

SECOND REGULAR SESSION

# SENATE BILL NO. 694

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3336S.011

## AN ACT

To repeal sections 197.305, 197.310, 197.311, 197.315, 197.317, 197.318, 197.325, 197.326, 197.330, 197.340, 197.345, 197.355, and 197.357, RSMo, and to enact in lieu thereof thirteen new sections relating to certificate of need, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 197.305, 197.310, 197.311, 197.315, 197.317, 197.318, 197.325, 197.326, 197.330, 197.340, 197.345, 197.355, and 197.357, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 197.305, 197.310, 197.311, 197.315, 197.317, 197.318, 197.325, 197.326, 197.330, 197.340, 197.345, 197.355, and 197.357, to read as follows:

197.305. As used in sections 197.300 to 197.366, the following terms mean:

(1) "Affected persons", the person proposing the development of a new institutional [health] **long-term care** service, the public to be served, and [health] **long-term** care facilities within the service area in which the proposed new [health] **long-term** care service is to be developed;

(2) ["Agency", the certificate of need program of the Missouri department of health and senior services;

(3) "Capital expenditure", an expenditure by or on behalf of a [health] **long-term** care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance;

(4) (3) "Certificate of need", a written certificate issued by the committee setting forth the committee's affirmative finding that a proposed project sufficiently satisfies the criteria prescribed for such projects by sections

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 197.300 to 197.366;

16 (4) "**Committee**", the long-term care facilities review committee;

17 (5) "**Department**", the department of health and senior services;

18 (6) "Develop", to undertake those activities which on their completion will  
19 result in the offering of a new institutional [health] **long-term care** service or  
20 the incurring of a financial obligation in relation to the offering of such a service;

21 [(6)] (7) "Expenditure minimum" shall mean:

22 (a) For beds in existing or proposed [health] **long-term** care facilities  
23 licensed pursuant to chapter 198, RSMo, and long-term care beds in a hospital  
24 as described in subdivision (3) of subsection 1 of section 198.012, RSMo, six  
25 hundred thousand dollars in the case of capital expenditures, or four hundred  
26 thousand dollars in the case of major medical equipment, provided, however, that  
27 prior to January 1, 2003, the expenditure minimum for beds in such a facility and  
28 long-term care beds in a hospital described in section 198.012, RSMo, shall be  
29 zero, subject to the provisions of subsection 7 of section 197.318;

30 (b) For beds or equipment in a long-term care hospital meeting the  
31 requirements described in 42 CFR, Section 412.23(e), the expenditure minimum  
32 shall be zero; [and

33 (c) For health care facilities, new institutional health services or beds not  
34 described in paragraph (a) or (b) of this subdivision one million dollars in the case  
35 of capital expenditures, excluding major medical equipment, and one million  
36 dollars in the case of medical equipment;]

37 [(7) "Health care facilities", hospitals, health maintenance organizations,  
38 tuberculosis hospitals, psychiatric hospitals, intermediate care facilities, skilled  
39 nursing facilities, residential care facilities I and II, kidney disease treatment  
40 centers, including freestanding hemodialysis units, diagnostic imaging centers,  
41 radiation therapy centers and ambulatory surgical facilities, but excluding the  
42 private offices of physicians, dentists and other practitioners of the healing arts,  
43 and Christian Science sanatoriums, also known as Christian Science Nursing  
44 facilities listed and certified by the Commission for Accreditation of Christian  
45 Science Nursing Organization/Facilities, Inc., and facilities of not-for-profit  
46 corporations in existence on October 1, 1980, subject either to the provisions and  
47 regulations of Section 302 of the Labor-Management Relations Act, 29 U.S.C. 186  
48 or the Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401-538, and  
49 any residential care facility I or residential care facility II operated by a religious  
50 organization qualified pursuant to Section 501(c)(3) of the federal Internal

51 Revenue Code, as amended, which does not require the expenditure of public  
52 funds for purchase or operation, with a total licensed bed capacity of one hundred  
53 beds or fewer;]

54 (8) "Health service area", a geographic region appropriate for the effective  
55 planning and development of health services, determined on the basis of factors  
56 including population and the availability of resources, consisting of a population  
57 of not less than five hundred thousand or more than three million;

58 (9) **"Long-term care facilities", intermediate care facilities, skilled  
59 nursing facilities, residential care facilities I and II, but excluding  
60 facilities of not-for-profit corporations in existence on October 1, 1980,  
61 subject either to the provisions and regulations of Section 302 of the  
62 Labor-Management Relations Act, 29 U.S.C. Section 186 or the Labor-  
63 Management Reporting and Disclosure Act, 29 U.S.C. Sections 401-531,  
64 and any residential care facility I or residential care facility II  
65 operated by a religious organization qualified pursuant to Section  
66 501(c)(3) of the federal Internal Revenue Code, as amended, which does  
67 not require the expenditure of public funds for purchase or operation,  
68 with a total licensed bed capacity of one hundred beds or fewer;**

69 [(9)] (10) "Major medical equipment", medical equipment used for the  
70 provision of [medical and other health] **long-term care** services;

71 [(10)] (11) "New institutional [health] **long-term care** service":

72 (a) The development of a new [health] **long-term** care facility costing in  
73 excess of the applicable expenditure minimum;

74 (b) The acquisition, including acquisition by lease, of any [health] **long-  
75 term** care facility, or major medical equipment costing in excess of the  
76 expenditure minimum;

77 (c) Any capital expenditure by or on behalf of a [health] **long-term** care  
78 facility in excess of the expenditure minimum;

79 (d) Predevelopment activities as defined in subdivision (13) hereof costing  
80 in excess of one hundred fifty thousand dollars;

81 (e) Any change in licensed bed capacity of a [health] **long-term** care  
82 facility which increases the total number of beds by more than ten or more than  
83 ten percent of total bed capacity, whichever is less, over a two-year period;

84 (f) [Health] **Long-term care** services, excluding home health services,  
85 which are offered in a [health] **long-term** care facility and which were not  
86 offered on a regular basis in such [health] **long-term** care facility within the

87 twelve-month period prior to the time such services would be offered;

88 (g) A reallocation by an existing [health] **long-term** care facility of  
89 licensed beds among major types of service or reallocation of licensed beds from  
90 one physical facility or site to another by more than ten beds or more than ten  
91 percent of total licensed bed capacity, whichever is less, over a two-year period;

92 [(11)] (12) "Nonsubstantive projects", projects which do not involve the  
93 addition, replacement, modernization or conversion of beds or the provision of a  
94 new [health] **long-term care** service but which include a capital expenditure  
95 which exceeds the expenditure minimum and are due to an act of God or a normal  
96 consequence of maintaining [health] **long-term** care services, facility or  
97 equipment;

98 [(12)] (13) "Person", any individual, trust, estate, partnership,  
99 corporation, including associations and joint stock companies, state or political  
100 subdivision or instrumentality thereof, including a municipal corporation;

101 [(13)] (14) "Predevelopment activities", expenditures for architectural  
102 designs, plans, working drawings and specifications, and any arrangement or  
103 commitment made for financing; but excluding submission of an application for  
104 a certificate of need.

197.310. 1. The "[Missouri Health] **Long-Term Care** Facilities Review  
2 Committee" is hereby established. The agency shall provide clerical and  
3 administrative support to the committee. The committee may employ additional  
4 staff as it deems necessary.

5 2. The committee shall be composed of:

6 (1) Two members of the senate appointed by the president pro tem, who  
7 shall be from different political parties; and

8 (2) Two members of the house of representatives appointed by the  
9 speaker, who shall be from different political parties; and

10 (3) Five members appointed by the governor with the advice and consent  
11 of the senate, not more than three of whom shall be from the same political party.

12 3. No business of this committee shall be performed without a majority  
13 of the full body.

14 4. The members shall be appointed as soon as possible after September  
15 28, 1979. One of the senate members, one of the house members and three of the  
16 members appointed by the governor shall serve until January 1, 1981, and the  
17 remaining members shall serve until January 1, 1982. All subsequent members  
18 shall be appointed in the manner provided in subsection 2 of this section and

19 shall serve terms of two years.

20           5. The committee shall elect a chairman at its first meeting which shall  
21 be called by the governor. The committee shall meet upon the call of the  
22 chairman or the governor.

23           6. The committee shall review and approve or disapprove all applications  
24 for a certificate of need made under sections 197.300 to 197.366. It shall issue  
25 reasonable rules and regulations governing the submission, review and  
26 disposition of applications.

27           7. Members of the committee shall serve without compensation but shall  
28 be reimbursed for necessary expenses incurred in the performance of their duties.

29           8. Notwithstanding the provisions of subsection 4 of section 610.025,  
30 RSMo, the proceedings and records of the facilities review committee shall be  
31 subject to the provisions of chapter 610, RSMo.

          197.311. No member of the [Missouri health] **long-term care** facilities  
2 review committee may accept a political donation from any applicant for a license.

          197.315. 1. Any person who proposes to develop or offer a new  
2 institutional [health] **long-term care** service within the state must obtain a  
3 certificate of need from the committee prior to the time such services are offered.

4           2. Only those new institutional [health] **long-term care** services which  
5 are found by the committee to be needed shall be granted a certificate of  
6 need. Only those new institutional [health] **long-term care** services which are  
7 granted certificates of need shall be offered or developed within the state. No  
8 expenditures for new institutional [health] **long-term care** services in excess of  
9 the applicable expenditure minimum shall be made by any person unless a  
10 certificate of need has been granted.

11           3. After October 1, 1980, no state agency charged by statute to license or  
12 certify [health] **long-term care** facilities shall issue a license to or certify any  
13 such facility, or distinct part of such facility, that is developed without obtaining  
14 a certificate of need.

15           4. If any person proposes to develop any new institutional [health] **long-**  
16 **term care** service without a certificate of need as required by sections 197.300 to  
17 197.366, the committee shall notify the attorney general, and [he] **the attorney**  
18 **general** shall apply for an injunction or other appropriate legal action in any  
19 court of this state against that person.

20           5. After October 1, 1980, no agency of state government may appropriate  
21 or grant funds to or make payment of any funds to any person or [health] **long-**

22 **term** care facility which has not first obtained every certificate of need required  
23 pursuant to sections 197.300 to 197.366.

24 6. A certificate of need shall be issued only for the premises and persons  
25 named in the application and is not transferable except by consent of the  
26 committee.

27 7. Project cost increases, due to changes in the project application as  
28 approved or due to project change orders, exceeding the initial estimate by more  
29 than ten percent shall not be incurred without consent of the committee.

30 8. Periodic reports to the committee shall be required of any applicant  
31 who has been granted a certificate of need until the project has been  
32 completed. The committee may order the forfeiture of the certificate of need upon  
33 failure of the applicant to file any such report.

34 9. A certificate of need shall be subject to forfeiture for failure to incur a  
35 capital expenditure on any approved project within six months after the date of  
36 the order. The applicant may request an extension from the committee of not  
37 more than six additional months based upon substantial expenditure made.

38 10. Each application for a certificate of need must be accompanied by an  
39 application fee. The time of filing commences with the receipt of the application  
40 and the application fee. The application fee is one thousand dollars, or one-tenth  
41 of one percent of the total cost of the proposed project, whichever is greater. All  
42 application fees shall be deposited in the state treasury. Because of the loss of  
43 federal funds, the general assembly will appropriate funds to the [Missouri  
44 health] **long-term care** facilities review committee.

45 11. In determining whether a certificate of need should be granted, no  
46 consideration shall be given to the facilities or equipment of any other [health]  
47 **long-term** care facility located more than a fifteen-mile radius from the applying  
48 facility.

49 12. When a [nursing] **long-term care** facility shifts from a skilled to an  
50 intermediate level of nursing care, it may return to the higher level of care if it  
51 meets the licensure requirements, without obtaining a certificate of need.

52 13. In no event shall a certificate of need be denied because the applicant  
53 refuses to provide abortion services or information.

54 14. A certificate of need shall not be required for the transfer of ownership  
55 of an existing and operational [health] **long-term care** facility in its entirety.

56 15. A certificate of need may be granted to a facility for an expansion, an  
57 addition of services, a new institutional service, or for a new [hospital] **long-**

58 **term care** facility which provides for something less than that which was sought  
59 in the application.

60 16. The provisions of this section shall not apply to facilities operated by  
61 the state, and appropriation of funds to such facilities by the general assembly  
62 shall be deemed in compliance with this section, and such facilities shall be  
63 deemed to have received an appropriate certificate of need without payment of  
64 any fee or charge.

65 17. Notwithstanding other provisions of this section, a certificate of need  
66 may be issued after July 1, 1983, for an intermediate care facility operated  
67 exclusively for the mentally retarded.

68 18. To assure the safe, appropriate, and cost-effective transfer of new  
69 medical technology throughout the state, a certificate of need shall not be  
70 required for the purchase and operation of research equipment that is to be used  
71 in a clinical trial that has received written approval from a duly constituted  
72 institutional review board of an accredited school of medicine or osteopathy  
73 located in Missouri to establish its safety and efficacy and does not increase the  
74 bed complement of the institution in which the equipment is to be located. After  
75 the clinical trial has been completed, a certificate of need must be obtained for  
76 continued use in such facility.

197.317. 1. After July 1, 1983, no certificate of need shall be issued for  
2 the following:

3 (1) Additional residential care facility I, residential care facility II,  
4 intermediate care facility or skilled nursing facility beds above the number then  
5 licensed by this state;

6 (2) Beds in a licensed hospital to be reallocated on a temporary or  
7 permanent basis to nursing care or beds in a long-term care hospital meeting the  
8 requirements described in 42 CFR, Section 412.23(e), excepting those which are  
9 not subject to a certificate of need pursuant to paragraphs (e) and (g) of  
10 subdivision (10) of section 197.305; nor

11 (3) The reallocation of intermediate care facility or skilled nursing facility  
12 beds of existing licensed beds by transfer or sale of licensed beds between a  
13 hospital licensed pursuant to this chapter or a nursing care facility licensed  
14 pursuant to chapter 198, RSMo; except for beds in counties in which there is no  
15 existing nursing care facility. No certificate of need shall be issued for the  
16 reallocation of existing residential care facility I or II, or intermediate care  
17 facilities operated exclusively for the mentally retarded to intermediate care or

18 skilled nursing facilities or beds. However, after January 1, 2003, nothing in this  
19 section shall prohibit the [Missouri health] **long-term care** facilities review  
20 committee from issuing a certificate of need for additional beds in existing  
21 [health] **long-term** care facilities or for new beds in new [health] **long-term**  
22 care facilities or for the reallocation of licensed beds, provided that no  
23 construction shall begin prior to January 1, 2004. The provisions of subsections  
24 16 and 17 of section 197.315 shall apply to the provisions of this section.

25         2. The [health facilities] **long-term care** review committee shall utilize  
26 demographic data from the office of social and economic data analysis, or its  
27 successor organization, at the University of Missouri as their source of  
28 information in considering applications for new institutional long-term care  
29 facilities.

197.318. 1. The provisions of section 197.317 shall not apply to a  
2 residential care facility I, residential care facility II, intermediate care facility or  
3 skilled nursing facility only where the department of social services has first  
4 determined that there presently exists a need for additional beds of that  
5 classification because the average occupancy of all licensed and available  
6 residential care facility I, residential care facility II, intermediate care facility  
7 and skilled nursing facility beds exceeds ninety percent for at least four  
8 consecutive calendar quarters, in a particular county, and within a fifteen-mile  
9 radius of the proposed facility, and the facility otherwise appears to qualify for  
10 a certificate of need. The department's certification that there is no need for  
11 additional beds shall serve as the final determination and decision of the  
12 committee. In determining ninety percent occupancy, residential care facility I  
13 and II shall be one separate classification and intermediate care and skilled  
14 nursing facilities are another separate classification.

15         2. The [Missouri health] **long-term care** facilities review committee may,  
16 for any facility certified to it by the department, consider the predominant ethnic  
17 or religious composition of the residents to be served by that facility in  
18 considering whether to grant a certificate of need.

19         3. There shall be no expenditure minimum for facilities, beds, or services  
20 referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of  
21 this subsection shall expire January 1, 2003.

22         4. As used in this section, the term "licensed and available" means beds  
23 which are actually in place and for which a license has been issued.

24         5. The provisions of section 197.317 shall not apply to any facility where



25 at least ninety-five percent of the patients require diets meeting the dietary  
26 standards defined by section 196.165, RSMo.

27 6. The committee shall review all letters of intent and applications for  
28 long-term care hospital beds meeting the requirements described in 42 CFR,  
29 Section 412.23(e) under its criteria and standards for long-term care beds.

30 7. Sections 197.300 to 197.366 shall not be construed to apply to litigation  
31 pending in state court on or before April 1, 1996, in which the [Missouri health]  
32 **long-term care** facilities review committee is a defendant in an action  
33 concerning the application of sections 197.300 to 197.366 to long-term care  
34 hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

35 8. Notwithstanding any other provision of this chapter to the contrary:

36 (1) A facility licensed pursuant to chapter 198, RSMo, may increase its  
37 licensed bed capacity by:

38 (a) Submitting a letter of intent to expand to the [division of aging]  
39 **department** and the [health] **long-term care** facilities review committee;

40 (b) Certification from the [division of aging] **department** that the facility:

41 a. Has no patient care class I deficiencies within the last eighteen months;

42 and

43 b. Has maintained a ninety-percent average occupancy rate for the  
44 previous six quarters;

45 (c) Has made an effort to purchase beds for eighteen months following the  
46 date the letter of intent to expand is submitted pursuant to paragraph (a) of this  
47 subdivision. For purposes of this paragraph, an "effort to purchase" means a copy  
48 certified by the offeror as an offer to purchase beds from another licensed facility  
49 in the same licensure category; and

50 (d) If an agreement is reached by the selling and purchasing entities, the  
51 [health] **long-term care** facilities review committee shall issue a certificate of  
52 need for the expansion of the purchaser facility upon surrender of the seller's  
53 license; or

54 (e) If no agreement is reached by the selling and purchasing entities, the  
55 [health] **long-term care** facilities review committee shall permit an expansion  
56 for:

57 a. A facility with more than forty beds may expand its licensed bed  
58 capacity within the same licensure category by twenty-five percent or thirty beds,  
59 whichever is greater, if that same licensure category in such facility has  
60 experienced an average occupancy of ninety-three percent or greater over the

61 previous six quarters;

62           b. A facility with fewer than forty beds may expand its licensed bed  
63 capacity within the same licensure category by twenty-five percent or ten beds,  
64 whichever is greater, if that same licensure category in such facility has  
65 experienced an average occupancy of ninety-two percent or greater over the  
66 previous six quarters;

67           c. A facility adding beds pursuant to subparagraphs a. or b. of this  
68 paragraph shall not expand by more than fifty percent of its then licensed bed  
69 capacity in the qualifying licensure category;

70           (2) Any beds sold shall, for five years from the date of relicensure by the  
71 purchaser, remain unlicensed and unused for any long-term care service in the  
72 selling facility, whether they do or do not require a license;

73           (3) The beds purchased shall, for two years from the date of purchase,  
74 remain in the bed inventory attributed to the selling facility and be considered  
75 by the department of social services as licensed and available for purposes of this  
76 section;

77           (4) Any residential care facility licensed pursuant to chapter 198, RSMo,  
78 may relocate any portion of such facility's current licensed beds to any other  
79 facility to be licensed within the same licensure category if both facilities are  
80 under the same licensure ownership or control, and are located within six miles  
81 of each other;

82           (5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell  
83 individual long-term care licensed beds to facilities qualifying pursuant to  
84 paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which  
85 transfers or sells licensed beds shall not expand its licensed bed capacity in that  
86 licensure category for a period of five years from the date the licensure is  
87 relinquished.

88           9. Any existing licensed and operating health care facility offering  
89 long-term care services may replace one-half of its licensed beds at the same site  
90 or a site not more than thirty miles from its current location if, for at least the  
91 most recent four consecutive calendar quarters, the facility operates only fifty  
92 percent of its then licensed capacity with every resident residing in a private  
93 room. In such case:

94           (1) The facility shall report to the [division of aging] **department** vacant  
95 beds as unavailable for occupancy for at least the most recent four consecutive  
96 calendar quarters;

97 (2) The replacement beds shall be built to private room specifications and  
98 only used for single occupancy; and

99 (3) The existing facility and proposed facility shall have the same owner  
100 or owners, regardless of corporate or business structure, and such owner or  
101 owners shall stipulate in writing that the existing facility beds to be replaced will  
102 not later be used to provide long-term care services. If the facility is being  
103 operated under a lease, both the lessee and the owner of the existing facility shall  
104 stipulate the same in writing.

105 10. Nothing in this section shall prohibit a health care facility licensed  
106 pursuant to chapter 198, RSMo, from being replaced in its entirety within fifteen  
107 miles of its existing site so long as the existing facility and proposed or  
108 replacement facility have the same owner or owners regardless of corporate or  
109 business structure and the health care facility being replaced remains unlicensed  
110 and unused for any long-term care services whether they do or do not require a  
111 license from the date of licensure of the replacement facility.

197.325. Any person who proposes to develop or offer a new institutional  
2 [health] **long-term care** service shall submit a letter of intent to the committee  
3 at least thirty days prior to the filing of the application.

197.326. 1. Any person who is paid either as part of his normal  
2 employment or as a lobbyist to support or oppose any project before the [health]  
3 **long-term care** facilities review committee shall register as a lobbyist pursuant  
4 to chapter 105, RSMo, and shall also register with the staff of the [health] **long-**  
5 **term care** facilities review committee for every project in which such person has  
6 an interest and indicate whether such person supports or opposes the named  
7 project. The registration shall also include the names and addresses of any  
8 person, firm, corporation or association that the person registering represents in  
9 relation to the named project. Any person violating the provisions of this  
10 subsection shall be subject to the penalties specified in section 105.478, RSMo.

11 2. A member of the general assembly who also serves as a member of the  
12 [health] **long-term care** facilities review committee is prohibited from soliciting  
13 or accepting campaign contributions from any applicant or person speaking for  
14 an applicant or any opponent to any application or persons speaking for any  
15 opponent while such application is pending before the [health] **long-term care**  
16 facilities review committee.

17 3. Any person regulated by chapter 197 or 198, RSMo, and any officer,  
18 attorney, agent and employee thereof, shall not offer to any committee member

19 or to any person employed as staff to the committee, any office, appointment or  
20 position, or any present, gift, entertainment or gratuity of any kind or any  
21 campaign contribution while such application is pending before the [health] **long-**  
22 **term care** facilities review committee. Any person guilty of knowingly violating  
23 the provisions of this section shall be punished as follows: For the first offense,  
24 such person is guilty of a class B misdemeanor; and for the second and  
25 subsequent offenses, such person is guilty of a class D felony.

197.330. 1. The committee shall:

2 (1) Notify the applicant within fifteen days of the date of filing of an  
3 application as to the completeness of such application;

4 (2) Provide written notification to affected persons located within this  
5 state at the beginning of a review. This notification may be given through  
6 publication of the review schedule in all newspapers of general circulation in the  
7 area to be served;

8 (3) Hold public hearings on all applications when a request in writing is  
9 filed by any affected person within thirty days from the date of publication of the  
10 notification of review;

11 (4) Within one hundred days of the filing of any application for a  
12 certificate of need, issue in writing its findings of fact, conclusions of law, and its  
13 approval or denial of the certificate of need; provided, that the committee may  
14 grant an extension of not more than thirty days on its own initiative or upon the  
15 written request of any affected person;

16 (5) Cause to be served upon the applicant, the respective health system  
17 agency, and any affected person who has filed his prior request in writing, a copy  
18 of the aforesaid findings, conclusions and decisions;

19 (6) Consider the needs and circumstances of institutions providing  
20 training programs for health personnel;

21 (7) Provide for the availability, based on demonstrated need, of both  
22 medical and osteopathic facilities and services to protect the freedom of patient  
23 choice; and

24 (8) Establish by regulation procedures to review, or grant a waiver from  
25 review, nonsubstantive projects.

26 The term "filed" or "filing" as used in this section shall mean delivery to the staff  
27 of the [health] **long-term care** facilities review committee the document or  
28 documents the applicant believes constitute an application.

29 2. Failure by the committee to issue a written decision on an application

30 for a certificate of need within the time required by this section shall constitute  
31 approval of and final administrative action on the application, and is subject to  
32 appeal pursuant to section 197.335 only on the question of approval by operation  
33 of law.

197.340. Any [health] **long-term care** facility providing a [health] **long-**  
2 **term care** service must notify the committee of any discontinuance of any  
3 previously provided [health] **long-term** care service, a decrease in the number  
4 of licensed beds by ten percent or more, or the change in licensure category for  
5 any such facility.

197.345. Any [health] **long-term care** facility with a project for facilities  
2 or services for which a binding construction or purchase contract has been  
3 executed prior to October 1, 1980, or [health] **long-term** care facility which has  
4 commenced operations prior to October 1, 1980, shall be deemed to have received  
5 a certificate of need, except that such certificate of need shall be subject to  
6 forfeiture under the provisions of subsections 8 and 9 of section 197.315.

197.355. The legislature may not appropriate any money for capital  
2 expenditures for [health] **long-term** care facilities until a certificate of need has  
3 been issued for such expenditures.

197.357. For the purposes of reimbursement under section 208.152, RSMo,  
2 project costs for new institutional [health] **long-term care** services in excess of  
3 ten percent of the initial project estimate whether or not approval was obtained  
4 under subsection 7 of section 197.315 shall not be eligible for reimbursement for  
5 the first three years that a facility receives payment for services provided under  
6 section 208.152, RSMo. The initial estimate shall be that amount for which the  
7 original certificate of need was obtained or, in the case of facilities for which a  
8 binding construction or purchase contract was executed prior to October 1, 1980,  
9 the amount of that contract. Reimbursement for these excess costs after the first  
10 three years shall not be made until a certificate of need has been granted for the  
11 excess project costs. The provisions of this section shall apply only to facilities  
12 which file an application for a certificate of need or make application for  
13 cost-overrun review of their original application or waiver after August 13, 1982.

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