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To: Highways and
Transportation; Finance

SENATE BILL NO. 2751

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, individually or jointly with
22 other governmental entities, toll road or toll bridge projects
23 within the state. All such highways, pavement, bridges, drainage
24 related structures and other infrastructure comprising the
25 projects shall be built and maintained in accordance with not less
26 than the minimum highway design, construction and maintenance
27 standards established by the contracting governmental entity for
28 such highways, infrastructure and facilities.

29 **SECTION 2.** (1) In addition to and as an alternative to any
30 other authority granted by law, including, but not limited to,
31 Section 1 of this act, any governmental entities, as defined in
32 Section 1 of this act, in their discretion, may contract,
33 individually or jointly with other governmental entities, with any
34 persons, corporations, partnerships or other businesses licensed

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

57 (2) Every contract entered into by a governmental entity
58 under this section shall require a company to enter into bond and
59 provide such security as the governmental entity determines may be
60 necessary or advisable to ensure timely completion and proper
61 execution and performance of the contract. The governmental
62 entities are authorized to acquire such property or interests in
63 property as may be necessary, by gift, purchase or eminent domain,
64 for construction and maintenance of the highways or bridges built
65 pursuant to contracts entered into under this section. Upon
66 expiration, termination or rescission of the contract, all
67 interests that the company may have in the land, infrastructure,

68 facilities or other improvements to the property subject to
69 contract shall terminate and automatically, by operation of law,
70 be returned or conveyed to and vest in the State of Mississippi or
71 the contracting governmental entity. Upon termination, expiration
72 or rescission of the contract, the collection of tolls shall cease
73 after all associated debts have been retired or released.

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

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

93 (5) The State of Mississippi, the Mississippi Transportation
94 Commission, the Mississippi Department of Transportation,
95 counties, municipalities or any other agency or political
96 subdivision, or any officer or employee thereof, shall not be
97 liable for any tortious act or omission arising out of the
98 construction, maintenance or operation of any highway or bridge
99 project under the provisions of this section where the act or
100 omission occurs during the term of any such contract entered into

101 by the Mississippi Transportation Commission or other governmental
102 entity and a company.

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

113 **SECTION 3.** (1) For the purpose of providing funds to defray
114 the expenses of projects authorized pursuant to Sections 1 and 2
115 of this act, the board of supervisors of a county or the governing
116 authorities of a municipality shall have the right to borrow money
117 for the project, and to issue revenue bonds therefor in such
118 principal amounts as the board of supervisors or governing
119 authorities may determine to be necessary to provide sufficient
120 funds to defray the expenses of projects authorized pursuant to
121 Sections 1 and 2 of this act. The bonds shall be payable out of
122 any revenues derived from the project, including grants or
123 contributions from the federal government or other sources. Such
124 bonds may be sold at public or private sale at not less than par
125 and shall bear interest at a rate or rates not exceeding that
126 allowed in Section 75-17-103. Any such bonds so issued shall not
127 constitute a debt of the county, the municipality or any political
128 subdivision of the county or the city within the meaning of any
129 constitutional, statutory or charter restriction, limitation or
130 provision. It shall be plainly stated on the face of each bond in
131 substance that the bond has been issued pursuant to the authority
132 granted in this section and that the taxing power of the county or
133 municipality issuing the bond is not pledged to the payment of the

134 bond or the interest on it and that the bond and the interest on
135 it are payable solely from the revenues of the project for which
136 the bond is issued.

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

153 (3) Before issuing any bonds under the provisions of this
154 section, the board of supervisors of the county or the governing
155 authorities of the municipality shall, by resolution spread upon
156 the minutes, declare its intention to issue such bonds for the
157 purposes authorized by this section and shall state in the
158 resolution the amount of bonds proposed to be issued and shall
159 likewise fix in the resolution the date upon which the board of
160 supervisor of the county or the governing authorities of the
161 municipality proposes to direct the issuance of the bonds. Notice
162 of such intention shall be published once a week for at least
163 three (3) consecutive weeks in a newspaper published or having a
164 general circulation in the county or the municipality, with the
165 first publication of the notice to be made not less than
166 twenty-one (21) days prior to the date fixed in the resolution for

167 the issuance of the bonds and the last publication to be made not
168 more than seven (7) days prior to such date. If, on or before the
169 date specified in the resolution, twenty percent (20%) of the
170 qualified electors of the county or municipality shall file a
171 written protest against the issuance of the bonds, then an
172 election upon the issuance of the bonds shall be called, and held,
173 as provided in this section. If no such protest shall be filed,
174 then the board of supervisors of the county or the governing
175 authorities of the municipality may issue such bonds without an
176 election on the question of the issuance of the bonds at any time
177 within a period of two (2) years after the date specified in the
178 resolution.

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

190 (5) When the results of any election provided for in this
191 section shall have been canvassed by the election commissioners of
192 the county or municipality and certified by them to the proper
193 authorities, it shall be the duty of the board of supervisors of
194 the county or the governing authorities of the municipality to
195 determine and adjudicate whether or not a majority of the
196 qualified electors who voted in the election voted in favor of the
197 issuance of the bonds and unless a majority of the qualified
198 electors who voted in the election voted in favor of the issuance
199 of the bonds, then the bonds shall not be issued. Should a

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

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

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

225 (b) Monies deposited into the fund shall be disbursed,
226 in the discretion of the Mississippi Transportation Commission, to
227 pay the costs incurred in defraying the expenses of projects
228 authorized pursuant to Sections 1 and 2 of this act.

229 (2) Amounts deposited into such special fund shall be
230 disbursed to pay the expenses described in subsection (1) of this
231 section. If any monies in the special fund are not used within
232 four (4) years after the date the proceeds of the bonds authorized

233 under Sections 4 through 18 of this act are deposited into such
234 fund, then the Mississippi Transportation Commission shall provide
235 an accounting of such unused monies to the State Bond Commission.
236 Promptly after the State Bond Commission has certified, by
237 resolution duly adopted, that the projects for which the revenue
238 bonds have been issued shall have been completed, abandoned or
239 cannot be completed in a timely fashion, any amounts remaining in
240 such special fund shall be applied to pay debt service on the
241 bonds issued under Sections 4 through 18 of this act, in
242 accordance with the proceedings authorizing the issuance of such
243 bonds and as directed by the commission.

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

263 (2) Any investment earnings on amounts deposited into the
264 special fund created in Section 4 of this act shall be used to pay
265 debt service on bonds issued under Sections 4 through 18 of this

266 act, in accordance with the proceedings authorizing issuance of
267 such bonds.

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

281 SECTION 7. The bonds authorized by Sections 4 through 18 of
282 this act shall be signed by the Chairman of the State Bond
283 Commission, or by his facsimile signature, and the official seal
284 of the State Bond Commission shall be affixed thereto, attested by
285 the secretary of the commission. The interest coupons, if any, to
286 be attached to such bonds may be executed by the facsimile
287 signatures of such officers. Whenever any such bonds shall have
288 been signed by the officials designated to sign the bonds who were
289 in office at the time of such signing but who may have ceased to
290 be such officers before the sale and delivery of such bonds, or
291 who may not have been in office on the date such bonds may bear,
292 the signatures of such officers upon such bonds and coupons shall
293 nevertheless be valid and sufficient for all purposes and have the
294 same effect as if the person so officially signing such bonds had
295 remained in office until their delivery to the purchaser, or had
296 been in office on the date such bonds may bear. However,
297 notwithstanding anything herein to the contrary, such bonds may be

298 issued as provided in the Registered Bond Act of the State of
299 Mississippi.

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

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

326 Notice of the sale of any such bonds shall be published at
327 least one time, not less than ten (10) days before the date of
328 sale, and shall be so published in one or more newspapers
329 published or having a general circulation in the City of Jackson,
330 Mississippi, and in one or more other newspapers or financial

331 journals with a national circulation, to be selected by the State
332 Bond Commission.

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

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

353 **SECTION 11.** Upon the issuance and sale of bonds under the
354 provisions of Sections 4 through 18 of this act, the State Bond
355 Commission shall transfer the proceeds of any such sale or sales
356 to a special fund created in Section 4 of this act. The proceeds
357 of such bonds shall be disbursed solely upon the order of the
358 Mississippi Transportation Commission under such restrictions, if
359 any, as may be contained in the resolution providing for the
360 issuance of the bonds.

361 **SECTION 12.** The bonds authorized under Sections 4 through 18
362 of this act may be issued without any other proceedings or the
363 happening of any other conditions or things other than those

364 proceedings, conditions and things which are specified or required
365 by Sections 4 through 18 of this act. Any resolution providing
366 for the issuance of bonds under the provisions of Sections 4
367 through 18 of this act shall become effective immediately upon its
368 adoption by the commission, and any such resolution may be adopted
369 at any regular or special meeting of the commission by a majority
370 of its members.

371 **SECTION 13.** The bonds authorized under the authority of
372 Sections 4 through 18 of this act may be validated in the Chancery
373 Court of the First Judicial District of Hinds County, Mississippi,
374 in the manner and with the force and effect provided by Chapter
375 13, Title 31, Mississippi Code of 1972, for the validation of
376 county, municipal, school district and other bonds. The notice to
377 taxpayers required by such statutes shall be published in a
378 newspaper published or having a general circulation in the City of
379 Jackson, Mississippi.

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

389 **SECTION 15.** All bonds issued under the provisions of
390 Sections 4 through 18 of this act shall be legal investments for
391 trustees and other fiduciaries, and for savings banks, trust
392 companies and insurance companies organized under the laws of the
393 State of Mississippi, and such bonds shall be legal securities
394 which may be deposited with and shall be received by all public
395 officers and bodies of this state and all municipalities and

396 political subdivisions for the purpose of securing the deposit of
397 public funds.

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

401 **SECTION 17.** The proceeds of the bonds issued under Sections
402 4 through 18 of this act; shall be used solely for the purposes
403 provided in Sections 4 through 18 of this act, including the costs
404 incident to the issuance and sale of such bonds.

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

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

418 65-3-1. Subject only to the provisions hereinafter
419 contained, it shall be unlawful for any person, acting privately
420 or in any official capacity or as an employee of any subdivision
421 of the state, to charge or collect any toll or other charge from
422 any person for the privilege of traveling on any part of any
423 highway which has been heretofore or may hereafter be designated
424 as a state highway, and being a part of the state highway system,
425 or on or across any bridge wholly within this state, which is a
426 part of any such highway.

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

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

438 The provisions of this section shall be inapplicable to any
439 toll road or bridge built or operated under the authority of
440 Section 1 or Section 2 of Senate Bill No. 2751, 2004 Regular
441 Session.

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

444 11-46-9. (1) A governmental entity and its employees acting
445 within the course and scope of their employment or duties shall
446 not be liable for any claim:

447 (a) Arising out of a legislative or judicial action or
448 inaction, or administrative action or inaction of a legislative or
449 judicial nature;

450 (b) Arising out of any act or omission of an employee
451 of a governmental entity exercising ordinary care in reliance
452 upon, or in the execution or performance of, or in the failure to
453 execute or perform, a statute, ordinance or regulation, whether or
454 not the statute, ordinance or regulation be valid;

455 (c) Arising out of any act or omission of an employee
456 of a governmental entity engaged in the performance or execution
457 of duties or activities relating to police or fire protection
458 unless the employee acted in reckless disregard of the safety and

459 well-being of any person not engaged in criminal activity at the
460 time of injury;

461 (d) Based upon the exercise or performance or the
462 failure to exercise or perform a discretionary function or duty on
463 the part of a governmental entity or employee thereof, whether or
464 not the discretion be abused;

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

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

469 (g) Arising out of the exercise of discretion in
470 determining whether or not to seek or provide the resources
471 necessary for the purchase of equipment, the construction or
472 maintenance of facilities, the hiring of personnel and, in
473 general, the provision of adequate governmental services;

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

483 (i) Arising out of the assessment or collection of any
484 tax or fee;

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

488 (k) Arising out of the imposition or establishment of a
489 quarantine, whether such quarantine relates to persons or
490 property;

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

495 (m) Of any claimant who at the time the claim arises is
496 an inmate of any detention center, jail, workhouse, penal farm,
497 penitentiary or other such institution, regardless of whether such
498 claimant is or is not an inmate of any detention center, jail,
499 workhouse, penal farm, penitentiary or other such institution when
500 the claim is filed;

501 (n) Arising out of any work performed by a person
502 convicted of a crime when the work is performed pursuant to any
503 sentence or order of any court or pursuant to laws of the State of
504 Mississippi authorizing or requiring such work;

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

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

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

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

527 (r) Arising out of the lack of adequate personnel or
528 facilities at a state hospital or state corrections facility if
529 reasonable use of available appropriations has been made to
530 provide such personnel or facilities;

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

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

535 (u) Arising out of or resulting from riots, unlawful
536 assemblies, unlawful public demonstrations, mob violence or civil
537 disturbances;

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

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

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

556 public school district in the state unless the teacher, assistant
557 teacher, principal or assistant principal acted in bad faith or
558 with malicious purpose or in a manner exhibiting a wanton and
559 willful disregard of human rights or safety; or

560 (y) Arising out of any act or omission relating to a
561 highway, bridge or roadway project under a contract entered into
562 under Section 1 or Section 2 of Senate Bill No. 2751, 2004 Regular
563 Session.

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

566 (a) Is inactive and dormant;

567 (b) Receives no revenue;

568 (c) Has no employees; and

569 (d) Owns no property.

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

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