

By: Representative Cameron

To: Transportation;
Appropriations

HOUSE BILL NO. 354

1 AN ACT TO AMEND SECTIONS 65-1-1, 65-1-3, 65-1-8, 65-1-9,
2 65-1-10, 65-1-11, 65-1-15, 65-1-23, 65-1-25, 65-1-27, 65-1-29,
3 65-1-31, 65-1-33, 65-1-35, 65-1-37, 65-1-39, 65-1-41, 65-1-43,
4 65-1-45, 65-1-46, 65-1-47, 65-1-49, 65-1-51, 65-1-57, 65-1-59,
5 65-1-61, 65-1-63, 65-1-65, 65-1-67, 65-1-69, 65-1-70.5, 65-1-73,
6 65-1-75, 65-1-77, 65-1-79, 65-1-81, 65-1-83, 65-1-85, 65-1-86,
7 65-1-87, 65-1-91, 65-1-111, 65-1-113, 65-1-115, 65-1-117,
8 65-1-121, 65-1-123, 65-1-127, 65-1-129, 65-1-131, 65-1-135,
9 65-1-136, 65-1-137, 65-1-141, 65-1-145, 65-1-149, 65-1-151,
10 65-1-155, 65-1-167, 65-1-169 AND 65-1-173, MISSISSIPPI CODE OF
11 1972, TO ABOLISH THE MISSISSIPPI TRANSPORTATION COMMISSION AND TO
12 PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT
13 OF TRANSPORTATION SHALL BE APPOINTED BY THE GOVERNOR; TO AMEND
14 SECTIONS 1-1-11, 23-15-193, 23-15-297, 23-15-881, 23-15-883,
15 23-15-887, 25-3-31, 65-2-3, 65-2-5, 97-15-3 AND 97-15-5,
16 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
17 ACT; TO REPEAL SECTION 65-1-5, MISSISSIPPI CODE OF 1972, WHICH
18 PROVIDES FOR THE ORGANIZATION AND MEETINGS OF THE MISSISSIPPI
19 TRANSPORTATION COMMISSION; AND FOR RELATED PURPOSES.

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

21 SECTION 1. Section 65-1-1, Mississippi Code of 1972, is
22 amended as follows:

23 65-1-1. When used in this chapter and for the purposes of
24 Sections 65-1-1 through 65-1-21, the following words shall have
25 the meanings ascribed herein unless the context otherwise
26 requires:

27 (a) "Department" means the Mississippi Department of
28 Transportation. Whenever the term "Mississippi State Highway
29 Department," or the word "department" meaning the Mississippi
30 State Highway Department, appears in the laws of the State of
31 Mississippi, it shall mean the "Mississippi Department of
32 Transportation."

33 (b) "Office" means an administrative subdivision of the
34 department.

35 (c) "Bureau" means an administrative subdivision of an

36 office.

37 (d) * * * Whenever the term "Mississippi Transportation
38 Commission," the term "Mississippi State Highway Commission," or
39 the word "commission" meaning the Mississippi Transportation
40 Commission or the Mississippi State Highway Commission, appears in
41 the laws of the State of Mississippi, it shall mean the
42 Mississippi Department of Transportation and the Executive
43 Director of the Mississippi Department of Transportation acting
44 for and on behalf of the department.

45 (e) "Executive director" means the chief administrative
46 officer of the department. Whenever the term "director," meaning
47 the Chief Administrative Officer of the State Highway Department,
48 appears in the laws of the State of Mississippi, it shall mean the
49 Executive Director of the Mississippi Department of
50 Transportation.

51 (f) "Director" means the chief officer of an office.

52 (g) "Administrator" means the chief officer of a
53 bureau.

54 (h) "Highway" or "road" includes rights-of-way, bridge
55 and drainage structures, signs, guardrails and other structures
56 made in connection with such highway or road.

57 (i) "Construction" includes reconstruction.

58 (j) "Maintenance" means the constant maintenance and
59 repair to preserve a smooth surfaced highway.

60 (k) "Pave" means to construct with a surface of either
61 high-type or intermediate-type pavement.

62 SECTION 2. Section 65-1-3, Mississippi Code of 1972, is
63 amended as follows:

64 65-1-3. (1) Until January 1, 2000, there shall be a
65 Transportation Commission which shall consist of three (3)
66 members, one (1) from each of the three (3) Supreme Court
67 districts of the state. Only qualified electors who are citizens
68 of the Supreme Court district in which he or she offers for
69 election shall be eligible for such office.

70 On Tuesday after the first Monday in November of the year
71 1951, and every four (4) years thereafter through the year 1995,
72 transportation commissioners shall be elected at the same time and
73 in the same manner as the Governor is chosen; and the laws
74 governing primary elections and the holding of general elections
75 in this state shall apply to and govern the nomination and
76 election of transportation commissioners. The * * * commissioners
77 so elected shall enter upon the discharge of the duties of their
78 respective offices on the first Monday of January in the year next
79 succeeding the date of their election, and they shall serve for a
80 term of four (4) years and until their successors shall have been
81 duly elected and qualified.

82 If any one or more of the * * * commissioners elected under
83 the provisions of this chapter shall die, resign or be removed
84 from office, the Governor shall fill the vacancy by appointment
85 for the unexpired term, provided such unexpired term shall not
86 exceed twelve (12) months. If such unexpired term shall exceed
87 twelve (12) months, the Governor shall, within fifteen (15) days
88 from the date of such vacancy, by proclamation duly made, call an
89 election in the Supreme Court district in which such vacancy
90 exists, to be held within sixty (60) days from the date of the
91 issuance of such proclamation, at which election a * * *
92 commissioner shall be elected to fill such vacancy for the
93 remaining portion of such unexpired term. Such special election
94 shall be held in the manner provided for holding general elections
95 in this state, as far as practicable.

96 Each of the transportation commissioners, before entering
97 upon the discharge of the duties of his office, shall take and
98 subscribe the oath of office required of other state officials and
99 shall execute bond in the sum of Fifty Thousand Dollars
100 (\$50,000.00), with some surety company authorized to do business
101 in this state as surety, conditioned for the faithful performance
102 of the duties of his office and for the faithful and true
103 accounting of all funds or monies or property coming into his

104 hands by virtue of his office, and conditioned further that all
105 such funds, monies and property will be expended and used by him
106 only for purposes authorized by law, said bond to be approved by
107 the Governor or Attorney General and to be filed in the office of
108 the Secretary of State. The premium on such bonds shall be paid
109 out of the funds of the Mississippi Department of Transportation.

110 From and after July 1, 1992, the * * * commission shall be
111 the Mississippi Transportation Commission and the members thereof
112 shall be the Mississippi transportation commissioners.

113 (2) This section shall stand repealed from and after January
114 1, 2000.

115 SECTION 3. Section 65-1-8, Mississippi Code of 1972, is
116 amended as follows:

117 65-1-8. (1) The Mississippi Department of
118 Transportation * * * shall have the following general powers,
119 duties and responsibilities:

120 (a) To coordinate and develop a comprehensive, balanced
121 transportation policy for the State of Mississippi;

122 (b) To promote the coordinated and efficient use of all
123 available and future modes of transportation;

124 (c) To make recommendations to the Legislature
125 regarding alterations or modifications in any existing
126 transportation policies;

127 (d) To study means of encouraging travel and
128 transportation of goods by the combination of motor vehicle and
129 other modes of transportation;

130 (e) To take such actions as are necessary and proper to
131 discharge its duties pursuant to the provisions of Laws, 1992,
132 Chapter 496, and any other provision of law;

133 (f) To receive and provide for the expenditure of any
134 funds made available to it by the Legislature, the federal
135 government, or any other source.

136 (2) In addition to the general powers, duties and
137 responsibilities listed in subsection (1) of this section, the

138 Mississippi Department of Transportation * * * shall have the
139 following specific powers:

140 (a) To make rules and regulations whereby the
141 transportation department shall change or relocate any and all
142 highways herein or hereafter fixed as constituting a part of the
143 state highway system, as may be deemed necessary or economical in
144 the construction or maintenance thereof; to acquire by gift,
145 purchase, condemnation, or otherwise, land or other property
146 whatsoever that may be necessary for a state highway system as
147 herein provided, with full consideration to be given to the
148 stimulation of local public and private investment when acquiring
149 such property in the vicinity of Mississippi towns, cities and
150 population centers;

151 (b) To enforce by mandamus, or other proper legal
152 remedies, all legal rights or rights of action of the department
153 with other public bodies, corporations or persons;

154 (c) To make and publish rules, regulations and
155 ordinances for the control of and the policing of the traffic on
156 the state highways, and to prevent their abuse by any or all
157 persons, natural or artificial, by trucks, tractors, trailers or
158 any other heavy or destructive vehicles or machines, or by any
159 other means whatsoever, by establishing weights of loads or of
160 vehicles, types of tires, width of tire surfaces, length and width
161 of vehicles, with reasonable variations to meet approximate
162 weather conditions, and all other proper police and protective
163 regulations, and to provide ample means for the enforcement of
164 same. The violation of any of the rules, regulations or
165 ordinances so prescribed by the department shall constitute a
166 misdemeanor. No rule, regulation or ordinance shall be made that
167 conflicts with any statute now in force or which may hereafter be
168 enacted, or with any ordinance of municipalities. A monthly
169 publication giving general information to the boards of
170 supervisors, employees and the public may be issued under such
171 rules and regulations as the department may determine;

172 (d) To give suitable numbers to highways and to change
173 the number of any highway that shall become a part of the state
174 highway system. However, nothing herein shall authorize the
175 number of any highway to be changed so as to conflict with any
176 designation thereof as a United States numbered highway. Where,
177 by a specific act of the Legislature, the department has been
178 directed to give a certain number to a highway, the department
179 shall not have the authority to change such number;

180 (e) To make proper and reasonable rules, regulations,
181 and ordinances for the placing, erection, removal or relocation of
182 telephone, telegraph or other poles, signboards, fences, gas,
183 water, sewerage, oil or other pipelines, and other obstructions
184 that may, in the opinion of the executive director, contribute to
185 the hazards upon any of the state highways, or in any way
186 interfere with the ordinary travel upon such highways, or the
187 construction, reconstruction or maintenance thereof, and to make
188 reasonable rules and regulations for the proper control thereof.
189 Any violation of such rules or regulations or noncompliance with
190 such ordinances shall constitute a misdemeanor.

191 Whenever the order of the department shall require the
192 removal of, or other changes in the location of telephone,
193 telegraph, or other poles, signboards, gas, water, sewerage, oil
194 or other pipelines; or other similar obstructions on the
195 right-of-way or such other places where removal is required by
196 law, the owners thereof shall at their own expense move or change
197 the same to conform to the order of the department. Any violation
198 of such rules or regulations or noncompliance with such orders
199 shall constitute a misdemeanor;

200 (f) To regulate and abandon grade crossings on any road
201 fixed as a part of the state highway system, and whenever the
202 department, in order to avoid a grade crossing with the railroad,
203 locates or constructs said road on one side of the railroad, the
204 department shall have the power to abandon and close such grade
205 crossing, and whenever an underpass or overhead bridge is

206 substituted for a grade crossing, the department shall have power
207 to abandon such grade crossing and any other crossing adjacent
208 thereto. Included in the powers herein granted shall be the power
209 to require the railroad at grade crossings, where any road of the
210 state highway system crosses the same, to place signal posts with
211 lights or other warning devices at such crossings at the expense
212 of the railroad, and to regulate and abandon underpass or overhead
213 bridges and, where abandoned because of the construction of a new
214 underpass or overhead bridge, to close such old underpass or
215 overhead bridge, or, in its discretion, to return the same to the
216 jurisdiction of the county board of supervisors;

217 (g) To make proper and reasonable rules and regulations
218 to control the cutting or opening of the road surfaces for
219 subsurface installations;

220 (h) To make proper and reasonable rules and regulations
221 for the removal from the public rights-of-way of any form of
222 obstruction, to cooperate in improving their appearance, and to
223 prescribe minimum clearance heights for seed conveyors, pipes,
224 passageways or other structure of private or other ownership above
225 the highways;

226 (i) To establish, * * * maintain and operate, and to
227 cooperate with the state educational institutions in establishing,
228 enlarging, maintaining and operating a laboratory or laboratories
229 for testing materials and for other proper highway purposes;

230 (j) To provide, under the direction and with the
231 approval of the Department of Finance and Administration, suitable
232 offices, shops and barns in the City of Jackson;

233 (k) To establish and have enforced set-back
234 regulations;

235 (l) To cooperate with proper state authorities in
236 producing limerock for highway purposes and to purchase same at
237 cost;

238 (m) To provide for the purchase of necessary equipment
239 and vehicles and to provide for the repair and housing of same, to

240 acquire by gift, purchase, condemnation or otherwise, land or
241 lands and buildings in fee simple, and to authorize the
242 Transportation Department to construct, lease or otherwise provide
243 necessary and proper permanent district offices for the
244 construction and maintenance divisions of the department, and for
245 the repair and housing of the equipment and vehicles of the
246 department; however, in each Supreme Court district only two (2)
247 permanent district offices shall be set up, but a permanent status
248 shall not be given to any such offices until so provided by act of
249 the Legislature and in the meantime, all shops of the department
250 shall be retained at their present location. As many local or
251 subdistrict offices, shops or barns may be provided as is
252 essential and proper to economical maintenance of the state
253 highway system;

254 (n) To cooperate with the Department of Archives and
255 History in having placed and maintained suitable historical
256 markers, including those which have been approved and purchased by
257 the State Historical Commission, along state highways, and to have
258 constructed and maintained roadside driveways for convenience and
259 safety in viewing them when necessary; however, no highway or
260 bridge shall ever be memorialized to a man while living;

261 (o) To cooperate, in its discretion, with the
262 Mississippi Department of Wildlife, Fisheries and Parks in
263 planning and constructing roadside parks upon the right-of-way of
264 state highways, whether constructed, under construction, or
265 planned; said parks to utilize where practical barrow pits used in
266 construction of state highways for use as fishing ponds. Said
267 parks shall be named for abundant flora and fauna existing in the
268 area or for the first flora or fauna found on the site;

269 (p) Unless otherwise prohibited by law, to make such
270 contracts and execute such instruments containing such reasonable
271 and necessary appropriate terms, provisions and conditions as in
272 its absolute discretion it may deem necessary, proper or
273 advisable, for the purpose of obtaining or securing financial

274 assistance, grants or loans from the United States of America or
275 any department or agency thereof, including contracts with several
276 counties of the state pertaining to the expenditure of such funds;

277 (q) To cooperate with the Federal Highway
278 Administration in the matter of location, construction and
279 maintenance of the Great River Road, to expend such funds paid to
280 the department by the Federal Highway Administration or other
281 federal agency, and to * * * erect suitable signs marking this
282 highway, the cost of such signs to be paid from state highway
283 funds other than earmarked construction funds;

284 (r) To cooperate, in its discretion, with the
285 Mississippi Forestry Commission and the School of Forestry,
286 Mississippi State University, in a forestry management program,
287 including planting, thinning, cutting and selling, upon the
288 right-of-way of any highway, constructed, acquired or maintained
289 by the Transportation Department, and to sell and dispose of any
290 and all growing timber standing, lying or being on any
291 right-of-way acquired by the department for highway purposes in
292 the future; such sale or sales to be made in accordance with the
293 sale of personal property which has become unnecessary for public
294 use as provided for in Section 65-1-123, Mississippi Code of 1972;

295 (s) To expend funds in cooperation with the Division of
296 Plant Industry, Mississippi Department of Agriculture and
297 Commerce, the United States Government or any department or agency
298 thereof, or with any department or agency of this state, to
299 control, suppress or eradicate serious insect pests, rodents,
300 plant parasites and plant diseases on the state highway
301 rights-of-way;

302 (t) To provide for the placement, erection and
303 maintenance of motorist services business signs and supports
304 within state highway rights-of-way in accordance with current
305 state and federal laws and regulations governing the placement of
306 traffic control devices on state highways, and to establish and
307 collect reasonable fees from the businesses having information on

308 such signs;

309 (u) To request and to accept the use of persons
310 convicted of an offense, whether a felony or a misdemeanor, for
311 work on any road construction, repair or other project of the
312 Transportation Department. The department also may request
313 and * * * accept the use of persons who have not been convicted of
314 an offense but who are required to fulfill certain court-imposed
315 conditions pursuant to Section 41-29-150(d)(1) or 99-15-26, or the
316 Pretrial Intervention Act, being Sections 99-15-101 through
317 99-15-127. The department may enter into any agreements with the
318 Department of Corrections, the State Parole Board, any criminal
319 court of this state, and any other proper official regarding the
320 working, guarding, safekeeping, clothing and subsistence of such
321 persons performing work for the Transportation Department. Such
322 persons shall not be deemed agents, employees or involuntary
323 servants of the Transportation Department while performing such
324 work or while going to and from work or other specified areas;

325 (v) To provide for the administration of the railroad
326 revitalization program pursuant to Section 57-43-1, et seq.;

327 (w) * * * To expend funds for the purchase of service
328 pins for employees of the Mississippi Transportation Department;

329 (x) To cooperate with the State Tax Commission by
330 providing for weight enforcement field personnel to collect and
331 assess taxes, fees and penalties and to perform all duties as
332 required pursuant to Sections 27-19-1 et seq., 27-55-1 et seq.,
333 27-57-301 et seq., 27-59-1 et seq. and 27-61-1 et seq., with
334 regard to vehicles subject to the jurisdiction of the Office of
335 Weight Enforcement. All collections and assessments shall be
336 transferred daily to the State Tax Commission.

337 * * *

338 SECTION 4. Section 65-1-9, Mississippi Code of 1972, is
339 amended as follows:

340 65-1-9. The Governor shall appoint an Executive Director of
341 the Mississippi Department of Transportation for a term of office

342 beginning on April 1, 2000. The person serving as Executive
343 Director of the Mississippi Department of Transportation on
344 December 31, 1999, shall serve until April 1, 2000, as the
345 Executive Director of the Mississippi Department of
346 Transportation, and thereafter shall be eligible for reappointment
347 to the position of Executive Director of the Mississippi
348 Department of Transportation. Succeeding terms shall expire on
349 April 1 each four (4) years thereafter. The executive director
350 may be removed by the Governor pursuant to Section 25-9-101 et
351 seq. All appointments by the Governor shall be with the advice
352 and consent of the Senate. The Governor shall submit his
353 appointment to the Senate not later than March 1 of the year in
354 which a term expires, and if such submission is not made by March
355 1, the incumbent director shall be deemed to have been reappointed
356 for a four-year term. In the event a vacancy occurs from
357 resignation, death or removal from office by the Governor, the
358 Governor shall submit his appointment for the unexpired term to
359 the Senate not later than the next March 1 after such vacancy
360 occurs. * * * The executive director shall be eligible for
361 reappointment. The executive director shall have the following
362 qualifications:

- 363 (a) Possess a wide knowledge of the transportation
364 system and needs of Mississippi;
- 365 (b) Possess a wide knowledge of the principles of
366 transportation organization and administration; and
- 367 (c) Possess selected training or expertise in the field
368 of transportation.

369 No person who * * * has been a member of the Transportation
370 Commission * * * within two (2) years next preceding his
371 appointment, shall be eligible to be chosen as executive director
372 of the department. The executive director shall be the executive
373 officer of the department and shall * * * give his entire time to
374 the duties of his office. Before entering upon the duties of his
375 office, the executive director shall give bond to the State of

376 Mississippi in the sum of Fifty Thousand Dollars (\$50,000.00),
377 conditioned upon the faithful discharge and performance of his
378 official duty. The principal and surety on such bond shall be
379 liable thereunder to the state for double the amount of value of
380 any money or property which the state may lose, if any, by reason
381 of any wrongful or criminal act of the executive director. Such
382 bond * * * shall be approved by and filed with the Secretary of
383 State, and the premium thereon shall be paid from any funds
384 available to the department.

385 SECTION 5. Section 65-1-10, Mississippi Code of 1972, is
386 amended as follows:

387 65-1-10. * * * The Executive Director of the Mississippi
388 Department of Transportation shall:

389 (a) Unless otherwise provided by law, appoint a
390 director in charge of each operating office of the department who
391 shall be responsible to the executive director for the operation
392 of such office. Each such director shall be qualified and
393 experienced in the functions performed by the office under his
394 charge;

395 (b) Administer the policies promulgated by the
396 department;

397 (c) Supervise and direct all administrative and
398 technical activities of the department;

399 (d) Organize the offices and bureaus of the department;

400 (e) Coordinate the activities of the various offices of
401 the department;

402 (f) Fix the compensation of employees of the department
403 and require any employee to give bond to the State of Mississippi
404 for the faithful performance of his duties in an amount the
405 executive director deems appropriate. Premiums on all bonds so
406 required shall be paid out of any funds available to the
407 department;

408 (g) Recommend such studies and investigations as he may
409 deem appropriate and carry out the approved recommendations in

410 conjunction with the various offices;

411 (h) Prepare and deliver to the Legislature and the
412 Governor on or before January 1 of each year, and at such other
413 times as may be required by the Legislature or Governor, a full
414 report of the work of the department and the offices thereof,
415 including a detailed statement of expenditures of the department
416 and any recommendations the department may have.

417 (i) Have full and general supervision over all matters
418 relating to the construction or maintenance of the state highways,
419 letting of contracts therefor, and the selection of materials to
420 be used in the construction of state highways under the authority
421 conferred by this chapter as herein set forth and the employment,
422 promotion, demotion, reprimand, suspension, termination,
423 reassignment, transfer, moving or relocation of all personnel not
424 specifically authorized by statute to be employed by the
425 department. The executive director may authorize the payment of
426 expenses of any personnel reassigned, transferred, moved or
427 relocated in accordance with such rules and regulations as are
428 promulgated by the department;

429 (j) Approve all bids, sign all vouchers and
430 requisitions, issue all orders for supplies and materials, sign
431 all contracts and agreements in the name of the State of
432 Mississippi, and subscribe to all other matters which may arise in
433 the carrying out of the intent and purpose of this chapter;

434 (k) Receive and assume control, for the benefit of the
435 state, of any and all highways herein or hereafter fixed as roads
436 constituting a part of the state highway system;

437 (l) Provide for boulevard stops, restricted entrances
438 to main highways and access driveways, neutral grounds, and
439 roadside parks, erect all suitable direction and warning signs,
440 and provide access roads in or to municipalities where necessary;
441 provide limited access facilities when and where deemed necessary,
442 such a facility being defined as a highway or street especially
443 designed or designated for through traffic and over, from or to

444 which owners or occupants of abutting land or other persons have
445 only such limited right or easement of access as may be prescribed
446 by the department, and provide that certain highways or streets
447 may be parkways from which trucks, buses and other commercial
448 vehicles shall be excluded or may be freeways open to customary
449 forms of highway and street traffic and use, and such limited
450 access facilities or parkways may be planned, designated,
451 established, regulated, vacated, altered, improved, constructed
452 and maintained and rights-of-way therefor specifically obtained,
453 either by purchase, gift, condemnation or other form of
454 acquisition;

455 (m) Construct bridges with or without footways, and
456 sidewalks where deemed essential to decrease hazards;

457 (n) Perform services for the Department of Finance and
458 Administration on state property, including, but not limited to,
459 engineering services, and to advance such funds to defray the cost
460 of the expenses incurred in performing such services from out of
461 transportation department funds until such department is
462 reimbursed by the Department of Finance and Administration;

463 (o) Perform all duties authorized by Section 27-19-136
464 concerning the assessment and collection of permit fees, fines and
465 penalties.

466 SECTION 6. Section 65-1-11, Mississippi Code of 1972, is
467 amended as follows:

468 65-1-11. The executive director * * * shall employ a chief
469 engineer who shall be a registered civil engineer, a graduate of a
470 recognized school of engineering, and who shall have had not less
471 than five (5) years' actual professional experience in highway
472 construction. The chief engineer shall also be deputy executive
473 director of the transportation department and shall act as
474 executive director in case of the illness or disability of the
475 executive director or his absence from the state. The chief
476 engineer while acting as executive director of the transportation
477 department shall be invested with the same power and authority as

478 the executive director himself. The chief engineer shall give
479 bond in the sum of Fifty Thousand Dollars (\$50,000.00) in some
480 surety company authorized to do business in this state, which bond
481 shall be conditioned upon the faithful performance and discharge
482 of his duties. The principal and surety on such bond shall be
483 liable thereunder to the State of Mississippi for double the
484 amount of the value of any money or property which the state may
485 lose, if any, by reason of any wrongful or criminal act of such
486 engineer. The term of office of the chief engineer shall be for a
487 period of four (4) years, unless sooner removed as hereinafter
488 provided, and he shall be eligible for reappointment. The first
489 term of office, however, shall extend from the date of appointment
490 until the first Monday of January, 1952.

491 SECTION 7. Section 65-1-15, Mississippi Code of 1972, is
492 amended as follows:

493 65-1-15. The executive director shall employ a secretary
494 whose salary shall be fixed by the executive director, subject to
495 approval by the State Personnel Board, and shall require the
496 secretary to keep the proper minute books, order books and other
497 proper books. The secretary shall be the custodian of all books,
498 records or other papers of the department. All of such books,
499 records and papers shall be public records and open to inspection
500 by the public during business hours. * * * The executive director
501 and the secretary may make certified copies of any proceedings of
502 the department, any of its books or papers, or extracts therefrom.

503 Such copy shall bear the signature of the officer giving it and
504 also the seal of the Mississippi Department of Transportation, and
505 such copies shall be admitted in evidence equally with the
506 originals thereof in all courts of this state. * * * The
507 executive director may take and hear testimony. The seal shall be
508 the coat of arms of the State of Mississippi, surrounded by the
509 words "Mississippi Department of Transportation." In the event
510 that the original seal should be stolen, lost or misplaced, the
511 executive director shall have the power to secure a duplicate

512 seal. The secretary shall be the custodian of the seal and shall
513 do and perform all other things which may be properly required of
514 him by the executive director. * * * He shall give bond in the
515 sum of not less than Fifty Thousand Dollars (\$50,000.00),
516 conditioned as required by law. Except for warrant requisitions
517 drawn in accordance with the provisions of Section 65-1-115, all
518 proceedings of the department shall be entered upon the minutes of
519 the department in a minute book to be provided and kept for that
520 purpose, which minutes shall be signed by the executive director
521 or the deputy executive director and by the secretary. The pages
522 of the minute book shall be numbered consecutively by the
523 bookmaker. The secretary of the department shall be an ex officio
524 notary public, authorized to administer oaths and take
525 acknowledgments in the same manner and to the same extent as any
526 other duly appointed, qualified, commissioned and acting notary
527 public, and the seal of the Transportation Department shall be his
528 seal as such ex officio notary public. The bond premium of the
529 secretary shall be paid from any funds available to the
530 department.

531 SECTION 8. Section 65-1-23, Mississippi Code of 1972, is
532 amended as follows:

533 65-1-23. The Mississippi Department of Transportation may
534 erect and construct upon the land hereinafter described a testing
535 laboratory, machine shops, and other necessary buildings, and to
536 expend for such purpose an amount not to exceed Three Hundred
537 Thousand Dollars (\$300,000.00) out of any funds which may be
538 available for such purpose in the State Highway Fund.

539 The Department of Finance and Administration shall select a
540 suitable tract of land, ten (10) acres in area, from any
541 state-owned lands located in or near the City of Jackson,
542 Mississippi, and not now being used for public purposes. The
543 laboratory shops and other buildings specified in this section
544 shall be erected on the land so selected, which said land is
545 hereby set aside and allocated to the Transportation Department

546 for the purposes herein specified.

547 SECTION 9. Section 65-1-25, Mississippi Code of 1972, is
548 amended as follows:

549 65-1-25. The Mississippi Department of Transportation may
550 enter into or ratify agreements with the transportation
551 departments of the adjoining states for the construction or
552 maintenance, or both, of connections on any part of the interstate
553 highway system, state designated highway system or state aid road
554 system at or near the boundaries of the State of Mississippi, the
555 cost of such construction and maintenance to be apportioned
556 between the states according to the benefits to be derived by each
557 of the states as determined by such agreements.

558 The powers conferred by this section are supplemental to any
559 other powers of the department as otherwise provided by law.

560 SECTION 10. Section 65-1-27, Mississippi Code of 1972, is
561 amended as follows:

562 65-1-27. The Mississippi Department of Transportation may
563 enter into or ratify cooperative agreements with the various
564 counties and municipalities in any county through which any of the
565 highways on the interstate highway system, the state designated
566 highway system or the state aid road system may traverse for the
567 construction or maintenance, or both, of connections between such
568 systems and county roads or streets of the municipalities, or
569 interconnections between such systems, the cost of the
570 construction and maintenance of such connections to be apportioned
571 between the Transportation Department and the county or
572 municipality according to the benefits to be derived by each as
573 determined by such agreement or agreements.

574 The powers conferred by this section are supplemental to the
575 powers of the department as otherwise provided by law.

576 SECTION 11. Section 65-1-29, Mississippi Code of 1972, is
577 amended as follows:

578 65-1-29. The authority granted the Mississippi Department of
579 Transportation under provisions of this chapter, shall include the

580 right to enter into agreements with the United States Government,
581 or any agency thereof, for the alteration, relocation,
582 reconstruction, or abandonment of state highways or any portion
583 thereof, and conveyance of whatever rights and interests the state
584 owns in property acquired for the purposes of said statutes, or
585 any portion or interest thereof, where the same are necessary for
586 the construction of flood control, navigation, drainage, or
587 National Aeronautics and Space Agency projects approved and
588 adopted by the United States Government or any agency thereof.

589 Upon proper authorization by the executive director, the
590 Mississippi Department of Transportation may execute a quitclaim
591 deed selling and conveying the above rights and interests. Said
592 deed shall be delivered to the purchaser upon the payment of the
593 consideration agreed upon, and such consideration shall be
594 deposited in the State Treasury to the credit of the State Highway
595 Fund.

596 Such agreements and conveyances shall be upon a consideration
597 deemed reasonable by the executive director and the agency of the
598 United States Government affected, provided that no part of this
599 section is intended to alter or change in any way the existing
600 immunity from certain actions of the state or the United States.

601 The consideration above shall include the expense of creating
602 and maintaining any necessary detours, and the same shall be
603 created and maintained as provided in the above mentioned
604 agreement.

605 SECTION 12. Section 65-1-31, Mississippi Code of 1972, is
606 amended as follows:

607 65-1-31. Whereas, the public convenience requires that
608 certain roads located on levees or within the boundaries of flood
609 control districts created and presently maintained by the federal
610 government, or other governmental authorities, be taken over
611 temporarily by the Mississippi Department of Transportation, and
612 whereas, the public purpose for which said flood control districts
613 were established requires that such roads be limited to certain

614 widths and restrictions in the public interest, it is the sense of
615 the Legislature that the Transportation Department should be
616 authorized to take over and maintain such roads as temporary state
617 highways, subject to the restrictions imposed by the governmental
618 authorities establishing such flood control districts.

619 The Mississippi Department of Transportation, therefore, is
620 hereby authorized to take over and maintain as temporary state
621 highways, for such period and under such terms and conditions as
622 the department may in its discretion prescribe any road designated
623 by the Legislature as a state highway and located on the levee of
624 a flood control district, and in so doing shall not be required to
625 obtain a right-of-way of more than thirty (30) feet on such type
626 of road, may permit the use of cattle gaps and fencing thereon,
627 and may accept from the federal authorities or other governmental
628 unit having jurisdiction over such flood control district an
629 easement for said road.

630 The purpose of this section is to enable the state to take
631 over temporarily for maintenance roads designated as state
632 highways located on levees and with less than sixty (60) feet
633 right-of-way.

634 SECTION 13. Section 65-1-33, Mississippi Code of 1972, is
635 amended as follows:

636 65-1-33. The Mississippi Department of Transportation may
637 take over, maintain, and operate, as a part of the state highway
638 system under its jurisdiction, any ferry now owned by and operated
639 by, for, or under the authority of any county, county district, or
640 municipality in this state where such ferry is located upon, or is
641 a necessary link of, any designated state highway being maintained
642 by the department, if such county, county district, or
643 municipality will transfer to said department all property, real
644 and personal, used by it in the operation of such ferry. In event
645 any such ferries be so taken over by the department, no toll or
646 fee shall be charged for the use thereof by the public, and all
647 costs of operation and maintenance shall be paid out of the State

648 Highway Maintenance Fund.

649 Any county, county district, or municipality in this state
650 now owning a ferry which the Transportation Department may desire
651 to take over under the provisions of this section is hereby
652 authorized to transfer to the Transportation Department any and
653 all property, real and personal, used by it in the operation of
654 such ferry, without further consideration than the acceptance of
655 the same for public use, pursuant to an order of its governing
656 authority. Any such property so taken over by the department
657 which may thereafter become unnecessary to the maintenance of
658 traffic over the highway may be disposed of by the department, in
659 its discretion, and the proceeds paid into the State Highway
660 Maintenance Fund.

661 SECTION 14. Section 65-1-35, Mississippi Code of 1972, is
662 amended as follows:

663 65-1-35. The Mississippi Department of Transportation shall
664 take over for maintenance and construction, with its own funds,
665 any road formerly maintained as a part of the state highway system
666 leading to an air base, which air base is to be reactivated.

667 SECTION 15. Section 65-1-37, Mississippi Code of 1972, is
668 amended as follows:

669 65-1-37. The Mississippi Department of Transportation may
670 construct, repair and maintain the driveways and streets on the
671 grounds of the universities and colleges under the jurisdiction of
672 the Board of Trustees of the State Institutions of Higher
673 Learning, state, and/or county supported junior/community
674 colleges, the state hospitals, and institutions under the
675 jurisdiction of the Board of Trustees of Mental Institutions, the
676 Board of Trustees of the Columbia Training School and Oakley
677 Training School, * * * the Mississippi Schools for the Deaf and
678 Blind, and the Department of Wildlife, Fisheries and Parks in the
679 manner provided herein, including bypasses to connect said
680 driveways and streets with roads on the state highway system, and
681 the main thoroughfare running east and west through the grounds of

682 the Mississippi Penitentiary, provided said institutions obtain
683 the necessary rights-of-way, said institutions being hereby
684 authorized so to do.

685 The Transportation Department and the governing boards of
686 said institutions shall enter into an agreement prior to
687 undertaking any of the work mentioned in the first paragraph of
688 this section, and said agreement shall be based on the
689 Transportation Department's furnishing equipment, equipment
690 operators, skilled labor, supervision, and engineering services,
691 and the governing bodies of the aforementioned institutions shall
692 furnish material, supplies and common labor. This agreement shall
693 further provide for reimbursement of the Mississippi * * *
694 Department of Transportation, in full, for the expenditures
695 incurred in the construction, repair and maintenance of driveways
696 and streets at the institutions hereinabove mentioned, such
697 reimbursement to be made directly to the Transportation Department
698 from the institutions. Upon the execution of an agreement as set
699 out herein, the Transportation Department may provide all the
700 necessary engineering, supervision, skilled labor, equipment, and
701 equipment operators to perform such work.

702 SECTION 16. Section 65-1-39, Mississippi Code of 1972, is
703 amended as follows:

704 65-1-39. The Mississippi Department of Transportation may
705 take over, assume jurisdiction of, maintain, repair, and improve
706 the public highways under the jurisdiction of the Department of
707 Highways of the State of Louisiana on Australia Island, and to
708 enter into such agreements with the Department of Highways of the
709 State of Louisiana as the Mississippi Department of Transportation
710 shall deem necessary, proper, and advisable, provided that the
711 Mississippi Department of Transportation is reimbursed for the
712 expenditures incurred in the maintenance, repair, and improvement
713 of said roads.

714 The powers conferred by this section are supplementary to the
715 powers of the Transportation Department as otherwise provided by

716 law and are not intended in anywise to conflict with the same.

717 SECTION 17. Section 65-1-41, Mississippi Code of 1972, is
718 amended as follows:

719 65-1-41. The Mississippi Department of Economic and
720 Community Development is hereby authorized and directed to select
721 and designate certain links of roads or highways to connect any
722 and all approved, acceptable and selected industrial sites that
723 may be located at any point not now accessible to adequate
724 highways and road facilities, and shall issue a certificate of
725 public convenience and necessity to the effect that such
726 designated and selected link of highway or road should be
727 constructed in order to encourage and promote the industrial
728 development of any port or harbor area or other industrial site,
729 and shall immediately file such certificate of public convenience
730 and necessity with the Executive Director of the Mississippi
731 Department of Transportation. However, the Mississippi Department
732 of Economic and Community Development shall not select and
733 designate any such link of road or highway until such time as the
734 department shall have satisfactory evidence that an industry
735 desires and intends to locate on such site, and that the location
736 of such industry and the construction of such road or highway is
737 economically feasible. Construction of any such road shall not
738 begin until the location and construction of such industry is
739 assured and contracts made between the industry and the local
740 authority.

741 When a certificate of public convenience and necessity has
742 been filed with the Executive Director of the Mississippi
743 Department of Transportation as herein required, the executive
744 director shall proceed to locate, survey and have constructed such
745 link or highway or public road in such quality and standards as
746 may be found to adequately serve such proposed industry.

747 The Mississippi Department of Economic and Community
748 Development shall not select or designate any link of public road
749 or highway more than ten (10) miles long to connect any industrial

750 site, harbor or port facility with any existing public road or
751 highway, nor shall such board designate or select any link or
752 links of road in an excess of a total of two hundred (200) miles
753 of highways or public roads.

754 Any highway or public road selected, designated and
755 constructed under the provisions of this section shall be
756 constructed from the highway fund within which highway district
757 such highway or road has been selected, designated and
758 constructed.

759 The provisions of this section shall not be construed to
760 alter, change or amend any other statutes of the State of
761 Mississippi designating highways, state-aid roads or other public
762 roads, and any limitations placed upon the total miles of such
763 highways, state-aid roads, or public roads shall not be affected
764 by the provisions of this section.

765 SECTION 18. Section 65-1-43, Mississippi Code of 1972, is
766 amended as follows:

767 65-1-43. When it is deemed feasible and advisable to promote
768 the tourist industry of the State of Mississippi by providing more
769 attractions as would be available in development of offshore
770 islands, the Mississippi Department of Transportation may make
771 costs and feasibility surveys for toll highways and bridges to
772 offshore islands.

773 The department may employ expert engineering and economic
774 assistance for such surveys when it is deemed advisable by the
775 executive director. The department is limited to a maximum amount
776 of Fifty Thousand Dollars (\$50,000.00) for the purpose of carrying
777 out the provisions of this section.

778 In the event that any bonds are issued as a result of the
779 feasibility surveys authorized under the provisions of this
780 section, the department shall be reimbursed for all of the
781 expenditures authorized herein, and said expenditures shall be
782 paid from the first proceeds of any bond issue herein.

783 SECTION 19. Section 65-1-45, Mississippi Code of 1972, is

784 amended as follows:

785 65-1-45. The Mississippi Department of Transportation may
786 restrict or prohibit the use of any state highway or bridge or to
787 reduce the allowable weight permitted on any state highway or
788 bridge when, due to any special weather or other hazard, such
789 highways or bridges have been weakened or when such highways have
790 substandard surfacing or weak bridges due to any cause. Likewise,
791 the board of supervisors of any county shall have the same
792 regulatory powers as granted the * * * department in this section.

793 It shall be the duty of the department and the boards of
794 supervisors of the counties to post sufficient warning on any
795 highway or bridge restricted in any manner, so that such
796 restriction may be understood by the operator of any vehicle. Any
797 person who shall operate a vehicle on any highway, road, or bridge
798 when such highway, road, or bridge is under restriction, in
799 violation of such restriction, shall be guilty of a misdemeanor
800 and shall be punished in accordance with the provisions of Section
801 63-9-11, providing for the punishment of misdemeanors.

802 SECTION 20. Section 65-1-46, Mississippi Code of 1972, is
803 amended as follows:

804 65-1-46. (1) There is created an Appeals Board of the
805 Mississippi Department of Transportation. If any person feels
806 aggrieved by a penalty for excess weight assessed against him by
807 an agent or employee of the Mississippi Department of
808 Transportation pursuant to Section 27-19-89, he may apply to the
809 appeals board.

810 (2) The members serving on the appeals board on April 7,
811 1995, shall continue to serve until July 1, 1995. On July 1,
812 1995, the appeals board shall be reconstituted to be composed of
813 five (5) qualified people. The initial appointments to the
814 reconstituted board shall be made no later than June 30, 1995, for
815 terms to begin July 1, 1995, as follows: One (1) member shall be
816 appointed by the Governor for a term ending on June 30, 1996, one
817 (1) member shall be appointed by the Lieutenant Governor for a

818 term ending on June 30, 1997, one (1) member shall be appointed by
819 the Attorney General for a term ending on June 30, 1998, one (1)
820 member shall be appointed by the Chairman of the State Tax
821 Commission for a term ending on June 30, 1999, and one (1) member
822 shall be appointed by the Executive Director of the Mississippi
823 Department of Transportation for a term ending on June 30, 2000.
824 After the expiration of the initial terms of the members of the
825 reconstituted board, all subsequent appointments shall be made for
826 terms of four (4) years from the expiration date of the previous
827 term. Any member serving on the appeals board before July 1,
828 1995, may be reappointed to the reconstituted appeals board.
829 Appointments to the board shall be with the advice and consent of
830 the Senate; however, the advice and consent of the Senate shall
831 not be required for the appointment of a person to the
832 reconstituted appeals board for a term beginning on July 1, 1995,
833 if such person was serving as a member of the appeals board on
834 June 30, 1995, and such person received the advice and consent of
835 the Senate for that appointment.

836 (3) There shall be a chairman and vice chairman of the board
837 who shall be elected by and from the membership of the board. Any
838 member who fails to attend three (3) consecutive regular meetings
839 of the board shall be subject to removal by a majority vote of the
840 board. A majority of the members of the board shall constitute a
841 quorum. The chairman, or a majority of the members of the board,
842 may call meetings as may be required for the proper discharge of
843 the board's duties. Members of the board, except a member who is
844 an officer or employee of the Mississippi Department of
845 Transportation, shall receive per diem in the amount authorized by
846 Section 25-3-69, for each day spent in the actual discharge of
847 their duties and shall be reimbursed for mileage and actual
848 expenses incurred in the performance of their duties in accordance
849 with the provisions of Section 25-3-41.

850 Application shall be made by petition in writing, within
851 thirty (30) days after assessment of the penalty, for a hearing

852 and a review of the amount of the assessment. At the hearing the
853 appeals board shall try the issues presented according to the law
854 and the facts and within guidelines set by the Transportation
855 Department. Upon due consideration of all the facts relating to
856 the assessment of the penalty, the appeals board, except as
857 otherwise provided under this section or under Section 27-19-89,
858 may require payment of the full amount of the assessment, may
859 reduce the amount of the assessment or may dismiss imposition of
860 the penalty entirely. The appeals board shall dismiss in its
861 entirety the imposition of any penalty imposed against the holder
862 of a harvest permit if the permittee proves to the appeals board,
863 by clear and convincing evidence, that the average load
864 transported by the permittee during the permittee's last five (5)
865 haul days immediately preceding the day upon which the penalty
866 appealed from was assessed did not exceed eighty thousand (80,000)
867 pounds. The appeals board shall reduce the penalty assessed
868 against the holder of a harvest permit to a maximum of Two Cents
869 (2¢) per pound of overweight if the permittee proves to the
870 appeals board, by clear and convincing evidence, that the average
871 load transported by the permittee during the permittee's last five
872 (5) haul days immediately preceding the day upon which the penalty
873 appealed from was assessed exceeded seventy-nine thousand nine
874 hundred ninety-nine (79,999) pounds but did not exceed eighty-four
875 thousand (84,000) pounds. The board shall make such orders in the
876 matter as appear to it just and lawful and shall furnish copies
877 thereof to the petitioner. If the appeals board orders the
878 payment of the penalty, the petitioner shall pay the penalty,
879 damages and interest, if any, within ten (10) days after the order
880 is issued unless there is an application for appeal from the
881 decision of the board as provided in the succeeding paragraph.
882 Interest shall accrue on the penalty at the rate of one percent
883 (1%) per month, or part of a month, beginning immediately after
884 the expiration of the ten-day period.

885 If any person feels aggrieved by the decision of the appeals

886 board, he may appeal the decision to the Chancery Court of the
887 First Judicial District of Hinds County.

888 SECTION 21. Section 65-1-47, Mississippi Code of 1972, is
889 amended as follows:

890 65-1-47. The Mississippi Department of Transportation shall
891 have complete authority to issue rules, regulations and orders
892 under which the * * * department shall have control and
893 supervision, with full power and authority under rules,
894 regulations and orders issued by the department, to locate,
895 relocate, widen, alter, change, straighten, construct or
896 reconstruct any and all roads on the state highway system
897 heretofore or hereafter taken over by it for maintenance as a part
898 of such system, and shall have full and complete authority for
899 regulating the making of all contracts, surveys, plans,
900 specifications and estimates for the location, laying out,
901 widening, straightening, altering, changing, constructing,
902 reconstructing and maintaining of and the securing of
903 rights-of-way for any and all such highways, and to authorize the
904 employees of the * * * department to enter upon private property
905 for such purposes.

906 The Mississippi Department of Transportation, under the
907 rules, regulations and orders spread upon the minutes of the
908 department, may obtain and pay for the rights-of-way of such width
909 as it may determine to be necessary for such highway or for any
910 alteration or change therein or relocation thereof by agreement
911 with the owners of such lands. Rights-of-way of not less than
912 sixty (60) feet wide shall be acquired except within the
913 boundaries of towns and cities where unusual conditions exist, in
914 which case the department may obtain and pay for such
915 rights-of-way of such width as it may determine to be necessary.
916 The department may have condemned any and all land or other
917 property needed for such purposes or either of them; may have
918 condemned or acquired by gift or purchase lands containing road
919 building materials and develop and operate pits, mines or other

920 properties for the purpose of obtaining road material; and have
921 condemned or acquired by gift or purchase lands necessary for the
922 safety and convenience of traffic.

923 The department, in case an agreement cannot be reached with
924 the owners of land containing road building materials or of any
925 additional land necessary for widening any existing public
926 highways, for laying out a new public highway, or for changing the
927 route of an existing public highway, as provided in the foregoing
928 part of this section, shall be authorized to have condemned any
929 land needed for either of said purposes, as is fully set forth in
930 this section. The proceedings to acquire such lands by a
931 condemnation shall be in conformity with the statutes on the
932 subject of "eminent domain," the power of eminent domain being
933 hereby expressly conferred upon the department for such purposes.
934 Such proceedings shall take precedence over all other causes not
935 involving the public interest in all courts and shall be given
936 preference to the end that construction and reconstruction of
937 highways hereunder may not be unreasonably delayed. The amount of
938 such compensation and damages, if any, awarded to the owner in
939 such proceedings shall be paid out of the State Highway Fund. The
940 authorities constructing such highway, under the authority as
941 provided in this section, shall use diligence to protect growing
942 crops and pastures and to prevent damage to any property not
943 taken. So far as possible, all rights-of-way shall be acquired or
944 contracted for before any construction contract work order is
945 issued.

946 The estate which the Transportation Department may acquire by
947 deed or condemnation as set forth above shall include all rights,
948 title and interest in and to the lands or property being acquired,
949 excepting and excluding all the oil and gas therein or thereunder
950 and such other rights, title or interest which are expressly
951 excepted and reserved to the property owner, his successors, heirs
952 or assigns in the deed or condemnation petition by which the
953 property is acquired. Any property interest acquired may be in

954 unlimited vertical dimension. The department shall decide what
955 right, title and interest are necessary for highway purposes on
956 each particular project and may, by order on its minutes,
957 authorize its agents to expressly except all or any others.

958 SECTION 22. Section 65-1-49, Mississippi Code of 1972, is
959 amended as follows:

960 65-1-49. The conveyance or assignment of easements for
961 highway purposes may be made by the owner thereof to the
962 Mississippi Department of Transportation or the board of
963 supervisors of any county for highway purposes. All actions by
964 any person owning any interest in the land involved in such
965 conveyance or assignment accruing as a result thereof must be
966 brought within three (3) years after the date of such conveyance
967 or assignment; provided, however, that the land involved is
968 actually used for highway purposes or notice is posted thereon
969 that it will be used for highway purposes within said three-year
970 period, otherwise said period shall be six (6) years from the date
971 of such conveyance or assignment.

972 The procedure provided hereby with reference to the
973 conveyance or assignment of easements is supplemental to all
974 rights and powers now authorized for and existing under the
975 present law in the department and boards, and is not intended as a
976 limitation on same in any manner.

977 SECTION 23. Section 65-1-51, Mississippi Code of 1972, is
978 amended as follows:

979 65-1-51. The Mississippi Department of Transportation may
980 acquire by gift, purchase, or otherwise, * * * and may improve and
981 maintain strips of land necessary for the restoration,
982 preservation and enhancement of scenic beauty adjacent to the
983 state highway rights-of-way. The department may acquire and * * *
984 develop publicly owned and controlled rest and recreation areas
985 and sanitary and other facilities within or adjacent to the
986 highway right-of-way reasonably necessary to accommodate the
987 traveling public.

988 The Mississippi Department of Transportation may acquire by
989 gift, purchase, or otherwise, including the exercise of eminent
990 domain, public or privately owned wetlands and other lands
991 suitable for creation as wetlands for the purpose of mitigating
992 wetland losses and replacing those wetlands purchased and damaged
993 or eliminated by development and use, on a basis not to exceed
994 that required by the Federal Highway Administration as a condition
995 for receiving federal aid funds, provided that some governmental
996 agency agrees, without compensation, to accept title to the lands
997 acquired and maintain such lands as wetlands in perpetuity.
998 However, the department shall replace those coastal wetlands
999 purchased and damaged or eliminated by development and use on the
1000 basis required by the "Coastal Wetlands Protection Law" and
1001 regulations promulgated thereunder by the Department of Wildlife,
1002 Fisheries and Parks.

1003 SECTION 24. Section 65-1-57, Mississippi Code of 1972, is
1004 amended as follows:

1005 65-1-57. It shall be the duty of the Transportation
1006 Department to issue rules and regulations for the construction of
1007 all secondary roads, when taken over for construction and
1008 maintenance, up to such standard of specifications and with such
1009 surfacing material as the department may determine from a traffic
1010 census of the use and importance thereof as would be justified
1011 from a standpoint of economy and convenience to the traveling
1012 public. To this end the department, in dealing with said
1013 secondary roads, may place surfacing material on said secondary
1014 roads. All secondary roads shall be constructed and maintained
1015 with a view of being eventually hard surfaced as provided for
1016 primary roads.

1017 SECTION 25. Section 65-1-59, Mississippi Code of 1972, is
1018 amended as follows:

1019 65-1-59. (1) It shall be the duty of the Mississippi
1020 Department of Transportation to carry out all contracts and
1021 agreements, including federal-aid projects and agreements under

1022 the County Highway Aid Law of 1946, being Sections 65-11-1 to
1023 65-11-37, heretofore made or entered into with any county,
1024 subject, however, to applicable rules and regulations of the
1025 Federal Highway Administration. It shall be the duty of the
1026 Mississippi Department of Transportation to maintain all state
1027 highways now under maintenance or hereafter taken over for
1028 maintenance, the purpose of this provision being to preserve the
1029 status quo of all state highways insofar as such highways have
1030 been taken over and control and jurisdiction has been assumed by
1031 the Transportation Department; however, except as otherwise
1032 provided in this section, if any highway or link of highway is
1033 removed from the state highway system by legislative act or by
1034 relocation or reconstruction, it shall no longer be maintained by
1035 or be under the jurisdiction of the Transportation Department, but
1036 shall be returned to the jurisdiction of the board of supervisors
1037 of the county or governing authorities of the municipality through
1038 which such road runs. Except as to segments of highways shorter
1039 than three (3) miles which have been or which are hereafter
1040 replaced through curve straightening or minor realignment, the
1041 Transportation Department shall retain and maintain as state
1042 highways all portions of United States highways that either before
1043 or after July 1, 1989, have been or are replaced and constructed
1044 as a part of the interstate highway system, or four-lane primary
1045 system, or which are replaced and constructed or are designated to
1046 be replaced and constructed as part of the four-lane highway
1047 system under Section 65-3-97, including portions of all such
1048 highways so replaced, or which under Section 65-3-97 are
1049 designated to be replaced, by municipal bypasses; and such
1050 highways and portions thereof shall be continued to be maintained
1051 as a part of the Mississippi state highway system until removed
1052 from such system by legislative act. All such highways and
1053 portions thereof which, by virtue of the provisions of this
1054 section, are returned on or after July 1, 1989, to the
1055 jurisdiction of the Transportation Department shall be maintained

1056 by the * * * department only to the traffic capacities existing at
1057 the time that they are returned and any subsequent traffic
1058 capacity improvements or other improvements desired by the county
1059 or municipality within which such highway or portion thereof is
1060 located shall be performed in accordance with highway standards
1061 approved by the department and the expenses for making such
1062 improvements shall be paid by the county or municipality; however,
1063 all highways and portions thereof so improved by the county or
1064 municipality shall thereafter be maintained by the Transportation
1065 Department. Before any highway or portion thereof is returned to
1066 the department under this section, the county or municipality
1067 having jurisdiction thereof shall remove or cause to be removed by
1068 July 1, 1991, all right-of-way encroachments along the entire
1069 length of the highway or portion thereof which are not permitted
1070 by * * * department policies and rules and regulations adopted
1071 pursuant to state and federal law. Any such encroachments may be
1072 allowed to remain only by permits issued by the Transportation
1073 Department in the manner and subject to the same conditions for
1074 the issuance of permits for similar encroachments on other
1075 highways on the state highway system. If traffic counts indicate
1076 that any highway or portions thereof placed under the jurisdiction
1077 of the Transportation Department under the provisions of this
1078 section no longer form a substantial part of the state highway
1079 system, the department may request the Legislature to remove such
1080 highways or portions thereof from the state highway system and
1081 return said roads for maintenance to the county or municipality in
1082 which they are located, as provided in subsection (2) of this
1083 section. The highways which the * * * department is required to
1084 continue to maintain by virtue of the provisions of this section
1085 shall be in addition to the total mileage limitation of eight
1086 thousand six hundred (8,600) miles provided in Section 65-3-3.

1087 (2) The Mississippi Department of Transportation shall, no
1088 later than October 1, 1981, and October 1 each year thereafter,
1089 furnish the Transportation Committee of the House of

1090 Representatives and the Highways and Transportation Committee of
1091 the Senate a recommendation for deletion of those highways or
1092 sections of highways which should be removed from the system.

1093 SECTION 26. Section 65-1-61, Mississippi Code of 1972, is
1094 amended as follows:

1095 65-1-61. * * * The Department of Transportation shall
1096 construct, reconstruct and maintain, at the cost and expense of
1097 the state, all highways under its jurisdiction up to such
1098 standards and specifications and with such surfacing material as
1099 the department may determine, such paving to be done for each
1100 project as rapidly as funds are made available therefor and, as
1101 nearly as practicable, immediately upon the completion of all work
1102 performed pursuant to grade, drainage and bridge contracts for the
1103 project. Such paving shall be done in the order of the relative
1104 use and importance of said highways, as may be determined by the
1105 present and future traffic censuses thereof and other criteria,
1106 taking into consideration their present and future use,
1107 convenience, public necessity, public safety, the recorded
1108 maintenance expense, and their availability as highways through
1109 the state. The type of the paving and surfacing of such highways
1110 shall be determined by the executive director, subject to the
1111 rules, regulations and orders of the department as spread on its
1112 minutes, after a complete study of the traffic requirements based
1113 upon the present and future traffic censuses, taking into
1114 consideration the factors above set forth. However, no highways
1115 shall be constructed, reconstructed, or maintained out of any
1116 patented paving material, regardless of what kind, on which a
1117 direct royalty is paid by the department or any contractor; and
1118 the commission shall not have included in the plans or
1119 specifications for constructing, reconstructing, or maintenance of
1120 any highway the requirements that any material used or specified
1121 shall be laid under any process patented requiring the payment of
1122 a direct royalty for use of such process or patent.

1123 SECTION 27. Section 65-1-63, Mississippi Code of 1972, is

1124 amended as follows:

1125 65-1-63. The Mississippi Department of Transportation shall
1126 construct, with its own funds, into each county seat in the State
1127 of Mississippi which now has no paved access road, a paved road
1128 which will connect said county seat with an existing paved road.

1129 SECTION 28. Section 65-1-65, Mississippi Code of 1972, is
1130 amended as follows:

1131 65-1-65. It shall be the duty of the Mississippi Department
1132 of Transportation to maintain all highways which have been or
1133 which may be hereafter taken over by the * * * department for
1134 maintenance in such a way as to afford convenient, comfortable,
1135 and economic use thereof by the public at all times. To this end
1136 it shall be the duty of the executive director, subject to the
1137 rules, regulations and orders of the department as spread on its
1138 minutes, to organize an adequate and continuous patrol for the
1139 maintenance, repair, and inspection of all of the state-maintained
1140 state highway system, so that said highways may be kept under
1141 proper maintenance and repair at all times.

1142 SECTION 29. Section 65-1-67, Mississippi Code of 1972, is
1143 amended as follows:

1144 65-1-67. The Mississippi Department of Transportation shall
1145 trim with edge lines, of a color and in a manner which conforms
1146 with uniform national standards relating thereto which have been
1147 adopted by the Federal Highway Administration, the edges of all
1148 state-designated hard-surfaced highways which are constructed of
1149 asphaltic material, in the interest of public safety on said
1150 highways. The department shall utilize its engineers and other
1151 Transportation Department employees and to expend available public
1152 funds for carrying out the intent and purposes of this section.

1153 Except as necessary to accommodate reconstruction, no road or
1154 highway shall be opened for public use until the department has
1155 complied with the provisions of this section; however, the
1156 Executive Director of the Transportation Department may permit
1157 segments of roads under contract for maintenance, construction or

1158 reconstruction to be open for public use when temporary center
1159 line markings are installed. Roadside pennant signs may be used
1160 in place of temporary center line markings in no passing lanes on
1161 seal-coated roads. All such temporary center lines or roadside
1162 pennant signs shall, as nearly as practicable, be in place before
1163 work is discontinued for the day or as soon thereafter as weather
1164 conditions permit.

1165 SECTION 30. Section 65-1-69, Mississippi Code of 1972, is
1166 amended as follows:

1167 65-1-69. Whenever any railroad and state highway or part
1168 thereof shall cross each other at the same level and, in the
1169 opinion of the Executive Director of the Mississippi Department of
1170 Transportation, such crossing is dangerous to public safety or
1171 traffic is unreasonably impeded thereby and such crossing should
1172 be removed, the executive director may order such crossing
1173 eliminated either by having the * * * department carry such state
1174 highway under or over the tracks of such railroad.

1175 The plans covering such proposed changes may be made either
1176 by the executive director of the * * * department, * * * or by the
1177 railroad company affected, but shall in either event be approved
1178 by both the Transportation Department and the railroad company
1179 before contract is awarded; but such provision shall not be used
1180 to unreasonably delay the construction of any proposed structure.

1181 When plans have been approved, such proposed work shall be
1182 advertised and contract awarded as elsewhere provided in this
1183 chapter for the advertising and awarding of contracts. Joint
1184 supervision of construction may be had by both the Transportation
1185 Department and the railroad company. The department and the
1186 railroad company shall pay equal parts of the cost of any
1187 underpass or overpass across the right-of-way of the railroad
1188 company. Such work shall be so planned and prosecuted as to allow
1189 the safe and regular operations of trains at every stage of the
1190 work.

1191 Appeals from decisions or determinations of the executive

1192 director may be made by any party affected under this section, and
1193 the procedure for such appeal shall be the same as is provided by
1194 law for appeals from decisions and determinations of the boards of
1195 supervisors.

1196 SECTION 31. Section 65-1-70.5, Mississippi Code of 1972, is
1197 amended as follows:

1198 65-1-70.5. The provisions of Section 65-1-70 shall not
1199 impute any liability of any kind or nature to the
1200 Mississippi * * * Department of Transportation or its agents,
1201 servants or employees.

1202 SECTION 32. Section 65-1-73, Mississippi Code of 1972, is
1203 amended as follows:

1204 65-1-73. The Mississippi Department of Transportation may
1205 repair any paved city streets used as a detour subsequent to the
1206 year 1944 for any United States numbered highway while the same
1207 was under construction or reconstruction, provided such paved city
1208 streets were marked by the department as such detour. The extent
1209 of the repairs authorized hereby shall be to place such streets in
1210 as good condition as the same were at the time their use as such
1211 detour began, and is supplemental to the authority provided by
1212 Section 65-1-71.

1213 SECTION 33. Section 65-1-75, Mississippi Code of 1972, is
1214 amended as follows:

1215 65-1-75. (1) The Mississippi Department of Transportation
1216 may locate, construct, reconstruct and maintain any designated
1217 state highway under its jurisdiction to, through, across or around
1218 any municipality in the state, regardless of the width of the
1219 street between curbs; and in so locating it is fully empowered to
1220 follow the route of the existing street or to depart therefrom, as
1221 in its discretion it deems advisable, and to obtain and pay for
1222 the necessary rights-of-way, as provided in Section 65-1-47. The
1223 municipality in which such construction is to be undertaken is
1224 likewise authorized to acquire rights-of-way on any such streets
1225 or on any newly located routes, either by purchase, gift or

1226 condemnation. Such rights-of-way may be acquired by either the
1227 municipality or the transportation department, * * * and the cost
1228 thereof may be borne by either or both as may be mutually agreed
1229 upon. In any event such municipality may be required to save the
1230 Transportation Department harmless from any claims for damages
1231 arising from the construction of the highway through such
1232 municipality, including claims for rights-of-way, change of grade
1233 line, interference with public structures, and any and all damages
1234 so arising. Municipalities may secure additional improvements by
1235 payment of the additional cost of same. The department may
1236 require such municipality to cause to be laid all water, sewer,
1237 gas or other pipelines or conduits, together with all necessary
1238 house or lot connections or services, to the curb line of such
1239 road or street to be constructed, and the department may refuse
1240 to * * * lay such pipelines or conduits beneath such roads or
1241 streets until the municipality has laid same or entered into an
1242 agreement to reimburse the * * * department for the expense
1243 thereby incurred.

1244 (2) All construction of state highways in or through
1245 municipalities, where done at the cost and expense of the state,
1246 whether heretofore or hereafter, shall be maintained in the same
1247 manner and to the same extent as is construction on state highways
1248 outside the limits of municipalities to the end that investment of
1249 the state in such highway so constructed may be preserved and
1250 maintained; and all reasonable rules and regulations with
1251 reference to the preservation and maintenance of such highways
1252 constructed at state expense, whether within or without municipal
1253 limits, may be promulgated by the Transportation Department,
1254 except that it shall have no power to promulgate police
1255 regulations contrary to existing law. On any municipal streets or
1256 parts or sections thereof taken over for regular maintenance and
1257 maintained by the department as a part of the state highway
1258 system, the municipality shall not be liable for negligence
1259 occasioned by the maintenance or repair of such streets thus

1260 apportioned to and of such width as is maintained by the
1261 department. The municipality shall have full control and
1262 responsibility beyond the curb lines of any designated highway or
1263 street, whether heretofore or hereafter so designated, (except the
1264 interstate system) located within its present or future expanded
1265 municipal corporate limits, regardless of the ownership of the
1266 right-of-way, including but not limited to, the construction and
1267 maintenance of sidewalks, grass mowing and drainage systems;
1268 however, the department may utilize the right-of-way purchased by
1269 the department without any additional cost or permission.

1270 The municipality shall not allow any encroachments, signs or
1271 billboards to be erected or to remain on state-owned rights-of-way
1272 on any designated highway within its corporate limits without the
1273 consent of the Transportation Department. The municipality, at
1274 its own expense, shall provide street illumination and shall clean
1275 all streets, including storm sewer inlets and catch basins. The
1276 department may enter into an agreement with the municipality or
1277 with a private entity to sweep and clean the designated highways
1278 within or without the corporate limits. The department may, at
1279 state expense, provide illumination and may clean all interstate
1280 highways within the corporate limits of any municipality. The
1281 right of the municipality to grant franchises over, beneath and
1282 upon such streets is specifically retained, but the municipality
1283 shall require every grantee of a franchise to restore, repair and
1284 replace to its original condition any portion of any such street
1285 damaged or injured by it; however, permission to open the surface
1286 of any municipal street maintained by the department must be
1287 obtained from both the department and the municipality concerned
1288 before any such opening is made. Each municipality shall retain
1289 full police power over its streets, particularly as to regulating
1290 and enforcing traffic and parking restrictions on such streets,
1291 but any traffic control and parking regulations repugnant to state
1292 law shall be null and void. The * * * department shall erect,
1293 control and maintain all highway route markers and directional

1294 signs on such streets at state expense. The department, at state
1295 expense, shall * * * install, operate, maintain, control, and have
1296 full jurisdiction over, all traffic control devices, including,
1297 but not limited to, signals, signs, striping and lane markings on
1298 state highway streets in municipalities having a population of
1299 twenty thousand (20,000) or less according to the current U.S.
1300 census; but municipalities over twenty thousand (20,000)
1301 population according to such census shall install, operate,
1302 maintain and control such devices at their own expense, subject to
1303 approval of the executive director regarding operations, method of
1304 installation and type only. Municipalities having a population of
1305 five thousand (5,000) or more but less than twenty thousand
1306 (20,000) according to the most recent federal census shall only be
1307 responsible for electrical operating costs; and all other costs
1308 for the installation, operation and maintenance of traffic control
1309 devices, including the changing of signal bulbs in traffic signal
1310 lights, shall be the responsibility of the transportation
1311 department. The department may purchase at state expense and
1312 install traffic control devices in municipalities over twenty
1313 thousand (20,000) population and donate them to the municipalities
1314 for operation and maintenance whenever it appears to the
1315 department that, in the interest of safety or convenience of the
1316 motoring public, any of the devices should be upgraded, replaced
1317 or removed. Any revenue from parking meters on any such streets
1318 shall be controlled by and belong to the municipality.

1319 (3) The maintenance of all streets within the limits of any
1320 municipality in this state, regardless of size, which are
1321 presently being regularly maintained, in whole or in part, by the
1322 department at state expense as a part or parts of any designated
1323 state highway shall be continued. Whenever any state highway runs
1324 into or through the corporate limits of any municipality, the
1325 municipal street or the street utilized and marked as a part of
1326 any such state highway may be a part of the state highway system
1327 and may be maintained by the department; however, such route

1328 through any municipality shall be selected by the department by
1329 orders spread on its minutes describing all such routes, and such
1330 route or routes may be changed, relocated or abandoned by the
1331 department from time to time, all under the provisions, terms and
1332 conditions herein provided, but the * * * department may maintain
1333 only one (1) route of any highway through a municipality. Upon
1334 relocation of such state highway or abandonment thereof, the
1335 municipal street formerly used as a state highway shall thereby
1336 return to the jurisdiction of, and maintenance by, the
1337 municipality.

1338 SECTION 34. Section 65-1-77, Mississippi Code of 1972, is
1339 amended as follows:

1340 65-1-77. The Mississippi Department of Transportation and
1341 the counties and municipalities of the state are hereby authorized
1342 to enter into agreements for highway and street projects which are
1343 a part of an overall plan to be administered under the provisions
1344 of Title 23, United States Code. Such agreements may provide for
1345 traffic engineering assistance to the local governments for the
1346 development by the * * * department of records systems for local
1347 roads and streets. The counties and municipalities of the state
1348 are authorized to deposit with the Transportation Department the
1349 federal aid matching requirement for the project from any
1350 available fund. The county and/or municipal share and the federal
1351 share will be handled in the manner provided therefor in Section
1352 65-9-17. The county will be required to fulfill its obligation
1353 for maintenance of any project constructed under this
1354 authorization in the same manner required of or for any state aid
1355 road. It shall be the duty of the municipal officials of any
1356 incorporated city entering into this agreement to properly
1357 maintain and operate any completed project or improvement on the
1358 municipal street system. It shall be the duty of the Chief
1359 Engineer of the Transportation Department and his assistants to
1360 make at least annual maintenance inspections of completed projects
1361 and such other periodic inspections as he shall deem necessary. If

1362 essential maintenance is not properly and regularly done in the
1363 opinion of the chief engineer, then notice shall be given by the
1364 executive director of the * * * department in writing to the
1365 county or municipality in fault; and, if such maintenance is not
1366 done and continued within sixty (60) days from the date of such
1367 notice, then the executive director of the * * * department may
1368 proceed to have done the necessary maintenance and repair work on
1369 such street and have the cost of same credited to the State
1370 Highway Fund from any fund available to the county or municipality
1371 within the State Treasury.

1372 SECTION 35. Section 65-1-79, Mississippi Code of 1972, is
1373 amended as follows:

1374 65-1-79. The Mississippi Department of Transportation may
1375 enter into agreements with the United States of America for the
1376 purpose of securing federal aid funds when available under the
1377 provisions of Title 23, United States Code. The federal aid
1378 received under this authorization may be used on roads and
1379 streets, either on or off the designated highway system or
1380 designated state aid system. The department may approve the
1381 system of roads and streets when the approval of such system(s)
1382 establishes the eligibility for these roads and streets for
1383 federally funded projects when the necessary matching requirement
1384 of the federal aid is supplied by the political subdivision
1385 wherein the system or project lies. The department also may
1386 determine the priority of the expenditure of these funds and to
1387 approve the priority of improvements financed as a result of such
1388 authorization.

1389 SECTION 36. Section 65-1-81, Mississippi Code of 1972, is
1390 amended as follows:

1391 65-1-81. (1) Any municipality in the State of Mississippi,
1392 into or through which a designated state highway runs or is
1393 proposed to be run by the Mississippi Department of
1394 Transportation, may, within the discretion of its governing
1395 authorities, contribute funds to the Transportation Department for

1396 the purpose of aiding in the building or construction of such
1397 highway, including the construction of necessary bridges, in an
1398 amount to be determined by agreement in writing between the
1399 Transportation Department and the governing authority of such
1400 municipality and entered in their respective minutes; but in no
1401 event shall such contribution exceed one-half of one percent (1/2
1402 of 1%) of the total assessed valuation of such municipality,
1403 according to the last completed assessment roll of the taxable
1404 property therein.

1405 (2) Any county within the State of Mississippi, into or
1406 through which a designated state highway runs or is proposed to be
1407 run by the Mississippi Department of Transportation, whether
1408 within or without a municipality, may, within the discretion of
1409 its board of supervisors, contribute funds to the Transportation
1410 Department for the purpose of aiding in the building or
1411 construction of such highway, including the construction of
1412 necessary bridges, in an amount to be determined by agreement in
1413 writing between the department and the board of supervisors of
1414 such county and entered in their respective minutes; but in no
1415 event shall such contribution exceed one-fifth of one percent (1/5
1416 of 1%) of the total assessed valuation of such county, according
1417 to the last completed assessment roll of the taxable property
1418 therein.

1419 (3) Any municipality or county, exercising any of the powers
1420 granted herein, is hereby authorized and empowered to issue
1421 general obligation bonds to provide funds for the aforesaid
1422 purpose. Any municipality issuing such bonds shall proceed in
1423 compliance with the provisions of Sections 21-33-301 through
1424 21-33-329, and any county issuing such bonds shall proceed in
1425 compliance with the provisions of Sections 19-9-1 through 19-9-31,
1426 and all such bonds shall be sold in the manner provided by Section
1427 31-19-25. However, where a municipality and county jointly
1428 obligate themselves to make contributions to the Transportation
1429 Department, as provided herein, such municipality and such county

1430 may enter into an agreement to be spread on the minutes of the
1431 board of supervisors of such county and the minutes of the
1432 governing authority of such municipality, under which the
1433 municipality may issue bonds to raise funds for both the
1434 municipality and county, or the county may issue bonds to raise
1435 funds for both the county and municipality. Any such agreement
1436 may provide that in lieu of issuing its bonds hereunder, the
1437 municipality or the county, as the case may be, may contribute
1438 money to the other annually or semiannually in such amount and for
1439 such period of time as may be agreed upon by the two (2) governing
1440 authorities, for the purpose of retiring its portion of the bonds
1441 issued by the other; and the obligation assumed by the nonissuing
1442 authority may be pledged in addition to the full faith, credit,
1443 and resources of the issuing authority for the payment of such
1444 bonds as they mature and the interest thereon as it may accrue.
1445 Both the municipality and the county, by their respective
1446 governing authorities, are hereby authorized and empowered to levy
1447 and collect the necessary ad valorem taxes on all taxable property
1448 within their respective jurisdictions sufficient to retire such
1449 bonds, or to provide funds to contribute to the other authority,
1450 as required by the aforesaid agreement; when any county shall be
1451 required to make a contribution to a municipality under the terms
1452 of this section, such contribution may be made from the proceeds
1453 of a tax to be levied pursuant to the provisions of Section
1454 65-15-7, as the same now exists or may hereafter be amended, or
1455 from any source or sources available to such county. In the event
1456 that the required funds or any part thereof are thus provided, the
1457 annual ad valorem tax hereinabove provided for may be
1458 correspondingly reduced. Any bonds issued by any municipality or
1459 any county under the terms and provisions of this section, or any
1460 pledge of contributions made by any county or municipality, shall
1461 be excepted from all limitations of indebtedness prescribed by any
1462 general or special law and shall not be considered in applying any
1463 present or future limitations of indebtedness. This section is

1464 cumulative and is in addition to any authority now exercised by
1465 counties and municipalities under any other law relating to
1466 either.

1467 (4) Any tax levy made to service the bonds authorized to be
1468 issued under authority of this section shall not be refundable
1469 under the homestead exemption laws of this state.

1470 SECTION 37. Section 65-1-83, Mississippi Code of 1972, is
1471 amended as follows:

1472 65-1-83. The Mississippi Department of Transportation shall
1473 continue * * * to cooperate with the United States Department of
1474 Transportation, as necessary, in the taking of a traffic census
1475 and the making of other surveys, inspections or studies as said
1476 federal agency may request or require pertaining to or on the
1477 state highway system and such other roads, bridges and highways
1478 within this state as it may deem advisable.

1479 SECTION 38. Section 65-1-85, Mississippi Code of 1972, is
1480 amended as follows:

1481 65-1-85. All contracts by or on behalf of the Mississippi
1482 Department of Transportation * * * for the purchase of materials,
1483 equipment and supplies shall be made in compliance with Section
1484 31-7-1 et seq. All contracts by or on behalf of the Mississippi
1485 Department of Transportation * * * for construction,
1486 reconstruction or other public work authorized to be done under
1487 the provisions of this chapter, except maintenance, shall be made
1488 by the executive director * * * only upon competitive bids after
1489 due advertisement as follows, to wit:

1490 Such advertisement for bids shall be in accordance with such
1491 rules and regulations, in addition to those herein provided, as
1492 may be adopted therefor by the Mississippi Department of
1493 Transportation * * * , and the department may make and promulgate
1494 such rules and regulations as it may deem proper, to provide and
1495 adopt standard specifications for road and bridge construction,
1496 and to amend the same from time to time. Such advertisement shall
1497 be inserted twice, being once a week for two (2) successive weeks

1498 in a newspaper published at the seat of government in Jackson,
1499 Mississippi, having a general circulation throughout the state,
1500 and no letting shall be less than fourteen (14) days nor more than
1501 sixty (60) days after the publication of the first notice thereof,
1502 and notices of such letting may be placed in a metropolitan paper
1503 or national trade publication. Before advertising for such work,
1504 the executive director shall cause to be prepared and filed in the
1505 Mississippi Department of Transportation detailed plans and
1506 specifications covering the work proposed to be done, copies of
1507 which plans and specifications shall be subject to inspection by
1508 any citizen during all office hours and made available to all
1509 prospective bidders upon such reasonable terms and conditions as
1510 may be required by the executive director; however, there shall be
1511 a fee equal to the cost of producing a copy of any such plans and
1512 specifications. All such contracts shall be let to the lowest
1513 responsible bidder, and a record of all bids received for
1514 construction and reconstruction shall be preserved. In letting
1515 such contracts, each bid for construction and reconstruction must
1516 be accompanied by a cashier's check, a certified check or bidders
1517 bond executed by a surety company authorized to do business in the
1518 State of Mississippi, in the principal amount of not less than
1519 five percent (5%) of the bid, guaranteeing that the bidder will
1520 give bond and enter into a contract for the faithful performance
1521 of the contract according to plans and specifications on file.

1522 Bonds shall be required of the successful bidder in an amount
1523 equal to the contract price. The contract price shall mean the
1524 entire cost of the particular contract let. In the event change
1525 orders are made after the execution of a contract which results in
1526 increasing the total contract price, additional bond in the amount
1527 of the increased cost may be required. The surety or sureties on
1528 such bonds shall be a surety company or surety companies
1529 authorized to do business in the State of Mississippi, all bonds
1530 to be payable to the State of Mississippi and to be conditioned
1531 for the prompt, faithful and efficient performance of the contract

1532 according to plans and specifications, and for the prompt payment
1533 of all persons furnishing labor, material, equipment and supplies
1534 therefor. Such bonds shall be subject to the additional
1535 obligation that the principal and surety or sureties executing the
1536 same shall be liable to the state in a civil action instituted by
1537 the state at the instance of the * * * Transportation Department
1538 or any officer of the state authorized in such cases, for double
1539 any amount in money or property the state may lose or be
1540 overcharged or otherwise defrauded of by reason of any wrongful or
1541 criminal act, if any, of the contractor, his agent or employees.

1542 With respect to equipment used in the construction,
1543 reconstruction or other public work authorized to be done under
1544 the provisions of this chapter: the word "equipment," in addition
1545 to all equipment incorporated into or fully consumed in connection
1546 with such project, shall include the reasonable value of the use
1547 of all equipment of every kind and character and all accessories
1548 and attachments thereto which are reasonably necessary to be used
1549 and which are used in carrying out the performance of the
1550 contract, and the reasonable value of the use thereof, during the
1551 period of time the same are used in carrying out the performance
1552 of the contract, shall be the amount as agreed upon by the persons
1553 furnishing the equipment and those using the same to be paid
1554 therefor, which amount, however, shall not be in excess of the
1555 maximum current rates and charges allowable for leasing or renting
1556 as specified in Section 65-7-95; the word "labor" shall include
1557 all work performed in repairing equipment used in carrying out the
1558 performance of the contract, which repair labor is reasonably
1559 necessary to the efficient operation of said equipment; and the
1560 words "materials" and "supplies" shall include all repair parts
1561 installed in or on equipment used in carrying out the performance
1562 of the contract, which repair parts are reasonably necessary to
1563 the efficient operation of said equipment.

1564 The Executive Director * * * of the * * * Transportation
1565 Department, shall have the right to reject any and all bids,

1566 whether such right is reserved in the notice or not. Any contract
1567 for construction or paving of any highway may be entered into for
1568 any cost which does not exceed the amount of funds that may be
1569 made available therefor through bond issues or from other sources
1570 of revenue, and the letting of contracts for such construction or
1571 paving shall not necessarily be delayed until the funds are
1572 actually on hand, provided authorization for the issuance of
1573 necessary bonds has been granted by law to supplement other
1574 anticipated revenue or when the Mississippi Department of
1575 Transportation certifies to the Department of Finance and
1576 Administration and the Legislative Budget Office that projected
1577 receipts of funds by the department will be sufficient to pay such
1578 contracts as they become due and the Department of Finance and
1579 Administration determines that the projections are reasonable and
1580 receipts will be sufficient to pay the contracts as they become
1581 due. The Department of Finance and Administration shall spread
1582 such determination on its minutes prior to the letting of any
1583 contracts based on projected receipts. Nothing herein shall
1584 prohibit the issuance of bonds, which have been authorized, at any
1585 time in the discretion of the State Bond Commission, nor to
1586 prevent investment of surplus funds in United States Government
1587 bonds or State of Mississippi bonds as presently authorized by
1588 Section 12, Chapter 312, Laws of 1956.

1589 All other contracts for work to be done under the provisions
1590 of this chapter and for the purchase of materials, equipment and
1591 supplies to be used as provided for in this chapter shall be made
1592 in compliance with Section 31-7-1 et seq.

1593 The * * * executive director or any one or more of its
1594 members, or any engineer or other person, may not let or make
1595 contracts for the construction or repair of public roads or
1596 building bridges, or for the purchase of material, equipment or
1597 supplies contrary to the provisions of this chapter as above set
1598 forth, except in cases of flood or other cases of emergency where
1599 the public interest requires that the work be done or the

1600 materials, equipment or supplies be purchased without the delay
1601 incident to advertising for competitive bids. Such emergency
1602 contracts may be made without advertisement under such rules and
1603 regulations as the Mississippi Department of Transportation * * *
1604 may prescribe.

1605 The executive director may negotiate and make agreements with
1606 communities and/or civic organizations for landscaping,
1607 beautification and maintenance of highway rights-of-way * * *.
1608 However, * * * nothing in this section shall be construed as
1609 authorization for the executive director * * * to participate in
1610 such a project to an extent greater than the average cost for
1611 maintenance of shoulders, backslopes and median areas with respect
1612 thereto. The executive director may negotiate and enter into
1613 contracts with private parties for the mowing of grass and
1614 trimming of vegetation on the rights-of-way of state highways
1615 whenever such practice is possible and cost effective.

1616 SECTION 39. Section 65-1-86, Mississippi Code of 1972, is
1617 amended as follows:

1618 65-1-86. The Attorney General shall, with or without a
1619 request by the Executive Director of the Mississippi Department of
1620 Transportation, bring any lawsuit, in the name of the department,
1621 to recover any monies lost through illegal contracts, fraud, false
1622 pretense or any other criminal act, and the department shall, at
1623 the direction of the Attorney General, supply internal audits or
1624 perform any other necessary act to furnish the Attorney General
1625 with any evidence pertaining to such loss for use by the Attorney
1626 General in the preparation of said lawsuits.

1627 SECTION 40. Section 65-1-87, Mississippi Code of 1972, is
1628 amended as follows:

1629 65-1-87. The Mississippi Department of Transportation may
1630 purchase war surplus equipment, supplies and materials from the
1631 General Services Administration of the United States of America
1632 without the necessity of advertising for bids for such materials
1633 and equipment and supplies, even though the cost of such

1634 materials, equipment and supplies exceed the sum of One Thousand
1635 Dollars (\$1,000.00), provided that such equipment, materials, and
1636 supplies shall be purchased for less than the then prevailing
1637 market price.

1638 SECTION 41. Section 65-1-91, Mississippi Code of 1972, is
1639 amended as follows:

1640 65-1-91. Upon demand by any party to a contract with the
1641 Mississippi * * * Department of Transportation for arbitration,
1642 such arbitration shall proceed in all respects and shall have the
1643 same effect as authorized and provided by Sections 11-15-1 through
1644 11-15-37. Any arbitration decision shall be binding unless set
1645 aside by the executive director of the department.

1646 SECTION 42. Section 65-1-111, Mississippi Code of 1972, is
1647 amended as follows:

1648 65-1-111. All monies from any source provided by law shall
1649 be covered and paid into the State Treasury as other public funds
1650 are paid, and it shall be the duty of the Department of Finance
1651 and Administration to advise the Transportation Department of the
1652 amount of money allotted to the commission on hand from time to
1653 time. It shall be the duty of the Department of Finance and
1654 Administration to place and allocate said funds so covered into
1655 the State Treasury in the State Highway Fund. The interest earned
1656 on the investment of any highway funds shall be paid into the
1657 State Highway Fund. In the event any highway bonds or notes are
1658 issued, the Transportation Department will adopt a resolution
1659 requesting the Bond Commission to issue such bonds or notes as may
1660 be authorized and a "bond and interest sinking fund" and "note
1661 fund" shall likewise be kept separate from the highway fund by the
1662 State Treasurer pursuant to the bond resolution adopted by the
1663 State of Mississippi Bond Commission. No requisition issued by
1664 the Transportation Department shall be honored or paid unless
1665 signed by the executive director and countersigned by the
1666 secretary, and unless the same shows upon its face upon which and
1667 against which of the above-named funds it is drawn and the page of

1668 the minute book upon which the same is entered. It shall be
1669 unlawful for the executive director * * * or any other person
1670 whatsoever to withdraw any money from the above funds other than
1671 by requisition issued as herein provided.

1672 A record of all requisitions or voucher-checks allowed and
1673 issued by the executive director * * * showing the number of the
1674 claim or account, referring to the contract or authority of law,
1675 showing the person to whom issued, for what purpose given, against
1676 which fund drawn, the date of issuance, and the number of
1677 requisition or voucher check shall be placed upon the minute book
1678 of the Transportation Department and shall become a part of the
1679 official record of its next succeeding meeting.

1680 SECTION 43. Section 65-1-113, Mississippi Code of 1972, is
1681 amended as follows:

1682 65-1-113. The books and accounts of the Mississippi
1683 Department of Transportation shall be audited at the end of each
1684 fiscal year by the State Auditor. A copy of the audit shall be
1685 filed with the Governor, the State Auditor, the Legislative Budget
1686 Office, the Department of Finance and Administration and a copy
1687 kept on file in the office of the Executive Director of the
1688 Mississippi Department of Transportation. The audit shall be so
1689 segregated that it shall show in detail the expenditures of
1690 the * * * department for the period involved.

1691 * * * Each year prior to the beginning of each July 1 fiscal
1692 year, the Executive Director of the Transportation Department
1693 shall prepare a complete, detailed and itemized budget of each
1694 construction program, maintenance and administration based on
1695 information as required by the Legislative Budget Office, which
1696 budget shall not exceed a reasonably anticipated income of the
1697 department for the succeeding fiscal year. * * * A copy of the
1698 detailed budget shall be filed with the Governor and three (3)
1699 copies each with the Legislative Budget Office and the Department
1700 of Finance and Administration on or before April 30 of each year
1701 and shall cover all anticipated expenditures for construction,

1702 maintenance and all other expenditures for the ensuing fiscal
1703 year. The Transportation Department shall not make expenditures
1704 in excess of its published budget or any item thereof without
1705 written notice to the Legislative Budget Office and prior approval
1706 of the Department of Finance and Administration, except in case of
1707 extraordinary, unusual or unprecedented occurrences arising by
1708 reason of unforeseen events, floods, hurricanes or other acts of
1709 God or force majeure, in which event, upon the declaration of
1710 emergency and necessity spread at large upon the minutes,
1711 appropriate and necessary emergency expenditures may be
1712 made. * * *

1713 SECTION 44. Section 65-1-115, Mississippi Code of 1972, is
1714 amended as follows:

1715 65-1-115. The Auditor of Public Accounts, in cooperation
1716 with the Mississippi Department of Transportation or its
1717 comptroller, shall formulate and prescribe a uniform system of
1718 accounting for all monies expended by the department. The
1719 department shall have prepared and issued all necessary forms,
1720 rules and regulations for the installation and operation of said
1721 system of accounting, and it shall be the duty of the executive
1722 director of the department, in allowing any account to request, by
1723 requisition on the Department of Finance and Administration, that
1724 a warrant be issued therefor. * * * No money shall be expended
1725 except by a requisition drawn on the proper fund. * * * All
1726 salaries of all officers and employees of the Transportation
1727 Department shall be payable at pay periods fixed by the executive
1728 director, which shall not be greater than monthly, and a separate
1729 record thereof shall be maintained. * * * No account for expenses
1730 shall be allowed until and unless an itemized statement shall be
1731 made by the officer or employee presenting such claim showing the
1732 date and for what purpose such expenses were incurred. * * * All
1733 monies received by any officer or employee of the Transportation
1734 Department for expenses paid without such statement having been
1735 previously made and filed, shall be recoverable upon the bond of

1736 such officer or employee. The executive director * * * and his
1737 bondsman shall be liable for all monies expended by him or
1738 withdrawn from the State Treasury contrary to the provisions
1739 hereof, and which are not evidenced by proper requisition. * * *

1740 SECTION 45. Section 65-1-117, Mississippi Code of 1972, is
1741 amended as follows:

1742 65-1-117. The board of supervisors of any county is hereby
1743 authorized in its discretion to deposit with the State Treasurer,
1744 as trustee, funds representing the county's or district's share of
1745 the cost of construction of any project in that county.

1746 The State Treasurer is hereby authorized to continue to
1747 receive and deposit to the credit of the State Highway Fund, all
1748 funds from the federal government made available by it for road
1749 construction purposes, and the Treasurer shall notify the
1750 Mississippi Department of Transportation of the amounts so
1751 received.

1752 All accounts against the above-mentioned funds shall be
1753 certified by the Executive Director of the Transportation
1754 Department, who shall request the Auditor of Public Accounts to
1755 issue his warrant on the State Treasurer for the amount of the
1756 account, and the Treasurer shall pay same if sufficient funds are
1757 available, all in the manner prescribed herein or as may be
1758 required by law.

1759 SECTION 46. Section 65-1-121, Mississippi Code of 1972, is
1760 amended as follows:

1761 65-1-121. A full, complete, and detailed inventory of all
1762 property, other than rights-of-way and lands containing road
1763 building materials, shall be continued as heretofore prepared and
1764 filed by the Mississippi Department of Transportation. All of
1765 said properties so reported and inventoried and all other property
1766 of every kind or description shall be entered in detail and by
1767 items in or upon a card index, or other modern filing system, and
1768 thereafter all property which may be purchased or acquired by the
1769 Transportation Department shall be likewise noted and indexed in

1770 such filing system so as to keep a complete record of the
1771 identity, cost, purpose, use, and location of said property at all
1772 times, so that inventory thereof may easily be made; and when
1773 disposed of, a complete record of the disposition thereof shall
1774 likewise be made. It shall be the duty of * * * the executive
1775 director to make a full report annually of all monies or property
1776 that have or has come into his possession or control and to
1777 faithfully account therefor.

1778 SECTION 47. Section 65-1-123, Mississippi Code of 1972, is
1779 amended as follows:

1780 65-1-123. (1) Whenever any personal property has been
1781 acquired in any manner by the Mississippi Department of
1782 Transportation * * * for public use and in the opinion of the
1783 executive director of the department, all or any part of the
1784 property becomes unnecessary for public use, the department may
1785 dispose of such property for a fair and reasonable cash market
1786 price. Any such sale shall be a sale upon the receipt of sealed
1787 bids after reasonable advertisement for bids in such manner and at
1788 such time and place as the executive director may deem proper and
1789 advisable, except that the department may sell at private sale any
1790 such personal property not necessary for public purposes the cash
1791 market value of which is less than Five Hundred Dollars (\$500.00);
1792 however, if the personal property is timber, the department may
1793 sell at private sale any such timber not necessary for public
1794 purposes the cash market value of which is less than Five Thousand
1795 Dollars (\$5,000.00), except that whenever persons, groups or
1796 agencies are permitted to remove a quantity of timber from highway
1797 rights-of-way, and the cash market value of the timber is
1798 estimated by the executive director to be less than One Thousand
1799 Dollars (\$1,000.00), it shall not be necessary to have the timber
1800 cruised or appraised and the department may sell the timber at
1801 private sale. The executive director shall have the right to
1802 reject any and all bids in his discretion and to sell the property
1803 theretofore advertised at private sale for not less than the

1804 highest of the rejected bids, or to readvertise.

1805 (2) Except as otherwise provided in subsections (3) and (4)
1806 of this section, whenever real property, with the exception of
1807 easements for highway purposes, has been acquired by the
1808 Mississippi Department of Transportation * * * , in any manner,
1809 for public use and in the opinion of the executive director all or
1810 any part thereof becomes unnecessary for public use, the same
1811 shall be declared * * * as excess property and shall be sold at
1812 private sale at market value. If the excess property was a total
1813 take from the original owner, then the department shall offer to
1814 such owner, in writing, the first right of refusal to purchase
1815 such excess property; however, if after due diligence the original
1816 owner cannot be located, then the department shall offer the first
1817 right of refusal to purchase the property to the adjoining
1818 property owner or owners. If the excess property was a partial
1819 take from the current owner of the parcel of real property from
1820 which the excess property was originally taken, then the
1821 department shall be required to offer in writing the first right
1822 of refusal to purchase such excess property to such owner. If
1823 within forty-five (45) days any owner to whom the department has
1824 offered the first right of refusal under the provisions of this
1825 subsection fails to accept the offer to purchase, the property
1826 shall then be offered to the adjoining property owner or owners.
1827 If within forty-five (45) days an adjoining property owner fails
1828 to accept the offer to purchase, then the excess property shall be
1829 sold to the highest bidder upon the receipt by the department of
1830 sealed bids after reasonable advertisement for bids in such manner
1831 and at such time and place as the executive director deems proper
1832 and advisable; however, the department shall have the right to
1833 reject any and all bids in its discretion and to sell the property
1834 theretofore advertised at private sale for not less than the
1835 highest of the rejected bids, or to readvertise. Upon payment of
1836 the purchase price, the executive director of the department
1837 * * * may execute a quitclaim deed conveying such property to the

1838 purchaser.

1839 (3) Whenever the department acquires by fee simple interest
1840 any property determined to be an uneconomic remnant outside the
1841 right-of-way, then the department may sell the property to the
1842 adjoining property owner or owners for an amount not less than the
1843 market value established by the county tax assessor or a state
1844 licensed or certified appraiser.

1845 (4) Whenever the department desires to sell any real
1846 property used as maintenance lots, the property shall be sold to
1847 the highest bidder upon the receipt by the department of sealed
1848 bids and after reasonable advertisement for bids in such manner
1849 and at such time and place as the executive director deems proper
1850 and advisable; however, the executive director, in his discretion,
1851 may reject any and all bids and sell the property advertised at
1852 private sale for not less than the highest of the rejected bids,
1853 or may readvertise. Upon payment of the purchase price, the
1854 executive director of the department * * * may execute a quitclaim
1855 deed conveying the property to the purchaser.

1856 (5) All easements for highway purposes shall be released
1857 when they are determined by the executive director as no longer
1858 needed for such purposes, and when released, they shall be filed
1859 by the department in the office of the chancery clerk in the
1860 county where the property is located.

1861 (6) In no instance shall any part of any property acquired
1862 by the department, or any interest acquired in such property,
1863 including but not limited to easements, be construed as abandoned
1864 by nonuse, nor shall any encroachment on such property for any
1865 length of time constitute estoppel or adverse possession against
1866 the state's interests.

1867 (7) It is the intent of the Legislature that the
1868 Transportation Department shall declare property it has acquired
1869 and which is no longer needed for public purposes as excess and to
1870 sell and/or dispose of such excess property in accordance with the
1871 provisions of this section as soon as practicable after such

1872 property becomes excess in fact. Unnecessary or excess property
1873 or property interests shall be disposed of only upon order of the
1874 executive director as provided in this section.

1875 (8) Whenever any real property has been acquired by the
1876 Transportation Department and in the opinion of the executive
1877 director all or any part of the property will not be utilized in
1878 the near future, the property shall be so declared by the
1879 executive director and the department may lease or rent the
1880 property for its market value.

1881 SECTION 48. Section 65-1-127, Mississippi Code of 1972, is
1882 amended as follows:

1883 65-1-127. The Mississippi Department of Transportation is
1884 authorized and empowered to cooperate with the Federal Highway
1885 Administration Fellowship Program in Highway Safety by granting
1886 permission of any of its employees accepted for participating in
1887 such program to be granted a leave of absence to obtain the
1888 schooling without loss of salary while gaining the advanced
1889 training to better equip them for service to the * * * department.

1890 In addition to requirements set forth in the Federal Highway
1891 Administration's regulations, any such employee to be eligible for
1892 such training must agree to continue to work with the Mississippi
1893 Department of Transportation for at least three (3) years after
1894 completing the fellowship study period.

1895 At no time shall more than three (3) employees be on such
1896 leave from the Mississippi Department of Transportation.

1897 SECTION 49. Section 65-1-129, Mississippi Code of 1972, is
1898 amended as follows:

1899 65-1-129. For purposes of Sections 65-1-129 through 65-1-135,
1900 unless the context requires otherwise, the following terms shall
1901 have the meanings ascribed herein:

1902 (a) "Department" means the Mississippi Department of
1903 Transportation.

1904 (b) "Qualified person" means a person who:

1905 (i) Has met all the educational and training

1906 requirements of a course of study prescribed and conducted by the
1907 Mississippi Law Enforcement Officers' Training Academy; and

1908 (ii) Is of good moral character and has not been
1909 convicted of any crime involving moral turpitude.

1910 SECTION 50. Section 65-1-131, Mississippi Code of 1972 is
1911 amended as follows:

1912 65-1-131. (1) The Mississippi Department of Transportation
1913 may appoint and commission qualified persons as security officers
1914 of the * * * department * * *. Any such security officer so
1915 appointed shall be a full-time employee of the Transportation
1916 Department and shall not be employed by any privately owned guard
1917 or security service, and shall at all times be answerable and
1918 responsible to the * * * Executive Director of the Mississippi
1919 Department of Transportation.

1920 (2) A security officer appointed and commissioned as
1921 provided in subsection (1) of this section shall, before entering
1922 upon his duties as such officer, take the oath of office
1923 prescribed by Section 268, Mississippi Constitution of 1890, which
1924 shall be endorsed upon his commission. The commission, with the
1925 oath endorsed upon it, shall be entered in the official minute
1926 book of the department.

1927 (3) A security officer appointed and commissioned pursuant
1928 to the provisions of subsection (1) of this section, shall, while
1929 engaged in the performance of his duties, carry on his person a
1930 badge identifying him as a security officer of the Mississippi
1931 Department of Transportation and an identification card issued by
1932 the department. When in uniform, each such security officer shall
1933 wear his badge in plain view.

1934 (4) A security officer appointed and commissioned under
1935 subsection (1) of this section may exercise the same powers of
1936 arrest and the right to bear firearms that may be exercised by any
1937 state, municipal or other police officer in this state, but only
1938 with respect to violations of law which are committed on or within
1939 buildings, property or facilities owned by or under the

1940 jurisdiction of the * * * Transportation Department. Any right
1941 granted under this subsection in no way relieves the requirements
1942 of appropriate affidavit and warrant for arrest from the
1943 appropriate jurisdiction and authority pursuant to the laws of
1944 this state.

1945 (5) On behalf of each person who is employed as a security
1946 officer under subsection (1) of this section and who is trained as
1947 a security officer at the Mississippi Law Enforcement Officers'
1948 Training Academy, the Transportation Department shall be required
1949 to pay to the academy at least an amount equal to the per student
1950 cost of operation of said academy as tuition.

1951 SECTION 51. Section 65-1-135, Mississippi Code of 1972, is
1952 amended as follows:

1953 65-1-135. The powers and authority of any security officer
1954 may be terminated at any time by the executive director of the
1955 department.

1956 SECTION 52. Section 65-1-136, Mississippi Code of 1972, is
1957 amended as follows:

1958 65-1-136. (1) In addition to employing security officers as
1959 full-time employees of the Mississippi Department of
1960 Transportation as authorized under subsection (1) of Section
1961 65-1-131, the department may contract with any private security
1962 firm or business authorized to do business in this state for the
1963 purpose of providing security for buildings, property or
1964 facilities owned by or under the jurisdiction of the * * *
1965 Transportation Department.

1966 (2) A security officer of a security firm or business with
1967 which the department has contracted pursuant to the provisions of
1968 this section, while engaged in the performance of his duties,
1969 shall carry on his person a badge identifying him as a security
1970 officer and an identification card issued by the Transportation
1971 Department. When in uniform, each such security officer shall
1972 wear his badge in plain view.

1973 (3) A security officer of a security firm or business with

1974 which the department has contracted pursuant to the provisions of
1975 this section shall have only such powers of arrest as may be
1976 exercised by a private citizen of this state and only such right
1977 to bear firearms or weapons while engaged in the performance of
1978 his duties as authorized under Section 99-37-7.

1979 SECTION 53. Section 65-1-137, Mississippi Code of 1972, is
1980 amended as follows:

1981 65-1-137. All security officers of any security firm or
1982 business with which the Transportation Department has contracted
1983 under Section 65-1-136 shall be independent contractors and shall
1984 not be considered as employees under Chapter 46 of Title 11,
1985 Mississippi Code of 1972.

1986 SECTION 54. Section 65-1-141, Mississippi Code of 1972, is
1987 amended as follows:

1988 65-1-141. (1) (a) The Transportation Department shall
1989 annually * * * prepare a three-year plan for the maintenance,
1990 construction, reconstruction and relocation of the state highway
1991 system. The plan shall include:

1992 (i) For each interstate, primary, secondary and
1993 other highway or road system under the jurisdiction of the
1994 Transportation Department, a list and detailed description of
1995 those highways, or segments thereof, on the highway system which
1996 are determined to have the highest priority for maintenance and
1997 which can be maintained within the three-year period from funds
1998 available or estimated to be made available for such purpose;

1999 (ii) For each interstate, primary, secondary and
2000 other highway or road system under the jurisdiction of the
2001 Transportation Department, a list and detailed description of
2002 those highways, or segments thereof, on the highway system which
2003 are determined to have the highest priority for construction,
2004 reconstruction or relocation and for which contracts can be let
2005 for construction, reconstruction or relocation within the
2006 three-year period from funds available or estimated to be
2007 available for such purpose;

2008 (iii) The reasons for the priority assigned to
2009 highways, or segments thereof, pursuant to the criteria
2010 established in the following subsection (1)(b), and the annual
2011 cost and total estimated cost of completion for each such project;
2012 and

2013 (iv) A synopsis of any analyses or studies
2014 considered by the department to develop the criteria in
2015 determining priorities.

2016 (b) The Transportation Department shall determine the
2017 criteria on which the * * * department shall assign priority for
2018 maintenance, construction, reconstruction and relocation of
2019 highways, or segments thereof, on each highway or road system
2020 under its jurisdiction, taking into consideration all of the
2021 following criteria:

2022 (i) Public necessity and public safety;

2023 (ii) Present and future economic benefit and
2024 commercial value;

2025 (iii) Present and future traffic census; and

2026 (iv) Route continuity.

2027 Additionally, the Transportation Department shall take into
2028 consideration conditions potentially hazardous to the public
2029 safety at points on highways having substantial truck traffic
2030 entering and leaving the highway. In setting priorities for
2031 construction, the department shall take into consideration the
2032 construction of turning lanes at such points on highways to
2033 facilitate the safe movement of traffic.

2034 (c) To develop the criteria to be used in determining
2035 priorities, the Transportation Department may conduct public
2036 hearings; shall conduct analyses or studies of highway needs,
2037 utilizing * * * department personnel; and shall consider highway
2038 needs analyses or studies submitted to them by the University
2039 Research Center, which is hereby directed to develop such highway
2040 needs analyses or studies with respect to the criteria set forth
2041 in subsection (1)(b)(ii) above and to timely submit or present

2042 such analyses or studies to the department.

2043 (2) All funds appropriated and made available to the
2044 Transportation Department from any source within the state for
2045 maintenance, construction, reconstruction and relocation of the
2046 state highway system shall be expended on order of the executive
2047 director according to the priorities herein set forth. * * * The
2048 executive director shall keep a written public record of the
2049 priority of roads for application of such funds, the specific
2050 reasons for each priority so assigned, and the source and amount
2051 of funds applied to each project.

2052 (a) All interstate funds apportioned to the
2053 Transportation Department under the Federal Aid Highway Act of
2054 1956 shall be allocated on the basis of need to complete the
2055 interstate system of highways to provide for the maximum
2056 commercial benefit to the state.

2057 (b) All primary road construction money shall be used
2058 in the priorities established pursuant to subsection (1)(b)
2059 hereof.

2060 (c) * * * The department shall match all available
2061 federal money for highways.

2062 (d) Federal aid primary system as constituted. Priority
2063 of use of these funds shall be determined by roads meeting most of
2064 the criteria receiving priority established pursuant to subsection
2065 (1)(b) hereof.

2066 (e) Secondary road construction money shall be used
2067 with priorities established by roads meeting most of the following
2068 criteria receiving priority:

2069 (i) Roads in the order of the relative use and
2070 importance of such highways, as may be determined by the present
2071 and future traffic censuses thereof, taking into consideration
2072 their present and future use, convenience, public necessity and
2073 public safety, the connecting of Mississippi towns, cities and
2074 population centers and the economic contribution to the state
2075 should a specific highway be improved, the recorded maintenance

2076 expense and their continuity as highways through the state.

2077 (ii) Roads which carry the most traffic.

2078 (iii) Roads which connect the federal aid primary
2079 or interstate system in a uniform manner.

2080 (iv) Roads which serve the most commercial value.

2081 (v) Roads which are arterial in nature.

2082 (vi) Roads which connect the major rural
2083 communities with similar communities in adjoining counties.

2084 (f) The * * * department shall when funds are available
2085 match all available federal money for highways.

2086 (3) Projects eligible for reimbursement under the provisions
2087 of P.L. 97-424 shall be exempt from the requirements of subsection
2088 (1)(a) of this section, but the department shall expend funds
2089 available to it for such projects in the priorities established
2090 pursuant to subsection (1)(b) hereof.

2091 (4) All highway construction, reconstruction and relocation
2092 shall be by contract, let on competitive bid in the manner
2093 provided by statute. On any one (1) reconstruction project the
2094 total cost of which does not exceed Two Hundred Thousand Dollars
2095 (\$200,000.00), reconstruction may be accomplished by
2096 Transportation Department labor, equipment or materials. Nothing
2097 herein shall be construed to affect maintenance and repair work
2098 done or to be done on existing roads. When new programs require
2099 the utilization of professional services, the Transportation
2100 Department may contract with, engage, or retain available,
2101 competent firms actively offering such professional services as a
2102 primary source of livelihood. "Professional services" is defined
2103 as services normally performed on a fee basis or contract by
2104 engineers, architects, business management, administrative and
2105 consulting firms.

2106 SECTION 55. Section 65-1-145, Mississippi Code of 1972, is
2107 amended as follows:

2108 65-1-145. (1) The expenditure of funds now or hereafter
2109 available for the construction and reconstruction of primary and

2110 secondary roads by the Mississippi Department of Transportation,
2111 after having determined the priority in accordance with the
2112 requirements of Section 65-1-141 hereof, shall be as follows:

2113 (a) Four-lane roads shall be constructed using the
2114 existing two-lane roads as part of such construction along
2115 portions of highways where the most recent average daily traffic
2116 count exceeds thirty percent (30%) of the route segment's
2117 capacity.

2118 (b) Along such portions of highways where the most
2119 recent average daily traffic count does not exceed thirty percent
2120 (30%) of the capacity, two-lane roads shall be constructed, or
2121 existing two (2) lanes shall be widened, overlaid and
2122 reconstructed. Along such two-lane portions of highways passing
2123 lanes may be constructed where traffic congestion or special
2124 hazards dictate, or, where such two-lane segment connects two (2)
2125 existing four-lane roads, such segment may be constructed as a
2126 four-lane road for road continuity, using the existing two-lane
2127 road as part of such construction.

2128 (c) Four-lane, full-control or limited access highways
2129 bypassing municipalities shall not be constructed until the
2130 Transportation Department determines that the most recent average
2131 daily traffic count exceeds sixty percent (60%) of an existing
2132 two-lane route's capacity or determines that within a reasonable
2133 period of time after construction of such a four-lane,
2134 full-control or limited access municipal bypass the average daily
2135 traffic count will exceed sixty percent (60%) of an existing
2136 two-lane route's capacity. In no event shall such a bypass be
2137 constructed until approved by the Legislature by an appropriation
2138 of highway funds for a specific bypass, the construction of which
2139 has been recommended by the Executive Director of the * * *
2140 department * * * and included in the three-year plan prepared
2141 pursuant to Section 65-1-141.

2142 (d) Four-lane facilities may be constructed without
2143 using existing roadways as a part of such construction where it is

2144 necessary to construct four-lanes on new location because of bad
2145 alignment of existing roadway or where it is necessary to relocate
2146 or realign such roadway so as to connect with a four-lane facility
2147 in an adjoining state.

2148 (e) Any four-lane bypass project of which all, or any
2149 portion thereof, is presently under construction, or let to
2150 contract, or which has been partially completed, except where
2151 right-of-way only has been acquired, may be completed in its
2152 entirety.

2153 (f) Notwithstanding any limitation imposed above on the
2154 construction of four-lane roads, through June 30, 2007, contracts
2155 to construct four-lane roads may be let when (i) the federal
2156 government has provided money for four-laning a specific highway
2157 project, (ii) four-laning will enhance the current economic
2158 development of the area in which the four-lane road will be
2159 constructed, or (iii) the four-lane road to be constructed will
2160 connect with an existing four-lane road.

2161 Before a route location is submitted to the Federal Highway
2162 Administration for approval, appropriate identification of the
2163 proposed route must be approved and properly documented by public
2164 record by the Executive Director of the Transportation Department.

2165 Where a route location has been approved by the Federal Highway
2166 Administration and a relocation of the route is contemplated, the
2167 same procedure of advertisement and hearings upon request must be
2168 followed which is used in reaching an initial route location. Any
2169 change in location must be approved and properly documented by
2170 the Executive Director of the * * * Transportation Department.
2171 The Transportation Department may alter construction standards of
2172 an approved route; * * * provided that such change is in
2173 conformity with items (a), (b), (c), (d), (e) and (f) of this
2174 subsection.

2175 (2) No state monies shall be expended on any construction
2176 project unless a Transportation Department engineer shall be
2177 assigned to such project.

2178 SECTION 56. Section 65-1-149, Mississippi Code of 1972, is
2179 amended as follows:

2180 65-1-149. The Mississippi Department of Transportation shall
2181 file a detailed annual report with the Governor, Department of
2182 Finance and Administration, Secretary of the Senate, Clerk of the
2183 House of Representatives, and each member of the Senate and the
2184 House of Representatives requesting one, by January 15 of each
2185 year showing by county the construction and maintenance work in
2186 progress, the cost of each project with an indication of specific
2187 cost incurred and expenses paid during the fiscal year reported, a
2188 list of contracts let, a summary of the bids received, and the
2189 name and address of the contractor to whom the contract was
2190 awarded in each case. The annual report of the Transportation
2191 Department shall also contain all receipts and disbursements
2192 during the preceding fiscal period and an estimate of the receipts
2193 for not less than the next fiscal period, plus the average cost of
2194 maintenance of each general type of road and the average cost of
2195 construction of the various types of surface. Any information and
2196 recommendations, including proposed legislation which in the
2197 opinion of the Executive Director of the Transportation Department
2198 is needed, shall be contained in said report, in addition to any
2199 other required by law to be in the annual report of every
2200 department, agency or institution.

2201 In addition to the report hereinabove required, there shall
2202 be presented, by January 15 of each year to the Senate Highways
2203 and Transportation Committee and to the House Transportation
2204 Committee, a report on the projected projects for the next three
2205 (3) years outlined in detail sufficient enough to facilitate an
2206 accurate assessment of such projects by such committees.

2207 The Transportation Department shall adopt a complete,
2208 detailed and itemized budget based on information as required by
2209 the Legislative Budget Office, which budget shall not exceed a
2210 reasonably anticipated income of the department for the succeeding
2211 fiscal year, and the essential features of such budget shall be

2212 made available as a public record. A copy of the detailed budget
2213 shall be filed with the Legislative Budget Office and the
2214 Department of Finance and Administration and shall cover all
2215 anticipated expenditures for the ensuing fiscal year. The
2216 department shall not make expenditures in excess of its published
2217 budget or any item thereof without written notice to the
2218 Legislative Budget Office and prior approval of the Department of
2219 Finance and Administration, except in case of extraordinary,
2220 unusual or unprecedented occurrences arising by reason of
2221 unforeseen events, floods, hurricanes or other Acts of God or
2222 force majeure, in which event, upon the declaration of emergency
2223 and necessity by the Executive Director of the Transportation
2224 Department, appropriate and necessary emergency expenditures may
2225 be made.

2226 The books and accounts of the Transportation Department shall
2227 be audited at the end of each fiscal year by the State Auditor. A
2228 copy of the audit shall be filed with the Governor, the State
2229 Auditor, the Legislative Budget Office, the Department of Finance
2230 and Administration, and a copy kept on file in the office of the
2231 Mississippi Department of Transportation. The audit should be so
2232 segregated that it shall show in detail the expenditures of the
2233 Executive Director of the Transportation Department for the period
2234 involved.

2235 * * *

2236 SECTION 57. Section 65-1-151, Mississippi Code of 1972, is
2237 amended as follows:

2238 65-1-151. Bond shall be given to the State of Mississippi
2239 by * * * the executive director, * * * in an additional sum of
2240 Fifty Thousand Dollars (\$50,000.00), which is in addition to the
2241 bond required in Section * * * 65-1-9; and said bond shall in all
2242 instances be and is for the same purposes and in the same manner
2243 as provided in Section * * * 65-1-9. Such bond may be
2244 consolidated with the bond required in the aforementioned section.

2245 SECTION 58. Section 65-1-155, Mississippi Code of 1972, is

2246 amended as follows:

2247 65-1-155. The Mississippi Department of Transportation,
2248 acting through its executive director, * * * is hereby authorized
2249 and directed to transfer the sum of Ten Million Dollars
2250 (\$10,000,000.00) out of any money in the special fund accounts
2251 within the State Treasury to the credit of the * * * department
2252 into a special fund account to the credit of the Department of
2253 Finance and Administration within the State Treasury.

2254 SECTION 59. Section 65-1-167, Mississippi Code of 1972, is
2255 amended as follows:

2256 65-1-167. There is hereby created in the State Treasury a
2257 special fund to be known as the "Statewide Litter Prevention
2258 Fund." Monies may be expended out of such fund, pursuant to
2259 appropriation by the Legislature, to implement the statewide
2260 litter prevention program established under the provisions of
2261 Section 65-1-165. Disbursements from such fund shall be made only
2262 upon requisition of the Executive Director of the Mississippi
2263 Department of Transportation.

2264 SECTION 60. Section 65-1-169, Mississippi Code of 1972, is
2265 amended as follows:

2266 65-1-169. The Mississippi Department of Transportation is
2267 hereby authorized to maintain property acquired for highway
2268 purposes free and clear of any obstruction, encroachment or any
2269 other use not authorized by the department. Before removing or
2270 terminating any obstruction, encroachment or other unauthorized
2271 use, the department shall give notice by registered mail to the
2272 offending party of its intention to remove or terminate such
2273 obstruction, encroachment or other unauthorized use unless, within
2274 forty-five (45) days from the date such notice is mailed, the
2275 offending party institutes a civil action in any court of
2276 competent jurisdiction with respect to the removal or termination
2277 proposed by the department. When the department has removed or
2278 terminated any obstruction, encroachment or other unauthorized use
2279 after the mailing of notice as required above and upon the failure

2280 of the offending party to institute an action within the
2281 forty-five-day time period, the department may institute a civil
2282 action in any court of competent jurisdiction against the
2283 offending party for all costs incurred in the removal or
2284 termination thereof.

2285 The Transportation Department and its personnel shall not be
2286 liable, civilly or criminally, for any property damages or
2287 personal injuries incurred by any person for the removal or
2288 termination of such obstruction, encroachment or unauthorized use
2289 in accordance with the provisions of this section provided that
2290 reasonable care is exercised in the termination or removal of the
2291 obstruction, encroachment or unauthorized use. * * *

2292 The provisions of this section shall apply only to the
2293 removal or termination of obstructions, encroachments or other
2294 unauthorized uses of property acquired for highway purposes which
2295 first occur or are created on or after July 1, 1988. The
2296 provisions of this section shall not apply to or affect any right
2297 or remedy which the State Highway Commission was authorized by law
2298 prior to July 1, 1988, to exercise in the removal or termination
2299 of any such obstructions, encroachments or other unauthorized uses
2300 occurring or created before July 1, 1988.

2301 SECTION 61. Section 65-1-173, Mississippi Code of 1972, is
2302 amended as follows:

2303 65-1-173. For the purpose of enforcing and investigating all
2304 violations of the railroad laws, and the rules, regulations and
2305 general orders of the Mississippi Department of Transportation
2306 * * * promulgated thereunder, the department may employ five (5)
2307 inspectors and one (1) railway safety coordinator. The salaries
2308 of the inspectors and the safety coordinator shall be fixed by the
2309 executive director, subject to the state personnel system law as
2310 provided under Section 25-9-101 et seq. The inspectors shall
2311 devote their full time to the performance of their duties and
2312 shall take an oath faithfully to perform the duties of their
2313 positions. The department shall require bonds to be carried on

2314 such employees as the executive director may deem necessary, the
2315 cost thereof to be paid by the department.

2316 The inspectors shall be selected after an examination, as
2317 prescribed by the department, as to physical and mental fitness,
2318 knowledge of the railroad laws, the rules and regulations of the
2319 department, the laws of this state pertaining to arrest and any
2320 other examination as may be prescribed by the department. An
2321 inspector, at the time of appointment, shall be a citizen of the
2322 State of Mississippi, of good moral character, and shall not be
2323 less than twenty-one (21) years of age.

2324 The inspectors of the Mississippi Department of
2325 Transportation * * * may enter upon private property upon which a
2326 railroad facility is located that is connected to but not a part
2327 of the general railroad system of transportation, at reasonable
2328 times and in a reasonable manner to perform an inspection,
2329 investigation or surveillance of facilities, equipment, records
2330 and operations relating to the packaging, loading or
2331 transportation of hazardous materials or other materials to
2332 determine whether the railroad facility complies with the
2333 applicable federal or state safety statutes, rules, regulations or
2334 orders. Any inspection, investigation or surveillance performed
2335 on the site of a manufacturing facility shall be performed in
2336 compliance with the safety rules or regulations of the facility.

2337 SECTION 62. Section 1-1-11, Mississippi Code of 1972, is
2338 amended as follows:

2339 1-1-11. (1) Except as provided in subsection (2) of this
2340 section, the Joint Committee on Compilation, Revision and
2341 Publication of Legislation shall distribute or provide for the
2342 distribution of the sets of the compilation of the Mississippi
2343 Code of 1972 purchased by the state as follows:

2344 Fifty-six (56) sets to the Mississippi House of
2345 Representatives and forty (40) sets to the Mississippi Senate for
2346 the use of the Legislative Reference Bureau, Legislative Services
2347 Offices, staffs and committees thereof.

2348 Ten (10) sets to the Governor's Office; nine (9) sets to the
2349 Secretary of State; and twenty (20) sets to the Auditor's Office.

2350 One (1) set to each of the following: the Lieutenant
2351 Governor; each member of the Legislature; the Treasurer; each
2352 district attorney; each county attorney; each judge of the Court
2353 of Appeals and each judge of the Supreme, circuit, chancery,
2354 county, family, justice and municipal courts; each Mississippi
2355 Senator and Mississippi Representative in Congress; State
2356 Superintendent of Education; Director of the Department of Finance
2357 and Administration; six (6) sets to the Performance Evaluation and
2358 Expenditure Review (PEER) Committee, two (2) sets to the Director
2359 of the Legislative Budget Office; the Commissioner of Agriculture
2360 and Commerce; * * * six (6) sets to the Department of Corrections;
2361 the Insurance Commissioner; the Clerk of the Supreme Court; the
2362 State Board of Health; each circuit clerk; each chancery clerk in
2363 the state for the use of the chancery clerk and the board of
2364 supervisors; each sheriff in the state for the use of his office
2365 and the county officers; and each county for the county library
2366 (an additional set for each of the last three (3) to be given in
2367 counties having two (2) judicial districts).

2368 Two (2) sets to the Department of Archives and History; two
2369 (2) sets to the State Soil and Water Conservation Commission;
2370 sixty-eight (68) sets to the Attorney General's Office; six (6)
2371 sets to the Public Service Commission; four (4) sets to the Public
2372 Utilities Staff; thirty-six (36) sets to the State Tax Commission;
2373 two (2) sets to the State Personnel Board; six (6) sets to the
2374 State Law Library; one (1) set to the Library of Congress; ten
2375 (10) sets to the University of Mississippi Law School; one (1) set
2376 each to the Mississippi School for the Deaf and the Mississippi
2377 School for the Blind; one (1) set each to the University of
2378 Mississippi, Mississippi State University, Mississippi University
2379 for Women, University of Southern Mississippi, Delta State
2380 University, Alcorn State University, Jackson State University,
2381 Mississippi Valley State University, and the Board of Trustees of

2382 State Institutions of Higher Learning; and one (1) set to the
2383 Supreme Court judges' conference room. In furtherance of the
2384 State Library's reciprocal program of code exchange with libraries
2385 of the several states, the joint committee shall, at the direction
2386 and only upon the written request of the State Librarian,
2387 distribute or provide for the distribution of sets of the Code to
2388 such libraries.

2389 One (1) set to each state junior or community college; three
2390 (3) sets to the Department of Wildlife, Fisheries and Parks; two
2391 (2) sets to the Department of Environmental Quality; two (2) sets
2392 to the Department of Marine Resources; and seven (7) sets to the
2393 Department of Human Services. One (1) set to each of the
2394 following: State Textbook Procurement Commission; University
2395 Medical Center; State Library Commission; Department of
2396 Agriculture and Commerce; Forestry Commission; and seventeen (17)
2397 sets to the Department of Public Safety. Also, one (1) set to
2398 each of the following: Adjutant General, Department of Economic
2399 and Community Development, Department of Banking and Consumer
2400 Finance, Bureau of Building, Grounds and Real Property Management,
2401 the State Educational Finance Commission, the Mississippi Board of
2402 Vocational and Technical Education, Division of Medicaid, State
2403 Board of Mental Health, and Department of Youth Services.

2404 The joint committee is authorized to distribute or provide
2405 for the distribution of additional sets of the Mississippi Code,
2406 not to exceed three (3) sets, to the office of each district
2407 attorney for the use of his assistants.

2408 The joint committee shall provide to the Mississippi House of
2409 Representatives and the Mississippi Senate the annual supplements
2410 to the Mississippi Code of 1972 for each set of the Code
2411 maintained by the House and Senate.

2412 The set of the Mississippi Code of 1972 to be provided to
2413 each member of the Legislature shall be provided unless
2414 specifically waived by such legislator in writing.

2415 An elected or appointed officeholder in the State of

2416 Mississippi, except for a member of the Legislature, shall deliver
2417 to his successor in office, or to the joint committee if there is
2418 no successor, the set of the Mississippi Code of 1972 provided the
2419 officeholder under this section.

2420 Before the joint committee delivers or provides for delivery
2421 of a copy of the Mississippi Code of 1972 to an individual
2422 officeholder, the joint committee shall prepare and submit a
2423 written agreement to the officeholder. The agreement shall, among
2424 other provisions, state that the Code is the property of the State
2425 of Mississippi, that it shall be transferred to the officeholder's
2426 successor in office, that the officeholder has an obligation to
2427 make such transfer and that the officeholder shall be responsible
2428 for the failure to deliver the Code and for any damage or
2429 destruction to the Code, normal wear and tear excepted. The joint
2430 committee shall execute the agreement and forward it to the
2431 officeholder for execution. The joint committee shall not deliver
2432 or provide for delivery of the Code to the officeholder until the
2433 executed agreement is received by the committee. The joint
2434 committee may include in the agreement such other provisions as it
2435 may deem reasonable and necessary. In addition to damages or any
2436 other remedy for not transferring a set of the Code to his
2437 successor, an officeholder who does not transfer his set of the
2438 Code shall be guilty of a misdemeanor and shall, upon conviction,
2439 pay a fine of One Thousand Dollars (\$1,000.00). Upon request of
2440 the joint committee, the Attorney General shall assist the joint
2441 committee in taking such actions as necessary to require an
2442 officeholder to transfer the set of Code provided under this
2443 section to his successor, or to the joint committee if there is no
2444 successor, and to recover reimbursement or damages from any
2445 officeholder for the loss of or damage or destruction to any
2446 volumes of the set of the Code provided under this section, other
2447 than normal wear and tear.

2448 Replacement of missing, damaged or destroyed sets or volumes
2449 of the Code provided by this chapter may be obtained from the Code

2450 publisher through the joint committee at the established state
2451 cost, the cost to be borne by the recipient.

2452 No more than one (1) set of the Mississippi Code of 1972
2453 shall be furnished to any one (1) individual, regardless of the
2454 office or offices he may hold.

2455 (2) The joint committee, in its discretion, may determine
2456 whether electronic access to the Mississippi Code of 1972 is
2457 available and a sufficient substitute for actual bound volumes of
2458 the code and, if so, may omit furnishing any one or more sets
2459 otherwise required by this section.

2460 SECTION 63. Section 23-15-193, Mississippi Code of 1972, is
2461 amended as follows:

2462 23-15-193. At the election in 1995, and every four (4) years
2463 thereafter, there shall be elected a Governor, Lieutenant
2464 Governor, Secretary of State, Auditor of Public Accounts, State
2465 Treasurer, Attorney General, three (3) Public Service
2466 Commissioners, * * * Commissioner of Insurance, Commissioner of
2467 Agriculture and Commerce, Senators and members of the House of
2468 Representatives in the Legislature, district attorneys for the
2469 several districts, clerks of the circuit and chancery courts of
2470 the several counties, as well as sheriffs, coroners, assessors,
2471 surveyors and members of the boards of supervisors, justice court
2472 judges and constables, and all other officers to be elected by the
2473 people at the general state election. All such officers shall
2474 hold their offices for a term of four (4) years, and until their
2475 successors are elected and qualified. The state officers shall be
2476 elected in the manner prescribed in Section 140 of the
2477 Constitution.

2478 SECTION 64. Section 23-15-297, Mississippi Code of 1972, is
2479 amended as follows:

2480 23-15-297. All candidates upon entering the race for party
2481 nominations for office shall first pay to the proper officer as
2482 provided for in Section 23-15-299 for each primary election the
2483 following amounts:

2484 (a) Candidates for Governor not to exceed Three Hundred
2485 Dollars (\$300.00).

2486 (b) Candidates for Lieutenant Governor, Attorney
2487 General, Secretary of State, State Treasurer, Auditor of Public
2488 Accounts, Commissioner of Insurance, Commissioner of Agriculture
2489 and Commerce, * * * and State Public Service Commissioner, not to
2490 exceed Two Hundred Dollars (\$200.00).

2491 (c) Candidates for district attorney, not to exceed One
2492 Hundred Dollars (\$100.00).

2493 (d) Candidates for State Senator, State Representative,
2494 sheriff, chancery clerk, circuit clerk, tax assessor, tax
2495 collector, county attorney, county superintendent of education and
2496 board of supervisors, not to exceed Fifteen Dollars (\$15.00).

2497 (e) Candidates for county surveyor, county coroner,
2498 justice court judge and constable, not to exceed Ten Dollars
2499 (\$10.00).

2500 (f) Candidates for United States Senator, not to exceed
2501 Three Hundred Dollars (\$300.00).

2502 (g) Candidates for United States Representative, not to
2503 exceed Two Hundred Dollars (\$200.00).

2504 SECTION 65. Section 23-15-881, Mississippi Code of 1972, is
2505 amended as follows:

2506 23-15-881. It shall be unlawful for * * * the board of
2507 supervisors of any county or any member of the board of
2508 supervisors of such county, to employ, during the months of May,
2509 June, July and August of any year in which a general primary
2510 election is held for the nomination and election of members of
2511 the * * * boards of supervisors, a greater number of persons to
2512 work and maintain the * * * public roads, in any supervisors
2513 district of the county, * * * than the average number of persons
2514 employed for similar purposes in such * * * supervisors
2515 district * * * during the months of May, June, July and August of
2516 the three (3) years immediately preceding the year in which such
2517 general primary election is held. It shall be unlawful for * * *

2518 the board of supervisors of any county to expend out of the * * *
2519 road funds of the county or any supervisors district
2520 thereof, * * * in the payment of wages or other compensation for
2521 labor performed in working and maintaining the * * * public roads
2522 of any supervisors district of the county * * * during the months
2523 of May, June, July and August of such election year, a total
2524 amount in excess of the average total amount expended for such
2525 labor, in such * * * supervisors district * * * during the
2526 corresponding four-month period of the three (3) years immediately
2527 preceding.

2528 It shall be the duty of the * * * board of supervisors of
2529 each county, respectively, to keep sufficient records of the
2530 numbers of employees and expenditures made for labor on the * * *
2531 public roads of each supervisors district for the months of May,
2532 June, July and August of each year, to show the number of persons
2533 employed for such work in each * * * supervisors district * * *
2534 during said four-month period, and the total amount expended in
2535 the payment of salaries and other compensation to such employees,
2536 so that it may be ascertained, from an examination of such
2537 records, whether or not the provisions of this act have been
2538 violated.

2539 It is provided, however, because of the abnormal conditions
2540 existing in certain counties of the state due to recent floods in
2541 which roads and bridges have been materially damaged or washed
2542 away and destroyed, if the board of supervisors in any county
2543 passes a resolution as provided in Section 19-9-11 for the
2544 emergency issuance of road and bridge bonds, the provisions of
2545 this section shall not be applicable to or in force concerning the
2546 board of supervisors during the calendar year 1955.

2547 SECTION 66. Section 23-15-883, Mississippi Code of 1972, is
2548 amended as follows:

2549 23-15-883. The restriction imposed upon the * * * boards of
2550 supervisors of the several counties in the employment of labor to
2551 work and maintain the * * * public roads of the several

2552 supervisors districts of the county, as provided in Section
2553 23-15-881, shall not apply to road contractors or bridge
2554 contractors engaged in the construction or maintenance of * * *
2555 county roads under contracts awarded by the * * * board of
2556 supervisors * * * where such contracts shall have been awarded to
2557 the lowest responsible bidder, after legal advertisement, as
2558 provided by law; nor shall the restriction imposed in Section
2559 23-25-881 apply to the labor employed by such road contractors or
2560 bridge contractors in carrying out such contracts. Nor shall the
2561 provisions of this chapter apply to the employment by the * * *
2562 board of supervisors * * * of extra labor employed to make repairs
2563 upon the * * * county roads or bridges, in cases where such * * *
2564 county roads or bridges have been damaged or destroyed by severe
2565 storms, floods or other unforeseen disasters.

2566 SECTION 67. Section 23-15-887, Mississippi Code of 1972, is
2567 amended as follows:

2568 23-15-887. If any member of the * * * board of supervisors,
2569 or the mayor or any member of the board of aldermen or other
2570 governing authority of any municipality, shall violate the
2571 provisions of this article, he shall be guilty of a misdemeanor
2572 and upon conviction thereof, shall be punished by a fine of not
2573 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
2574 Dollars (\$500.00), or by imprisonment in the county jail for a
2575 term not to exceed six (6) months, or by both such fine and
2576 imprisonment.

2577 SECTION 68. Section 25-3-31, Mississippi Code of 1972, is
2578 amended as follows:

2579 **[Until January 1, 2000, Section 25-3-31 will read as**
2580 **follows:]**

2581 25-3-31. The annual salaries of the following elected state
2582 and district officers are fixed as follows:

2583	Governor.....	\$83,160.00
2584	Attorney General.....	90,800.00
2585	Secretary of State.....	75,000.00

2586	Commissioner of Insurance.....	75,000.00
2587	State Treasurer.....	75,000.00
2588	State Auditor of Public Accounts.....	75,000.00
2589	Commissioner of Agriculture and Commerce.....	75,000.00
2590	Transportation Commissioners.....	65,000.00
2591	Public Service Commissioners.....	65,000.00

2592 The salary of the Governor fixed below for January 1, 2000,
2593 shall be the reference amount utilized in computing average
2594 compensation and earned compensation pursuant to Section
2595 25-11-103(f) and Section 25-11-103(k), and to related sections
2596 which require such computations.

2597 **[From and after January 1, 2000, Section 25-3-31 will read as**
2598 **follows:]**

2599 25-3-31. The annual salaries of the following elected state
2600 and district officers are fixed as follows:

2601	Governor.....	\$101,800.00
2602	Attorney General.....	90,800.00
2603	Secretary of State.....	75,000.00
2604	Commissioner of Insurance.....	75,000.00
2605	State Treasurer.....	75,000.00
2606	State Auditor of Public Accounts.....	75,000.00
2607	Commissioner of Agriculture and Commerce.....	75,000.00

2608 * * *

2609	Public Service Commissioners.....	65,000.00
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2610 The above fixed salary of the Governor shall be the reference
2611 amount utilized in computing average compensation and earned
2612 compensation pursuant to Section 25-11-103(f) and Section
2613 25-11-103(k) and to related sections which require such
2614 computations.

2615 SECTION 69. Section 65-2-3, Mississippi Code of 1972, is
2616 amended as follows:

2617 65-2-3. The board shall be composed of three (3) members,
2618 one (1) to be appointed by the Executive Director of the
2619 Mississippi Department of Transportation, and one (1) to be

2620 elected by those construction companies who, as of May 22, 1972,
2621 are under contract with the Transportation Department or have been
2622 so under contract within the two (2) years immediately preceding
2623 the election. As to each subsequent election only those companies
2624 under contract at the time of the election or within the two (2)
2625 years immediately preceding the election shall be eligible to cast
2626 their vote. The third member shall be chosen by agreement of the
2627 other two (2) members.

2628 Each shall serve for a two-year term at the end of which the
2629 Transportation Department or the construction companies may either
2630 retain their representative or choose to appoint or elect another
2631 member.

2632 The two (2) members of the board selected by the executive
2633 director and the construction companies shall receive per diem in
2634 the amount of Fifty Dollars (\$50.00) for each day actually spent
2635 in the performance of their duties hereunder; the third board
2636 member shall receive per diem in the amount of Seventy-five
2637 Dollars (\$75.00) for each day actually spent in the performance of
2638 his duties hereunder. These amounts shall be assessed equally to
2639 the parties in the dispute.

2640 SECTION 70. Section 65-2-5, Mississippi Code of 1972, is
2641 amended as follows:

2642 65-2-5. The board shall elect a chairman and adopt rules of
2643 procedure. The board may be called into session by the Executive
2644 Director of the Mississippi Department of Transportation or by a
2645 contractor who has a dispute with the * * * department which,
2646 under the rules of the board, may be the subject of arbitration.
2647 The party requesting the board's consideration shall give notice
2648 of the same to each member.

2649 The board shall have jurisdiction to hear matters concerning
2650 One Hundred Thousand Dollars (\$100,000.00) or less without regard
2651 to the size of the contract.

2652 SECTION 71. Section 97-15-3, Mississippi Code of 1972, is
2653 amended as follows:

2654 97-15-3. * * * The Executive Director of the Mississippi
2655 Department of Transportation, or any engineer, agent, or other
2656 employee, acting for or on behalf of the Transportation
2657 Department, who shall accept, or agree to accept, receive or agree
2658 to receive, ask or solicit, either directly or indirectly, and any
2659 person who shall give or offer to give, or promise or procure to
2660 be promised, offered or given, either directly, or indirectly, to
2661 the department, or to any engineer, agent, or other employee
2662 acting for and on behalf of the department, any monies, or any
2663 contract, promise, undertaking, obligation, gratuity or security
2664 for the payment of money, or for the delivery or conveyance of
2665 anything of value or of any political appointment or influence,
2666 present, or reward of any employment or any other thing of value,
2667 with the intent to have his decision or action on any question,
2668 matter, cause or proceeding which may at the time be pending, or
2669 which may by law be brought before him in his official capacity or
2670 in his place of trust or profit, influence thereby, shall be
2671 deemed guilty of a felony, and upon conviction, shall be
2672 imprisoned in the Penitentiary not less than one (1) nor more than
2673 five (5) years, and shall forever after be disqualified from
2674 holding any office of trust or profit under the Constitution or
2675 laws of this state.

2676 SECTION 72. Section 97-15-5, Mississippi Code of 1972, is
2677 amended as follows:

2678 97-15-5. * * * The Executive Director of the Mississippi
2679 Department of Transportation, or any person employed
2680 by the Transportation Department, in connection with the carrying
2681 on of the work outlined in Title 65, Mississippi Code of 1972, who
2682 shall knowingly perform any act with intent to injure the state,
2683 or any contractor or his agent, or employee, or any other person,
2684 who shall conspire with the executive director, or with any * * *
2685 employee thereof or with any state official, to permit a violation
2686 of any contract with intent to injure or defraud the state, or any
2687 contractor or agent, or employee of any contractor who shall

2688 knowingly do any work on any state highway in violation of
2689 contract, and with intent to defraud the state, the Transportation
2690 Department, or employee thereof, state official or contractor, or
2691 employee or agent of such contractor, or any other person so
2692 conspiring or so doing shall be guilty of a felony, and, upon
2693 conviction thereof shall be confined to the State Penitentiary not
2694 less than one (1) year, nor more than five (5) years, or be fined
2695 not less than One Thousand Dollars (\$1,000.00) and not more than
2696 Five Thousand Dollars (\$5,000.00) or both. In addition, any such
2697 person shall be liable to the Transportation Department for double
2698 the amount the state may have lost by reason thereof, such
2699 liability to be covered by any bond that may have been executed by
2700 such official, contractor, or employee, the liability hereunder of
2701 the bondsmen, however, being limited to the total amount of said
2702 bond and not more.

2703 SECTION 73. Section 65-1-5, Mississippi Code of 1972, which
2704 provides for the organization and meetings of the Mississippi
2705 Transportation Commission, is repealed.

2706 SECTION 74. The Attorney General of the State of Mississippi
2707 shall submit this act, immediately upon approval by the Governor,
2708 or upon approval by the Legislature subsequent to a veto, to the
2709 Attorney General of the United States or to the United States
2710 District court for the District of Columbia in accordance with the
2711 provisions of the Voting Rights Act of 1965, as amended and
2712 extended.

2713 SECTION 75. This act, with exception of Sections 2, 63, 64
2714 and 68, shall take effect and be in force from and after January
2715 1, 2000, or from and after the date it is effectuated under
2716 Section 5 of the Voting Rights Act of 1965, as amended and
2717 extended, whichever is the later date. Sections 2, 63, 64 and 68
2718 of this act shall take effect and be in force from and after the
2719 date this act is effectuated under Section 5 of the Voting Rights
2720 Act of 1965, as amended and extended.