

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2063**

**BY: Committee**

**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.  
26 All such highways, pavement, bridges, drainage related structures  
27 and other infrastructure comprising the projects shall be built  
28 and maintained in accordance with not less than the minimum  
29 highway design, construction and maintenance standards established  
30 by the contracting governmental entity for such highways,  
31 infrastructure and facilities. Failure of a company to comply  
32 with minimum standards established for the project by the  
33 contracting governmental entity, including failure to meet minimum  
34 highway maintenance standards at all times during the term of the  
35 lease and upon return of the property to the governmental entity  
36 upon termination or expiration of the lease or rescission of the

37 contract, shall constitute a breach and shall subject the company  
38 to liability on its bond or security or to rescission of the  
39 contract in accordance with the terms and provisions of the  
40 contract.

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

69 the term of the lease and upon return of the property to the  
70 governmental entity upon termination or expiration of the lease or  
71 upon rescission of the contract, shall constitute a breach and  
72 shall subject the company to liability on its bond or security or  
73 to rescission of the contract in accordance with the terms and  
74 provisions of the contract.

75 (2) Every contract entered into by a governmental entity  
76 under this section shall require a company to enter into bond and  
77 provide such security as the governmental entity determines may be  
78 necessary or advisable to ensure timely completion and proper  
79 execution and performance of the contract. The governmental  
80 entities are authorized to acquire such property or interests in  
81 property as may be necessary, by gift, purchase or eminent domain,  
82 for construction and maintenance of the highways or bridges built  
83 pursuant to contracts entered into under this section. Upon  
84 expiration, termination or rescission of the contract, all  
85 interests that the company may have in the land, infrastructure,  
86 facilities or other improvements to the property subject to  
87 contract shall terminate and automatically, by operation of law,  
88 be returned or conveyed to and vest in the State of Mississippi or  
89 the contracting governmental entity. Upon termination, expiration  
90 or rescission of the contract, the collection of tolls shall cease  
91 after all associated debts have been retired or released.

92 (3) During the term of any contract entered into under this  
93 section, the company may establish, charge and collect motor  
94 vehicle operators tolls for use of the highway and its facilities.  
95 The amount of such tolls, and any modification thereto, shall be  
96 subject to approval by the contracting governmental entity. All  
97 such contracts may require a company to pay a percentage of all  
98 tolls collected to the contracting governmental entity. If a  
99 governmental entity has issued bonds or notes or incurred other  
100 obligations of indebtedness for a project authorized under this

101 act, then so much of the governmental entity's share of the  
102 proceeds of the tolls as may be necessary to pay the principal,  
103 interests and other costs incurred by the governmental entity for  
104 the project shall be set-aside for payment of such indebtedness  
105 for so long as such indebtedness remains outstanding. If bonds  
106 have been issued under Sections 4 through 19 of this act, so much  
107 of the share of the proceeds of the tolls paid to the Department  
108 of Transportation as may be necessary to pay the principal,  
109 interest and other costs associated with the issuance of such  
110 bonds shall be deposited into the special bond sinking fund  
111 created under Section 4 of this act. The proceeds of tolls  
112 payable to the Department of Transportation that exceed the amount  
113 necessary to pay the principal, interest and other costs  
114 associated with the issuance of any such bonds under Sections 4  
115 through 19 of this act shall be deposited into the State Highway  
116 Fund and may be expended, upon Legislative appropriation, only for  
117 maintenance of state highways.

118 (4) All statutes of this state relating to traffic  
119 regulation and control shall be applicable to motor vehicles  
120 operated upon highways and bridges constructed under this section  
121 and shall be enforceable by the Mississippi Department of Public  
122 Safety, the Mississippi Highway Safety Patrol or any other law  
123 enforcement agency having jurisdiction over such highways and  
124 bridges.

125 (5) The State of Mississippi, the Mississippi Transportation  
126 Commission, the Mississippi Department of Transportation,  
127 counties, municipalities or any other agency or political  
128 subdivision, or any officer or employee thereof, shall not be  
129 liable for any tortious act or omission arising out of the  
130 construction, maintenance or operation of any highway or bridge  
131 project under the provisions of this section where the act or  
132 omission occurs during the term of any such contract entered into

133 by the Mississippi Transportation Commission or other governmental  
134 entity and a company.

135 (6) The powers conferred by this section shall be in  
136 addition to the powers conferred by any other law, general,  
137 special or local. This section shall be construed as an  
138 additional and alternative method of funding all or any portion of  
139 the purchasing, building, improving, owning or operating of  
140 roadways, highways or bridges under the jurisdiction of the  
141 Mississippi Transportation Commission, county boards of  
142 supervisors or municipal governing authorities, any provision of  
143 the laws of the state or any charter of any municipality to the  
144 contrary notwithstanding.

145 **SECTION 3.** (1) For the purpose of providing funds to defray  
146 the expenses of projects authorized pursuant to Sections 1 and 2  
147 of this act, the board of supervisors of a county or the governing  
148 authorities of a municipality shall have the right to borrow money  
149 for the project, and to issue revenue bonds therefor in such  
150 principal amounts as the board of supervisors or governing  
151 authorities may determine to be necessary to provide sufficient  
152 funds to defray the expenses of projects authorized pursuant to  
153 Sections 1 and 2 of this act. The bonds shall be payable out of  
154 any revenues derived from the project, including grants or  
155 contributions from the federal government or other sources. Such  
156 bonds may be sold at public or private sale at not less than par  
157 and shall bear interest at a rate or rates not exceeding that  
158 allowed in Section 75-17-103. Any such bonds so issued shall not  
159 constitute a debt of the county, the municipality or any political  
160 subdivision of the county or the city within the meaning of any  
161 constitutional, statutory or charter restriction, limitation or  
162 provision. It shall be plainly stated on the face of each bond in  
163 substance that the bond has been issued pursuant to the authority  
164 granted in this section and that the taxing power of the county or

165 municipality issuing the bond is not pledged to the payment of the  
166 bond or the interest on it and that the bond and the interest on  
167 it are payable solely from the revenues of the project for which  
168 the bond is issued.

169 (2) All bonds issued under the authority of this section  
170 shall bear such date or dates, shall be in such form or  
171 denomination, shall bear such rate of interest, and shall mature  
172 at such times as the county or municipality shall determine, but  
173 no bonds issued under the authority of this section shall mature  
174 more than twenty-five (25) years from the date of the issuance  
175 thereof and none of the bonds shall be sold for less than par and  
176 accrued interest. All bonds shall be sold in the manner now  
177 provided by law for the sale of bonds without any restrictions,  
178 limitations, requirements or conditions applicable to the  
179 borrowing of such money and the issuance of such bonds which are  
180 not herein contained. The denomination, form, place of payment  
181 and other details of such bonds may be determined by resolution or  
182 order of the board of supervisors of a county or the governing  
183 authorities of a municipality, and shall be executed on behalf of  
184 the county or municipality as is now provided by law.

185 (3) Before issuing any bonds under the provisions of this  
186 section, the board of supervisors of the county or the governing  
187 authorities of the municipality shall, by resolution spread upon  
188 the minutes, declare its intention to issue such bonds for the  
189 purposes authorized by this section and shall state in the  
190 resolution the amount of bonds proposed to be issued and shall  
191 likewise fix in the resolution the date upon which the board of  
192 supervisors of the county or the governing authorities of the  
193 municipality proposes to direct the issuance of the bonds. Notice  
194 of such intention shall be published once a week for at least  
195 three (3) consecutive weeks in a newspaper published or having a  
196 general circulation in the county or the municipality, with the

197 first publication of the notice to be made not less than  
198 twenty-one (21) days prior to the date fixed in the resolution for  
199 the issuance of the bonds and the last publication to be made not  
200 more than seven (7) days prior to such date. If, on or before the  
201 date specified in the resolution, twenty percent (20%) or fifteen  
202 hundred (1500), whichever is less, of the qualified electors of the  
203 county or municipality shall file a written protest against the  
204 issuance of the bonds, then an election upon the issuance of the  
205 bonds shall be called, and held, as provided in this section. If  
206 no such protest shall be filed, then the board of supervisors of  
207 the county or the governing authorities of the municipality may  
208 issue such bonds without an election on the question of the  
209 issuance of the bonds at any time within a period of two (2) years  
210 after the date specified in the resolution.

211 (4) If an election is called under the provisions of this  
212 section on the question of the issuance of bonds, the election  
213 shall be held, insofar as practicable, in the same manner as other  
214 elections are held in the county or municipality. At the  
215 election, all qualified electors of the county or municipality may  
216 vote and the ballots used in the election shall have printed  
217 thereon a brief statement of the amount and purposes of the  
218 proposed bond issue and the words "FOR THE BOND ISSUE" and the  
219 words "AGAINST THE BOND ISSUE," and the voters shall vote by  
220 placing a cross (X) or check mark (✓) opposite their choice on the  
221 proposition.

222 (5) When the results of any election provided for in this  
223 section shall have been canvassed by the election commissioners of  
224 the county or municipality and certified by them to the proper  
225 authorities, it shall be the duty of the board of supervisors of  
226 the county or the governing authorities of the municipality to  
227 determine and adjudicate whether or not a majority of the  
228 qualified electors who voted in the election voted in favor of the

229 issuance of the bonds and unless a majority of the qualified  
230 electors who voted in the election voted in favor of the issuance  
231 of the bonds, then the bonds shall not be issued. Should a  
232 majority of the qualified electors who vote in the election vote  
233 in favor of the bonds, the board of supervisors of the county or  
234 the governing authorities of the municipality may issue the bonds,  
235 either in whole or in part, within two (2) years from the date of  
236 such election, or within two (2) years after final favorable  
237 determination of any litigation affecting the issuance of such  
238 bonds at such time or times, and in such amount or amounts, not  
239 exceeding that specified in the notice of the election, as shall  
240 be deemed proper.

241 (6) This section, without reference to any other statute,  
242 shall be deemed to be full and complete authority for the issuance  
243 of bonds and borrowing of money as authorized in this section by  
244 counties or municipalities, and shall be construed as an  
245 additional and alternate method therefor. The bonds authorized by  
246 this section shall not constitute an indebtedness within the  
247 meaning of any constitutional or statutory limitation or  
248 restriction.

249 **SECTION 4.** (1) (a) A special fund, to be designated as the  
250 "Toll Road Revenue Bond Fund," is created within the State  
251 Treasury. The fund shall be maintained by the State Treasurer as  
252 a separate and special fund, separate and apart from the General  
253 Fund of the state. Unexpended amounts remaining in the fund at  
254 the end of a fiscal year shall not lapse into the State General  
255 Fund, and any interest earned or investment earnings on amounts in  
256 the fund shall be deposited into such fund.

257 (b) Monies deposited into the fund shall be disbursed,  
258 in the discretion of the Mississippi Transportation Commission, to  
259 pay the costs incurred by the Transportation Commission and the



260 Transportation Department in defraying the expenses of projects  
261 authorized pursuant to Sections 1 and 2 of this act.

262 (2) If any monies in the special fund are not used within  
263 four (4) years after the date the proceeds of the bonds authorized  
264 under Sections 4 through 19 of this act are deposited into such  
265 fund, then the Mississippi Transportation Commission shall provide  
266 an accounting of such unused monies to the State Bond Commission.  
267 Promptly after the State Bond Commission has certified, by  
268 resolution duly adopted, that the projects for which the revenue  
269 bonds have been issued shall have been completed, abandoned or  
270 cannot be completed in a timely fashion, any amounts remaining in  
271 such special fund shall be applied to pay debt service on the  
272 bonds issued under Sections 4 through 19 of this act, in  
273 accordance with the proceedings authorizing the issuance of such  
274 bonds and as directed by the commission.

275 **SECTION 5.** For the purpose of providing for the payment of  
276 the principal of and interest upon bonds issued under the  
277 provisions of Sections 4 through 19 of this act, there is created  
278 a special bond sinking fund in the State Treasury. The special  
279 bond sinking fund shall consist of the monies required to be  
280 deposited into the fund under Section 2 of this act and such other  
281 amounts as the Legislature may direct to be paid into the fund by  
282 appropriation or other authorization by the Legislature.  
283 Unexpended amounts remaining in the special bond sinking fund at  
284 the end of a fiscal year shall not lapse into the State General  
285 Fund, and any interest earned or investment earnings on amounts in  
286 the special bond sinking fund shall be deposited into such sinking  
287 fund.

288 **SECTION 6.** The State Bond Commission, at one time or from  
289 time to time, may declare by resolution the necessity for issuance  
290 of revenue bonds of the State of Mississippi for the purpose of  
291 providing funds for the Transportation Commission and the

292 Transportation Department to defray the expenses of projects  
293 authorized pursuant to Sections 1 and 2 of this act. Upon the  
294 adoption of a resolution by the Mississippi Transportation  
295 Commission, declaring the necessity for the issuance of the  
296 revenue bonds authorized by this section, the Mississippi  
297 Transportation Commission shall deliver a certified copy of its  
298 resolution or resolutions to the State Bond Commission. Upon  
299 receipt of such resolution, the State Bond Commission, in its  
300 discretion, may act as the issuing agent, prescribe the form of  
301 the bonds, advertise for and accept bids, issue and sell the bonds  
302 so authorized to be sold and do any and all other things necessary  
303 and advisable in connection with the issuance and sale of such  
304 bonds. Revenue bonds issued under this section shall be in such  
305 principal amounts as the Mississippi Transportation Commission may  
306 determine to be necessary to provide sufficient funds to defray  
307 the expenses of projects authorized pursuant to Sections 1 and 2  
308 of this act.

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

314 **SECTION 7.** The principal of and interest on the bonds  
315 authorized under Sections 4 through 19 of this act shall be  
316 payable in the manner provided in this section. Such bonds shall  
317 bear such date or dates, be in such denomination or denominations,  
318 bear interest at such rate or rates (not to exceed the limits set  
319 forth in Section 75-17-103, Mississippi Code of 1972), be payable  
320 at such place or places within or without the State of  
321 Mississippi, shall mature absolutely at such time or times not to  
322 exceed twenty (20) years from date of issue, be redeemable before  
323 maturity at such time or times and upon such terms, with or

324 without premium, shall bear such registration privileges, and  
325 shall be substantially in such form, all as shall be determined by  
326 resolution of the State Bond Commission.

327       **SECTION 8.** The bonds authorized by Sections 4 through 19 of  
328 this act shall be signed by the Chairman of the State Bond  
329 Commission, or by his facsimile signature, and the official seal  
330 of the State Bond Commission shall be affixed thereto, attested by  
331 the secretary of the commission. The interest coupons, if any, to  
332 be attached to such bonds may be executed by the facsimile  
333 signatures of such officers. Whenever any such bonds shall have  
334 been signed by the officials designated to sign the bonds who were  
335 in office at the time of such signing but who may have ceased to  
336 be such officers before the sale and delivery of such bonds, or  
337 who may not have been in office on the date such bonds may bear,  
338 the signatures of such officers upon such bonds and coupons shall  
339 nevertheless be valid and sufficient for all purposes and have the  
340 same effect as if the person so officially signing such bonds had  
341 remained in office until their delivery to the purchaser, or had  
342 been in office on the date such bonds may bear. However,  
343 notwithstanding anything herein to the contrary, such bonds may be  
344 issued as provided in the Registered Bond Act of the State of  
345 Mississippi.

346       **SECTION 9.** All bonds and interest coupons issued under the  
347 provisions of Sections 4 through 19 of this act have all the  
348 qualities and incidents of negotiable instruments under the  
349 provisions of the Uniform Commercial Code, and in exercising the  
350 powers granted by Sections 4 through 19 of this act, the State  
351 Bond Commission shall not be required to and need not comply with  
352 the provisions of the Uniform Commercial Code.

353       **SECTION 10.** The State Bond Commission shall act as the  
354 issuing agent for the bonds authorized under Sections 4 through 19  
355 of this act, prescribe the form of the bonds, advertise for and

356 accept bids, issue and sell the bonds so authorized to be sold,  
357 pay all fees and costs incurred in such issuance and sale, and do  
358 any and all other things necessary and advisable in connection  
359 with the issuance and sale of such bonds. The State Bond  
360 Commission is authorized and empowered to pay the costs that are  
361 incident to the sale, issuance and delivery of the bonds  
362 authorized under Sections 4 through 19 of this act from the  
363 proceeds derived from the sale of such bonds. The State Bond  
364 Commission shall sell such bonds on sealed bids at public sale,  
365 and for such price as it may determine to be for the best interest  
366 of the State of Mississippi, but no such sale shall be made at a  
367 price less than par plus accrued interest to the date of delivery  
368 of the bonds to the purchaser. All interest accruing on such  
369 bonds so issued shall be payable semiannually or annually;  
370 however, the first interest payment may be for any period of not  
371 more than one (1) year.

372 Notice of the sale of any such bonds shall be published at  
373 least one time, not less than ten (10) days before the date of  
374 sale, and shall be so published in one or more newspapers  
375 published or having a general circulation in the City of Jackson,  
376 Mississippi, and in one or more other newspapers or financial  
377 journals with a national circulation, to be selected by the State  
378 Bond Commission.

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

384 **SECTION 11.** Bonds issued under authority of Sections 4  
385 through 19 of this act shall be revenue bonds of the state, the  
386 principal of and interest on which shall be payable solely from  
387 the revenue from projects authorized under Section 1 or 2 of this

388 act. The bonds shall never constitute an indebtedness of the  
389 state within the meaning of any state constitutional provision or  
390 statutory limitation, and shall never constitute or give rise to a  
391 pecuniary liability of the state, or a charge against its general  
392 credit or taxing powers, and such fact shall be plainly stated on  
393 the face of each such bond. The bonds shall not be considered  
394 when computing any limitation of indebtedness of the state. All  
395 bonds issued under the authority of Sections 4 through 19 of this  
396 act and all interest coupons applicable thereto shall be construed  
397 to be negotiable instruments, despite the fact that they are  
398 payable solely from a specified source.

399 **SECTION 12.** Upon the issuance and sale of bonds under the  
400 provisions of Sections 4 through 19 of this act, the State Bond  
401 Commission shall transfer the proceeds of any such sale or sales  
402 to a special fund created in Section 4 of this act. The proceeds  
403 of such bonds shall be disbursed solely upon the order of the  
404 Mississippi Transportation Commission under such restrictions, if  
405 any, as may be contained in the resolution providing for the  
406 issuance of the bonds.

407 **SECTION 13.** The bonds authorized under Sections 4 through 19  
408 of this act may be issued without any other proceedings or the  
409 happening of any other conditions or things other than those  
410 proceedings, conditions and things which are specified or required  
411 by Sections 4 through 19 of this act. Any resolution providing  
412 for the issuance of bonds under the provisions of Sections 4  
413 through 19 of this act shall become effective immediately upon its  
414 adoption by the commission, and any such resolution may be adopted  
415 at any regular or special meeting of the commission by a majority  
416 of its members.

417 **SECTION 14.** The bonds authorized under the authority of  
418 Sections 4 through 19 of this act may be validated in the Chancery  
419 Court of the First Judicial District of Hinds County, Mississippi,

420 in the manner and with the force and effect provided by Chapter  
421 13, Title 31, Mississippi Code of 1972, for the validation of  
422 county, municipal, school district and other bonds. The notice to  
423 taxpayers required by such statutes shall be published in a  
424 newspaper published or having a general circulation in the City of  
425 Jackson, Mississippi.

426 **SECTION 15.** Any holder of bonds issued under the provisions  
427 of Sections 4 through 19 of this act or of any of the interest  
428 coupons pertaining thereto may, either at law or in equity, by  
429 suit, action, mandamus or other proceeding, protect and enforce  
430 any and all rights granted under Sections 4 through 19 of this  
431 act, or under such resolution, and may enforce and compel  
432 performance of all duties required by Sections 4 through 19 of  
433 this act to be performed, in order to provide for the payment of  
434 bonds and interest thereon.

435 **SECTION 16.** All bonds issued under the provisions of  
436 Sections 4 through 19 of this act shall be legal investments for  
437 trustees and other fiduciaries, and for savings banks, trust  
438 companies and insurance companies organized under the laws of the  
439 State of Mississippi, and such bonds shall be legal securities  
440 which may be deposited with and shall be received by all public  
441 officers and bodies of this state and all municipalities and  
442 political subdivisions for the purpose of securing the deposit of  
443 public funds.

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

447 **SECTION 18.** The proceeds of the bonds issued under Sections  
448 4 through 19 of this act; shall be used solely for the purposes  
449 provided in Sections 4 through 19 of this act, including the costs  
450 incident to the issuance and sale of such bonds.

451           **SECTION 19.** The State Treasurer is authorized, without  
452 further process of law, to certify to the Department of Finance  
453 and Administration the necessity for warrants, and the Department  
454 of Finance and Administration is authorized and directed to issue  
455 such warrants, in such amounts as may be necessary to pay when due  
456 the principal of, premium, if any, and interest on, or the  
457 accreted value of, all bonds issued under Sections 4 through 19 of  
458 this act; and the State Treasurer shall forward the necessary  
459 amount to the designated place or places of payment of such bonds  
460 in ample time to discharge such bonds, or the interest thereon, on  
461 the due dates thereof.

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

464           65-3-1. Subject only to the provisions hereinafter  
465 contained, it shall be unlawful for any person, acting privately  
466 or in any official capacity or as an employee of any subdivision  
467 of the state, to charge or collect any toll or other charge from  
468 any person for the privilege of traveling on any part of any  
469 highway which has been heretofore or may hereafter be designated  
470 as a state highway, and being a part of the state highway system,  
471 or on or across any bridge wholly within this state, which is a  
472 part of any such highway.

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

476           However, none of the provisions of this section shall  
477 prohibit the collection of any toll or other charge for the  
478 privilege of traveling on, or the use of, any causeway, bridge,  
479 tunnel, toll bridge, or any combination of such facility  
480 constructed under the provisions of Sections 65-23-101 through  
481 65-23-119, forming a part of U.S. Highway \* \* \* 90 across the Bay

482 of St. Louis, or across or under the East Pascagoula River or the  
483 West Pascagoula River on \* \* \* U.S. Highway 90.

484 The provisions of this section shall be inapplicable to any  
485 toll road or bridge built or operated under the authority of  
486 Section 1 or Section 2 of Senate Bill No. 2063, 2004 Regular  
487 Session.

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

490 11-46-9. (1) A governmental entity and its employees acting  
491 within the course and scope of their employment or duties shall  
492 not be liable for any claim:

493 (a) Arising out of a legislative or judicial action or  
494 inaction, or administrative action or inaction of a legislative or  
495 judicial nature;

496 (b) Arising out of any act or omission of an employee  
497 of a governmental entity exercising ordinary care in reliance  
498 upon, or in the execution or performance of, or in the failure to  
499 execute or perform, a statute, ordinance or regulation, whether or  
500 not the statute, ordinance or regulation be valid;

501 (c) Arising out of any act or omission of an employee  
502 of a governmental entity engaged in the performance or execution  
503 of duties or activities relating to police or fire protection  
504 unless the employee acted in reckless disregard of the safety and  
505 well-being of any person not engaged in criminal activity at the  
506 time of injury;

507 (d) Based upon the exercise or performance or the  
508 failure to exercise or perform a discretionary function or duty on  
509 the part of a governmental entity or employee thereof, whether or  
510 not the discretion be abused;

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



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

515           (g) Arising out of the exercise of discretion in  
516 determining whether or not to seek or provide the resources  
517 necessary for the purchase of equipment, the construction or  
518 maintenance of facilities, the hiring of personnel and, in  
519 general, the provision of adequate governmental services;

520           (h) Arising out of the issuance, denial, suspension or  
521 revocation of, or the failure or refusal to issue, deny, suspend  
522 or revoke any privilege, ticket, pass, permit, license,  
523 certificate, approval, order or similar authorization where the  
524 governmental entity or its employee is authorized by law to  
525 determine whether or not such authorization should be issued,  
526 denied, suspended or revoked unless such issuance, denial,  
527 suspension or revocation, or failure or refusal thereof, is of a  
528 malicious or arbitrary and capricious nature;

529           (i) Arising out of the assessment or collection of any  
530 tax or fee;

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

534           (k) Arising out of the imposition or establishment of a  
535 quarantine, whether such quarantine relates to persons or  
536 property;

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

541           (m) Of any claimant who at the time the claim arises is  
542 an inmate of any detention center, jail, workhouse, penal farm,  
543 penitentiary or other such institution, regardless of whether such  
544 claimant is or is not an inmate of any detention center, jail,

545 workhouse, penal farm, penitentiary or other such institution when  
546 the claim is filed;

547 (n) Arising out of any work performed by a person  
548 convicted of a crime when the work is performed pursuant to any  
549 sentence or order of any court or pursuant to laws of the State of  
550 Mississippi authorizing or requiring such work;

551 (o) Under circumstances where liability has been or is  
552 hereafter assumed by the United States, to the extent of such  
553 assumption of liability, including, but not limited to, any claim  
554 based on activities of the Mississippi National Guard when such  
555 claim is cognizable under the National Guard Tort Claims Act of  
556 the United States, 32 USC 715 (32 USCS 715), or when such claim  
557 accrues as a result of active federal service or state service at  
558 the call of the Governor for quelling riots and civil  
559 disturbances;

560 (p) Arising out of a plan or design for construction or  
561 improvements to public property, including, but not limited to,  
562 public buildings, highways, roads, streets, bridges, levees,  
563 dikes, dams, impoundments, drainage channels, diversion channels,  
564 harbors, ports, wharfs or docks, where such plan or design has  
565 been approved in advance of the construction or improvement by the  
566 legislative body or governing authority of a governmental entity  
567 or by some other body or administrative agency, exercising  
568 discretion by authority to give such approval, and where such plan  
569 or design is in conformity with engineering or design standards in  
570 effect at the time of preparation of the plan or design;

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

573 (r) Arising out of the lack of adequate personnel or  
574 facilities at a state hospital or state corrections facility if  
575 reasonable use of available appropriations has been made to  
576 provide such personnel or facilities;

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

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

581 (u) Arising out of or resulting from riots, unlawful  
582 assemblies, unlawful public demonstrations, mob violence or civil  
583 disturbances;

584 (v) Arising out of an injury caused by a dangerous  
585 condition on property of the governmental entity that was not  
586 caused by the negligent or other wrongful conduct of an employee  
587 of the governmental entity or of which the governmental entity did  
588 not have notice, either actual or constructive, and adequate  
589 opportunity to protect or warn against; provided, however, that a  
590 governmental entity shall not be liable for the failure to warn of  
591 a dangerous condition which is obvious to one exercising due care;

592 (w) Arising out of the absence, condition, malfunction  
593 or removal by third parties of any sign, signal, warning device,  
594 illumination device, guardrail or median barrier, unless the  
595 absence, condition, malfunction or removal is not corrected by the  
596 governmental entity responsible for its maintenance within a  
597 reasonable time after actual or constructive notice; \* \* \*

598 (x) Arising out of the administration of corporal  
599 punishment or the taking of any action to maintain control and  
600 discipline of students, as defined in Section 37-11-57, by a  
601 teacher, assistant teacher, principal or assistant principal of a  
602 public school district in the state unless the teacher, assistant  
603 teacher, principal or assistant principal acted in bad faith or  
604 with malicious purpose or in a manner exhibiting a wanton and  
605 willful disregard of human rights or safety; or

606 (y) Arising out of any act or omission relating to a  
607 highway, bridge or roadway project under a contract entered into

608 under Section 1 or Section 2 of Senate Bill No. 2063, 2004 Regular  
609 Session.

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

612 (a) Is inactive and dormant;

613 (b) Receives no revenue;

614 (c) Has no employees; and

615 (d) Owns no property.

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

621 **SECTION 22.** The Attorney General of the State of Mississippi  
622 shall submit this act, immediately upon approval by the Governor,  
623 or upon approval by the Legislature subsequent to a veto, to the  
624 Attorney General of the United States or to the United States  
625 District Court for the District of Columbia in accordance with the  
626 provisions of the Voting Rights Act of 1965, as amended and  
627 extended.

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