

By: Representative Ward

To: Transportation; Ways and Means

HOUSE BILL NO. 1322

1 AN ACT TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION  
2 COMMISSION, COUNTY BOARDS OF SUPERVISORS AND THE GOVERNING  
3 AUTHORITIES OF MUNICIPALITIES TO CONSTRUCT, INDIVIDUALLY OR  
4 JOINTLY WITH OTHER GOVERNMENTAL ENTITIES, TOLL ROAD OR TOLL BRIDGE  
5 PROJECTS WITHIN THE STATE; TO AUTHORIZE THE MISSISSIPPI  
6 TRANSPORTATION COMMISSION, COUNTY BOARDS OF SUPERVISORS AND THE  
7 GOVERNING AUTHORITIES OF MUNICIPALITIES TO CONTRACT WITH ANY  
8 PERSON, CORPORATION OR OTHER BUSINESS LICENSED TO DO BUSINESS IN  
9 THE STATE FOR THE PURPOSE OF CONSTRUCTING TOLL ROADS OR BRIDGES;  
10 TO PRESCRIBE THE TERMS AND CONDITIONS FOR THE LETTING OF SUCH  
11 CONTRACTS AND THE RIGHTS AND DUTIES OF THE PARTIES ENTERING INTO  
12 SUCH CONTRACTS; TO AUTHORIZE COUNTIES, CITIES AND THE STATE TO  
13 ISSUE REVENUE BONDS TO FINANCE TOLL ROAD AND TOLL BRIDGE PROJECTS;  
14 TO AMEND SECTIONS 65-3-1 AND 11-46-9, MISSISSIPPI CODE OF 1972, IN  
15 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
16 PURPOSES.

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

18 **SECTION 1.** The Mississippi Transportation Commission, county  
19 boards of supervisors and/or the governing authorities of  
20 municipalities (hereinafter referred to as governmental entities),  
21 in their discretion, may construct, operate and maintain,  
22 individually or jointly with other governmental entities, one or  
23 more new toll roads or toll bridges in the state for motor vehicle  
24 traffic, including toll booths and related facilities, at such  
25 locations where an alternate untolled route exists. All such  
26 highways, pavement, bridges, drainage related structures and other  
27 infrastructure comprising the projects shall be built and  
28 maintained in accordance with not less than the minimum highway  
29 design, construction and maintenance standards established by the  
30 contracting governmental entity for such highways, infrastructure  
31 and facilities.

32 **SECTION 2.** (1) In addition to and as an alternative to any  
33 other authority granted by law, including, but not limited to,  
34 Section 1 of this act, any governmental entities, as defined in

35 Section 1 of this act, in their discretion, may contract,  
36 individually or jointly with other governmental entities, with any  
37 persons, corporations, partnerships or other businesses licensed  
38 to do business in the State of Mississippi (hereinafter referred  
39 to as "companies" or "company") for the purpose of designing,  
40 financing, constructing, operating and maintaining one or more  
41 toll roads or toll bridges in the state for motor vehicle traffic,  
42 including toll booths and related facilities, of such locations  
43 where an untolled route exists. Such contracts shall provide that  
44 land held by the governmental entities, whether in fee simple, as  
45 an easement or other interest, shall be leased or assigned to a  
46 company for design, construction, operation and maintenance of  
47 roadways, highways or bridges for motor vehicle traffic, toll  
48 booths and related facilities. All such highways, pavement,  
49 bridges, drainage related structures and other infrastructure  
50 comprising the projects shall be built and maintained in  
51 accordance with not less than the minimum highway design,  
52 construction and maintenance standards established by the  
53 contracting governmental entity for such highways, infrastructure  
54 and facilities. The contracting governmental entity shall conduct  
55 periodic inspections of any such project throughout the term of  
56 the contract to ensure compliance by the company. Failure of a  
57 company to comply with minimum standards established for the  
58 project by the contracting governmental entity shall constitute a  
59 breach and shall subject the company to liability on its bond or  
60 security or to rescission of the contract in accordance with the  
61 terms and provisions of the contract.

62 (2) Every contract entered into by a governmental entity  
63 under this section shall require a company to enter into bond and  
64 provide such security as the governmental entity determines may be  
65 necessary or advisable to ensure timely completion and proper  
66 execution and performance of the contract. The governmental  
67 entities are authorized to acquire such property or interests in

68 property as may be necessary, by gift, purchase or eminent domain,  
69 for construction and maintenance of the highways or bridges built  
70 pursuant to contracts entered into under this section. Upon  
71 expiration, termination or rescission of the contract, all  
72 interests that the company may have in the land, infrastructure,  
73 facilities or other improvements to the property subject to  
74 contract shall terminate and automatically, by operation of law,  
75 be returned or conveyed to and vest in the State of Mississippi or  
76 the contracting governmental entity. Upon termination, expiration  
77 or rescission of the contract, the collection of tolls shall cease  
78 after all associated debts have been retired or released.

79 (3) During the term of any contract entered into under this  
80 section, the company may establish, charge and collect motor  
81 vehicle operators tolls for use of the highway and its facilities.  
82 The amount of such tolls, and any modification thereto, shall be  
83 subject to approval by the contracting governmental entity;  
84 however, all such contracts entered into with the Mississippi  
85 Transportation Commission may require a company to pay a  
86 percentage of all tolls collected to the Mississippi Department of  
87 Transportation. All such monies paid to the department shall be  
88 deposited into the State Highway Fund and may be expended, upon  
89 appropriation by the Legislature, only for maintenance of state  
90 highways.

91 (4) All statutes of this state relating to traffic  
92 regulation and control shall be applicable to motor vehicles  
93 operated upon highways and bridges constructed under this section  
94 and shall be enforceable by the Mississippi Department of Public  
95 Safety, the Mississippi Highway Safety Patrol or any other law  
96 enforcement agency having jurisdiction over such highways and  
97 bridges.

98 (5) The State of Mississippi, the Mississippi Transportation  
99 Commission, the Mississippi Department of Transportation,  
100 counties, municipalities or any other agency or political

101 subdivision, or any officer or employee thereof, shall not be  
102 liable for any tortious act or omission arising out of the  
103 construction, maintenance or operation of any highway or bridge  
104 project under the provisions of this section where the act or  
105 omission occurs during the term of any such contract entered into  
106 by the Mississippi Transportation Commission or other governmental  
107 entity and a company.

108 (6) The powers conferred by this section shall be in  
109 addition to the powers conferred by any other law, general,  
110 special or local. This section shall be construed as an  
111 additional and alternative method of funding all or any portion of  
112 the purchasing, building, improving, owning or operating of  
113 roadways, highways or bridges under the jurisdiction of the  
114 Mississippi Transportation Commission, county boards of  
115 supervisors or municipal governing authorities, any provision of  
116 the laws of the state or any charter of any municipality to the  
117 contrary notwithstanding.

118 **SECTION 3.** (1) For the purpose of providing funds to defray  
119 the expenses of projects authorized pursuant to Sections 1 and 2  
120 of this act, the board of supervisors of a county or the governing  
121 authorities of a municipality shall have the right to borrow money  
122 for the project, and to issue revenue bonds therefor in such  
123 principal amounts as the board of supervisors or governing  
124 authorities may determine to be necessary to provide sufficient  
125 funds to defray the expenses of projects authorized pursuant to  
126 Sections 1 and 2 of this act. The bonds shall be payable out of  
127 any revenues derived from the project, including grants or  
128 contributions from the federal government or other sources. Such  
129 bonds may be sold at public or private sale at not less than par  
130 and shall bear interest at a rate or rates not exceeding that  
131 allowed in Section 75-17-103. Any such bonds so issued shall not  
132 constitute a debt of the county, the municipality or any political  
133 subdivision of the county or the city within the meaning of any

134 constitutional, statutory or charter restriction, limitation or  
135 provision. It shall be plainly stated on the face of each bond in  
136 substance that the bond has been issued pursuant to the authority  
137 granted in this section and that the taxing power of the county or  
138 municipality issuing the bond is not pledged to the payment of the  
139 bond or the interest on it and that the bond and the interest on  
140 it are payable solely from the revenues of the project for which  
141 the bond is issued.

142 (2) All bonds issued under the authority of this section  
143 shall bear such date or dates, shall be in such form or  
144 denomination, shall bear such rate of interest, and shall mature  
145 at such times as the county or municipality shall determine, but  
146 no bonds issued under the authority of this section shall mature  
147 more than twenty-five (25) years from the date of the issuance  
148 thereof and none of the bonds shall be sold for less than par and  
149 accrued interest. All bonds shall be sold in the manner now  
150 provided by law for the sale of bonds without any restrictions,  
151 limitations, requirements or conditions applicable to the  
152 borrowing of such money and the issuance of such bonds which are  
153 not herein contained. The denomination, form, place of payment  
154 and other details of such bonds may be determined by resolution or  
155 order of the board of supervisors of a county or the governing  
156 authorities of a municipality, and shall be executed on behalf of  
157 the county or municipality as is now provided by law.

158 (3) Before issuing any bonds under the provisions of this  
159 section, the board of supervisors of the county or the governing  
160 authorities of the municipality shall, by resolution spread upon  
161 the minutes, declare its intention to issue such bonds for the  
162 purposes authorized by this section and shall state in the  
163 resolution the amount of bonds proposed to be issued and shall  
164 likewise fix in the resolution the date upon which the board of  
165 supervisors of the county or the governing authorities of the  
166 municipality proposes to direct the issuance of the bonds. Notice

167 of such intention shall be published once a week for at least  
168 three (3) consecutive weeks in a newspaper published or having a  
169 general circulation in the county or the municipality, with the  
170 first publication of the notice to be made not less than  
171 twenty-one (21) days prior to the date fixed in the resolution for  
172 the issuance of the bonds and the last publication to be made not  
173 more than seven (7) days prior to such date. If, on or before the  
174 date specified in the resolution, twenty percent (20%) of the  
175 qualified electors of the county or municipality shall file a  
176 written protest against the issuance of the bonds, then an  
177 election upon the issuance of the bonds shall be called, and held,  
178 as provided in this section. If no such protest shall be filed,  
179 then the board of supervisors of the county or the governing  
180 authorities of the municipality may issue such bonds without an  
181 election on the question of the issuance of the bonds at any time  
182 within a period of two (2) years after the date specified in the  
183 resolution.

184 (4) If an election is called under the provisions of this  
185 section on the question of the issuance of bonds, the election  
186 shall be held, insofar as practicable, in the same manner as other  
187 elections are held in the county or municipality. At the  
188 election, all qualified electors of the county or municipality may  
189 vote and the ballots used in the election shall have printed  
190 thereon a brief statement of the amount and purposes of the  
191 proposed bond issue and the words "FOR THE BOND ISSUE" and the  
192 words "AGAINST THE BOND ISSUE," and the voters shall vote by  
193 placing a cross (X) or check mark (✓) opposite their choice on the  
194 proposition.

195 (5) When the results of any election provided for in this  
196 section shall have been canvassed by the election commissioners of  
197 the county or municipality and certified by them to the proper  
198 authorities, it shall be the duty of the board of supervisors of  
199 the county or the governing authorities of the municipality to

200 determine and adjudicate whether or not a majority of the  
201 qualified electors who voted in the election voted in favor of the  
202 issuance of the bonds and unless a majority of the qualified  
203 electors who voted in the election voted in favor of the issuance  
204 of the bonds, then the bonds shall not be issued. Should a  
205 majority of the qualified electors who vote in the election vote  
206 in favor of the bonds, the board of supervisors of the county or  
207 the governing authorities of the municipality may issue the bonds,  
208 either in whole or in part, within two (2) years from the date of  
209 such election, or within two (2) years after final favorable  
210 determination of any litigation affecting the issuance of such  
211 bonds at such time or times, and in such amount or amounts, not  
212 exceeding that specified in the notice of the election, as shall  
213 be deemed proper.

214 (6) This section, without reference to any other statute,  
215 shall be deemed to be full and complete authority for the issuance  
216 of bonds and borrowing of money as authorized in this section by  
217 counties or municipalities, and shall be construed as an  
218 additional and alternate method therefor. The bonds authorized by  
219 this section shall not constitute an indebtedness within the  
220 meaning of any constitutional or statutory limitation or  
221 restriction.

222 **SECTION 4.** (1) (a) A special fund, to be designated as the  
223 "Toll Road Revenue Bond Fund," is created within the State  
224 Treasury. The fund shall be maintained by the State Treasurer as  
225 a separate and special fund, separate and apart from the General  
226 Fund of the state. Unexpended amounts remaining in the fund at  
227 the end of a fiscal year shall not lapse into the State General  
228 Fund, and any interest earned or investment earnings on amounts in  
229 the fund shall be deposited into such fund.

230 (b) Monies deposited into the fund shall be disbursed,  
231 in the discretion of the Mississippi Transportation Commission, to

232 pay the costs incurred in defraying the expenses of projects  
233 authorized pursuant to Sections 1 and 2 of this act.

234 (2) Amounts deposited into such special fund shall be  
235 disbursed to pay the expenses described in subsection (1) of this  
236 section. If any monies in the special fund are not used within  
237 four (4) years after the date the proceeds of the bonds authorized  
238 under Sections 4 through 18 of this act are deposited into such  
239 fund, then the Mississippi Transportation Commission shall provide  
240 an accounting of such unused monies to the State Bond Commission.  
241 Promptly after the State Bond Commission has certified, by  
242 resolution duly adopted, that the projects for which the revenue  
243 bonds have been issued shall have been completed, abandoned or  
244 cannot be completed in a timely fashion, any amounts remaining in  
245 such special fund shall be applied to pay debt service on the  
246 bonds issued under Sections 4 through 18 of this act, in  
247 accordance with the proceedings authorizing the issuance of such  
248 bonds and as directed by the commission.

249 **SECTION 5.** The State Bond Commission, at one time or from  
250 time to time, may declare by resolution the necessity for issuance  
251 of revenue bonds of the State of Mississippi for the purpose of  
252 providing funds to defray the expenses of projects authorized  
253 pursuant to Sections 1 and 2 of this act. Upon the adoption of a  
254 resolution by the Mississippi Transportation Commission, declaring  
255 the necessity for the issuance of the revenue bonds authorized by  
256 this section, the Mississippi Transportation Commission shall  
257 deliver a certified copy of its resolution or resolutions to the  
258 State Bond Commission. Upon receipt of such resolution, the State  
259 Bond Commission, in its discretion, may act as the issuing agent,  
260 prescribe the form of the bonds, advertise for and accept bids,  
261 issue and sell the bonds so authorized to be sold and do any and  
262 all other things necessary and advisable in connection with the  
263 issuance and sale of such bonds. Revenue bonds issued under this  
264 section shall be in such principal amounts as the Mississippi



265 Transportation Commission may determine to be necessary to provide  
266 sufficient funds to defray the expenses of projects authorized  
267 pursuant to Sections 1 and 2 of this act.

268 (2) Any investment earnings on amounts deposited into the  
269 special fund created in Section 4 of this act shall be used to pay  
270 debt service on bonds issued under Sections 4 through 18 of this  
271 act, in accordance with the proceedings authorizing issuance of  
272 such bonds.

273 **SECTION 6.** The principal of and interest on the bonds  
274 authorized under Sections 4 through 18 of this act shall be  
275 payable in the manner provided in this section. Such bonds shall  
276 bear such date or dates, be in such denomination or denominations,  
277 bear interest at such rate or rates (not to exceed the limits set  
278 forth in Section 75-17-103, Mississippi Code of 1972), be payable  
279 at such place or places within or without the State of  
280 Mississippi, shall mature absolutely at such time or times not to  
281 exceed twenty (20) years from date of issue, be redeemable before  
282 maturity at such time or times and upon such terms, with or  
283 without premium, shall bear such registration privileges, and  
284 shall be substantially in such form, all as shall be determined by  
285 resolution of the State Bond Commission.

286 **SECTION 7.** The bonds authorized by Sections 4 through 18 of  
287 this act shall be signed by the Chairman of the State Bond  
288 Commission, or by his facsimile signature, and the official seal  
289 of the State Bond Commission shall be affixed thereto, attested by  
290 the secretary of the commission. The interest coupons, if any, to  
291 be attached to such bonds may be executed by the facsimile  
292 signatures of such officers. Whenever any such bonds shall have  
293 been signed by the officials designated to sign the bonds who were  
294 in office at the time of such signing but who may have ceased to  
295 be such officers before the sale and delivery of such bonds, or  
296 who may not have been in office on the date such bonds may bear,  
297 the signatures of such officers upon such bonds and coupons shall

298 nevertheless be valid and sufficient for all purposes and have the  
299 same effect as if the person so officially signing such bonds had  
300 remained in office until their delivery to the purchaser, or had  
301 been in office on the date such bonds may bear. However,  
302 notwithstanding anything herein to the contrary, such bonds may be  
303 issued as provided in the Registered Bond Act of the State of  
304 Mississippi.

305       **SECTION 8.** All bonds and interest coupons issued under the  
306 provisions of Sections 4 through 18 of this act have all the  
307 qualities and incidents of negotiable instruments under the  
308 provisions of the Uniform Commercial Code, and in exercising the  
309 powers granted by Sections 4 through 18 of this act, the State  
310 Bond Commission shall not be required to and need not comply with  
311 the provisions of the Uniform Commercial Code.

312       **SECTION 9.** The State Bond Commission shall act as the  
313 issuing agent for the bonds authorized under Sections 4 through 18  
314 of this act, prescribe the form of the bonds, advertise for and  
315 accept bids, issue and sell the bonds so authorized to be sold,  
316 pay all fees and costs incurred in such issuance and sale, and do  
317 any and all other things necessary and advisable in connection  
318 with the issuance and sale of such bonds. The State Bond  
319 Commission is authorized and empowered to pay the costs that are  
320 incident to the sale, issuance and delivery of the bonds  
321 authorized under Sections 4 through 18 of this act from the  
322 proceeds derived from the sale of such bonds. The State Bond  
323 Commission shall sell such bonds on sealed bids at public sale,  
324 and for such price as it may determine to be for the best interest  
325 of the State of Mississippi, but no such sale shall be made at a  
326 price less than par plus accrued interest to the date of delivery  
327 of the bonds to the purchaser. All interest accruing on such  
328 bonds so issued shall be payable semiannually or annually;  
329 however, the first interest payment may be for any period of not  
330 more than one (1) year.

331 Notice of the sale of any such bonds shall be published at  
332 least one time, not less than ten (10) days before the date of  
333 sale, and shall be so published in one or more newspapers  
334 published or having a general circulation in the City of Jackson,  
335 Mississippi, and in one or more other newspapers or financial  
336 journals with a national circulation, to be selected by the State  
337 Bond Commission.

338 The State Bond Commission, when issuing any bonds under the  
339 authority of Sections 4 through 18 of this act, may provide that  
340 bonds, at the option of the State of Mississippi, may be called in  
341 for payment and redemption at the call price named therein and  
342 accrued interest on such date or dates named therein.

343 **SECTION 10.** Bonds issued under authority of Sections 4  
344 through 18 of this act shall be revenue bonds of the state, the  
345 principal of and interest on which shall be payable solely from  
346 the revenue from projects authorized under Section 1 or 2 of this  
347 act. The bonds shall never constitute an indebtedness of the  
348 state within the meaning of any state constitutional provision or  
349 statutory limitation, and shall never constitute or give rise to a  
350 pecuniary liability of the state, or a charge against its general  
351 credit or taxing powers, and such fact shall be plainly stated on  
352 the face of each such bond. The bonds shall not be considered  
353 when computing any limitation of indebtedness of the state. All  
354 bonds issued under the authority of Sections 4 through 18 of this  
355 act and all interest coupons applicable thereto shall be construed  
356 to be negotiable instruments, despite the fact that they are  
357 payable solely from a specified source.

358 **SECTION 11.** Upon the issuance and sale of bonds under the  
359 provisions of Sections 4 through 18 of this act, the State Bond  
360 Commission shall transfer the proceeds of any such sale or sales  
361 to a special fund created in Section 4 of this act. The proceeds  
362 of such bonds shall be disbursed solely upon the order of the  
363 Mississippi Transportation Commission under such restrictions, if

364 any, as may be contained in the resolution providing for the  
365 issuance of the bonds.

366 **SECTION 12.** The bonds authorized under Sections 4 through 18  
367 of this act may be issued without any other proceedings or the  
368 happening of any other conditions or things other than those  
369 proceedings, conditions and things which are specified or required  
370 by Sections 4 through 18 of this act. Any resolution providing  
371 for the issuance of bonds under the provisions of Sections 4  
372 through 18 of this act shall become effective immediately upon its  
373 adoption by the commission, and any such resolution may be adopted  
374 at any regular or special meeting of the commission by a majority  
375 of its members.

376 **SECTION 13.** The bonds authorized under the authority of  
377 Sections 4 through 18 of this act may be validated in the Chancery  
378 Court of the First Judicial District of Hinds County, Mississippi,  
379 in the manner and with the force and effect provided by Chapter  
380 13, Title 31, Mississippi Code of 1972, for the validation of  
381 county, municipal, school district and other bonds. The notice to  
382 taxpayers required by such statutes shall be published in a  
383 newspaper published or having a general circulation in the City of  
384 Jackson, Mississippi.

385 **SECTION 14.** Any holder of bonds issued under the provisions  
386 of Sections 4 through 18 of this act or of any of the interest  
387 coupons pertaining thereto may, either at law or in equity, by  
388 suit, action, mandamus or other proceeding, protect and enforce  
389 any and all rights granted under Sections 4 through 18 of this  
390 act, or under such resolution, and may enforce and compel  
391 performance of all duties required by Sections 4 through 18 of  
392 this act to be performed, in order to provide for the payment of  
393 bonds and interest thereon.

394 **SECTION 15.** All bonds issued under the provisions of  
395 Sections 4 through 18 of this act shall be legal investments for  
396 trustees and other fiduciaries, and for savings banks, trust

397 companies and insurance companies organized under the laws of the  
398 State of Mississippi, and such bonds shall be legal securities  
399 which may be deposited with and shall be received by all public  
400 officers and bodies of this state and all municipalities and  
401 political subdivisions for the purpose of securing the deposit of  
402 public funds.

403 **SECTION 16.** Bonds issued under the provisions of Sections 4  
404 through 18 of this act and income therefrom shall be exempt from  
405 all taxation in the State of Mississippi.

406 **SECTION 17.** The proceeds of the bonds issued under Sections  
407 4 through 18 of this act; shall be used solely for the purposes  
408 provided in Sections 4 through 18 of this act, including the costs  
409 incident to the issuance and sale of such bonds.

410 **SECTION 18.** The State Treasurer is authorized, without  
411 further process of law, to certify to the Department of Finance  
412 and Administration the necessity for warrants, and the Department  
413 of Finance and Administration is authorized and directed to issue  
414 such warrants, in such amounts as may be necessary to pay when due  
415 the principal of, premium, if any, and interest on, or the  
416 accreted value of, all bonds issued under Sections 4 through 18 of  
417 this act; and the State Treasurer shall forward the necessary  
418 amount to the designated place or places of payment of such bonds  
419 in ample time to discharge such bonds, or the interest thereon, on  
420 the due dates thereof.

421 **SECTION 19.** Section 65-3-1, Mississippi Code of 1972, is  
422 amended as follows:

423 65-3-1. Subject only to the provisions hereinafter  
424 contained, it shall be unlawful for any person, acting privately  
425 or in any official capacity or as an employee of any subdivision  
426 of the state, to charge or collect any toll or other charge from  
427 any person for the privilege of traveling on any part of any  
428 highway which has been heretofore or may hereafter be designated  
429 as a state highway, and being a part of the state highway system,

430 or on or across any bridge wholly within this state, which is a  
431 part of any such highway.

432 For a violation of this section, any judge or chancellor may,  
433 in termtime or vacation, grant an injunction upon complaint of the  
434 Mississippi Transportation Commission.

435 However, none of the provisions of this section shall  
436 prohibit the collection of any toll or other charge for the  
437 privilege of traveling on, or the use of, any causeway, bridge,  
438 tunnel, toll bridge, or any combination of such facility  
439 constructed under the provisions of Sections 65-23-101 through  
440 65-23-119, forming a part of U.S. Highway \* \* \* 90 across the Bay  
441 of St. Louis, or across or under the East Pascagoula River or the  
442 West Pascagoula River on \* \* \* U.S. Highway 90.

443 The provisions of this section shall be inapplicable to any  
444 toll road or bridge built or operated under the authority of  
445 Section 1 or Section 2 of House Bill No. \_\_\_\_\_, 2004 Regular  
446 Session.

447 **SECTION 20.** Section 11-46-9, Mississippi Code of 1972, is  
448 amended as follows:

449 11-46-9. (1) A governmental entity and its employees acting  
450 within the course and scope of their employment or duties shall  
451 not be liable for any claim:

452 (a) Arising out of a legislative or judicial action or  
453 inaction, or administrative action or inaction of a legislative or  
454 judicial nature;

455 (b) Arising out of any act or omission of an employee  
456 of a governmental entity exercising ordinary care in reliance  
457 upon, or in the execution or performance of, or in the failure to  
458 execute or perform, a statute, ordinance or regulation, whether or  
459 not the statute, ordinance or regulation be valid;

460 (c) Arising out of any act or omission of an employee  
461 of a governmental entity engaged in the performance or execution  
462 of duties or activities relating to police or fire protection

463 unless the employee acted in reckless disregard of the safety and  
464 well-being of any person not engaged in criminal activity at the  
465 time of injury;

466 (d) Based upon the exercise or performance or the  
467 failure to exercise or perform a discretionary function or duty on  
468 the part of a governmental entity or employee thereof, whether or  
469 not the discretion be abused;

470 (e) Arising out of an injury caused by adopting or  
471 failing to adopt a statute, ordinance or regulation;

472 (f) Which is limited or barred by the provisions of any  
473 other law;

474 (g) Arising out of the exercise of discretion in  
475 determining whether or not to seek or provide the resources  
476 necessary for the purchase of equipment, the construction or  
477 maintenance of facilities, the hiring of personnel and, in  
478 general, the provision of adequate governmental services;

479 (h) Arising out of the issuance, denial, suspension or  
480 revocation of, or the failure or refusal to issue, deny, suspend  
481 or revoke any privilege, ticket, pass, permit, license,  
482 certificate, approval, order or similar authorization where the  
483 governmental entity or its employee is authorized by law to  
484 determine whether or not such authorization should be issued,  
485 denied, suspended or revoked unless such issuance, denial,  
486 suspension or revocation, or failure or refusal thereof, is of a  
487 malicious or arbitrary and capricious nature;

488 (i) Arising out of the assessment or collection of any  
489 tax or fee;

490 (j) Arising out of the detention of any goods or  
491 merchandise by any law enforcement officer, unless such detention  
492 is of a malicious or arbitrary and capricious nature;

493 (k) Arising out of the imposition or establishment of a  
494 quarantine, whether such quarantine relates to persons or  
495 property;

496           (1) Of any claimant who is an employee of a  
497 governmental entity and whose injury is covered by the Workers'  
498 Compensation Law of this state by benefits furnished by the  
499 governmental entity by which he is employed;

500           (m) Of any claimant who at the time the claim arises is  
501 an inmate of any detention center, jail, workhouse, penal farm,  
502 penitentiary or other such institution, regardless of whether such  
503 claimant is or is not an inmate of any detention center, jail,  
504 workhouse, penal farm, penitentiary or other such institution when  
505 the claim is filed;

506           (n) Arising out of any work performed by a person  
507 convicted of a crime when the work is performed pursuant to any  
508 sentence or order of any court or pursuant to laws of the State of  
509 Mississippi authorizing or requiring such work;

510           (o) Under circumstances where liability has been or is  
511 hereafter assumed by the United States, to the extent of such  
512 assumption of liability, including, but not limited to, any claim  
513 based on activities of the Mississippi National Guard when such  
514 claim is cognizable under the National Guard Tort Claims Act of  
515 the United States, 32 USC 715 (32 USCS 715), or when such claim  
516 accrues as a result of active federal service or state service at  
517 the call of the Governor for quelling riots and civil  
518 disturbances;

519           (p) Arising out of a plan or design for construction or  
520 improvements to public property, including, but not limited to,  
521 public buildings, highways, roads, streets, bridges, levees,  
522 dikes, dams, impoundments, drainage channels, diversion channels,  
523 harbors, ports, wharfs or docks, where such plan or design has  
524 been approved in advance of the construction or improvement by the  
525 legislative body or governing authority of a governmental entity  
526 or by some other body or administrative agency, exercising  
527 discretion by authority to give such approval, and where such plan



528 or design is in conformity with engineering or design standards in  
529 effect at the time of preparation of the plan or design;

530 (q) Arising out of an injury caused solely by the  
531 effect of weather conditions on the use of streets and highways;

532 (r) Arising out of the lack of adequate personnel or  
533 facilities at a state hospital or state corrections facility if  
534 reasonable use of available appropriations has been made to  
535 provide such personnel or facilities;

536 (s) Arising out of loss, damage or destruction of  
537 property of a patient or inmate of a state institution;

538 (t) Arising out of any loss of benefits or compensation  
539 due under a program of public assistance or public welfare;

540 (u) Arising out of or resulting from riots, unlawful  
541 assemblies, unlawful public demonstrations, mob violence or civil  
542 disturbances;

543 (v) Arising out of an injury caused by a dangerous  
544 condition on property of the governmental entity that was not  
545 caused by the negligent or other wrongful conduct of an employee  
546 of the governmental entity or of which the governmental entity did  
547 not have notice, either actual or constructive, and adequate  
548 opportunity to protect or warn against; provided, however, that a  
549 governmental entity shall not be liable for the failure to warn of  
550 a dangerous condition which is obvious to one exercising due care;

551 (w) Arising out of the absence, condition, malfunction  
552 or removal by third parties of any sign, signal, warning device,  
553 illumination device, guardrail or median barrier, unless the  
554 absence, condition, malfunction or removal is not corrected by the  
555 governmental entity responsible for its maintenance within a  
556 reasonable time after actual or constructive notice; \* \* \*

557 (x) Arising out of the administration of corporal  
558 punishment or the taking of any action to maintain control and  
559 discipline of students, as defined in Section 37-11-57, by a  
560 teacher, assistant teacher, principal or assistant principal of a

561 public school district in the state unless the teacher, assistant  
562 teacher, principal or assistant principal acted in bad faith or  
563 with malicious purpose or in a manner exhibiting a wanton and  
564 willful disregard of human rights or safety; or

565 (y) Arising out of any act or omission relating to a  
566 highway, bridge or roadway project under a contract entered into  
567 under Section 1 or Section 2 of House Bill No. \_\_\_\_\_, 2004 Regular  
568 Session.

569 (2) A governmental entity shall also not be liable for any  
570 claim where the governmental entity:

571 (a) Is inactive and dormant;

572 (b) Receives no revenue;

573 (c) Has no employees; and

574 (d) Owns no property.

575 (3) If a governmental entity exempt from liability by  
576 subsection (2) becomes active, receives income, hires employees or  
577 acquires any property, such governmental entity shall no longer be  
578 exempt from liability as provided in subsection (2) and shall be  
579 subject to the provisions of this chapter.

580 **SECTION 21.** This act shall take effect and be in force from  
581 and after July 1, 2004.