

House Amendments to Senate Bill No. 2063

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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. Failure of a company to comply with minimum
36 standards established for the project by the contracting
37 governmental entity, including failure to meet minimum highway
38 maintenance standards at all times during the term of the lease
39 and upon return of the property to the governmental entity upon
40 termination or expiration of the lease or rescission of the
41 contract, shall constitute a breach and shall subject the company
42 to liability on its bond or security or to rescission of the

43 contract in accordance with the terms and provisions of the
44 contract.

45 **SECTION 2.** (1) In addition to and as an alternative to any
46 other authority granted by law, including, but not limited to,
47 Section 1 of this act, any governmental entities, as defined in
48 Section 1 of this act, in their discretion, may contract,
49 individually or jointly with other governmental entities, with any
50 persons, corporations, partnerships or other businesses licensed
51 to do business in the State of Mississippi (hereinafter referred
52 to as "companies" or "company") for the purpose of designing,
53 financing and constructing one or more new toll roads or toll
54 bridges in the state for motor vehicle traffic, including
55 construction and/or operation of toll booths and related
56 facilities, at or along such locations where an alternate untolled
57 route exists. To qualify as an alternate untolled route, the
58 route must meet or exceed the same design, construction and
59 maintenance standards established by the Mississippi
60 Transportation Commission for highways and bridges on the state
61 highway system. Such contracts shall provide that land held by
62 the governmental entities, whether in fee simple, as an easement
63 or other interest, shall be leased or assigned to a company for
64 design and construction of roadways, highways or bridges for motor
65 vehicle traffic, and for operation and maintenance of toll booths
66 and related facilities. All such highways, pavement, bridges,
67 drainage related structures and other infrastructure comprising
68 the projects shall be built and maintained in accordance with not
69 less than the minimum highway design, construction and maintenance
70 standards established by the contracting governmental entity for
71 such highways, infrastructure and facilities. The contracting
72 governmental entity shall conduct periodic inspections of any such
73 project throughout the term of the contract to ensure compliance
74 by the company. Failure of a company to comply with minimum
75 standards established for the project by the contracting
76 governmental entity, including failure to meet minimum highway
77 maintenance standards at all times during the term of the lease

78 and upon return of the property to the governmental entity upon
79 termination or expiration of the lease or upon rescission of the
80 contract, shall constitute a breach and shall subject the company
81 to liability on its bond or security or to rescission of the
82 contract in accordance with the terms and provisions of the
83 contract.

84 (2) Every contract entered into by a governmental entity
85 under this section shall require a company to enter into bond and
86 provide such security as the governmental entity determines may be
87 necessary or advisable to ensure timely completion and proper
88 execution and performance of the contract. The governmental
89 entities are authorized to acquire such property or interests in
90 property as may be necessary, by gift, purchase or eminent domain,
91 for construction and maintenance of the highways or bridges built
92 pursuant to contracts entered into under this section. Upon
93 expiration, termination or rescission of the contract, all
94 interests that the company may have in the land, infrastructure,
95 facilities or other improvements to the property subject to
96 contract shall terminate and automatically, by operation of law,
97 be returned or conveyed to and vest in the State of Mississippi or
98 the contracting governmental entity.

99 (3) During the term of any contract entered into under the
100 authority created by this act, the company may establish, charge
101 and collect motor vehicle operators tolls for use of the highway
102 or bridge and its facilities for the purpose of retiring any debt
103 incurred by the governmental entity to build such highway or
104 bridge and its facilities, and to pay the costs of collection of
105 such toll, except any instance of emergency in which the county
106 civil defense has declared a recommendation for evacuation. The
107 amount of such tolls, and any modification thereto, shall be
108 subject to approval by the contracting governmental entity. All
109 such contracts shall require a company to pay all tolls collected
110 to the contracting governmental entity which has issued bonds or
111 notes or incurred other obligations of indebtedness for a project
112 authorized under this act. The proceeds of the tolls shall be

113 used exclusively to pay the principal, interests, costs of
114 collection and costs of issuance incurred by the governmental
115 entity for the project and for payment of such indebtedness for so
116 long as such indebtedness remains outstanding. If bonds have been
117 issued under Sections 4 through 19 of this act, the proceeds of
118 the tolls paid to the Department of Transportation, after payment
119 of costs of collection, shall be deposited into the special bond
120 sinking fund created under Section 5 of this act and may be
121 expended solely to pay the principal, interest and other costs
122 associated with the issuance of such bonds. After all bonds and
123 debts associated with the project have been retired or released,
124 the collection of tolls shall cease.

125 (4) Notwithstanding any other provision of this act, no
126 tolls shall be imposed or collected on any project except for the
127 purpose of payment of indebtedness incurred in construction of
128 such project, including costs of collections, interests and costs
129 associated with the issuance of such bonds.

130 (5) All statutes of this state relating to traffic
131 regulation and control shall be applicable to motor vehicles
132 operated upon highways and bridges constructed under this section
133 and shall be enforceable by the Mississippi Department of Public
134 Safety, the Mississippi Highway Safety Patrol or any other law
135 enforcement agency having jurisdiction over such highways and
136 bridges.

137 (6) The State of Mississippi, the Mississippi Transportation
138 Commission, the Mississippi Department of Transportation,
139 counties, municipalities or any other agency or political
140 subdivision, or any officer or employee thereof, shall not be
141 liable for any tortious act or omission arising out of the
142 construction, maintenance or operation of any highway or bridge
143 project under the provisions of this section where the act or
144 omission occurs during the term of any such contract entered into
145 by the Mississippi Transportation Commission or other governmental
146 entity and a company.

147 (7) The powers conferred by this section shall be in
148 addition to the powers conferred by any other law, general,
149 special or local. This section shall be construed as an
150 additional and alternative method of funding all or any portion of
151 the purchasing, building, improving, owning or operating of
152 roadways, highways or bridges under the jurisdiction of the
153 Mississippi Transportation Commission, county boards of
154 supervisors or municipal governing authorities, any provision of
155 the laws of the state or any charter of any municipality to the
156 contrary notwithstanding.

157 **SECTION 3.** (1) For the purpose of providing funds to defray
158 the expenses of projects authorized pursuant to Sections 1 and 2
159 of this act, the board of supervisors of a county or the governing
160 authorities of a municipality shall have the right to borrow money
161 for the project, and to issue revenue bonds therefor in such
162 principal amounts as the board of supervisors or governing
163 authorities may determine to be necessary to provide sufficient
164 funds to defray the expenses of projects authorized pursuant to
165 Sections 1 and 2 of this act. The bonds shall be payable out of
166 any revenues derived from the project, including grants or
167 contributions from the federal government or other sources. Such
168 bonds may be sold at public or private sale at not less than par
169 and shall bear interest at a rate or rates not exceeding that
170 allowed in Section 75-17-103. Any such bonds so issued shall not
171 constitute a debt of the county, the municipality or any political
172 subdivision of the county or the city within the meaning of any
173 constitutional, statutory or charter restriction, limitation or
174 provision. It shall be plainly stated on the face of each bond in
175 substance that the bond has been issued pursuant to the authority
176 granted in this section and that the taxing power of the county or
177 municipality issuing the bond is not pledged to the payment of the
178 bond or the interest on it and that the bond and the interest on
179 it are payable solely from the revenues of the project for which
180 the bond is issued.

181 (2) All bonds issued under the authority of this section
182 shall bear such date or dates, shall be in such form or
183 denomination, shall bear such rate of interest, and shall mature
184 at such times as the county or municipality shall determine, but
185 no bonds issued under the authority of this section shall mature
186 more than twenty-five (25) years from the date of the issuance
187 thereof and none of the bonds shall be sold for less than par and
188 accrued interest. All bonds shall be sold in the manner now
189 provided by law for the sale of bonds without any restrictions,
190 limitations, requirements or conditions applicable to the
191 borrowing of such money and the issuance of such bonds which are
192 not herein contained. The denomination, form, place of payment
193 and other details of such bonds may be determined by resolution or
194 order of the board of supervisors of a county or the governing
195 authorities of a municipality, and shall be executed on behalf of
196 the county or municipality as is now provided by law.

197 (3) Before issuing any bonds under the provisions of this
198 section, the board of supervisors of the county or the governing
199 authorities of the municipality shall, by resolution spread upon
200 the minutes, declare its intention to issue such bonds for the
201 purposes authorized by this section and shall state in the
202 resolution the amount of bonds proposed to be issued and shall
203 likewise fix in the resolution the date upon which the board of
204 supervisors of the county or the governing authorities of the
205 municipality proposes to direct the issuance of the bonds. Notice
206 of such intention shall be published once a week for at least
207 three (3) consecutive weeks in a newspaper published or having a
208 general circulation in the county or the municipality, with the
209 first publication of the notice to be made not less than
210 twenty-one (21) days prior to the date fixed in the resolution for
211 the issuance of the bonds and the last publication to be made not
212 more than seven (7) days prior to such date. If, on or before the
213 date specified in the resolution, twenty percent (20%) or fifteen
214 hundred (1500), whichever is less, of the qualified electors of
215 the county or municipality shall file a written protest against

216 the issuance of the bonds, then an election upon the issuance of
217 the bonds shall be called, and held, as provided in this section.
218 If no such protest shall be filed, then the board of supervisors
219 of the county or the governing authorities of the municipality may
220 issue such bonds without an election on the question of the
221 issuance of the bonds at any time within a period of two (2) years
222 after the date specified in the resolution.

223 (4) If an election is called under the provisions of this
224 section on the question of the issuance of bonds, the election
225 shall be held, insofar as practicable, in the same manner as other
226 elections are held in the county or municipality. At the
227 election, all qualified electors of the county or municipality may
228 vote and the ballots used in the election shall have printed
229 thereon a brief statement of the amount and purposes of the
230 proposed bond issue and the words "FOR THE BOND ISSUE" and the
231 words "AGAINST THE BOND ISSUE," and the voters shall vote by
232 placing a cross (X) or check mark (√) opposite their choice on the
233 proposition.

234 (5) When the results of any election provided for in this
235 section shall have been canvassed by the election commissioners of
236 the county or municipality and certified by them to the proper
237 authorities, it shall be the duty of the board of supervisors of
238 the county or the governing authorities of the municipality to
239 determine and adjudicate whether or not a majority of the
240 qualified electors who voted in the election voted in favor of the
241 issuance of the bonds and unless a majority of the qualified
242 electors who voted in the election voted in favor of the issuance
243 of the bonds, then the bonds shall not be issued. Should a
244 majority of the qualified electors who vote in the election vote
245 in favor of the bonds, the board of supervisors of the county or
246 the governing authorities of the municipality may issue the bonds,
247 either in whole or in part, within two (2) years from the date of
248 such election, or within two (2) years after final favorable
249 determination of any litigation affecting the issuance of such
250 bonds at such time or times, and in such amount or amounts, not

251 exceeding that specified in the notice of the election, as shall
252 be deemed proper.

253 (6) This section, without reference to any other statute,
254 shall be deemed to be full and complete authority for the issuance
255 of bonds and borrowing of money as authorized in this section by
256 counties or municipalities, and shall be construed as an
257 additional and alternate method therefor. The bonds authorized by
258 this section shall not constitute an indebtedness within the
259 meaning of any constitutional or statutory limitation or
260 restriction.

261 **SECTION 4.** (1) (a) A special fund, to be designated as the
262 "Toll Road Revenue Bond Fund," is created within the State
263 Treasury. The fund shall be maintained by the State Treasurer as
264 a separate and special fund, separate and apart from the General
265 Fund of the state. Unexpended amounts remaining in the fund at
266 the end of a fiscal year shall not lapse into the State General
267 Fund, and any interest earned or investment earnings on amounts in
268 the fund shall be deposited into such fund.

269 (b) Monies deposited into the fund shall be disbursed,
270 in the discretion of the Mississippi Transportation Commission, to
271 pay the costs incurred by the Transportation Commission and the
272 Transportation Department in defraying the expenses of projects
273 authorized pursuant to Sections 1 and 2 of this act.

274 (2) If any monies in the special fund are not used within
275 four (4) years after the date the proceeds of the bonds authorized
276 under Sections 4 through 19 of this act are deposited into such
277 fund, then the Mississippi Transportation Commission shall provide
278 an accounting of such unused monies to the State Bond Commission.
279 Promptly after the State Bond Commission has certified, by
280 resolution duly adopted, that the projects for which the revenue
281 bonds have been issued shall have been completed, abandoned or
282 cannot be completed in a timely fashion, any amounts remaining in
283 such special fund shall be applied to pay debt service on the
284 bonds issued under Sections 4 through 19 of this act, in

285 accordance with the proceedings authorizing the issuance of such
286 bonds and as directed by the commission.

287 **SECTION 5.** For the purpose of providing for the payment of
288 the principal of and interest upon bonds issued under the
289 provisions of Sections 4 through 19 of this act, there is created
290 a special bond sinking fund in the State Treasury. The special
291 bond sinking fund shall consist of the monies required to be
292 deposited into the fund under Section 2 of this act and such other
293 amounts as the Legislature may direct to be paid into the fund by
294 appropriation or other authorization by the Legislature.
295 Unexpended amounts remaining in the special bond sinking fund at
296 the end of a fiscal year shall not lapse into the State General
297 Fund, and any interest earned or investment earnings on amounts in
298 the special bond sinking fund shall be deposited into such sinking
299 fund.

300 **SECTION 6.** The State Bond Commission, at one time or from
301 time to time, may declare by resolution the necessity for issuance
302 of revenue bonds of the State of Mississippi for the purpose of
303 providing funds for the Transportation Commission and the
304 Transportation Department to defray the expenses of projects
305 authorized pursuant to Sections 1 and 2 of this act. Upon the
306 adoption of a resolution by the Mississippi Transportation
307 Commission, declaring the necessity for the issuance of the
308 revenue bonds authorized by this section, the Mississippi
309 Transportation Commission shall deliver a certified copy of its
310 resolution or resolutions to the State Bond Commission. Upon
311 receipt of such resolution, the State Bond Commission, in its
312 discretion, may act as the issuing agent, prescribe the form of
313 the bonds, advertise for and accept bids, issue and sell the bonds
314 so authorized to be sold and do any and all other things necessary
315 and advisable in connection with the issuance and sale of such
316 bonds. Revenue bonds issued under this section shall be in such
317 principal amounts as the Mississippi Transportation Commission may
318 determine to be necessary to provide sufficient funds to defray

319 the expenses of projects authorized pursuant to Sections 1 and 2
320 of this act.

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

326 **SECTION 7.** The principal of and interest on the bonds
327 authorized under Sections 4 through 19 of this act shall be
328 payable in the manner provided in this section. Such bonds shall
329 bear such date or dates, be in such denomination or denominations,
330 bear interest at such rate or rates (not to exceed the limits set
331 forth in Section 75-17-103, Mississippi Code of 1972), be payable
332 at such place or places within or without the State of
333 Mississippi, shall mature absolutely at such time or times not to
334 exceed twenty (20) years from date of issue, be redeemable before
335 maturity at such time or times and upon such terms, with or
336 without premium, shall bear such registration privileges, and
337 shall be substantially in such form, all as shall be determined by
338 resolution of the State Bond Commission.

339 **SECTION 8.** The bonds authorized by Sections 4 through 19 of
340 this act shall be signed by the Chairman of the State Bond
341 Commission, or by his facsimile signature, and the official seal
342 of the State Bond Commission shall be affixed thereto, attested by
343 the secretary of the commission. The interest coupons, if any, to
344 be attached to such bonds may be executed by the facsimile
345 signatures of such officers. Whenever any such bonds shall have
346 been signed by the officials designated to sign the bonds who were
347 in office at the time of such signing but who may have ceased to
348 be such officers before the sale and delivery of such bonds, or
349 who may not have been in office on the date such bonds may bear,
350 the signatures of such officers upon such bonds and coupons shall
351 nevertheless be valid and sufficient for all purposes and have the
352 same effect as if the person so officially signing such bonds had
353 remained in office until their delivery to the purchaser, or had

354 been in office on the date such bonds may bear. However,
355 notwithstanding anything herein to the contrary, such bonds may be
356 issued as provided in the Registered Bond Act of the State of
357 Mississippi.

358 **SECTION 9.** All bonds and interest coupons issued under the
359 provisions of Sections 4 through 19 of this act have all the
360 qualities and incidents of negotiable instruments under the
361 provisions of the Uniform Commercial Code, and in exercising the
362 powers granted by Sections 4 through 19 of this act, the State
363 Bond Commission shall not be required to and need not comply with
364 the provisions of the Uniform Commercial Code.

365 **SECTION 10.** The State Bond Commission shall act as the
366 issuing agent for the bonds authorized under Sections 4 through 19
367 of this act, prescribe the form of the bonds, advertise for and
368 accept bids, issue and sell the bonds so authorized to be sold,
369 pay all fees and costs incurred in such issuance and sale, and do
370 any and all other things necessary and advisable in connection
371 with the issuance and sale of such bonds. The State Bond
372 Commission is authorized and empowered to pay the costs that are
373 incident to the sale, issuance and delivery of the bonds
374 authorized under Sections 4 through 19 of this act from the
375 proceeds derived from the sale of such bonds. The State Bond
376 Commission shall sell such bonds on sealed bids at public sale,
377 and for such price as it may determine to be for the best interest
378 of the State of Mississippi, but no such sale shall be made at a
379 price less than par plus accrued interest to the date of delivery
380 of the bonds to the purchaser. All interest accruing on such
381 bonds so issued shall be payable semiannually or annually;
382 however, the first interest payment may be for any period of not
383 more than one (1) year.

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

389 journals with a national circulation, to be selected by the State
390 Bond Commission.

391 The State Bond Commission, when issuing any bonds under the
392 authority of Sections 4 through 19 of this act, may provide that
393 bonds, at the option of the State of Mississippi, may be called in
394 for payment and redemption at the call price named therein and
395 accrued interest on such date or dates named therein.

396 **SECTION 11.** Bonds issued under authority of Sections 4
397 through 19 of this act shall be revenue bonds of the state, the
398 principal of and interest on which shall be payable solely from
399 the revenue from projects authorized under Section 1 or 2 of this
400 act. The bonds shall never constitute an indebtedness of the
401 state within the meaning of any state constitutional provision or
402 statutory limitation, and shall never constitute or give rise to a
403 pecuniary liability of the state, or a charge against its general
404 credit or taxing powers, and such fact shall be plainly stated on
405 the face of each such bond. The bonds shall not be considered
406 when computing any limitation of indebtedness of the state. All
407 bonds issued under the authority of Sections 4 through 19 of this
408 act and all interest coupons applicable thereto shall be construed
409 to be negotiable instruments, despite the fact that they are
410 payable solely from a specified source.

411 **SECTION 12.** Upon the issuance and sale of bonds under the
412 provisions of Sections 4 through 19 of this act, the State Bond
413 Commission shall transfer the proceeds of any such sale or sales
414 to a special fund created in Section 4 of this act. The proceeds
415 of such bonds shall be disbursed solely upon the order of the
416 Mississippi Transportation Commission under such restrictions, if
417 any, as may be contained in the resolution providing for the
418 issuance of the bonds.

419 **SECTION 13.** The bonds authorized under Sections 4 through 19
420 of this act may be issued without any other proceedings or the
421 happening of any other conditions or things other than those
422 proceedings, conditions and things which are specified or required
423 by Sections 4 through 19 of this act. Any resolution providing

424 for the issuance of bonds under the provisions of Sections 4
425 through 19 of this act shall become effective immediately upon its
426 adoption by the commission, and any such resolution may be adopted
427 at any regular or special meeting of the commission by a majority
428 of its members.

429 **SECTION 14.** The bonds authorized under the authority of
430 Sections 4 through 19 of this act may be validated in the Chancery
431 Court of the First Judicial District of Hinds County, Mississippi,
432 in the manner and with the force and effect provided by Chapter
433 13, Title 31, Mississippi Code of 1972, for the validation of
434 county, municipal, school district and other bonds. The notice to
435 taxpayers required by such statutes shall be published in a
436 newspaper published or having a general circulation in the City of
437 Jackson, Mississippi.

438 **SECTION 15.** Any holder of bonds issued under the provisions
439 of Sections 4 through 19 of this act or of any of the interest
440 coupons pertaining thereto may, either at law or in equity, by
441 suit, action, mandamus or other proceeding, protect and enforce
442 any and all rights granted under Sections 4 through 19 of this
443 act, or under such resolution, and may enforce and compel
444 performance of all duties required by Sections 4 through 19 of
445 this act to be performed, in order to provide for the payment of
446 bonds and interest thereon.

447 **SECTION 16.** All bonds issued under the provisions of
448 Sections 4 through 19 of this act shall be legal investments for
449 trustees and other fiduciaries, and for savings banks, trust
450 companies and insurance companies organized under the laws of the
451 State of Mississippi, and such bonds shall be legal securities
452 which may be deposited with and shall be received by all public
453 officers and bodies of this state and all municipalities and
454 political subdivisions for the purpose of securing the deposit of
455 public funds.

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

459 **SECTION 18.** The proceeds of the bonds issued under Sections
460 4 through 19 of this act; shall be used solely for the purposes
461 provided in Sections 4 through 19 of this act, including the costs
462 incident to the issuance and sale of such bonds.

463 **SECTION 19.** The State Treasurer is authorized, without
464 further process of law, to certify to the Department of Finance
465 and Administration the necessity for warrants, and the Department
466 of Finance and Administration is authorized and directed to issue
467 such warrants, in such amounts as may be necessary to pay when due
468 the principal of, premium, if any, and interest on, or the
469 accreted value of, all bonds issued under Sections 4 through 19 of
470 this act; and the State Treasurer shall forward the necessary
471 amount to the designated place or places of payment of such bonds
472 in ample time to discharge such bonds, or the interest thereon, on
473 the due dates thereof.

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

476 65-3-1. Subject only to the provisions hereinafter
477 contained, it shall be unlawful for any person, acting privately
478 or in any official capacity or as an employee of any subdivision
479 of the state, to charge or collect any toll or other charge from
480 any person for the privilege of traveling on any part of any
481 highway which has been heretofore or may hereafter be designated
482 as a state highway, and being a part of the state highway system,
483 or on or across any bridge wholly within this state, which is a
484 part of any such highway.

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

488 However, none of the provisions of this section shall
489 prohibit the collection of any toll or other charge for the
490 privilege of traveling on, or the use of, any causeway, bridge,
491 tunnel, toll bridge, or any combination of such facility
492 constructed under the provisions of Sections 65-23-101 through
493 65-23-119, forming a part of U.S. Highway * * * 90 across the Bay

494 of St. Louis, or across or under the East Pascagoula River or the
495 West Pascagoula River on * * * U.S. Highway 90.

496 The provisions of this section shall be inapplicable to any
497 toll road or bridge built or operated under the authority of
498 Section 1 or Section 2 of Senate Bill No. 2063, 2004 Regular
499 Session.

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

502 11-46-9. (1) A governmental entity and its employees acting
503 within the course and scope of their employment or duties shall
504 not be liable for any claim:

505 (a) Arising out of a legislative or judicial action or
506 inaction, or administrative action or inaction of a legislative or
507 judicial nature;

508 (b) Arising out of any act or omission of an employee
509 of a governmental entity exercising ordinary care in reliance
510 upon, or in the execution or performance of, or in the failure to
511 execute or perform, a statute, ordinance or regulation, whether or
512 not the statute, ordinance or regulation be valid;

513 (c) Arising out of any act or omission of an employee
514 of a governmental entity engaged in the performance or execution
515 of duties or activities relating to police or fire protection
516 unless the employee acted in reckless disregard of the safety and
517 well-being of any person not engaged in criminal activity at the
518 time of injury;

519 (d) Based upon the exercise or performance or the
520 failure to exercise or perform a discretionary function or duty on
521 the part of a governmental entity or employee thereof, whether or
522 not the discretion be abused;

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

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

527 (g) Arising out of the exercise of discretion in
528 determining whether or not to seek or provide the resources

529 necessary for the purchase of equipment, the construction or
530 maintenance of facilities, the hiring of personnel and, in
531 general, the provision of adequate governmental services;

532 (h) Arising out of the issuance, denial, suspension or
533 revocation of, or the failure or refusal to issue, deny, suspend
534 or revoke any privilege, ticket, pass, permit, license,
535 certificate, approval, order or similar authorization where the
536 governmental entity or its employee is authorized by law to
537 determine whether or not such authorization should be issued,
538 denied, suspended or revoked unless such issuance, denial,
539 suspension or revocation, or failure or refusal thereof, is of a
540 malicious or arbitrary and capricious nature;

541 (i) Arising out of the assessment or collection of any
542 tax or fee;

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

546 (k) Arising out of the imposition or establishment of a
547 quarantine, whether such quarantine relates to persons or
548 property;

549 (l) Of any claimant who is an employee of a
550 governmental entity and whose injury is covered by the Workers'
551 Compensation Law of this state by benefits furnished by the
552 governmental entity by which he is employed;

553 (m) Of any claimant who at the time the claim arises is
554 an inmate of any detention center, jail, workhouse, penal farm,
555 penitentiary or other such institution, regardless of whether such
556 claimant is or is not an inmate of any detention center, jail,
557 workhouse, penal farm, penitentiary or other such institution when
558 the claim is filed;

559 (n) Arising out of any work performed by a person
560 convicted of a crime when the work is performed pursuant to any
561 sentence or order of any court or pursuant to laws of the State of
562 Mississippi authorizing or requiring such work;

563 (o) Under circumstances where liability has been or is
564 hereafter assumed by the United States, to the extent of such
565 assumption of liability, including, but not limited to, any claim
566 based on activities of the Mississippi National Guard when such
567 claim is cognizable under the National Guard Tort Claims Act of
568 the United States, 32 USC 715 (32 USCS 715), or when such claim
569 accrues as a result of active federal service or state service at
570 the call of the Governor for quelling riots and civil
571 disturbances;

572 (p) Arising out of a plan or design for construction or
573 improvements to public property, including, but not limited to,
574 public buildings, highways, roads, streets, bridges, levees,
575 dikes, dams, impoundments, drainage channels, diversion channels,
576 harbors, ports, wharfs or docks, where such plan or design has
577 been approved in advance of the construction or improvement by the
578 legislative body or governing authority of a governmental entity
579 or by some other body or administrative agency, exercising
580 discretion by authority to give such approval, and where such plan
581 or design is in conformity with engineering or design standards in
582 effect at the time of preparation of the plan or design;

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

585 (r) Arising out of the lack of adequate personnel or
586 facilities at a state hospital or state corrections facility if
587 reasonable use of available appropriations has been made to
588 provide such personnel or facilities;

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

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

593 (u) Arising out of or resulting from riots, unlawful
594 assemblies, unlawful public demonstrations, mob violence or civil
595 disturbances;

596 (v) Arising out of an injury caused by a dangerous
597 condition on property of the governmental entity that was not

598 caused by the negligent or other wrongful conduct of an employee
599 of the governmental entity or of which the governmental entity did
600 not have notice, either actual or constructive, and adequate
601 opportunity to protect or warn against; provided, however, that a
602 governmental entity shall not be liable for the failure to warn of
603 a dangerous condition which is obvious to one exercising due care;

604 (w) Arising out of the absence, condition, malfunction
605 or removal by third parties of any sign, signal, warning device,
606 illumination device, guardrail or median barrier, unless the
607 absence, condition, malfunction or removal is not corrected by the
608 governmental entity responsible for its maintenance within a
609 reasonable time after actual or constructive notice; * * *

610 (x) Arising out of the administration of corporal
611 punishment or the taking of any action to maintain control and
612 discipline of students, as defined in Section 37-11-57, by a
613 teacher, assistant teacher, principal or assistant principal of a
614 public school district in the state unless the teacher, assistant
615 teacher, principal or assistant principal acted in bad faith or
616 with malicious purpose or in a manner exhibiting a wanton and
617 willful disregard of human rights or safety; or

618 (y) Arising out of any act or omission relating to a
619 highway, bridge or roadway project under a contract entered into
620 under Section 1 or Section 2 of Senate Bill No. 2063, 2004 Regular
621 Session.

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

624 (a) Is inactive and dormant;

625 (b) Receives no revenue;

626 (c) Has no employees; and

627 (d) Owns no property.

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

633 **SECTION 22.** The Attorney General of the State of Mississippi
634 shall submit this act, immediately upon approval by the Governor,
635 or upon approval by the Legislature subsequent to a veto, to the
636 Attorney General of the United States or to the United States
637 District Court for the District of Columbia in accordance with the
638 provisions of the Voting Rights Act of 1965, as amended and
639 extended.

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

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Don Richardson
Clerk of the House of Representatives