

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2063: Toll roads; authorize Transportation Commission to contract with private entities to construct (MDOT).

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 and
25 along such locations where an alternate untolled route exists. To
26 qualify as an alternate untolled route, the route must meet or
27 exceed the same design, construction and maintenance standards
28 established by the Mississippi Transportation Commission for
29 highways and bridges on the state highway system. All such
30 highways, pavement, bridges, drainage related structures and other
31 infrastructure comprising the projects shall be built and
32 maintained in accordance with not less than the minimum highway
33 design, construction and maintenance standards established by the
34 contracting governmental entity for such highways, infrastructure
35 and facilities.

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

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

66 (2) Every contract entered into by a governmental entity
67 under this section shall require a company to enter into bond and
68 provide such security as the governmental entity determines may be
69 necessary or advisable to ensure timely completion and proper
70 execution and performance of the contract. The governmental

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

83 (3) During the term of any contract entered into under this
84 section, the company may establish, charge and collect motor
85 vehicle operators tolls for use of the highway and its facilities.
86 The amount of such tolls, and any modification thereto, shall be
87 subject to approval by the contracting governmental entity;
88 however, all such contracts entered into with the Mississippi
89 Transportation Commission may require a company to pay a
90 percentage of all tolls collected to the Mississippi Department of
91 Transportation. All such tolls paid to the department shall be
92 deposited into the special bond sinking fund under Section 5 of
93 this act and may be expended only as authorized by the
94 Legislature.

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

102 (5) The State of Mississippi, the Mississippi Transportation
103 Commission, the Mississippi Department of Transportation,
104 counties, municipalities or any other agency or political
105 subdivision, or any officer or employee thereof, shall not be
106 liable for any tortious act or omission arising out of the
107 construction, maintenance or operation of any highway or bridge
108 project under the provisions of this section where the act or
109 omission occurs during the term of any such contract entered into
110 by the Mississippi Transportation Commission or other governmental
111 entity and a company.

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

122 **SECTION 3.** (1) For the purpose of providing funds to defray
123 the expenses of projects authorized pursuant to Sections 1 and 2
124 of this act, the board of supervisors of a county or the governing
125 authorities of a municipality shall have the right to borrow money
126 for the project, and to issue revenue bonds therefor in such
127 principal amounts as the board of supervisors or governing
128 authorities may determine to be necessary to provide sufficient
129 funds to defray the expenses of projects authorized pursuant to
130 Sections 1 and 2 of this act. The bonds shall be payable out of
131 any revenues derived from the project, including grants or
132 contributions from the federal government or other sources. Such
133 bonds may be sold at public or private sale at not less than par

134 and shall bear interest at a rate or rates not exceeding that
135 allowed in Section 75-17-103. Any such bonds so issued shall not
136 constitute a debt of the county, the municipality or any political
137 subdivision of the county or the city within the meaning of any
138 constitutional, statutory or charter restriction, limitation or
139 provision. It shall be plainly stated on the face of each bond in
140 substance that the bond has been issued pursuant to the authority
141 granted in this section and that the taxing power of the county or
142 municipality issuing the bond is not pledged to the payment of the
143 bond or the interest on it and that the bond and the interest on
144 it are payable solely from the revenues of the project for which
145 the bond is issued.

146 (2) All bonds issued under the authority of this section
147 shall bear such date or dates, shall be in such form or
148 denomination, shall bear such rate of interest, and shall mature
149 at such times as the county or municipality shall determine, but
150 no bonds issued under the authority of this section shall mature
151 more than thirty (30) years from the date of the issuance thereof
152 and none of the bonds shall be sold for less than par and accrued
153 interest. All bonds shall be sold in the manner now provided by
154 law for the sale of bonds without any restrictions, limitations,
155 requirements or conditions applicable to the borrowing of such
156 money and the issuance of such bonds which are not herein
157 contained. The denomination, form, place of payment and other
158 details of such bonds may be determined by resolution or order of
159 the board of supervisors of a county or the governing authorities
160 of a municipality, and shall be executed on behalf of the county
161 or municipality as is now provided by law.

162 (3) Before issuing any bonds under the provisions of this
163 section, the board of supervisors of the county or the governing
164 authorities of the municipality shall, by resolution spread upon
165 the minutes, declare its intention to issue such bonds for the

166 purposes authorized by this section and shall state in the
167 resolution the amount of bonds proposed to be issued and shall
168 likewise fix in the resolution the date upon which the board of
169 supervisors of the county or the governing authorities of the
170 municipality proposes to direct the issuance of the bonds. Notice
171 of such intention shall be published once a week for at least
172 three (3) consecutive weeks in a newspaper published or having a
173 general circulation in the county or the municipality, with the
174 first publication of the notice to be made not less than
175 twenty-one (21) days prior to the date fixed in the resolution for
176 the issuance of the bonds and the last publication to be made not
177 more than seven (7) days prior to such date. If, on or before the
178 date specified in the resolution, twenty percent (20%) or fifteen
179 hundred (1500), whichever is less, of the qualified electors of
180 the county or municipality shall file a written protest against
181 the issuance of the bonds, then an election upon the issuance of
182 the bonds shall be called, and held, as provided in this section.
183 If no such protest shall be filed, then the board of supervisors
184 of the county or the governing authorities of the municipality may
185 issue such bonds without an election on the question of the
186 issuance of the bonds at any time within a period of two (2) years
187 after the date specified in the resolution.

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

197 placing a cross (X) or check mark (v) opposite their choice on the
198 proposition.

199 (5) When the results of any election provided for in this
200 section shall have been canvassed by the election commissioners of
201 the county or municipality and certified by them to the proper
202 authorities, it shall be the duty of the board of supervisors of
203 the county or the governing authorities of the municipality to
204 determine and adjudicate whether or not a majority of the
205 qualified electors who voted in the election voted in favor of the
206 issuance of the bonds and unless a majority of the qualified
207 electors who voted in the election voted in favor of the issuance
208 of the bonds, then the bonds shall not be issued. Should a
209 majority of the qualified electors who vote in the election vote
210 in favor of the bonds, the board of supervisors of the county or
211 the governing authorities of the municipality may issue the bonds,
212 either in whole or in part, within two (2) years from the date of
213 such election, or within two (2) years after final favorable
214 determination of any litigation affecting the issuance of such
215 bonds at such time or times, and in such amount or amounts, not
216 exceeding that specified in the notice of the election, as shall
217 be deemed proper.

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

226 **SECTION 4.** (1) (a) A special fund, to be designated as the
227 "Toll Road Revenue Bond Fund," is created within the State
228 Treasury. The fund shall be maintained by the State Treasurer as

229 a separate and special fund, separate and apart from the General
230 Fund of the state. Unexpended amounts remaining in the fund at
231 the end of a fiscal year shall not lapse into the State General
232 Fund, and any interest earned or investment earnings on amounts in
233 the fund shall be deposited into such fund.

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

238 (2) Amounts deposited into such special fund shall be
239 disbursed to pay the expenses described in subsection (1) of this
240 section. If any monies in the special fund are not used within
241 six (6) years after the date the proceeds of the bonds authorized
242 under Sections 4 through 19 of this act are deposited into such
243 fund, then the Mississippi Transportation Commission shall provide
244 an accounting of such unused monies to the State Bond Commission.
245 Promptly after the State Bond Commission has certified, by
246 resolution duly adopted, that the projects for which the revenue
247 bonds have been issued shall have been completed, abandoned or
248 cannot be completed in a timely fashion, any amounts remaining in
249 such special fund shall be applied to pay debt service on the
250 bonds issued under Sections 4 through 19 of this act, in
251 accordance with the proceedings authorizing the issuance of such
252 bonds and as directed by the commission.

253 **SECTION 5.** For the purpose of providing for the payment of
254 the principal of and interest upon bonds issued under the
255 provisions of Sections 4 through 19 of this act, there is created
256 a special bond sinking fund in the State Treasury. The special
257 bond sinking fund shall consist of the monies required to be
258 deposited into the fund under Section 2 of this act and such other
259 amounts as the Legislature may direct to be paid into the fund by
260 appropriation or other authorization by the Legislature.

261 Unexpended amounts remaining in the special bond sinking fund at
262 the end of a fiscal year shall not lapse into the State General
263 Fund, and any interest earned or investment earnings on amounts in
264 the special bond sinking fund shall be deposited into such sinking
265 fund.

266 **SECTION 6.** The State Bond Commission, at one time or from
267 time to time, may declare by resolution the necessity for issuance
268 of revenue bonds of the State of Mississippi for the purpose of
269 providing funds to defray the expenses of projects authorized
270 pursuant to Sections 1 and 2 of this act. Upon the adoption of a
271 resolution by the Mississippi Transportation Commission, declaring
272 the necessity for the issuance of the revenue bonds authorized by
273 this section, the Mississippi Transportation Commission shall
274 deliver a certified copy of its resolution or resolutions to the
275 State Bond Commission. Upon receipt of such resolution, the State
276 Bond Commission, in its discretion, may act as the issuing agent,
277 prescribe the form of the bonds, advertise for and accept bids,
278 issue and sell, at public or private sale, the bonds so authorized
279 to be sold and do any and all other things necessary and advisable
280 in connection with the issuance and sale of such bonds. Revenue
281 bonds issued under this section shall be in such principal amounts
282 as the Mississippi Transportation Commission may determine to be
283 necessary to provide sufficient funds to defray the expenses of
284 projects authorized pursuant to Sections 1 and 2 of this act.

285 (2) Any investment earnings on amounts deposited into the
286 special fund created in Section 4 of this act shall be used to pay
287 debt service on bonds issued under Sections 4 through 19 of this
288 act, in accordance with the proceedings authorizing issuance of
289 such bonds.

290 **SECTION 7.** The principal of and interest on the bonds
291 authorized under Sections 4 through 19 of this act shall be
292 payable in the manner provided in this section. Such bonds shall

293 bear such date or dates, be in such denomination or denominations,
294 bear interest at such rate or rates (not to exceed the limits set
295 forth in Section 75-17-103, Mississippi Code of 1972), be payable
296 at such place or places within or without the State of
297 Mississippi, shall mature absolutely at such time or times not to
298 exceed thirty (30) years from date of issue, be redeemable before
299 maturity at such time or times and upon such terms, with or
300 without premium, shall bear such registration privileges, and
301 shall be substantially in such form, all as shall be determined by
302 resolution of the State Bond Commission.

303 **SECTION 8.** The bonds authorized by Sections 4 through 19 of
304 this act shall be signed by the Chairman of the State Bond
305 Commission, or by his facsimile signature, and the official seal
306 of the State Bond Commission shall be affixed thereto, attested by
307 the secretary of the commission. The interest coupons, if any, to
308 be attached to such bonds may be executed by the facsimile
309 signatures of such officers. Whenever any such bonds shall have
310 been signed by the officials designated to sign the bonds who were
311 in office at the time of such signing but who may have ceased to
312 be such officers before the sale and delivery of such bonds, or
313 who may not have been in office on the date such bonds may bear,
314 the signatures of such officers upon such bonds and coupons shall
315 nevertheless be valid and sufficient for all purposes and have the
316 same effect as if the person so officially signing such bonds had
317 remained in office until their delivery to the purchaser, or had
318 been in office on the date such bonds may bear. However,
319 notwithstanding anything herein to the contrary, such bonds may be
320 issued as provided in the Registered Bond Act of the State of
321 Mississippi.

322 **SECTION 9.** All bonds and interest coupons issued under the
323 provisions of Sections 4 through 19 of this act have all the
324 qualities and incidents of negotiable instruments under the

325 provisions of the Uniform Commercial Code, and in exercising the
326 powers granted by Sections 4 through 19 of this act, the State
327 Bond Commission shall not be required to and need not comply with
328 the provisions of the Uniform Commercial Code.

329 **SECTION 10.** The State Bond Commission shall act as the
330 issuing agent for the bonds authorized under Sections 4 through 19
331 of this act, prescribe the form of the bonds, advertise for and
332 accept bids, issue and sell, at public or private sale, the bonds
333 so authorized to be sold, pay all fees and costs incurred in such
334 issuance and sale, and do any and all other things necessary and
335 advisable in connection with the issuance and sale of such bonds.
336 The State Bond Commission is authorized and empowered to pay the
337 costs that are incident to the sale, issuance and delivery of the
338 bonds authorized under Sections 4 through 19 of this act from the
339 proceeds derived from the sale of such bonds. The State Bond
340 Commission shall sell such bonds on sealed bids at public or
341 private sale, and for such price as it may determine to be for the
342 best interest of the State of Mississippi, but no such sale shall
343 be made at a price less than par plus accrued interest to the date
344 of delivery of the bonds to the purchaser. All interest accruing
345 on such bonds so issued shall be payable semiannually or annually;
346 however, the first interest payment may be for any period of not
347 more than one (1) year.

348 Notice of the sale of any such bonds shall be published at
349 least one time, not less than ten (10) days before the date of
350 sale, and shall be so published in one or more newspapers
351 published or having a general circulation in the City of Jackson,
352 Mississippi, and in one or more other newspapers or financial
353 journals with a national circulation, to be selected by the State
354 Bond Commission.

355 The State Bond Commission, when issuing any bonds under the
356 authority of Sections 4 through 19 of this act, may provide that

357 bonds, at the option of the State of Mississippi, may be called in
358 for payment and redemption at the call price named therein and
359 accrued interest on such date or dates named therein.

360 **SECTION 11.** Bonds issued under authority of Sections 4
361 through 19 of this act shall be revenue bonds of the state, the
362 principal of and interest on which shall be payable solely from
363 the revenue from projects authorized under Section 1 or 2 of this
364 act. The bonds shall never constitute an indebtedness of the
365 state within the meaning of any state constitutional provision or
366 statutory limitation, and shall never constitute or give rise to a
367 pecuniary liability of the state, or a charge against its general
368 credit or taxing powers, and such fact shall be plainly stated on
369 the face of each such bond. The bonds shall not be considered
370 when computing any limitation of indebtedness of the state. All
371 bonds issued under the authority of Sections 4 through 19 of this
372 act and all interest coupons applicable thereto shall be construed
373 to be negotiable instruments, despite the fact that they are
374 payable solely from a specified source.

375 **SECTION 12.** Upon the issuance and sale of bonds under the
376 provisions of Sections 4 through 19 of this act, the State Bond
377 Commission shall transfer the proceeds of any such sale or sales
378 to a special fund created in Section 4 of this act. The proceeds
379 of such bonds shall be disbursed solely upon the order of the
380 Mississippi Transportation Commission under such restrictions, if
381 any, as may be contained in the resolution providing for the
382 issuance of the bonds.

383 **SECTION 13.** The bonds authorized under Sections 4 through 19
384 of this act may be issued without any other proceedings or the
385 happening of any other conditions or things other than those
386 proceedings, conditions and things which are specified or required
387 by Sections 4 through 19 of this act. Any resolution providing
388 for the issuance of bonds under the provisions of Sections 4

389 through 19 of this act shall become effective immediately upon its
390 adoption by the commission, and any such resolution may be adopted
391 at any regular or special meeting of the commission by a majority
392 of its members.

393 **SECTION 14.** The bonds authorized under the authority of
394 Sections 4 through 19 of this act may be validated in the Chancery
395 Court of the First Judicial District of Hinds County, Mississippi,
396 in the manner and with the force and effect provided by Chapter
397 13, Title 31, Mississippi Code of 1972, for the validation of
398 county, municipal, school district and other bonds. The notice to
399 taxpayers required by such statutes shall be published in a
400 newspaper published or having a general circulation in the City of
401 Jackson, Mississippi.

402 **SECTION 15.** Any holder of bonds issued under the provisions
403 of Sections 4 through 19 of this act or of any of the interest
404 coupons pertaining thereto may, either at law or in equity, by
405 suit, action, mandamus or other proceeding, protect and enforce
406 any and all rights granted under Sections 4 through 19 of this
407 act, or under such resolution, and may enforce and compel
408 performance of all duties required by Sections 4 through 19 of
409 this act to be performed, in order to provide for the payment of
410 bonds and interest thereon.

411 **SECTION 16.** All bonds issued under the provisions of
412 Sections 4 through 19 of this act shall be legal investments for
413 trustees and other fiduciaries, and for savings banks, trust
414 companies and insurance companies organized under the laws of the
415 State of Mississippi, and such bonds shall be legal securities
416 which may be deposited with and shall be received by all public
417 officers and bodies of this state and all municipalities and
418 political subdivisions for the purpose of securing the deposit of
419 public funds.

420 **SECTION 17.** Bonds issued under the provisions of Sections 4
421 through 19 of this act and income therefrom shall be exempt from
422 all taxation in the State of Mississippi.

423 **SECTION 18.** The proceeds of the bonds issued under Sections
424 4 through 19 of this act; shall be used solely for the purposes
425 provided in Sections 4 through 19 of this act, including the costs
426 incident to the issuance and sale of such bonds.

427 **SECTION 19.** The State Treasurer is authorized, without
428 further process of law, to certify to the Department of Finance
429 and Administration the necessity for warrants, and the Department
430 of Finance and Administration is authorized and directed to issue
431 such warrants, in such amounts as may be necessary to pay when due
432 the principal of, premium, if any, and interest on, or the
433 accreted value of, all bonds issued under Sections 4 through 19 of
434 this act; and the State Treasurer shall forward the necessary
435 amount to the designated place or places of payment of such bonds
436 in ample time to discharge such bonds, or the interest thereon, on
437 the due dates thereof.

438 **SECTION 20.** Section 65-3-1, Mississippi Code of 1972, is
439 amended as follows:

440 65-3-1. Subject only to the provisions hereinafter
441 contained, it shall be unlawful for any person, acting privately
442 or in any official capacity or as an employee of any subdivision
443 of the state, to charge or collect any toll or other charge from
444 any person for the privilege of traveling on any part of any
445 highway which has been heretofore or may hereafter be designated
446 as a state highway, and being a part of the state highway system,
447 or on or across any bridge wholly within this state, which is a
448 part of any such highway.

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

452 However, none of the provisions of this section shall
453 prohibit the collection of any toll or other charge for the
454 privilege of traveling on, or the use of, any causeway, bridge,
455 tunnel, toll bridge, or any combination of such facility
456 constructed under the provisions of Sections 65-23-101 through
457 65-23-119, forming a part of U.S. Highway * * * 90 across the Bay
458 of St. Louis, or across or under the East Pascagoula River or the
459 West Pascagoula River on * * * U.S. Highway 90.

460 The provisions of this section shall be inapplicable to any
461 toll road or bridge built or operated under the authority of
462 Section 1 or Section 2 of Senate Bill No. 2063, 2004 Regular
463 Session.

464 **SECTION 21.** Section 11-46-9, Mississippi Code of 1972, is
465 amended as follows:

466 11-46-9. (1) A governmental entity and its employees acting
467 within the course and scope of their employment or duties shall
468 not be liable for any claim:

469 (a) Arising out of a legislative or judicial action or
470 inaction, or administrative action or inaction of a legislative or
471 judicial nature;

472 (b) Arising out of any act or omission of an employee
473 of a governmental entity exercising ordinary care in reliance
474 upon, or in the execution or performance of, or in the failure to
475 execute or perform, a statute, ordinance or regulation, whether or
476 not the statute, ordinance or regulation be valid;

477 (c) Arising out of any act or omission of an employee
478 of a governmental entity engaged in the performance or execution
479 of duties or activities relating to police or fire protection
480 unless the employee acted in reckless disregard of the safety and
481 well-being of any person not engaged in criminal activity at the
482 time of injury;

483 (d) Based upon the exercise or performance or the
484 failure to exercise or perform a discretionary function or duty on
485 the part of a governmental entity or employee thereof, whether or
486 not the discretion be abused;

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

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

491 (g) Arising out of the exercise of discretion in
492 determining whether or not to seek or provide the resources
493 necessary for the purchase of equipment, the construction or
494 maintenance of facilities, the hiring of personnel and, in
495 general, the provision of adequate governmental services;

496 (h) Arising out of the issuance, denial, suspension or
497 revocation of, or the failure or refusal to issue, deny, suspend
498 or revoke any privilege, ticket, pass, permit, license,
499 certificate, approval, order or similar authorization where the
500 governmental entity or its employee is authorized by law to
501 determine whether or not such authorization should be issued,
502 denied, suspended or revoked unless such issuance, denial,
503 suspension or revocation, or failure or refusal thereof, is of a
504 malicious or arbitrary and capricious nature;

505 (i) Arising out of the assessment or collection of any
506 tax or fee;

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

510 (k) Arising out of the imposition or establishment of a
511 quarantine, whether such quarantine relates to persons or
512 property;

513 (l) Of any claimant who is an employee of a
514 governmental entity and whose injury is covered by the Workers'

515 Compensation Law of this state by benefits furnished by the
516 governmental entity by which he is employed;

517 (m) Of any claimant who at the time the claim arises is
518 an inmate of any detention center, jail, workhouse, penal farm,
519 penitentiary or other such institution, regardless of whether such
520 claimant is or is not an inmate of any detention center, jail,
521 workhouse, penal farm, penitentiary or other such institution when
522 the claim is filed;

523 (n) Arising out of any work performed by a person
524 convicted of a crime when the work is performed pursuant to any
525 sentence or order of any court or pursuant to laws of the State of
526 Mississippi authorizing or requiring such work;

527 (o) Under circumstances where liability has been or is
528 hereafter assumed by the United States, to the extent of such
529 assumption of liability, including, but not limited to, any claim
530 based on activities of the Mississippi National Guard when such
531 claim is cognizable under the National Guard Tort Claims Act of
532 the United States, 32 USC 715 (32 USCS 715), or when such claim
533 accrues as a result of active federal service or state service at
534 the call of the Governor for quelling riots and civil
535 disturbances;

536 (p) Arising out of a plan or design for construction or
537 improvements to public property, including, but not limited to,
538 public buildings, highways, roads, streets, bridges, levees,
539 dikes, dams, impoundments, drainage channels, diversion channels,
540 harbors, ports, wharfs or docks, where such plan or design has
541 been approved in advance of the construction or improvement by the
542 legislative body or governing authority of a governmental entity
543 or by some other body or administrative agency, exercising
544 discretion by authority to give such approval, and where such plan
545 or design is in conformity with engineering or design standards in
546 effect at the time of preparation of the plan or design;

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

549 (r) Arising out of the lack of adequate personnel or
550 facilities at a state hospital or state corrections facility if
551 reasonable use of available appropriations has been made to
552 provide such personnel or facilities;

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

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

557 (u) Arising out of or resulting from riots, unlawful
558 assemblies, unlawful public demonstrations, mob violence or civil
559 disturbances;

560 (v) Arising out of an injury caused by a dangerous
561 condition on property of the governmental entity that was not
562 caused by the negligent or other wrongful conduct of an employee
563 of the governmental entity or of which the governmental entity did
564 not have notice, either actual or constructive, and adequate
565 opportunity to protect or warn against; provided, however, that a
566 governmental entity shall not be liable for the failure to warn of
567 a dangerous condition which is obvious to one exercising due care;

568 (w) Arising out of the absence, condition, malfunction
569 or removal by third parties of any sign, signal, warning device,
570 illumination device, guardrail or median barrier, unless the
571 absence, condition, malfunction or removal is not corrected by the
572 governmental entity responsible for its maintenance within a
573 reasonable time after actual or constructive notice; * * *

574 (x) Arising out of the administration of corporal
575 punishment or the taking of any action to maintain control and
576 discipline of students, as defined in Section 37-11-57, by a
577 teacher, assistant teacher, principal or assistant principal of a
578 public school district in the state unless the teacher, assistant

579 teacher, principal or assistant principal acted in bad faith or
580 with malicious purpose or in a manner exhibiting a wanton and
581 willful disregard of human rights or safety; or

582 (y) Arising out of any act or omission relating to a
583 highway, bridge or roadway project under a contract entered into
584 under Section 2 of Senate Bill No. 2063, 2004 Regular Session.

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

- 587 (a) Is inactive and dormant;
- 588 (b) Receives no revenue;
- 589 (c) Has no employees; and
- 590 (d) Owns no property.

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

596 **SECTION 22.** The Attorney General of the State of Mississippi
597 shall submit this act, immediately upon approval by the Governor,
598 or upon approval by the Legislature subsequent to a veto, to the
599 Attorney General of the United States or to the United States
600 District Court for the District of Columbia in accordance with the
601 provisions of the Voting Rights Act of 1965, as amended and
602 extended.

603 **SECTION 23.** This act shall take effect and be in force from
604 and after the date it is effectuated under Section 5 of the Voting
605 Rights Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

CONFEREES FOR THE SENATE

X (SIGNED)
Billy Hewes III

X (SIGNED)
Scottie R. Cuevas

X (SIGNED)
Robert Jackson

CONFEREES FOR THE HOUSE

X (SIGNED)
William Miles

X (SIGNED)
Henry Zuber III

X (SIGNED)
Greg Ward