 (28) Other health insurance premiums that are
5783 cost-effective as defined by the United States Secretary of Health
5784 and Human Services. Medicare eligible must have Medicare Part B
5785 before other insurance premiums can be paid.

5786 (29) The Division of Medicaid may apply for a waiver
5787 from the United States Department of Health and Human Services for
5788 home- and community-based services for developmentally disabled
5789 people using state funds that are provided from the appropriation
5790 to the State Department of Mental Health and/or funds transferred
5791 to the department by a political subdivision or instrumentality of



5792 the state and used to match federal funds under a cooperative
5793 agreement between the division and the department, provided that
5794 funds for these services are specifically appropriated to the
5795 Department of Mental Health and/or transferred to the department
5796 by a political subdivision or instrumentality of the state.

5797 (30) Pediatric skilled nursing services as determined
5798 by the division and in a manner consistent with regulations
5799 promulgated by the Mississippi State Department of Health.

5800 (31) Targeted case management services for children
5801 with special needs, under waivers from the United States
5802 Department of Health and Human Services, using state funds that
5803 are provided from the appropriation to the Mississippi Department
5804 of Human Services and used to match federal funds under a
5805 cooperative agreement between the division and the department.

5806 (32) Care and services provided in Christian Science
5807 Sanatoria listed and certified by the Commission for Accreditation
5808 of Christian Science Nursing Organizations/Facilities, Inc.,
5809 rendered in connection with treatment by prayer or spiritual means
5810 to the extent that those services are subject to reimbursement
5811 under Section 1903 of the federal Social Security Act.

5812 (33) Podiatrist services.

5813 (34) Assisted living services as provided through
5814 home- and community-based services under Title XIX of the federal
5815 Social Security Act, as amended, subject to the availability of



5816 funds specifically appropriated for that purpose by the
5817 Legislature.

5818 (35) Services and activities authorized in Sections
5819 43-27-101 and 43-27-103, using state funds that are provided from
5820 the appropriation to the Mississippi Department of Human Services
5821 and used to match federal funds under a cooperative agreement
5822 between the division and the department.

5823 (36) Nonemergency transportation services for
5824 Medicaid-eligible persons as determined by the division. The PEER
5825 Committee shall conduct a performance evaluation of the
5826 nonemergency transportation program to evaluate the administration
5827 of the program and the providers of transportation services to
5828 determine the most cost-effective ways of providing nonemergency
5829 transportation services to the patients served under the program.
5830 The performance evaluation shall be completed and provided to the
5831 members of the Senate Medicaid Committee and the House Medicaid
5832 Committee not later than January 1, 2019, and every two (2) years
5833 thereafter.

5834 (37) [Deleted]

5835 (38) Chiropractic services. A chiropractor's manual
5836 manipulation of the spine to correct a subluxation, if x-ray
5837 demonstrates that a subluxation exists and if the subluxation has
5838 resulted in a neuromusculoskeletal condition for which
5839 manipulation is appropriate treatment, and related spinal x-rays
5840 performed to document these conditions. Reimbursement for



5841 chiropractic services shall not exceed Seven Hundred Dollars
5842 (\$700.00) per year per beneficiary.

5843 (39) Dually eligible Medicare/Medicaid beneficiaries.

5844 The division shall pay the Medicare deductible and coinsurance
5845 amounts for services available under Medicare, as determined by
5846 the division. From and after July 1, 2009, the division shall
5847 reimburse crossover claims for inpatient hospital services and
5848 crossover claims covered under Medicare Part B in the same manner
5849 that was in effect on January 1, 2008, unless specifically
5850 authorized by the Legislature to change this method.

5851 (40) [Deleted]

5852 (41) Services provided by the State Department of
5853 Rehabilitation Services for the care and rehabilitation of persons
5854 with spinal cord injuries or traumatic brain injuries, as allowed
5855 under waivers from the United States Department of Health and
5856 Human Services, using up to seventy-five percent (75%) of the
5857 funds that are appropriated to the Department of Rehabilitation
5858 Services from the Spinal Cord and Head Injury Trust Fund
5859 established under Section 37-33-261 and used to match federal
5860 funds under a cooperative agreement between the division and the
5861 department.

5862 (42) [Deleted]

5863 (43) The division shall provide reimbursement,
5864 according to a payment schedule developed by the division, for
5865 smoking cessation medications for pregnant women during their



5866 pregnancy and other Medicaid-eligible women who are of
5867 child-bearing age.

5868 (44) Nursing facility services for the severely
5869 disabled.

5870 (a) Severe disabilities include, but are not
5871 limited to, spinal cord injuries, closed-head injuries and
5872 ventilator-dependent patients.

5873 (b) Those services must be provided in a long-term
5874 care nursing facility dedicated to the care and treatment of
5875 persons with severe disabilities.

5876 (45) Physician assistant services. Services furnished
5877 by a physician assistant who is licensed by the State Board of
5878 Medical Licensure and is practicing with physician supervision
5879 under regulations adopted by the board, under regulations adopted
5880 by the division. Reimbursement for those services shall not
5881 exceed ninety percent (90%) of the reimbursement rate for
5882 comparable services rendered by a physician. The division may
5883 provide for a reimbursement rate for physician assistant services
5884 of up to one hundred percent (100%) or the reimbursement rate for
5885 comparable services rendered by a physician for physician
5886 assistant services that are provided after the normal working
5887 hours of the physician assistant, as determined in accordance with
5888 regulations of the division.

5889 (46) The division shall make application to the federal
5890 Centers for Medicare and Medicaid Services (CMS) for a waiver to



5891 develop and provide services for children with serious emotional
5892 disturbances as defined in Section 43-14-1(1), which may include
5893 home- and community-based services, case management services or
5894 managed care services through mental health providers certified by
5895 the Department of Mental Health. The division may implement and
5896 provide services under this waived program only if funds for
5897 these services are specifically appropriated for this purpose by
5898 the Legislature, or if funds are voluntarily provided by affected
5899 agencies.

5900 (47) (a) The division may develop and implement
5901 disease management programs for individuals with high-cost chronic
5902 diseases and conditions, including the use of grants, waivers,
5903 demonstrations or other projects as necessary.

5904 (b) Participation in any disease management
5905 program implemented under this paragraph (47) is optional with the
5906 individual. An individual must affirmatively elect to participate
5907 in the disease management program in order to participate, and may
5908 elect to discontinue participation in the program at any time.

5909 (48) Pediatric long-term acute care hospital services.

5910 (a) Pediatric long-term acute care hospital
5911 services means services provided to eligible persons under
5912 twenty-one (21) years of age by a freestanding Medicare-certified
5913 hospital that has an average length of inpatient stay greater than
5914 twenty-five (25) days and that is primarily engaged in providing



5915 chronic or long-term medical care to persons under twenty-one (21)
5916 years of age.

5917 (b) The services under this paragraph (48) shall
5918 be reimbursed as a separate category of hospital services.

5919 (49) The division may establish copayments and/or
5920 coinsurance for any Medicaid services for which copayments and/or
5921 coinsurance are allowable under federal law or regulation.

5922 (50) Services provided by the State Department of
5923 Rehabilitation Services for the care and rehabilitation of persons
5924 who are deaf and blind, as allowed under waivers from the United
5925 States Department of Health and Human Services to provide home-
5926 and community-based services using state funds that are provided
5927 from the appropriation to the State Department of Rehabilitation
5928 Services or if funds are voluntarily provided by another agency.

5929 (51) Upon determination of Medicaid eligibility and in
5930 association with annual redetermination of Medicaid eligibility,
5931 beneficiaries shall be encouraged to undertake a physical
5932 examination that will establish a base-line level of health and
5933 identification of a usual and customary source of care (a medical
5934 home) to aid utilization of disease management tools. This
5935 physical examination and utilization of these disease management
5936 tools shall be consistent with current United States Preventive
5937 Services Task Force or other recognized authority recommendations.



5938 For persons who are determined ineligible for Medicaid, the
5939 division will provide information and direction for accessing
5940 medical care and services in the area of their residence.

5941 (52) Notwithstanding any provisions of this article,
5942 the division may pay enhanced reimbursement fees related to trauma
5943 care, as determined by the division in conjunction with the State
5944 Department of Health, using funds appropriated to the State
5945 Department of Health for trauma care and services and used to
5946 match federal funds under a cooperative agreement between the
5947 division and the State Department of Health. The division, in
5948 conjunction with the State Department of Health, may use grants,
5949 waivers, demonstrations, enhanced reimbursements, Upper Payment
5950 Limits Programs, supplemental payments, or other projects as
5951 necessary in the development and implementation of this
5952 reimbursement program.

5953 (53) Targeted case management services for high-cost
5954 beneficiaries may be developed by the division for all services
5955 under this section.

5956 (54) [Deleted]

5957 (55) Therapy services. The plan of care for therapy
5958 services may be developed to cover a period of treatment for up to
5959 six (6) months, but in no event shall the plan of care exceed a
5960 six-month period of treatment. The projected period of treatment
5961 must be indicated on the initial plan of care and must be updated
5962 with each subsequent revised plan of care. Based on medical



5963 necessity, the division shall approve certification periods for
5964 less than or up to six (6) months, but in no event shall the
5965 certification period exceed the period of treatment indicated on
5966 the plan of care. The appeal process for any reduction in therapy
5967 services shall be consistent with the appeal process in federal
5968 regulations.

5969 (56) Prescribed pediatric extended care centers
5970 services for medically dependent or technologically dependent
5971 children with complex medical conditions that require continual
5972 care as prescribed by the child's attending physician, as
5973 determined by the division.

5974 (57) No Medicaid benefit shall restrict coverage for
5975 medically appropriate treatment prescribed by a physician and
5976 agreed to by a fully informed individual, or if the individual
5977 lacks legal capacity to consent by a person who has legal
5978 authority to consent on his or her behalf, based on an
5979 individual's diagnosis with a terminal condition. As used in this
5980 paragraph (57), "terminal condition" means any aggressive
5981 malignancy, chronic end-stage cardiovascular or cerebral vascular
5982 disease, or any other disease, illness or condition which a
5983 physician diagnoses as terminal.

5984 (58) Treatment services for persons with opioid
5985 dependency or other highly addictive substance use disorders. The
5986 division is authorized to reimburse eligible providers for
5987 treatment of opioid dependency and other highly addictive



5988 substance use disorders, as determined by the division. Treatment
5989 related to these conditions shall not count against any physician
5990 visit limit imposed under this section.

5991 (59) The division shall allow beneficiaries between the
5992 ages of ten (10) and eighteen (18) years to receive vaccines
5993 through a pharmacy venue. The division and the State Department
5994 of Health shall coordinate and notify OB-GYN providers that the
5995 Vaccines for Children program is available to providers free of
5996 charge.

5997 (60) Border city university-affiliated pediatric
5998 teaching hospital.

5999 (a) Payments may only be made to a border city
6000 university-affiliated pediatric teaching hospital if the Centers
6001 for Medicare and Medicaid Services (CMS) approve an increase in
6002 the annual request for the provider payment initiative authorized
6003 under 42 CFR Section 438.6(c) in an amount equal to or greater
6004 than the estimated annual payment to be made to the border city
6005 university-affiliated pediatric teaching hospital. The estimate
6006 shall be based on the hospital's prior year Mississippi managed
6007 care utilization.

6008 (b) As used in this paragraph (60), the term
6009 "border city university-affiliated pediatric teaching hospital"
6010 means an out-of-state hospital located within a city bordering the
6011 eastern bank of the Mississippi River and the State of Mississippi
6012 that submits to the division a copy of a current and effective



6013 affiliation agreement with an accredited university and other
6014 documentation establishing that the hospital is
6015 university-affiliated, is licensed and designated as a pediatric
6016 hospital or pediatric primary hospital within its home state,
6017 maintains at least five (5) different pediatric specialty training
6018 programs, and maintains at least one hundred (100) operated beds
6019 dedicated exclusively for the treatment of patients under the age
6020 of twenty-one (21) years.

6021 (c) The cost of providing services to Mississippi
6022 Medicaid beneficiaries under the age of twenty-one (21) years who
6023 are treated by a border city university-affiliated pediatric
6024 teaching hospital shall not exceed the cost of providing the same
6025 services to individuals in hospitals in the state.

6026 (d) It is the intent of the Legislature that
6027 payments shall not result in any in-state hospital receiving
6028 payments lower than they would otherwise receive if not for the
6029 payments made to any border city university-affiliated pediatric
6030 teaching hospital.

6031 (e) This paragraph (60) shall stand repealed on
6032 July 1, 2024.

6033 (B) Planning and development districts participating in the
6034 home- and community-based services program for the elderly and
6035 disabled as case management providers shall be reimbursed for case
6036 management services at the maximum rate approved by the Centers
6037 for Medicare and Medicaid Services (CMS).



6038 (C) The division may pay to those providers who participate
6039 in and accept patient referrals from the division's emergency room
6040 redirection program a percentage, as determined by the division,
6041 of savings achieved according to the performance measures and
6042 reduction of costs required of that program. Federally qualified
6043 health centers may participate in the emergency room redirection
6044 program, and the division may pay those centers a percentage of
6045 any savings to the Medicaid program achieved by the centers'
6046 accepting patient referrals through the program, as provided in
6047 this subsection (C).

6048 (D) (1) As used in this subsection (D), the following terms
6049 shall be defined as provided in this paragraph, except as
6050 otherwise provided in this subsection:

6051 (a) "Committees" means the Medicaid Committees of
6052 the House of Representatives and the Senate, and "committee" means
6053 either one of those committees.

6054 (b) "Rate change" means an increase, decrease or
6055 other change in the payments or rates of reimbursement, or a
6056 change in any payment methodology that results in an increase,
6057 decrease or other change in the payments or rates of
6058 reimbursement, to any Medicaid provider that renders any services
6059 authorized to be provided to Medicaid recipients under this
6060 article.

6061 (2) Whenever the Division of Medicaid proposes a rate
6062 change, the division shall give notice to the chairmen of the



6063 committees at least thirty (30) calendar days before the proposed
6064 rate change is scheduled to take effect. The division shall
6065 furnish the chairmen with a concise summary of each proposed rate
6066 change along with the notice, and shall furnish the chairmen with
6067 a copy of any proposed rate change upon request. The division
6068 also shall provide a summary and copy of any proposed rate change
6069 to any other member of the Legislature upon request.

6070 (3) If the chairman of either committee or both
6071 chairmen jointly object to the proposed rate change or any part
6072 thereof, the chairman or chairmen shall notify the division and
6073 provide the reasons for their objection in writing not later than
6074 seven (7) calendar days after receipt of the notice from the
6075 division. The chairman or chairmen may make written
6076 recommendations to the division for changes to be made to a
6077 proposed rate change.

6078 (4) (a) The chairman of either committee or both
6079 chairmen jointly may hold a committee meeting to review a proposed
6080 rate change. If either chairman or both chairmen decide to hold a
6081 meeting, they shall notify the division of their intention in
6082 writing within seven (7) calendar days after receipt of the notice
6083 from the division, and shall set the date and time for the meeting
6084 in their notice to the division, which shall not be later than
6085 fourteen (14) calendar days after receipt of the notice from the
6086 division.



6087 (b) After the committee meeting, the committee or
6088 committees may object to the proposed rate change or any part
6089 thereof. The committee or committees shall notify the division
6090 and the reasons for their objection in writing not later than
6091 seven (7) calendar days after the meeting. The committee or
6092 committees may make written recommendations to the division for
6093 changes to be made to a proposed rate change.

6094 (5) If both chairmen notify the division in writing
6095 within seven (7) calendar days after receipt of the notice from
6096 the division that they do not object to the proposed rate change
6097 and will not be holding a meeting to review the proposed rate
6098 change, the proposed rate change will take effect on the original
6099 date as scheduled by the division or on such other date as
6100 specified by the division.

6101 (6) (a) If there are any objections to a proposed rate
6102 change or any part thereof from either or both of the chairmen or
6103 the committees, the division may withdraw the proposed rate
6104 change, make any of the recommended changes to the proposed rate
6105 change, or not make any changes to the proposed rate change.

6106 (b) If the division does not make any changes to
6107 the proposed rate change, it shall notify the chairmen of that
6108 fact in writing, and the proposed rate change shall take effect on
6109 the original date as scheduled by the division or on such other
6110 date as specified by the division.



6111 (c) If the division makes any changes to the
6112 proposed rate change, the division shall notify the chairmen of
6113 its actions in writing, and the revised proposed rate change shall
6114 take effect on the date as specified by the division.

6115 (7) Nothing in this subsection (D) shall be construed
6116 as giving the chairmen or the committees any authority to veto,
6117 nullify or revise any rate change proposed by the division. The
6118 authority of the chairmen or the committees under this subsection
6119 shall be limited to reviewing, making objections to and making
6120 recommendations for changes to rate changes proposed by the
6121 division.

6122 (E) Notwithstanding any provision of this article, no new
6123 groups or categories of recipients and new types of care and
6124 services may be added without enabling legislation from the
6125 Mississippi Legislature, except that the division may authorize
6126 those changes without enabling legislation when the addition of
6127 recipients or services is ordered by a court of proper authority.

6128 (F) The executive director shall keep the Governor advised
6129 on a timely basis of the funds available for expenditure and the
6130 projected expenditures. Notwithstanding any other provisions of
6131 this article, if current or projected expenditures of the division
6132 are reasonably anticipated to exceed the amount of funds
6133 appropriated to the division for any fiscal year, the Governor,
6134 after consultation with the executive director, shall take all



6135 appropriate measures to reduce costs, which may include, but are
6136 not limited to:

6137 (1) Reducing or discontinuing any or all services that
6138 are deemed to be optional under Title XIX of the Social Security
6139 Act;

6140 (2) Reducing reimbursement rates for any or all service
6141 types;

6142 (3) Imposing additional assessments on health care
6143 providers; or

6144 (4) Any additional cost-containment measures deemed
6145 appropriate by the Governor.

6146 To the extent allowed under federal law, any reduction to
6147 services or reimbursement rates under this subsection (F) shall be
6148 accompanied by a reduction, to the fullest allowable amount, to
6149 the profit margin and administrative fee portions of capitated
6150 payments to organizations described in paragraph (1) of subsection
6151 (H).

6152 Beginning in fiscal year 2010 and in fiscal years thereafter,
6153 when Medicaid expenditures are projected to exceed funds available
6154 for the fiscal year, the division shall submit the expected
6155 shortfall information to the PEER Committee not later than
6156 December 1 of the year in which the shortfall is projected to
6157 occur. PEER shall review the computations of the division and
6158 report its findings to the Legislative Budget Office not later
6159 than January 7 in any year.



6160 (G) Notwithstanding any other provision of this article, it
6161 shall be the duty of each provider participating in the Medicaid
6162 program to keep and maintain books, documents and other records as
6163 prescribed by the Division of Medicaid in accordance with federal
6164 laws and regulations.

6165 (H) (1) Notwithstanding any other provision of this
6166 article, the division is authorized to implement (a) a managed
6167 care program, (b) a coordinated care program, (c) a coordinated
6168 care organization program, (d) a health maintenance organization
6169 program, (e) a patient-centered medical home program, (f) an
6170 accountable care organization program, (g) provider-sponsored
6171 health plan, or (h) any combination of the above programs. As a
6172 condition for the approval of any program under this subsection
6173 (H) (1), the division shall require that no managed care program,
6174 coordinated care program, coordinated care organization program,
6175 health maintenance organization program, or provider-sponsored
6176 health plan may:

6177 (a) Pay providers at a rate that is less than the
6178 Medicaid All Patient Refined Diagnosis Related Groups (APR-DRG)
6179 reimbursement rate;

6180 (b) Override the medical decisions of hospital
6181 physicians or staff regarding patients admitted to a hospital for
6182 an emergency medical condition as defined by 42 US Code Section
6183 1395dd. This restriction (b) does not prohibit the retrospective
6184 review of the appropriateness of the determination that an



6185 emergency medical condition exists by chart review or coding
6186 algorithm, nor does it prohibit prior authorization for
6187 nonemergency hospital admissions;

6188 (c) Pay providers at a rate that is less than the
6189 normal Medicaid reimbursement rate. It is the intent of the
6190 Legislature that all managed care entities described in this
6191 subsection (H), in collaboration with the division, develop and
6192 implement innovative payment models that incentivize improvements
6193 in health care quality, outcomes, or value, as determined by the
6194 division. Participation in the provider network of any managed
6195 care, coordinated care, provider-sponsored health plan, or similar
6196 contractor shall not be conditioned on the provider's agreement to
6197 accept such alternative payment models;

6198 (d) Implement a prior authorization and
6199 utilization review program for medical services, transportation
6200 services and prescription drugs that is more stringent than the
6201 prior authorization processes used by the division in its
6202 administration of the Medicaid program. Not later than December
6203 2, 2021, the contractors that are receiving capitated payments
6204 under a managed care delivery system established under this
6205 subsection (H) shall submit a report to the Chairmen of the House
6206 and Senate Medicaid Committees on the status of the prior
6207 authorization and utilization review program for medical services,
6208 transportation services and prescription drugs that is required to
6209 be implemented under this subparagraph (d);



6210 (e) [Deleted]
6211 (f) Implement a preferred drug list that is more
6212 stringent than the mandatory preferred drug list established by
6213 the division under subsection (A) (9) of this section;
6214 (g) Implement a policy which denies beneficiaries
6215 with hemophilia access to the federally funded hemophilia
6216 treatment centers as part of the Medicaid Managed Care network of
6217 providers.

6218 Each health maintenance organization, coordinated care
6219 organization, provider-sponsored health plan, or other
6220 organization paid for services on a capitated basis by the
6221 division under any managed care program or coordinated care
6222 program implemented by the division under this section shall use a
6223 clear set of level of care guidelines in the determination of
6224 medical necessity and in all utilization management practices,
6225 including the prior authorization process, concurrent reviews,
6226 retrospective reviews and payments, that are consistent with
6227 widely accepted professional standards of care. Organizations
6228 participating in a managed care program or coordinated care
6229 program implemented by the division may not use any additional
6230 criteria that would result in denial of care that would be
6231 determined appropriate and, therefore, medically necessary under
6232 those levels of care guidelines.

6233 (2) Notwithstanding any provision of this section, the
6234 recipients eligible for enrollment into a Medicaid Managed Care



6235 Program authorized under this subsection (H) may include only
6236 those categories of recipients eligible for participation in the
6237 Medicaid Managed Care Program as of January 1, 2021, the
6238 Children's Health Insurance Program (CHIP), and the CMS-approved
6239 Section 1115 demonstration waivers in operation as of January 1,
6240 2021. No expansion of Medicaid Managed Care Program contracts may
6241 be implemented by the division without enabling legislation from
6242 the Mississippi Legislature.

6243 (3) (a) Any contractors receiving capitated payments
6244 under a managed care delivery system established in this section
6245 shall provide to the Legislature and the division statistical data
6246 to be shared with provider groups in order to improve patient
6247 access, appropriate utilization, cost savings and health outcomes
6248 not later than October 1 of each year. Additionally, each
6249 contractor shall disclose to the Chairmen of the Senate and House
6250 Medicaid Committees the administrative expenses costs for the
6251 prior calendar year, and the number of full-equivalent employees
6252 located in the State of Mississippi dedicated to the Medicaid and
6253 CHIP lines of business as of June 30 of the current year.

6254 (b) The division and the contractors participating
6255 in the managed care program, a coordinated care program or a
6256 provider-sponsored health plan shall be subject to annual program
6257 reviews or audits performed by the Office of the State Auditor,
6258 the PEER Committee, the Department of Insurance and/or independent
6259 third parties.



6260 (c) Those reviews shall include, but not be
6261 limited to, at least two (2) of the following items:
6262 (i) The financial benefit to the State of
6263 Mississippi of the managed care program,
6264 (ii) The difference between the premiums paid
6265 to the managed care contractors and the payments made by those
6266 contractors to health care providers,
6267 (iii) Compliance with performance measures
6268 required under the contracts,
6269 (iv) Administrative expense allocation
6270 methodologies,
6271 (v) Whether nonprovider payments assigned as
6272 medical expenses are appropriate,
6273 (vi) Capitated arrangements with related
6274 party subcontractors,
6275 (vii) Reasonableness of corporate
6276 allocations,
6277 (viii) Value-added benefits and the extent to
6278 which they are used,
6279 (ix) The effectiveness of subcontractor
6280 oversight, including subcontractor review,
6281 (x) Whether health care outcomes have been
6282 improved, and
6283 (xi) The most common claim denial codes to
6284 determine the reasons for the denials.



6285 The audit reports shall be considered public documents and
6286 shall be posted in their entirety on the division's website.

6287 (4) All health maintenance organizations, coordinated
6288 care organizations, provider-sponsored health plans, or other
6289 organizations paid for services on a capitated basis by the
6290 division under any managed care program or coordinated care
6291 program implemented by the division under this section shall
6292 reimburse all providers in those organizations at rates no lower
6293 than those provided under this section for beneficiaries who are
6294 not participating in those programs.

6295 (5) No health maintenance organization, coordinated
6296 care organization, provider-sponsored health plan, or other
6297 organization paid for services on a capitated basis by the
6298 division under any managed care program or coordinated care
6299 program implemented by the division under this section shall
6300 require its providers or beneficiaries to use any pharmacy that
6301 ships, mails or delivers prescription drugs or legend drugs or
6302 devices.

6303 (6) (a) Not later than December 1, 2021, the
6304 contractors who are receiving capitated payments under a managed
6305 care delivery system established under this subsection (H) shall
6306 develop and implement a uniform credentialing process for
6307 providers. Under that uniform credentialing process, a provider
6308 who meets the criteria for credentialing will be credentialed with
6309 all of those contractors and no such provider will have to be



6310 separately credentialed by any individual contractor in order to
6311 receive reimbursement from the contractor. Not later than
6312 December 2, 2021, those contractors shall submit a report to the
6313 Chairmen of the House and Senate Medicaid Committees on the status
6314 of the uniform credentialing process for providers that is
6315 required under this subparagraph (a).

6316 (b) If those contractors have not implemented a
6317 uniform credentialing process as described in subparagraph (a) by
6318 December 1, 2021, the division shall develop and implement, not
6319 later than July 1, 2022, a single, consolidated credentialing
6320 process by which all providers will be credentialed. Under the
6321 division's single, consolidated credentialing process, no such
6322 contractor shall require its providers to be separately
6323 credentialed by the contractor in order to receive reimbursement
6324 from the contractor, but those contractors shall recognize the
6325 credentialing of the providers by the division's credentialing
6326 process.

6327 (c) The division shall require a uniform provider
6328 credentialing application that shall be used in the credentialing
6329 process that is established under subparagraph (a) or (b). If the
6330 contractor or division, as applicable, has not approved or denied
6331 the provider credentialing application within sixty (60) days of
6332 receipt of the completed application that includes all required
6333 information necessary for credentialing, then the contractor or
6334 division, upon receipt of a written request from the applicant and



6335 within five (5) business days of its receipt, shall issue a
6336 temporary provider credential/enrollment to the applicant if the
6337 applicant has a valid Mississippi professional or occupational
6338 license to provide the health care services to which the
6339 credential/enrollment would apply. The contractor or the division
6340 shall not issue a temporary credential/enrollment if the applicant
6341 has reported on the application a history of medical or other
6342 professional or occupational malpractice claims, a history of
6343 substance abuse or mental health issues, a criminal record, or a
6344 history of medical or other licensing board, state or federal
6345 disciplinary action, including any suspension from participation
6346 in a federal or state program. The temporary
6347 credential/enrollment shall be effective upon issuance and shall
6348 remain in effect until the provider's credentialing/enrollment
6349 application is approved or denied by the contractor or division.
6350 The contractor or division shall render a final decision regarding
6351 credentialing/enrollment of the provider within sixty (60) days
6352 from the date that the temporary provider credential/enrollment is
6353 issued to the applicant.

6354 (d) If the contractor or division does not render
6355 a final decision regarding credentialing/enrollment of the
6356 provider within the time required in subparagraph (c), the
6357 provider shall be deemed to be credentialed by and enrolled with
6358 all of the contractors and eligible to receive reimbursement from
6359 the contractors.



6360 (7) (a) Each contractor that is receiving capitated
6361 payments under a managed care delivery system established under
6362 this subsection (H) shall provide to each provider for whom the
6363 contractor has denied the coverage of a procedure that was ordered
6364 or requested by the provider for or on behalf of a patient, a
6365 letter that provides a detailed explanation of the reasons for the
6366 denial of coverage of the procedure and the name and the
6367 credentials of the person who denied the coverage. The letter
6368 shall be sent to the provider in electronic format.

6369 (b) After a contractor that is receiving capitated
6370 payments under a managed care delivery system established under
6371 this subsection (H) has denied coverage for a claim submitted by a
6372 provider, the contractor shall issue to the provider within sixty
6373 (60) days a final ruling of denial of the claim that allows the
6374 provider to have a state fair hearing and/or agency appeal with
6375 the division. If a contractor does not issue a final ruling of
6376 denial within sixty (60) days as required by this subparagraph
6377 (b), the provider's claim shall be deemed to be automatically
6378 approved and the contractor shall pay the amount of the claim to
6379 the provider.

6380 (c) After a contractor has issued a final ruling
6381 of denial of a claim submitted by a provider, the division shall
6382 conduct a state fair hearing and/or agency appeal on the matter of
6383 the disputed claim between the contractor and the provider within



6384 sixty (60) days, and shall render a decision on the matter within
6385 thirty (30) days after the date of the hearing and/or appeal.

6386 (8) It is the intention of the Legislature that the
6387 division evaluate the feasibility of using a single vendor to
6388 administer pharmacy benefits provided under a managed care
6389 delivery system established under this subsection (H). Providers
6390 of pharmacy benefits shall cooperate with the division in any
6391 transition to a carve-out of pharmacy benefits under managed care.

6392 (9) The division shall evaluate the feasibility of
6393 using a single vendor to administer dental benefits provided under
6394 a managed care delivery system established in this subsection (H).
6395 Providers of dental benefits shall cooperate with the division in
6396 any transition to a carve-out of dental benefits under managed
6397 care.

6398 (10) It is the intent of the Legislature that any
6399 contractor receiving capitated payments under a managed care
6400 delivery system established in this section shall implement
6401 innovative programs to improve the health and well-being of
6402 members diagnosed with prediabetes and diabetes.

6403 (11) It is the intent of the Legislature that any
6404 contractors receiving capitated payments under a managed care
6405 delivery system established under this subsection (H) shall work
6406 with providers of Medicaid services to improve the utilization of
6407 long-acting reversible contraceptives (LARCs). Not later than
6408 December 1, 2021, any contractors receiving capitated payments



6409 under a managed care delivery system established under this
6410 subsection (H) shall provide to the Chairmen of the House and
6411 Senate Medicaid Committees and House and Senate Public Health
6412 Committees a report of LARC utilization for State Fiscal Years
6413 2018 through 2020 as well as any programs, initiatives, or efforts
6414 made by the contractors and providers to increase LARC
6415 utilization. This report shall be updated annually to include
6416 information for subsequent state fiscal years.

6417 (12) The division is authorized to make not more than
6418 one (1) emergency extension of the contracts that are in effect on
6419 July 1, 2021, with contractors who are receiving capitated
6420 payments under a managed care delivery system established under
6421 this subsection (H), as provided in this paragraph (12). The
6422 maximum period of any such extension shall be one (1) year, and
6423 under any such extensions, the contractors shall be subject to all
6424 of the provisions of this subsection (H). The extended contracts
6425 shall be revised to incorporate any provisions of this subsection
6426 (H).

6427 (I) [Deleted]

6428 (J) There shall be no cuts in inpatient and outpatient
6429 hospital payments, or allowable days or volumes, as long as the
6430 hospital assessment provided in Section 43-13-145 is in effect.
6431 This subsection (J) shall not apply to decreases in payments that
6432 are a result of: reduced hospital admissions, audits or payments



6433 under the APR-DRG or APC models, or a managed care program or
6434 similar model described in subsection (H) of this section.

6435 (K) In the negotiation and execution of such contracts
6436 involving services performed by actuarial firms, the Executive
6437 Director of the Division of Medicaid may negotiate a limitation on
6438 liability to the state of prospective contractors.

6439 (L) The Division of Medicaid shall reimburse for services
6440 provided to eligible Medicaid beneficiaries by a licensed birthing
6441 center in a method and manner to be determined by the division in
6442 accordance with federal laws and federal regulations. The
6443 division shall seek any necessary waivers, make any required
6444 amendments to its State Plan or revise any contracts authorized
6445 under subsection (H) of this section as necessary to provide the
6446 services authorized under this subsection. As used in this
6447 subsection, the term "birthing centers" shall have the meaning as
6448 defined in Section 41-77-1(a), which is a publicly or privately
6449 owned facility, place or institution constructed, renovated,
6450 leased or otherwise established where nonemergency births are
6451 planned to occur away from the mother's usual residence following
6452 a documented period of prenatal care for a normal uncomplicated
6453 pregnancy which has been determined to be low risk through a
6454 formal risk-scoring examination.

6455 (M) This section shall stand repealed on July 1, 2024.

6456 **SECTION 51.** Section 43-18-1, Mississippi Code of 1972, is
6457 amended as follows:



6458 43-18-1. The Governor, on behalf of this state, is * * *
6459 authorized to execute a compact in substantially the following
6460 form with all other jurisdictions legally joining therein; and the
6461 Legislature * * * signifies in advance its approval and
6462 ratification of such compact, which compact is as follows:

6463 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

6464 **ARTICLE I.**

6465 It is the purpose and policy of the party states to
6466 cooperate with each other in the interstate placement of children
6467 to the end that:

6468 (a) Each child requiring placement shall receive the
6469 maximum opportunity to be placed in a suitable environment and
6470 with persons or institutions having appropriate qualifications and
6471 facilities to provide a necessary and desirable degree and type of
6472 care.

6473 (b) The appropriate authorities in a state where a
6474 child is to be placed may have full opportunity to ascertain the
6475 circumstances of the proposed placement, thereby promoting full
6476 compliance with applicable requirements for the protection of the
6477 child.

6478 (c) The proper authorities of the state from which the
6479 placement is made may obtain the most complete information on the
6480 basis on which to evaluate a projected placement before it is
6481 made.



6482 (d) Appropriate jurisdictional arrangements for the
6483 care of children will be promoted.

6484 **ARTICLE II.**

6485 As used in this compact:

6486 (a) "Child" means a person who, by reason of minority,
6487 is legally subject to parental, guardianship or similar control.

6488 (b) "Sending agency" means a party state, officer or
6489 employee thereof; a subdivision of a party state, or officer or
6490 employee thereof; a court of a party state; a person, corporation,
6491 association, charitable agency or other entity which sends, brings
6492 or causes to be sent or brought any child to another party state.

6493 (c) "Receiving state" means the state to which a child
6494 is sent, brought, or caused to be sent or brought, whether by
6495 public authorities or private persons or agencies and whether for
6496 placement with state or local public authorities or for placement
6497 with private agencies or persons.

6498 (d) "Placement" means the arrangement for the care of a
6499 child in a family free or boarding home or in a child-caring
6500 agency or institution, but does not include any institution caring
6501 for * * * persons with mental illness or persons with an
6502 intellectual disability or any institution primarily educational
6503 in character, and any hospital or other medical facility.

6504 **ARTICLE III.**

6505 (a) No sending agency shall send, bring or cause to be
6506 sent or brought into any other party state any child for placement



6507 in foster care or as a preliminary to a possible adoption unless
6508 the sending agency shall comply with each and every requirement
6509 set forth in this article and with the applicable laws of the
6510 receiving state governing the placement of children therein.

6511 (b) Prior to sending, bringing or causing any child to
6512 be sent or brought into a receiving state for placement in foster
6513 care or as a preliminary to a possible adoption, the sending
6514 agency shall furnish the appropriate public authorities in the
6515 receiving state written notice of the intention to send, bring or
6516 place the child in the receiving state. The notice shall contain:

6517 (1) The name, date and place of birth of the
6518 child.

6519 (2) The identity and address or addresses of the
6520 parents or legal guardian.

6521 (3) The name and address of the person, agency or
6522 institution to or with which the sending agency proposes to send,
6523 bring or place the child.

6524 (4) A full statement of the reasons for such
6525 proposed action and evidence of the authority pursuant to which
6526 the placement is proposed to be made.

6527 (c) Any public officer or agency in a receiving state
6528 which is in receipt of a notice pursuant to paragraph (b) of this
6529 article may request of the sending agency, or any other
6530 appropriate officer or agency of or in the sending agency's state,
6531 and shall be entitled to receive therefrom, such supporting or



6532 additional information as it may deem necessary under the
6533 circumstances to carry out the purpose and policy of this compact.

6534 (d) The child shall not be sent, brought or caused to
6535 be sent or brought into the receiving state until the appropriate
6536 public authorities in the receiving state shall notify the sending
6537 agency, in writing, to the effect that the proposed placement does
6538 not appear to be contrary to the interests of the child.

6539 **ARTICLE IV.**

6540 The sending, bringing or causing to be sent or brought into
6541 any receiving state of a child in violation of the terms of this
6542 compact shall constitute a violation of the laws respecting the
6543 placement of children of both the state in which the sending
6544 agency is located or from which it sends or brings the child and
6545 of the receiving state. Such violation may be punished or
6546 subjected to penalty in either jurisdiction in accordance with its
6547 laws. In addition to liability for any such punishment or
6548 penalty, any such violation shall constitute full and sufficient
6549 grounds for the suspension or revocation of any license, permit or
6550 other legal authorization held by the sending agency which
6551 empowers or allows it to place or care for children.

6552 **ARTICLE V.**

6553 (a) The sending agency shall retain jurisdiction over
6554 the child sufficient to determine all matters in relation to the
6555 custody, supervision, care, treatment and disposition of the child
6556 which it would have had if the child had remained in the sending



6557 agency's state, until the child is adopted, reaches majority,
6558 becomes self-supporting or is discharged with the concurrence of
6559 the appropriate authority in the receiving state. Such
6560 jurisdiction shall also include the power to effect or cause the
6561 return of the child or its transfer to another location and
6562 custody pursuant to law. The sending agency shall continue to
6563 have financial responsibility for support and maintenance of the
6564 child during the period of the placement. Nothing contained
6565 herein shall defeat a claim of jurisdiction by a receiving state
6566 sufficient to deal with an act of delinquency or crime committed
6567 therein.

6568 (b) When the sending agency is a public agency, it may
6569 enter into an agreement with an authorized public or private
6570 agency in the receiving state providing for the performance of one
6571 or more services in respect of such case by the latter as agent
6572 for the sending agency.

6573 (c) Nothing in this compact shall be construed to
6574 prevent a private charitable agency authorized to place children
6575 in the receiving state from performing services or acting as agent
6576 in that state for a private charitable agency of the sending
6577 state; nor to prevent the agency in the receiving state from
6578 discharging financial responsibility for the support and
6579 maintenance of a child who has been placed on behalf of the
6580 sending agency without relieving the responsibility set forth in
6581 paragraph (a) hereof.



6582 **ARTICLE VI.**

6583 A child adjudicated delinquent may be placed in an
6584 institution in another party jurisdiction pursuant to this
6585 compact, but no such placement shall be made unless the child is
6586 given a court hearing on notice to the parent or guardian with
6587 opportunity to be heard, prior to his being sent to such other
6588 party jurisdiction for institutional care and the court finds
6589 that:

6590 (1) Equivalent facilities for the child are not
6591 available in the sending agency's jurisdiction; and

6592 (2) Institutional care in the other jurisdiction
6593 is in the best interest of the child and will not produce undue
6594 hardship.

6595 **ARTICLE VII.**

6596 The executive head of each jurisdiction party to this compact
6597 shall designate an officer who shall be general coordinator of
6598 activities under this compact in his jurisdiction and who, acting
6599 jointly with like officers of other party jurisdictions, shall
6600 have power to promulgate rules and regulations to carry out more
6601 effectively the terms and provisions of this compact.

6602 **ARTICLE VIII.**

6603 This compact shall not apply to:

6604 (a) The sending or bringing of a child into a receiving
6605 state by his parent, stepparent, grandparent, adult brother or
6606 sister, adult uncle or aunt, or his guardian and leaving the child



6607 with any such relative or nonagency guardian in the receiving
6608 state.

6609 (b) Any placement, sending or bringing of a child into
6610 a receiving state pursuant to any other interstate compact to
6611 which both the state from which the child is sent or brought and
6612 the receiving state are party, or to any other agreement
6613 between * * * those states which has the force of law.

6614 **ARTICLE IX.**

6615 This compact shall be open to joinder by any state, territory
6616 or possession of the United States, the District of Columbia, the
6617 Commonwealth of Puerto Rico, and, with the consent of Congress,
6618 the government of Canada or any province thereof. It shall become
6619 effective with respect to any such jurisdiction when such
6620 jurisdiction has enacted the same into law. Withdrawal from this
6621 compact shall be by the enactment of a statute repealing the same,
6622 but shall not take effect until written notice of the withdrawal
6623 has been given by the withdrawing state to the Governor of each
6624 other party jurisdiction. Withdrawal of a party state shall not
6625 affect the rights, duties and obligations under this compact of
6626 any sending agency therein with respect to a placement made prior
6627 to the effective date of withdrawal.

6628 **ARTICLE X.**

6629 The provisions of this compact shall be liberally construed
6630 to effectuate the purposes thereof. The provisions of this
6631 compact shall be severable and if any phrase, clause, sentence or



6632 provision of this compact is declared to be contrary to the
6633 constitution of any party state or of the United States or the
6634 applicability thereof to any government, agency, person or
6635 circumstance is held invalid, the validity of the remainder of
6636 this compact and the applicability thereof to any government,
6637 agency, person or circumstance shall not be affected thereby. If
6638 this compact shall be held contrary to the constitution of any
6639 state party thereto, the compact shall remain in full force and
6640 effect as to the remaining states and in full force and effect as
6641 to the state affected as to all severable matters.

6642 **SECTION 52.** Section 43-27-25, Mississippi Code of 1972, is
6643 amended as follows:

6644 43-27-25. No person shall be committed to an institution
6645 under the control of the Department of Youth Services who is
6646 seriously * * * disabled by having mental illness or an
6647 intellectual disability. If after a person is referred to the
6648 training schools it is determined that he has mental illness or an
6649 intellectual disability to an extent that he could not be properly
6650 cared for in its custody, the director may institute necessary
6651 legal action to accomplish the transfer of such person to such
6652 other state institution as, in his judgment, is best qualified to
6653 care for him in accordance with the laws of this state. The
6654 department shall establish standards with regard to the physical
6655 and mental health of persons which it can accept for commitment.



6656 **SECTION 53.** Section 43-33-703, Mississippi Code of 1972, is
6657 amended as follows:

6658 43-33-703. For the purposes of this article, the following
6659 words shall have the meanings ascribed herein unless the context
6660 clearly requires otherwise:

6661 (a) "Bonds" or "notes" means the bonds or notes,
6662 respectively, issued by the corporation pursuant to this article;

6663 (b) "Corporation" means the Mississippi Home
6664 Corporation;

6665 (c) "Energy conservation loan" means a mortgage loan
6666 made to a person of low or moderate income to finance improvements
6667 made or to be made to the residential housing owned and occupied
6668 by such person for the purposes of conserving energy and reducing
6669 the energy costs attributable to such residential housing, and
6670 containing such terms and conditions as the corporation may
6671 require;

6672 (d) "Housing development mortgage loan" means a
6673 mortgage loan made to finance or refinance the acquisition,
6674 construction or substantial rehabilitation of a housing
6675 development, including both construction loans and permanent
6676 loans;

6677 (e) "Housing development" means any specific work
6678 located within the state and made available to persons of low or
6679 moderate income for rental or residential housing purposes,
6680 including any building, land, equipment, facility or other real or



6681 personal property which may be necessary, convenient or desirable
6682 in connection therewith including streets, sewers, water and
6683 utility services;

6684 (f) "Mortgage" means a mortgage, mortgage deed or deed
6685 of trust on a fee interest in residential housing or a rental
6686 housing development or, on real property in which the fee interest
6687 is owned without limitation by a unit of government or other
6688 entity created by statute, a leasehold on such a fee interest of a
6689 duration satisfactory to the corporation, which shall in all
6690 events exceed the term of the security interest created by the
6691 mortgagee;

6692 (g) "Mortgage lender" means any bank, bank or trust
6693 company, trust company, mortgage company, mortgage banker,
6694 national banking association, savings bank, savings and loan
6695 association, building and loan association, and any other lending
6696 institution; * * * such lender * * * must be domiciled or
6697 qualified to do business in this state;

6698 (h) "Mortgage loan" means a financial obligation
6699 secured by a mortgage, including any portion thereof or
6700 participation therein in any new or existing mortgage loan;

6701 (i) "Municipality" means any county, city, town or
6702 village of the state;

6703 (j) "Persons of low or moderate income" means persons
6704 or families, irrespective of race, color, national origin, sex,
6705 religion, age or * * * disability, within the state, who are



6706 determined by the corporation to require such assistance as is
6707 made available pursuant to this article on account of insufficient
6708 personal or family income to reasonably afford decent, safe and
6709 sanitary residential or rental housing, taking into consideration,
6710 without limitation, such factors as the following: (i) the amount
6711 of the total income of such persons and families available for
6712 housing needs; (ii) the size of the family; (iii) the cost and
6713 condition of residential or rental housing facilities in their
6714 locality or in an area reasonably accessible to such locality;
6715 (iv) the ability of such persons and families to compete
6716 successfully in the normal, private residential or rental housing
6717 market and to pay the amounts for which private enterprise is
6718 providing sanitary, decent and safe residential or rental housing
6719 in their locality or in an area reasonably accessible to such
6720 locality; (v) the standards established by various programs of the
6721 federal government for determining eligibility based on income of
6722 such persons and families and, in the case of projects with
6723 respect to which income limits have been established by any agency
6724 of the federal government having jurisdiction thereover for the
6725 purpose of defining eligibility of low and moderate income
6726 families, the corporation may determine that the limits so
6727 established shall govern; in all other cases income limits for the
6728 purpose of defining low or moderate income persons shall be
6729 established by the corporation in its rules and regulations;



6730 (k) "Qualified sponsors" means any person, corporation,
6731 partnership or association, profit or nonprofit, public or
6732 private, which provides or develops residential or rental housing
6733 for low and moderate income families;

6734 (l) "Residential housing" means a specific work or
6735 improvement undertaken to provide an owner-occupied residence
6736 within the state, which shall become the principal residence of
6737 the owner within a reasonable time after the financing is
6738 provided;

6739 (m) "State" means the State of Mississippi;

6740 (n) "State agency" means any board, authority, agency,
6741 department, commission, public corporation, body politic or
6742 instrumentality of the state;

6743 (o) "Local housing authority" or "regional housing
6744 authority" means a public body corporate and politic organized and
6745 operating pursuant to this chapter, as amended, or a nonprofit
6746 corporation organized under the laws of the State of Mississippi
6747 and designated by the United States Department of Housing and
6748 Urban Development as a public housing agency within the meaning of
6749 Section 3(6) of the United States Housing Act of 1937, as amended.

6750 **SECTION 54.** Section 43-33-717, Mississippi Code of 1972, is
6751 amended as follows:

6752 43-33-717. (1) The corporation shall have all the powers
6753 necessary or convenient to carry out and effectuate the purposes



6754 and provisions of this article, including, but without limiting
6755 the generality of the foregoing, the power:

6756 (a) To make and alter bylaws for its organization and
6757 internal management;

6758 (b) To sue and be sued, have a seal and alter the same
6759 at pleasure, and maintain an office at such place or places in the
6760 state as it may determine;

6761 (c) To appoint officers, agents and employees,
6762 prescribe their duties and qualifications, and fix their
6763 compensation;

6764 (d) To acquire real or personal property, or any
6765 interest therein, by purchase, exchange, gift, assignment,
6766 transfer, foreclosure, lease, condemnation or otherwise, including
6767 rights or easements; to hold, manage, operate or improve real or
6768 personal property; to sell, assign, exchange, lease, encumber,
6769 mortgage or otherwise dispose of any real or personal property, or
6770 any interest therein, or deed of trust or mortgage lien interest
6771 owned by it or under its control, custody or in its possession and
6772 release or relinquish any right, title, claim, lien, interest,
6773 easement or demand however acquired, including any equity or right
6774 of redemption in property foreclosed by it and to do any of the
6775 foregoing by public sale;

6776 (e) To make and execute agreements, contracts and other
6777 instruments necessary or convenient to the exercise of the powers
6778 and functions of the corporation under this article;



6779 (f) To employ or contract with architects, engineers,
6780 attorneys, accountants, financial experts and other advisors as
6781 may be necessary in its judgment and to fix and pay their
6782 compensation;

6783 (g) To make and execute contracts for the
6784 administration, servicing or collection of any mortgage loan and
6785 pay the reasonable value of services rendered to the corporation
6786 pursuant to such contracts;

6787 (h) To contract for the employment of a financial
6788 advisor, underwriting attorneys, trustees, paying agents,
6789 depositories or any consultants retained in connection with the
6790 issuance of any bonds or notes including refunding bonds or notes
6791 or dealing with the disposition of any proceeds thereof;

6792 (i) To issue negotiable bonds and notes and to provide
6793 for the rights of the holders thereof;

6794 (j) Subject to any agreement with bondholders or
6795 noteholders, to sell any mortgage loans at public or private sale
6796 at the fair market value for such a mortgage; and

6797 (k) Subject to any agreement with bondholders and
6798 noteholders, to make, alter or repeal such rules and regulations
6799 with respect to the operations, properties and facilities of the
6800 corporation as are necessary to carry out its functions and duties
6801 in the administration of this article.

6802 (2) The corporation shall also have the power:



6803 (a) To make loans to mortgage lenders for the purpose
6804 of:

6805 (i) Making housing development mortgage loans to
6806 qualified sponsors for low and moderate income rental or
6807 residential housing;

6808 (ii) Making loans to low and moderate income
6809 purchasers of residential housing with preference to those who are
6810 displaced from adequate housing as a result of a major disaster,
6811 whether it be a man-made, technological or natural disaster, upon
6812 a declaration by the Governor that a major disaster exists in the
6813 state;

6814 (b) To purchase from mortgage lenders any of the loans
6815 enumerated in subparagraphs (i) and (ii);

6816 (c) To insure, reinsure or guarantee any of the types
6817 of loans enumerated in subparagraphs (i) and (ii);

6818 (d) To make, in such amounts and upon such terms and
6819 conditions as the corporation shall approve, temporary loans,
6820 preconstruction loans, interim financing loans to any qualified
6821 sponsor and permanent financing to any qualified sponsor of
6822 multifamily housing.

6823 (3) The corporation shall also have the power to make loans
6824 from funds not otherwise encumbered by pledge or indenture to low
6825 and moderate income persons for the following purposes:

6826 (a) Purchasing, improving or rehabilitating existing
6827 residential housing and occupied by the owners;



6828 (b) Making loans to qualified nonprofit sponsors, to
6829 local housing authorities and to owners of residential housing for
6830 the development, construction, purchase, rehabilitation,
6831 weatherization or maintenance of residential housing.

6832 (4) Using funds not otherwise encumbered by pledge or
6833 indenture, the corporation may:

6834 (a) Establish a rental assistance program;

6835 (b) Provide such advisory consultation, training and
6836 educational services as will assist in the planning, construction,
6837 rehabilitation and operation of housing, including but not limited
6838 to, assistance in community development and organization, home
6839 management and advisory services for residents, and in promotion
6840 of community organizations and local governments to assist in
6841 developing housing;

6842 (c) Encourage research and demonstration projects to
6843 develop new and better methods for increasing the supply, types
6844 and financing of housing and to receive and accept contributions,
6845 grants or aid from any source, public or private, including but
6846 not limited to the United States and this state, for carrying out
6847 this purpose;

6848 (d) Encourage and stimulate cooperatives and other
6849 forms of housing with tenant participation;

6850 (e) Promote innovative programs for home ownership,
6851 including but not limited to lease-purchase programs,



6852 employer-sponsored housing programs, tenant cooperatives and
6853 nonprofit associations;

6854 (f) Design and support programs to address special
6855 needs groups including, but not limited to, * * * disabled,
6856 elderly, homeless, HIV/AIDS carriers and families with children;

6857 (g) Develop a comprehensive plan for, and engage in a
6858 yearly planning process for, addressing the housing needs of low
6859 and moderate income persons in Mississippi.

6860 (5) The corporation also has the power:

6861 (a) To procure, or require the procurement of,
6862 insurance against any loss in connection with its operations,
6863 including without limitation the repayment of any mortgage loan or
6864 loans, in such amounts and from such insurers, including the
6865 federal government, as it may deem necessary or desirable, and to
6866 pay any premiums therefor;

6867 (b) Subject to any agreement with bondholders or
6868 noteholders: (i) to renegotiate any loan in default; (ii) to
6869 waive any default or consent to the modification of the terms of
6870 any loan or agreement; (iii) to commence, prosecute and enforce a
6871 judgment in any action or proceeding, including without limitation
6872 a foreclosure proceeding, to protect or enforce any right
6873 conferred upon it by law, mortgage loan agreement, contract or
6874 other agreement; and (iv) in connection with any such proceeding,
6875 to bid for and purchase the property or acquire or take possession
6876 thereof and, in such event, complete, administer and pay the



6877 principal of and interest on any obligations incurred in
6878 connection with such property and dispose of and otherwise deal
6879 with such property in such manner as the corporation may deem
6880 advisable to protect its interest therein;

6881 (c) To fix, revise, charge and collect fees and other
6882 charges in connection with the making of loans, the purchasing of
6883 mortgage loans, and any other services rendered by the
6884 corporation;

6885 (d) To arrange for guarantees of its bonds, notes or
6886 other obligations by the federal government or by any private
6887 insurer and to pay any premiums therefor;

6888 (e) Notwithstanding any law to the contrary, but
6889 subject to any agreement with bondholders or noteholders, to
6890 invest money of the corporation not required for immediate use,
6891 including proceeds from the sale of any bonds or notes * * *:

6892 (i) In obligations of any municipality or the
6893 state or the United States of America;

6894 (ii) In obligations the principal and interest of
6895 which are guaranteed by the state or the United States of America;

6896 (iii) In obligations of any corporation wholly
6897 owned by the United States of America;

6898 (iv) In obligations of any corporation sponsored
6899 by the United States of America which are, or may become, eligible
6900 as collateral for advances to member banks as determined by the
6901 Board of Governors of the Federal Reserve System;



6902 (v) In obligations of insurance firms or other
6903 corporations whose investments are rated "A" or better by
6904 recognized rating companies;

6905 (vi) In certificates of deposit or time deposits
6906 of qualified depositories of the state as approved by the
6907 State * * * Treasurer, secured in such manner, if any, as the
6908 corporation shall determine;

6909 (vii) In contracts for the purchase and sale of
6910 obligations of the type specified in * * * subparagraphs (i)
6911 through (v) above;

6912 (viii) In repurchase agreements secured by
6913 obligations specified in * * * subparagraphs (i) through (v)
6914 above;

6915 (ix) In money market funds, the assets of which
6916 are required to be invested in obligations specified in * * *
6917 subparagraphs (i) through (vi) above;

6918 (f) Subject to any agreement with bondholders or
6919 noteholders, to purchase, and to agree to purchase, bonds or notes
6920 of the corporation at a price not exceeding: (i) if the bonds or
6921 notes are then redeemable, the redemption price then applicable
6922 plus accrued interest to the date of purchase; or (ii) if the
6923 bonds or notes are not then redeemable, the redemption price
6924 applicable on the first date after such purchase upon which the
6925 notes or bonds become subject to redemption at the option of the
6926 corporation plus accrued interest to the date of purchase;



6927 (g) Subject to the provisions of this article, to
6928 contract for and to accept any gifts, grants or loans of funds or
6929 property or financial or other aid in any form from federal, state
6930 or local governments, private or public entities, or individuals;

6931 (h) To enter into agreements or other transactions with
6932 the federal or state government, any agency thereof or any
6933 municipality in furtherance of the purposes of this article; to
6934 operate and administer loan programs of the federal government,
6935 the State of Mississippi, or any governmental agency thereof; and
6936 to operate and administer any program of housing assistance for
6937 persons and families of low or moderate income, however funded;

6938 (i) To establish a benevolent loan fund, housing
6939 development fund, or such additional and further funds as may be
6940 necessary and desirable to accomplish any corporate purpose or to
6941 comply with the provisions of any agreement made by the
6942 corporation or any resolution approved by the corporation. The
6943 resolution establishing such a fund shall specify the source of
6944 monies from which it shall be funded and the purposes for which
6945 monies held in the fund shall be disbursed;

6946 (j) In carrying out the provisions of this article, the
6947 corporation shall cooperate with the housing authorities created
6948 under Sections 43-33-1 through 43-33-69 and Sections 43-33-101
6949 through 43-33-137 * * *;



6950 (k) To accept letters of credit and other credit
6951 facilities necessary to make loans authorized herein to repay
6952 bonds or notes issued by the corporation;

6953 (l) To do any and all things necessary or convenient to
6954 carry out its purposes and exercise the powers given and granted
6955 in this article.

6956 **SECTION 55.** Section 43-33-723, Mississippi Code of 1972, is
6957 amended as follows:

6958 43-33-723. No person shall be discriminated against because
6959 of race, religious principles, color, sex, national origin,
6960 ancestry or * * * disability by the corporation, any qualified
6961 sponsor, any lender, or any agent or employee thereof in
6962 connection with any housing development or eligible loan. No
6963 person shall be discriminated against because of age, nor shall
6964 any family be discriminated against because of children, in
6965 admission to, or continuance of occupancy in, any housing project
6966 receiving assistance under this article except for any housing
6967 project constructed under a program restricting occupancy to
6968 persons sixty-two (62) years of age or older and any directors of
6969 their immediate households or their occupant surviving spouses.

6970 **SECTION 56.** Section 45-1-2, Mississippi Code of 1972, is
6971 amended as follows:

6972 45-1-2. (1) The Executive Director of the Department of
6973 Public Safety shall be the Commissioner of Public Safety.



6974 (2) The Commissioner of Public Safety shall establish the
6975 organizational structure of the Department of Public Safety, which
6976 shall include the creation of any units necessary to implement the
6977 duties assigned to the department and consistent with specific
6978 requirements of law including, but not limited to:

6979 (a) Office of Public Safety Planning;

6980 (b) Office of Mississippi Highway Safety Patrol;

6981 (c) Office of Mississippi Bureau of Investigation (to
6982 be directed by a Lieutenant Colonel of the Mississippi Highway
6983 Safety Patrol);

6984 (d) Office of Forensic Laboratories, which includes the
6985 Mississippi Forensics Laboratory and the Office of the State
6986 Medical Examiner;

6987 (e) Office of Law Enforcement Officers' Training
6988 Academy;

6989 (f) Office of Support Services;

6990 (g) Office of Narcotics, which shall be known as the
6991 Bureau of Narcotics;

6992 (h) Office of Homeland Security;

6993 (i) Office of Capitol Police;

6994 (j) Office of Driver Service Bureau; and

6995 (k) Office of Commercial Transportation Enforcement
6996 Division.

6997 (3) The department shall be headed by a commissioner, who
6998 shall be appointed by and serve at the pleasure of the Governor.



6999 The appointment of the commissioner shall be made with the advice
7000 and consent of the Senate. The commissioner shall have, at a
7001 minimum, a bachelor's degree from an accredited college or
7002 university.

7003 (4) Notwithstanding any provision of law to the contrary,
7004 the commissioner shall appoint heads of offices, who shall serve
7005 at the pleasure of the commissioner. The commissioner shall have
7006 the authority to organize the offices established by subsection
7007 (2) of this section as deemed appropriate to carry out the
7008 responsibilities of the department. The commissioner may assign
7009 to the appropriate offices such powers and duties as deemed
7010 appropriate to carry out the department's lawful functions. The
7011 organization charts of the department shall be presented annually
7012 with the budget request of the Governor for review by the
7013 Legislature.

7014 (5) The commissioner shall appoint, from within the
7015 Department of Public Safety, a statewide safety training officer
7016 who shall serve at the pleasure of the commissioner and whose duty
7017 it shall be to perform public training for both law enforcement
7018 and private persons throughout the state concerning proper
7019 emergency response to * * * persons with mental illness,
7020 terroristic threats or acts, domestic conflict, other conflict
7021 resolution, and such other matters as the commissioner may direct.

7022 (6) The commissioner, after consultation with the
7023 Mississippi Association of Chiefs of Police and the Mississippi



7024 Sheriffs' Association, shall be responsible for establishing
7025 guidelines for response to active shooter situations and any
7026 related jurisdictional issues.

7027 (7) The commissioner shall establish within the department
7028 the Mississippi Office of Homeland Security for the purpose of
7029 seeing that the laws are faithfully executed and for the purpose
7030 of investigating cyber-related crimes and suppressing crimes of
7031 violence and acts of intimidation and terror. The commissioner is
7032 hereby authorized to employ within the Office of Homeland Security
7033 a director, investigators and other qualified personnel as he may
7034 deem necessary to make investigation of cyber-related crimes,
7035 crimes of violence and acts of terrorism or intimidation, to aid
7036 in the arrest and prosecution of persons charged with such
7037 cyber-related crimes, crimes of violence, acts of terrorism or
7038 intimidation, or threats of violence and to perform other duties
7039 as necessary to accomplish these purposes. Investigators and
7040 other law enforcement personnel employed by the commissioner shall
7041 have full power to investigate, apprehend, and arrest persons
7042 committing cyber-related crimes, acts of violence, intimidation,
7043 or terrorism anywhere in the state, and shall be vested with the
7044 power of police officers in the performance of such duties as
7045 provided herein. Such investigators and other personnel shall
7046 perform their duties under the direction of the commissioner, or
7047 his designee. The commissioner shall be authorized to offer and
7048 pay suitable rewards to other persons for aiding in such



7049 investigation and in the apprehension and conviction of persons
7050 charged with cyber-related crimes, acts of violence, or threats of
7051 violence, or intimidation, or acts of terrorism.

7052 (8) The commissioner shall establish within the Office of
7053 Homeland Security a Mississippi Analysis and Information Center
7054 (MSAIC Fusion Center) which shall be the highest priority for the
7055 allocation of available federal resources for statewide
7056 information sharing, including the deployment of personnel and
7057 connectivity with federal data systems. Subject to appropriation
7058 therefor, the Mississippi Fusion Center shall employ three (3)
7059 regional analysts dedicated to analyzing and resolving potential
7060 threats identified by the agency's statewide social media
7061 intelligence platform and the dissemination of school safety
7062 information.

7063 **SECTION 57.** Section 45-35-53, Mississippi Code of 1972, is
7064 amended as follows:

7065 45-35-53. (1) The Department of Public Safety shall issue
7066 personal identification cards to persons with disabilities who
7067 make application to the department in accordance with rules and
7068 regulations prescribed by the commissioner by filing with the
7069 Secretary of State under the Administrative Procedures Act. The
7070 identification card for persons with disabilities shall
7071 prominently display the international * * * disabled symbol and,
7072 in addition to any other information required by this article, may



7073 contain a recent color photograph of the applicant and the
7074 following information:

- 7075 (a) Full legal name;
- 7076 (b) Address of residence;
- 7077 (c) Birth date;
- 7078 (d) Date identification card was issued;
- 7079 (e) Date identification card expires;
- 7080 (f) Sex;
- 7081 (g) Height;
- 7082 (h) Weight;
- 7083 (i) Eye color;
- 7084 (j) Location where the identification card was issued;
- 7085 (k) Signature of person identified or facsimile
7086 thereof; and
- 7087 (l) Such other information as required by the
7088 department.

7089 (2) The identification card for persons with disabilities
7090 shall bear an identification card number which shall not be the
7091 same as the applicant's social security number. The commissioner
7092 shall prescribe the form of identification cards issued pursuant
7093 to this article to persons who are not United States citizens.
7094 The identification cards of such persons shall include a number
7095 and any other identifying information prescribed by the
7096 commissioner.



7097 **SECTION 58.** Section 47-5-1351, Mississippi Code of 1972, is
7098 amended as follows:

7099 47-5-1351. The Governor, on behalf of this state, may
7100 execute the Interstate Corrections Compact, with any and all
7101 states legally joining therein, in substantially the following
7102 form and the Legislature signifies in advance its approval and
7103 ratification of such compact:

7104 **INTERSTATE CORRECTIONS COMPACT**

7105 **Article I**

7106 **Purpose and Policy**

7107 The party states, desiring by common action to fully utilize
7108 and improve their institutional facilities and provide adequate
7109 programs for the confinement, treatment and rehabilitation of
7110 various types of offenders, declare that it is the policy of each
7111 of the party states to provide such facilities and programs on a
7112 basis of cooperation with one another, thereby serving the best
7113 interests of such offenders and of society and effecting economies
7114 in capital expenditures and operational costs. The purpose of
7115 this compact is to provide for the mutual development and
7116 execution of such programs of cooperation for the confinement,
7117 treatment and rehabilitation of offenders with the most economical
7118 use of human and material resources.

7119 **Article II**

7120 **Definitions**



7121 As used in this compact, unless the context clearly requires
7122 otherwise:

7123 (a) "State" means a state of the United States, the
7124 United States of America, a territory or possession of the United
7125 States, the District of Columbia, the Commonwealth of Puerto Rico;

7126 (b) "Sending state" means a state party to this compact
7127 in which conviction or court commitment was had;

7128 (c) "Receiving state" means a state party to this
7129 compact to which an inmate is sent for confinement other than a
7130 state in which conviction or court commitment was had;

7131 (d) "Inmate" means a male or female offender who is
7132 committed, under sentence to or confined in, a penal or
7133 correctional institution; and

7134 (e) "Institution" means any penal or correctional
7135 facility, including, but not limited to, a facility for * * *
7136 persons with mental illness or persons with an intellectual
7137 disability, in which inmates defined in (d) above may lawfully be
7138 confined.

7139 **Article III**

7140 **Contracts**

7141 (1) Each party state may make one or more contracts with any
7142 one or more of the other party states for the confinement of
7143 inmates on behalf of a sending state in institutions situated
7144 within receiving states. Any such contract shall provide for:

7145 (a) Its duration;



7146 (b) Payments to be made to the receiving state by the
7147 sending state for inmate maintenance, extraordinary medical and
7148 dental expenses, and any participation in or receipt by inmates of
7149 rehabilitative or correctional services, facilities, programs or
7150 treatment not reasonably included as part of normal
7151 maintenance * * *;

7152 (c) Participation in programs of inmate employment, if
7153 any; the disposition or crediting of any payments received by
7154 inmates on account thereof; and the crediting of proceeds from or
7155 disposal of any products resulting therefrom;

7156 (d) Delivery and retaking of inmates; and

7157 (e) Such other matters as may be necessary and
7158 appropriate to fix the obligations, responsibilities and rights of
7159 the sending and receiving states.

7160 (2) The terms and provisions of this compact entered into by
7161 the authority of or pursuant thereto, and nothing in any such
7162 contract shall be inconsistent therewith.

7163 **Article IV**

7164 **Procedures and Rights**

7165 (1) Whenever the duly constituted authorities in a state
7166 party to this compact, and which has entered into a contract
7167 pursuant to Article III, shall decide that confinement in, or
7168 transfer of an inmate to, an institution within the territory of
7169 another party state is necessary or desirable in order to provide
7170 adequate quarters and care or an appropriate program of



7171 rehabilitation or treatment, * * * those officials may direct that
7172 the confinement be within an institution within the territory
7173 of * * * the other party state, the receiving state to act in that
7174 regard solely as agent for the sending state.

7175 (2) The appropriate officials of any state party to this
7176 compact shall have access, at all reasonable times, to any
7177 institution in which it has a contractual right to confine inmates
7178 for the purpose of inspecting the facilities thereof and visiting
7179 such of its inmates as may be confined in the institution.

7180 (3) Inmates confined in an institution pursuant to the terms
7181 of this compact shall at all times be subject to the jurisdiction
7182 of the sending state and may at any time be removed therefrom for
7183 transfer to a prison or other institution within the sending
7184 state, for transfer to another institution in which the sending
7185 state may have a contractual or other right to confine inmates,
7186 for release on probation or parole, for discharge or for any other
7187 purpose permitted by the laws of the sending state, provided, that
7188 the sending state shall continue to be obligated to such payments
7189 as may be pursuant to the terms of any contract entered into under
7190 the terms of Article III.

7191 (4) Each receiving state shall provide regular reports to
7192 each sending state on the inmates of that sending state in
7193 institutions pursuant to this compact including a conduct record
7194 of each inmate and certify * * * the record to the official
7195 designated by the sending state, in order that each inmate may



7196 have official review of his or her record in determining and
7197 altering the disposition of * * * the inmate in accordance with
7198 the law which may obtain in the sending state and in order that
7199 the same may be a source of information for the sending state.

7200 (5) All inmates who may be confined in an institution
7201 pursuant to the provisions of this compact shall be treated in a
7202 reasonable and humane manner and shall be treated equally with
7203 such similar inmates of the receiving state as may be confined in
7204 the same institution. The fact of confinement in a receiving
7205 state shall not deprive any inmate so confined of any legal rights
7206 which * * * the inmate would have had if in an appropriate
7207 institution of the sending state.

7208 (6) Any hearing or hearings to which an inmate confined
7209 pursuant to this compact may be entitled by the laws of the
7210 sending state may be had before the appropriate authorities of the
7211 sending state, or of the receiving state if authorized by the
7212 sending state. The receiving state shall provide adequate
7213 facilities for such hearings as may be conducted by the
7214 appropriate officials of a sending state. In the event such
7215 hearing or hearings are had before officials of the receiving
7216 state, the governing law shall be that of the sending state and a
7217 record of the hearing or hearings as prescribed by the sending
7218 state shall be made. * * * The record together with any
7219 recommendations of the hearing officials shall be transmitted
7220 forthwith to the official or officials before whom the hearing



7221 would have been had if it had taken place in the sending state.
7222 In any and all proceedings had pursuant to the provisions of this
7223 subdivision, the officials of the receiving state shall act solely
7224 as agents of the sending state and no final determination shall be
7225 made in any matter except by the appropriate officials of the
7226 sending state.

7227 (7) Any inmate confined pursuant to this compact shall be
7228 released within the territory of the sending state unless the
7229 inmate, and the sending and receiving states, shall agree upon
7230 release in some other place. The sending state shall bear the
7231 cost of such return to its territory.

7232 (8) Any inmate confined pursuant to the terms of this
7233 compact shall have any and all rights to participate in and derive
7234 any benefits or incur or be relieved of any obligations, or have
7235 such obligations modified or his status changed on account of any
7236 action or proceedings in which he could have participated if
7237 confined in any appropriate institution of the sending state
7238 located within such state.

7239 (9) The parent, guardian, trustee or other person or persons
7240 entitled under the laws of the sending state to act for, advise or
7241 otherwise function with respect to any inmate shall not be
7242 deprived of or restricted in his exercise of any power in respect
7243 of any inmate confined pursuant to the terms of this compact.

7244 **Article V**

7245 **Acts Not Reviewable in Receiving State: Extradition**



7246 (1) Any decisions of the sending state in respect of any
7247 matter over which it retains jurisdiction pursuant to this compact
7248 shall be conclusive upon and not reviewable within the receiving
7249 state, but if at the time the sending state seeks to remove an
7250 inmate from an institution in the receiving state there is pending
7251 against the inmate within such state any criminal charge or if the
7252 inmate is formally accused of having committed within such state a
7253 criminal offense, the inmate shall not be returned without the
7254 consent of the receiving state until discharged from prosecution
7255 or other form of proceeding, imprisonment or detention for such
7256 offense. The duly accredited officers of the sending state shall
7257 be permitted to transport inmates pursuant to this compact through
7258 any and all states party to this compact without interference.

7259 (2) An inmate who escapes from an institution in which he is
7260 confined pursuant to this compact shall be deemed a fugitive from
7261 the sending state and from the state in which the institution is
7262 situated. In the case of an escape to a jurisdiction other than
7263 the sending or receiving state, the responsibility for institution
7264 of extradition or rendition proceedings shall be that of the
7265 sending state, but nothing contained herein shall be construed to
7266 prevent or affect the activities of officers and agencies of any
7267 jurisdiction directed toward the apprehension and return of an
7268 escapee.

7269 **Article VI**

7270 **Federal Aid**



7271 Any state party to this compact may accept federal aid for
7272 use in connection with any institution or program, the use of
7273 which is or may be affected by this compact or any contract
7274 pursuant hereto and any inmate in a receiving state pursuant to
7275 this compact may participate in any such federally aided program
7276 or activity for which the sending or the receiving state have made
7277 contractual provision; * * * however, if such program or activity
7278 is not part of the customary correctional regimen, the express
7279 consent of the appropriate official of the sending state shall be
7280 required therefrom.

7281 **Article VII**

7282 **Entry into Force**

7283 This compact shall enter into force and become effective and
7284 binding upon the states so acting when it has been enacted into
7285 law by any two (2) states. Thereafter, this compact shall enter
7286 into force and become effective and binding as to any other
7287 of * * * those states upon similar action by such state.

7288 **Article VIII**

7289 **Withdrawal and Termination**

7290 This compact shall continue in force and remain binding upon
7291 a party state until it shall have enacted a statute repealing the
7292 same and providing for the sending of formal written notice of
7293 withdrawal from the compact to the appropriate officials of all
7294 other party states. An actual withdrawal shall not take effect
7295 until one (1) year after the notices provided in * * * that



7296 statute have been sent. Such withdrawal shall not relieve the
7297 withdrawing state from its obligations assumed hereunder prior to
7298 the effective date of withdrawal. Before the effective date of
7299 withdrawal, a withdrawing state shall remove to its territory, at
7300 its own expense, such inmates as it may have confined pursuant to
7301 the provisions of this compact.

7302 **Article IX**

7303 **Other Arrangement Unaffected**

7304 Nothing contained in this compact shall be construed to
7305 abrogate or impair any agreement or other arrangement which a
7306 party state may have with a nonparty state for the confinement,
7307 rehabilitation or treatment of inmates nor to repeal any other
7308 laws of a party state authorizing the making of cooperative
7309 institutional arrangements.

7310 **Article X**

7311 **Construction and Severability**

7312 The provisions of this compact shall be liberally construed
7313 and shall be severable. If any phrase, clause, sentence or
7314 provision of this compact is declared to be contrary to the
7315 constitution of any participating state or of the United States or
7316 the applicability thereof to any government, agency, person or
7317 circumstance is held invalid, the validity of the remainder of
7318 this compact and the applicability thereof to any government,
7319 agency, person or circumstance shall not be affected thereby. If
7320 this compact shall be held contrary to the constitution of any



7321 state participating therein, the compact shall remain in full
7322 force and effect as to the remaining states and in full force and
7323 effect as to the state affected as to all severable matters.

7324 **SECTION 59.** Section 49-7-39, Mississippi Code of 1972, is
7325 amended as follows:

7326 49-7-39. (1) The commission shall establish a special
7327 hunting season for youth under the age of sixteen (16) and
7328 for * * * persons with disabilities in the Natchez State Park.
7329 The commission shall also establish a primitive weapon season in
7330 the Natchez State Park. The selection of participants in the
7331 primitive weapon season shall be by public drawing from all
7332 qualified applications. The commission shall set the number of
7333 permits to be issued and the length of the special seasons.

7334 (2) The commission may also establish a special hunting
7335 season for youth and * * * persons with disabilities or a
7336 primitive weapon season as provided in this section in any other
7337 state park under the jurisdiction of the department but shall only
7338 do so upon the recommendation of the staff of the department as
7339 approved by the commission. The commission shall select
7340 participants and set the number of permits to be issued and the
7341 length of the special seasons.

7342 (3) The commission may establish and regulate special youth
7343 hunts for all nonmigratory game birds and animals outside of the
7344 open season on wildlife management areas and on private lands.



7345 (4) The commission shall establish and regulate a special
7346 hunting season for youth under the age of sixteen (16) to run
7347 concurrently with the primitive weapons season on deer.

7348 **SECTION 60.** Section 49-7-40, Mississippi Code of 1972, is
7349 amended as follows:

7350 49-7-40. The commission may adopt regulations to provide for
7351 a special hunt by * * * persons with disabilities in the natural
7352 area at Arkabutla Lake designated by the U.S. Corps of Engineers.
7353 The hunt and any such regulations must be approved by the U.S.
7354 Corps of Engineers. The following restrictions apply to any such
7355 hunt:

7356 (a) The hunt shall be open to * * * persons with
7357 physical disabilities who are wheelchair-bound;

7358 (b) Selection of participants shall be by public
7359 drawing from all qualified applications received;

7360 (c) No more than thirty (30) permits shall be issued;

7361 (d) The hunt shall not exceed a total of six (6) days;

7362 (e) A hunting license shall not be required of resident
7363 or nonresident applicants;

7364 (f) Any other actions the commission and the U.S. Corps
7365 of Engineers deem necessary for a safe and productive hunt.

7366 **SECTION 61.** Section 71-3-3, Mississippi Code of 1972, is
7367 amended as follows:



7368 71-3-3. Unless the context otherwise requires, the
7369 definitions which follow govern the construction and meaning of
7370 the terms used in this chapter:

7371 (a) "Person" includes an individual, firm, voluntary
7372 association or a corporation.

7373 (b) "Injury" means accidental injury or accidental
7374 death arising out of and in the course of employment without
7375 regard to fault which results from an untoward event or events, if
7376 contributed to or aggravated or accelerated by the employment in a
7377 significant manner. Untoward event includes events causing
7378 unexpected results. An untoward event or events shall not be
7379 presumed to have arisen out of and in the course of employment,
7380 except in the case of an employee found dead in the course of
7381 employment. This definition includes injuries to artificial
7382 members, and also includes an injury caused by the willful act of
7383 a third person directed against an employee because of his
7384 employment while so employed and working on the job, and
7385 disability or death due to exposure to ionizing radiation from any
7386 process in employment involving the use of or direct contact with
7387 radium or radioactive substances with the use of or direct
7388 exposure to roentgen (X-rays) or ionizing radiation. In radiation
7389 cases only, the date of disablement shall be treated as the date
7390 of the accident. Occupational diseases, or the aggravation
7391 thereof, are excluded from the term "injury," provided that,



7392 except as otherwise specified, all provisions of this chapter
7393 apply equally to occupational diseases as well as injury.

7394 (c) "Death," when mentioned as a basis for the right to
7395 compensation, means only death resulting from such an injury.

7396 (d) "Employee" means any person, including a minor
7397 whether lawfully or unlawfully employed, in the service of an
7398 employer under any contract of hire or apprenticeship, written or
7399 oral, express or implied, provided that there shall be excluded
7400 therefrom all independent contractors and especially any
7401 individual performing service in, and at the time of, the sale of
7402 newspapers or magazines to ultimate consumers under an arrangement
7403 under which the newspapers or magazines are to be sold by the
7404 individual at a fixed price, the individual's compensation being
7405 based on the retention of the excess of such price over the amount
7406 at which the newspapers or magazines are charged to the
7407 individual, whether or not the individual is guaranteed a minimum
7408 amount of compensation for such service or is entitled to be
7409 credited with the unsold newspapers or magazines returned. A
7410 student of an educational institution who, as a part of such
7411 educational institution's curriculum, is receiving practical
7412 training at any facility, who is under the active and direct
7413 supervision of the personnel of the facility and/or an instructor
7414 of the educational institution, and who is not receiving wages as
7415 a consequence of participation in such practical training shall



7416 not be considered an employee of such facility on account of
7417 participation in such practical training.

7418 (e) "Employer," except when otherwise expressly stated,
7419 includes a person, partnership, association, corporation and the
7420 legal representatives of a deceased employer, or the receiver or
7421 trustee of a person, partnership, association or corporation.

7422 (f) "Carrier" means any person authorized in accordance
7423 with the provisions of this chapter to insure under this chapter
7424 and includes self-insurers.

7425 (g) "Self-insurer" is an employer who has been
7426 authorized under the provisions of this chapter to carry his own
7427 liability on his covered employees without insuring in a stock or
7428 mutual carrier.

7429 (h) "Commission" means the Workers' Compensation
7430 Commission.

7431 (i) "Disability" means incapacity because of injury to
7432 earn the wages which the employee was receiving at the time of
7433 injury in the same or other employment, which incapacity and the
7434 extent thereof must be supported by medical findings.

7435 (j) "Compensation" means the money allowance payable to
7436 an injured worker or his dependents as provided in this chapter,
7437 and includes funeral benefits provided therein.

7438 (k) "Wages" includes the money rate at which the
7439 service rendered is recompensed under the contract of hiring in
7440 force at the time of injury, and also the reasonable value of



7441 board, rent, housing, lodging or similar advantage received from
7442 the employer and gratuities received in the course of employment
7443 from others than the employer. The term "wages" shall not include
7444 practical training received by students of an educational
7445 institution as a part of such educational institution's
7446 curriculum.

7447 (1) "Child" shall include a posthumous child, a child
7448 legally adopted prior to the injury of the employee, a child in
7449 relation to whom the deceased employee stood in the place of a
7450 parent for at least one (1) year prior to the time of injury and a
7451 stepchild or acknowledged illegitimate child dependent upon the
7452 deceased, but does not include married children unless wholly
7453 dependent on him. "Grandchild" means a child as above defined of
7454 a child as above defined. "Brother" and "sister" include
7455 stepbrothers and stepsisters, half brothers and half sisters, and
7456 brothers and sisters by adoption, but does not include married
7457 brothers nor married sisters unless wholly dependent on the
7458 employee. "Child," "grandchild," "brother" and "sister" include
7459 only persons who are under eighteen (18) years of age, and also
7460 persons who, though eighteen (18) years of age or over, are wholly
7461 dependent upon the deceased employee and incapable of self-support
7462 by reason of mental or physical disability, and also a child
7463 eighteen (18) years of age or older, until his twenty-third
7464 birthday, who is dependent upon the deceased and is pursuing a
7465 full-time education.



7466 (m) "Parent" includes stepparents and parents by
7467 adoption, parents-in-law or any person who for more than three (3)
7468 years prior to the death of the deceased employee stood in the
7469 place of a parent to him, or her, if dependent on the injured
7470 employee.

7471 (n) The term "surviving spouse" includes the decedent's
7472 legal wife or husband, living with him or her or dependent for
7473 support upon him or her at the time of death or living apart for
7474 justifiable cause or by reason of desertion at such time,
7475 provided * * * that such separation had not existed for more than
7476 three (3) years without an award for separate maintenance or
7477 alimony or the filing of a suit for separate maintenance or
7478 alimony in the proper court in this state. The term "surviving
7479 spouse" shall likewise include * * * a person who is not a legal
7480 wife or husband but who had entered into a ceremonial marriage
7481 with the decedent at least one (1) year prior to death and who, on
7482 the date of the decedent's death, stood in the relationship of a
7483 wife or husband, provided there was no living legal spouse who had
7484 protected her or his rights for support by affirmative action as
7485 hereinabove required. The term "surviving spouse" as contemplated
7486 in this chapter shall not apply to any person who has, since his
7487 or her separation from decedent, entered into a ceremonial
7488 marriage or lived in open adultery with another.

7489 (o) The term "adoption" or "adopted" means legal
7490 adoption prior to the time of the injury.



7491 (p) The singular includes the plural and the masculine
7492 includes the feminine and neuter.

7493 (q) It is expressly provided, agreed and understood in
7494 determining beneficiaries under this * * * chapter that a
7495 surviving spouse suffering a mental or physical * * * disability
7496 and children under the age of eighteen (18) years are presumed to
7497 be dependent.

7498 (r) "Independent contractor" means any individual, firm
7499 or corporation who contracts to do a piece of work according to
7500 his own methods without being subject to the control of his
7501 employer except as to the results of the work, and who has the
7502 right to employ and direct the outcome of the workers independent
7503 of the employer and free from any superior authority in the
7504 employer to say how the specified work shall be done or what the
7505 laborers shall do as the work progresses, one who undertakes to
7506 produce a given result without being in any way controlled as to
7507 the methods by which he attains the result.

7508 (s) "Average weekly wage for the state" means an amount
7509 determined by the commission as of October 1 of each year based
7510 upon wage and employment statistics reported to the commission by
7511 the Mississippi Employment Security Commission. Such amount shall
7512 be based upon data for the preceding twelve-month period and shall
7513 be effective from and after January 1 of the following year.

7514 **SECTION 62.** Section 71-3-7, Mississippi Code of 1972, is
7515 amended as follows:



7516 71-3-7. (1) Compensation shall be payable for disability or
7517 death of an employee from injury or occupational disease arising
7518 out of and in the course of employment, without regard to fault as
7519 to the cause of the injury or occupational disease. An
7520 occupational disease shall be deemed to arise out of and in the
7521 course of employment when there is evidence that there is a direct
7522 causal connection between the work performed and the occupational
7523 disease. In all claims in which no benefits, including
7524 disability, death and medical benefits, have been paid, the
7525 claimant shall file medical records in support of his claim for
7526 benefits when filing a petition to controvert. If the claimant is
7527 unable to file the medical records in support of his claim for
7528 benefits at the time of filing the petition to controvert because
7529 of a limitation of time established by Section 71-3-35 or Section
7530 71-3-53, the claimant shall file medical records in support of his
7531 claim within sixty (60) days after filing the petition to
7532 controvert.

7533 (2) Where a preexisting physical * * * disability, disease,
7534 or lesion is shown by medical findings to be a material
7535 contributing factor in the results following injury, the
7536 compensation which, but for this subsection, would be payable
7537 shall be reduced by that proportion which such preexisting
7538 physical * * * disability, disease, or lesion contributed to the
7539 production of the results following the injury. The preexisting



7540 condition does not have to be occupationally disabling for this
7541 apportionment to apply.

7542 (3) The following provisions shall apply to subsections (1)
7543 and (2) of this section:

7544 (a) Apportionment shall not be applied until the
7545 claimant has reached maximum medical recovery.

7546 (b) The employer or carrier does not have the power to
7547 determine the date of maximum medical recovery or percentage of
7548 apportionment. This must be done by the attorney-referee, subject
7549 to review by the commission as the ultimate finder of fact.

7550 (c) After the date the claimant reaches maximum medical
7551 recovery, weekly compensation benefits and maximum recovery shall
7552 be reduced by that proportion which the preexisting physical
7553 * * * disability, disease, or lesion contributes to the results
7554 following injury.

7555 (d) If maximum medical recovery has occurred before the
7556 hearing and order of the attorney-referee, credit for excess
7557 payments shall be allowed in future payments. Such allowances and
7558 method of accomplishment of the same shall be determined by the
7559 attorney-referee, subject to review by the commission. However,
7560 no actual repayment of such excess shall be made to the employer
7561 or carrier.

7562 (4) No compensation shall be payable if the use of drugs
7563 illegally, or the use of a valid prescription medication(s) taken
7564 contrary to the prescriber's instructions and/or contrary to label



7565 warnings, or the use of medical cannabis in accordance with the
7566 Mississippi Medical Cannabis Act and rules and regulations adopted
7567 thereunder, or intoxication due to the use of alcohol of the
7568 employee was the proximate cause of the injury, or if it was the
7569 willful intention of the employee to injure or kill himself or
7570 another.

7571 (5) Every employer to whom this chapter applies shall be
7572 liable for and shall secure the payment to his employees of the
7573 compensation payable under its provisions.

7574 (6) In the case of an employer who is a subcontractor, the
7575 contractor shall be liable for and shall secure the payment of
7576 such compensation to employees of the subcontractor, unless the
7577 subcontractor has secured such payment.

7578 **SECTION 63.** Section 71-3-105, Mississippi Code of 1972, is
7579 amended as follows:

7580 71-3-105. The commission shall cooperate with federal,
7581 state, and local agencies in the rehabilitation of * * * workers
7582 with disabilities, and shall promptly report to the proper
7583 authority industrial injury cases in which retraining or job
7584 placement may be needed.

7585 **SECTION 64.** Section 71-7-13, Mississippi Code of 1972, is
7586 amended as follows:

7587 71-7-13. (1) An employee or job applicant whose drug and
7588 alcohol test result is confirmed as positive in accordance with



7589 the provisions of this chapter shall not, by virtue of the result
7590 alone, be defined as a person with a " * * * disability."

7591 (2) An employer who discharges or disciplines an employee on
7592 the basis of a positive confirmed drug and alcohol test in
7593 accordance with this chapter shall be considered to have
7594 discharged or disciplined the employee for cause.

7595 (3) An employee discharged on the basis of a confirmed
7596 positive drug and alcohol test in accordance with this chapter
7597 shall be considered to have been discharged for willful
7598 misconduct.

7599 (4) A physician-patient relationship is not created between
7600 an employee or job applicant, and an employer or any person
7601 performing or evaluating the drug and alcohol test, solely by the
7602 establishment or implementation of a drug and alcohol testing
7603 program.

7604 (5) This chapter does not prevent an employer from
7605 establishing reasonable work rules related to employee possession,
7606 use, sale or solicitation of drugs, including convictions for
7607 drug-related offenses, and taking action based upon a violation of
7608 any of those rules.

7609 (6) This chapter shall not be retroactive and shall not
7610 abrogate any right an employer may have to conduct drug and
7611 alcohol tests prior to July 1, 1991. A drug and alcohol test
7612 conducted by an employer before July 1, 1991, shall not be subject
7613 to this chapter.



7614 (7) If an employee refuses to submit to drug and alcohol
7615 testing administered in accordance with this chapter, the employer
7616 shall not be barred from discharging, or disciplining, or
7617 referring the employee to a drug abuse assessment, treatment and
7618 rehabilitation program at a site certified by the Department of
7619 Mental Health.

7620 (8) An employer, in addition to any appropriate personnel
7621 actions, may refer any employee found to have violated the
7622 employer's policy on drug use to an employee assistance program
7623 for assessment, counseling and referral for treatment or
7624 rehabilitation as appropriate. Such treatment or rehabilitation
7625 shall be at a site certified by the Department of Mental Health.

7626 (9) This chapter does not prohibit an employer from
7627 conducting medical screening or other tests required by any
7628 statute, rule or regulation for the purpose of monitoring exposure
7629 of employees to toxic or other unhealthy substances in the
7630 workplace or in the performance of job responsibilities. Such
7631 screenings or tests shall be limited to the specific substances
7632 expressly identified in the applicable statute, rule or
7633 regulation, unless prior written consent of the employee is
7634 obtained for other tests.

7635 (10) An employer may temporarily suspend or transfer an
7636 employee to another position after obtaining the results of a
7637 positive on-site initial test. An employer may discharge an
7638 employee after obtaining the results of a positive confirmed test.



7639 (11) Nothing in this chapter shall affect any right of an
7640 employer to terminate the employment of any person for reasons not
7641 related to a drug and alcohol testing program implemented pursuant
7642 to the provisions of this chapter.

7643 **SECTION 65.** Section 75-74-9, Mississippi Code of 1972, is
7644 amended as follows:

7645 75-74-9. (1) The State Board of Health shall have the
7646 authority and the duty to make and promulgate rules and
7647 regulations consistent with the policy and purpose of this
7648 chapter, and to amend any rule or regulation it makes. In
7649 developing such rules and regulations, the board shall consult
7650 with appropriate public and private officials and organizations
7651 and parents and camp operators. It shall be the duty of the board
7652 to advise all existing youth camps in this state of this chapter
7653 and any rules and regulations promulgated under this chapter.

7654 (2) There is created within the State Board of Health the
7655 advisory council on youth camp safety to advise and consult on
7656 policy matters relating to youth camp safety. The council
7657 consists of the health officer or his representative and a minimum
7658 of eight (8) members appointed by the State Health Officer,
7659 including the following groups: one (1) member representative
7660 each from a private nonsectarian camp, a church-related or
7661 sponsored camp, the Girl Scouts of America, the Boy Scouts of
7662 America, the Mississippi Camping Association, camps for * * *
7663 persons with disabilities and civic organization camps; and a



7664 consumer, a parent or an older youth with prior camping
7665 experience. A member is entitled to hold office for two (2) years
7666 or until his successor is appointed and qualifies. The State
7667 Health Officer or his representative shall fill vacancies for
7668 unexpired terms. Council members serve without compensation, but
7669 are entitled to be reimbursed for actual expenses incurred in the
7670 performance of their duties. The State Health Officer may appoint
7671 special advisory or technical experts and consultants as are
7672 necessary to assist the council in carrying out its functions.

7673 (3) No rule or regulation promulgated or amended by the
7674 board under this chapter shall be effective until a public hearing
7675 is held thereon. Notice of a public hearing, including the time,
7676 date and location of the hearing and the substance of the proposed
7677 rule, regulation or amendment, shall be given by the board to each
7678 licensee of a youth camp and the general public not less than ten
7679 (10) days nor more than thirty (30) days before the hearing. Any
7680 interested person may appear at the hearing to present evidence or
7681 testimony concerning the proposed rule, regulation or amendment.

7682 **SECTION 66.** Section 83-9-32, Mississippi Code of 1972, is
7683 amended as follows:

7684 83-9-32. Every hospital, health or medical expenses
7685 insurance policy, hospital or medical service contract, health
7686 maintenance organization and preferred provider organization that
7687 is delivered or issued for delivery in this state and otherwise
7688 provides anesthesia benefits shall offer benefits for anesthesia



7689 and for associated facility charges when the mental or physical
7690 condition of the child or * * * adult with a mental disability
7691 requires dental treatment to be rendered under
7692 physician-supervised general anesthesia in a hospital setting,
7693 surgical center or dental office. This coverage shall be offered
7694 on an optional basis, and each primary insured must accept or
7695 reject such coverage in writing and accept responsibility for
7696 premium payment.

7697 An insurer may require prior authorization for the anesthesia
7698 and associated facility charges for dental care procedures in the
7699 same manner that prior authorization is required for treatment of
7700 other medical conditions under general anesthesia. An insurer may
7701 require review for medical necessity and may limit payment of
7702 facility charges to certified facilities in the same manner that
7703 medical review is required and payment of facility charges is
7704 limited for other services. The benefit provided by this coverage
7705 shall be subject to the same annual deductibles or coinsurance
7706 established for all other covered benefits within a given policy,
7707 plan or contract. Private third-party payers may not reduce or
7708 eliminate coverage due to these requirements.

7709 A dentist shall consider the Indications for General
7710 Anesthesia as published in the reference manual of the American
7711 Academy of Pediatric Dentistry as utilization standards for
7712 determining whether performing dental procedures necessary to



7713 treat the particular condition or conditions of the patient under
7714 general anesthesia constitutes appropriate treatment.

7715 The provisions of this section shall apply to anesthesia
7716 services provided by oral and maxillofacial surgeons as permitted
7717 by the Mississippi State Board of Dental Examiners.

7718 The provisions of this section shall not apply to treatment
7719 rendered for temporal mandibular joint (TMJ) disorders.

7720 **SECTION 67.** Section 93-7-3, Mississippi Code of 1972, is
7721 amended as follows:

7722 93-7-3. A marriage may be annulled for any one (1) of the
7723 following causes existing at the time of the marriage ceremony:

7724 (a) Incurable impotency.

7725 (b) Adjudicated to have a mental illness or adjudicated
7726 incompetence of either or both parties. Action of a spouse who
7727 has been adjudicated * * * to have a mental illness or adjudicated
7728 incompetent may be brought by guardian, or in the absence of a
7729 guardian, by next friend, provided that the suit is brought within
7730 six (6) months after marriage.

7731 (c) Failure to comply with the provisions of Sections
7732 93-1-5 through 93-1-9 when any marriage affected by that failure
7733 has not been followed by cohabitation.

7734 Or, in the absence of ratification:

7735 (d) When either of the parties to a marriage is
7736 incapable, from want of age or understanding, of consenting to any
7737 marriage, or is incapable from physical causes of entering into



7738 the marriage state, or where the consent of either party has been
7739 obtained by force or fraud, the marriage shall be void from the
7740 time its nullity is declared by a court of competent jurisdiction.

7741 (e) Pregnancy of the wife by another person, if the
7742 husband did not know of the pregnancy.

7743 Suits for annulment under paragraphs (d) and (e) shall be
7744 brought within six (6) months after the ground for annulment is or
7745 should be discovered, and not thereafter.

7746 The causes for annulment of marriage set forth in this
7747 section are intended to be new remedies and shall in no way affect
7748 the causes for divorce declared elsewhere to be the law of the
7749 State of Mississippi as they presently exist or as they may from
7750 time to time be amended.

7751 **SECTION 68.** Section 97-3-4, Mississippi Code of 1972, is
7752 amended as follows:

7753 97-3-4. (1) It shall be unlawful for any physician
7754 performing an abortion that results in the delivery of a living
7755 child to intentionally allow or cause the child to die.

7756 (2) If the child is viable, such child shall be immediately
7757 provided appropriate medical care and comfort care necessary to
7758 sustain life. If the child is not viable, such child shall be
7759 provided comfort care. The provision of this section shall
7760 include, but not be limited to, a child born with physical or
7761 mental * * * disabling conditions which, in the opinion of the
7762 parent, the physician or other persons, diminishes the quality of



7763 the child's life, a child born alive during the course of an
7764 attempted abortion and a child not wanted by the parent.

7765 (3) As used in this section, the term "child" includes every
7766 infant member of the species homo sapiens who is born alive at any
7767 stage of development.

7768 (4) Any person who violates this section shall be guilty of
7769 a felony and, upon conviction, be imprisoned for not less than one
7770 (1) year nor more than ten (10) years in the State Penitentiary
7771 and fined not more than Fifty Thousand Dollars (\$50,000.00) but
7772 not less than Twenty-five Thousand Dollars (\$25,000.00).

7773 **SECTION 69.** This act shall take effect and be in force from
7774 and after July 1, 2024.

