

By: Senator(s) Ross

To: Highways and
Transportation; Finance

SENATE BILL NO. 2462

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

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

18 **SECTION 1.** The Mississippi Transportation Commission, county
19 boards of supervisors and/or the governing authorities of
20 municipalities (hereinafter referred to as governmental entities),
21 in their discretion, may construct, operate and maintain,
22 individually or jointly with other governmental entities, one or
23 more new toll roads or toll bridges in the state for motor vehicle
24 traffic, including toll booths and related facilities, at and
25 along only those locations where an alternate untolled route
26 exists. An existing road or any segment of an existing road shall
27 not be part of a new toll road, and the reconstruction, relocation
28 or repair of an existing road shall not be tolled. To qualify as
29 an alternate untolled route, the route must meet or exceed the
30 same design, construction and maintenance standards established by
31 the Mississippi Transportation Commission for highways and bridges
32 on the state highway system. All such highways, pavement,
33 bridges, drainage-related structures and other infrastructure
34 comprising the projects shall be built and maintained in

35 accordance with not less than the minimum highway design,
36 construction and maintenance standards established by the
37 contracting governmental entity for such highways, infrastructure
38 and facilities.

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

68 project by the contracting governmental entity shall constitute a
69 breach and shall subject the company to liability on its bond or
70 security or to rescission of the contract in accordance with the
71 terms and provisions of the contract.

72 (2) Every contract entered into by a governmental entity
73 under this section shall require a company to enter into bond and
74 provide such security as the governmental entity determines may be
75 necessary or advisable to ensure timely completion and proper
76 execution and performance of the contract. The term of the
77 contract shall not exceed the date of the retirement of the debt
78 for construction of the toll road and the tolls shall cease the
79 date the debt is retired. The governmental entities are
80 authorized to acquire such property or interests in property as
81 may be necessary, by gift, purchase or eminent domain, for
82 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, or upon the
85 retirement of the debt for construction, whichever comes first,
86 all interests that the company may have in the land,
87 infrastructure, facilities or other improvements to the property
88 subject to contract shall terminate and automatically, by
89 operation of law, be returned or conveyed to and vested in the
90 State of Mississippi or the contracting governmental entity. Upon
91 termination, expiration or rescission of the contract, or upon the
92 retirement of the debt for construction, whichever comes first,
93 the collection of tolls shall cease.

94 (3) During the term of any contract entered into under this
95 section, the company may establish, charge and collect motor
96 vehicle operator tolls for use of the highway and its facilities.
97 The amount of such tolls, and any modification thereto, shall be
98 subject to approval by the contracting governmental entity;
99 however, all such contracts entered into with the Mississippi
100 Transportation Commission may require a company to pay a

101 percentage of all tolls collected to the Mississippi Department of
102 Transportation. All such tolls paid to the department shall be
103 deposited into the special bond sinking fund under Section 5 of
104 this act and may be expended only as authorized by the
105 Legislature.

106 (4) All statutes of this state relating to traffic
107 regulation and control shall be applicable to motor vehicles
108 operated upon highways and bridges constructed under this section
109 and shall be enforceable by the Mississippi Department of Public
110 Safety, the Mississippi Highway Safety Patrol or any other law
111 enforcement agency having jurisdiction over such highways and
112 bridges.

113 (5) The State of Mississippi, the Mississippi Transportation
114 Commission, the Mississippi Department of Transportation,
115 counties, municipalities or any other agency or political
116 subdivision, or any officer or employee thereof, shall not be
117 liable for any tortious act or omission arising out of the
118 construction, maintenance or operation of any highway or bridge
119 project under the provisions of this section where the act or
120 omission occurs during the term of any such contract entered into
121 by the Mississippi Transportation Commission or other governmental
122 entity and a company.

123 (6) The powers conferred by this section shall be in
124 addition to the powers conferred by any other law, general,
125 special or local. This section shall be construed as an
126 additional and alternative method of funding all or any portion of
127 the purchasing, building, improving, owning or operating of
128 roadways, highways or bridges under the jurisdiction of the
129 Mississippi Transportation Commission, county boards of
130 supervisors or municipal governing authorities, any provision of
131 the laws of the state or any charter of any municipality to the
132 contrary notwithstanding.

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

157 (2) All bonds issued under the authority of this section
158 shall bear such date or dates, shall be in such form or
159 denomination, shall bear such rate of interest, and shall mature
160 at such times as the county or municipality shall determine, but
161 no bonds issued under the authority of this section shall mature
162 more than thirty (30) years from the date of the issuance thereof
163 and none of the bonds shall be sold for less than par and accrued
164 interest. All bonds shall be sold in the manner now provided by
165 law for the sale of bonds without any restrictions, limitations,

166 requirements or conditions applicable to the borrowing of such
167 money and the issuance of such bonds which are not herein
168 contained. The denomination, form, place of payment and other
169 details of such bonds may be determined by resolution or order of
170 the board of supervisors of a county or the governing authorities
171 of a municipality, and shall be executed on behalf of the county
172 or municipality as is now provided by law.

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

199 (4) If an election is called under the provisions of this
200 section on the question of the issuance of bonds, the election
201 shall be held, insofar as practicable, in the same manner as other
202 elections are held in the county or municipality. At the
203 election, all qualified electors of the county or municipality may
204 vote and the ballots used in the election shall have printed
205 thereon a brief statement of the amount and purposes of the
206 proposed bond issue and the words "FOR THE BOND ISSUE" and the
207 words "AGAINST THE BOND ISSUE," and the voters shall vote by
208 placing a cross (X) or check mark (√) opposite their choice on the
209 proposition.

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

229 (6) This section, without reference to any other statute,
230 shall be deemed to be full and complete authority for the issuance
231 of bonds and borrowing of money as authorized in this section by

232 counties or municipalities, and shall be construed as an
233 additional and alternate method therefor. The bonds authorized by
234 this section shall not constitute an indebtedness within the
235 meaning of any constitutional or statutory limitation or
236 restriction.

237 SECTION 4. (1) (a) A special fund, to be designated as the
238 "Toll Road Revenue Bond Fund," is created within the State
239 Treasury. The fund shall be maintained by the State Treasurer as
240 a separate and special fund, separate and apart from the General
241 Fund of the state. Unexpended amounts remaining in the fund at
242 the end of a fiscal year shall not lapse into the State General
243 Fund, and any interest earned or investment earnings on amounts in
244 the fund shall be deposited into such fund.

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

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

264 **SECTION 5.** For the purpose of providing for the payment of
265 the principal of and interest upon bonds issued under the
266 provisions of Sections 4 through 19 of this act, there is created
267 a special bond sinking fund in the State Treasury. The special
268 bond sinking fund shall consist of the monies required to be
269 deposited into the fund under Section 2 of this act and such other
270 amounts as the Legislature may direct to be paid into the fund by
271 appropriation or other authorization by the Legislature.
272 Unexpended amounts remaining in the special bond sinking fund at
273 the end of a fiscal year shall not lapse into the State General
274 Fund, and any interest earned or investment earnings on amounts in
275 the special bond sinking fund shall be deposited into such sinking
276 fund.

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

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

301 **SECTION 7.** The principal of and interest on the bonds
302 authorized under Sections 4 through 19 of this act shall be
303 payable in the manner provided in this section. Such bonds shall
304 bear such date or dates, be in such denomination or denominations,
305 bear interest at such rate or rates (not to exceed the limits set
306 forth in Section 75-17-103, Mississippi Code of 1972), be payable
307 at such place or places within or without the State of
308 Mississippi, shall mature absolutely at such time or times not to
309 exceed thirty (30) years from date of issue, be redeemable before
310 maturity at such time or times and upon such terms, with or
311 without premium, shall bear such registration privileges, and
312 shall be substantially in such form, all as shall be determined by
313 resolution of the State Bond Commission.

314 **SECTION 8.** The bonds authorized by Sections 4 through 19 of
315 this act shall be signed by the Chairman of the State Bond
316 Commission, or by his facsimile signature, and the official seal
317 of the State Bond Commission shall be affixed thereto, attested by
318 the secretary of the commission. The interest coupons, if any, to
319 be attached to such bonds may be executed by the facsimile
320 signatures of such officers. Whenever any such bonds shall have
321 been signed by the officials designated to sign the bonds who were
322 in office at the time of such signing but who may have ceased to
323 be such officers before the sale and delivery of such bonds, or
324 who may not have been in office on the date such bonds may bear,
325 the signatures of such officers upon such bonds and coupons shall
326 nevertheless be valid and sufficient for all purposes and have the
327 same effect as if the person so officially signing such bonds had
328 remained in office until their delivery to the purchaser, or had

329 been in office on the date such bonds may bear. However,
330 notwithstanding anything herein to the contrary, such bonds may be
331 issued as provided in the Registered Bond Act of the State of
332 Mississippi.

333 **SECTION 9.** All bonds and interest coupons issued under the
334 provisions of Sections 4 through 19 of this act have all the
335 qualities and incidents of negotiable instruments under the
336 provisions of the Uniform Commercial Code, and in exercising the
337 powers granted by Sections 4 through 19 of this act, the State
338 Bond Commission shall not be required to and need not comply with
339 the provisions of the Uniform Commercial Code.

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

359 Notice of the sale of any such bonds shall be published at
360 least one time, not less than ten (10) days before the date of
361 sale, and shall be so published in one or more newspapers

362 published or having a general circulation in the City of Jackson,
363 Mississippi, and in one or more other newspapers or financial
364 journals with a national circulation, to be selected by the State
365 Bond Commission.

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

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

386 **SECTION 12.** Upon the issuance and sale of bonds under the
387 provisions of Sections 4 through 19 of this act, the State Bond
388 Commission shall transfer the proceeds of any such sale or sales
389 to a special fund created in Section 4 of this act. The proceeds
390 of such bonds shall be disbursed solely upon the order of the
391 Mississippi Transportation Commission under such restrictions, if
392 any, as may be contained in the resolution providing for the
393 issuance of the bonds.

394 **SECTION 13.** The bonds authorized under Sections 4 through 19
395 of this act may be issued without any other proceedings or the
396 happening of any other conditions or things other than those
397 proceedings, conditions and things which are specified or required
398 by Sections 4 through 19 of this act. Any resolution providing
399 for the issuance of bonds under the provisions of Sections 4
400 through 19 of this act shall become effective immediately upon its
401 adoption by the commission, and any such resolution may be adopted
402 at any regular or special meeting of the commission by a majority
403 of its members.

404 **SECTION 14.** The bonds authorized under the authority of
405 Sections 4 through 19 of this act may be validated in the Chancery
406 Court of the First Judicial District of Hinds County, Mississippi,
407 in the manner and with the force and effect provided by Chapter
408 13, Title 31, Mississippi Code of 1972, for the validation of
409 county, municipal, school district and other bonds. The notice to
410 taxpayers required by such statutes shall be published in a
411 newspaper published or having a general circulation in the City of
412 Jackson, Mississippi.

413 **SECTION 15.** Any holder of bonds issued under the provisions
414 of Sections 4 through 19 of this act or of any of the interest
415 coupons pertaining thereto may, either at law or in equity, by
416 suit, action, mandamus or other proceeding, protect and enforce
417 any and all rights granted under Sections 4 through 19 of this
418 act, or under such resolution, and may enforce and compel
419 performance of all duties required by Sections 4 through 19 of
420 this act to be performed, in order to provide for the payment of
421 bonds and interest thereon.

422 **SECTION 16.** All bonds issued under the provisions of
423 Sections 4 through 19 of this act shall be legal investments for
424 trustees and other fiduciaries, and for savings banks, trust
425 companies and insurance companies organized under the laws of the
426 State of Mississippi, and such bonds shall be legal securities

427 which may be deposited with and shall be received by all public
428 officers and bodies of this state and all municipalities and
429 political subdivisions for the purpose of securing the deposit of
430 public funds.

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

434 **SECTION 18.** The proceeds of the bonds issued under Sections
435 4 through 19 of this act shall be used solely for the purposes
436 provided in Sections 4 through 19 of this act, including the costs
437 incident to the issuance and sale of such bonds.

438 **SECTION 19.** The State Treasurer is authorized, without
439 further process of law, to certify to the Department of Finance
440 and Administration the necessity for warrants, and the Department
441 of Finance and Administration is authorized and directed to issue
442 such warrants, in such amounts as may be necessary to pay when due
443 the principal of, premium, if any, and interest on, or the
444 accreted value of, all bonds issued under Sections 4 through 19 of
445 this act; and the State Treasurer shall forward the necessary
446 amount to the designated place or places of payment of such bonds
447 in ample time to discharge such bonds, or the interest thereon, on
448 the due dates thereof.

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

451 65-3-1. Subject only to the provisions hereinafter
452 contained, it shall be unlawful for any person, acting privately
453 or in any official capacity or as an employee of any subdivision
454 of the state, to charge or collect any toll or other charge from
455 any person for the privilege of traveling on any part of any
456 highway which has been heretofore or may hereafter be designated
457 as a state highway, and being a part of the state highway system,
458 or on or across any bridge wholly within this state, which is a
459 part of any such highway.

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

463 However, none of the provisions of this section shall
464 prohibit the collection of any toll or other charge for the
465 privilege of traveling on, or the use of, any causeway, bridge,
466 tunnel, toll bridge, or any combination of such facility
467 constructed under the provisions of Sections 65-23-101 through
468 65-23-119, forming a part of U.S. Highway * * * 90 across the Bay
469 of St. Louis, or across or under the East Pascagoula River or the
470 West Pascagoula River on * * * U.S. Highway 90.

471 The provisions of this section shall be inapplicable to any
472 toll road or bridge built or operated under the authority of
473 Section 1 or Section 2 of Senate Bill No. 2462, 2005 Regular
474 Session.

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

477 11-46-9. (1) A governmental entity and its employees acting
478 within the course and scope of their employment or duties shall
479 not be liable for any claim:

480 (a) Arising out of a legislative or judicial action or
481 inaction, or administrative action or inaction of a legislative or
482 judicial nature;

483 (b) Arising out of any act or omission of an employee
484 of a governmental entity exercising ordinary care in reliance
485 upon, or in the execution or performance of, or in the failure to
486 execute or perform, a statute, ordinance or regulation, whether or
487 not the statute, ordinance or regulation be valid;

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

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

494 (d) Based upon the exercise or performance or the
495 failure to exercise or perform a discretionary function or duty on
496 the part of a governmental entity or employee thereof, whether or
497 not the discretion be abused;

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

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

502 (g) Arising out of the exercise of discretion in
503 determining whether or not to seek or provide the resources
504 necessary for the purchase of equipment, the construction or
505 maintenance of facilities, the hiring of personnel and, in
506 general, the provision of adequate governmental services;

507 (h) Arising out of the issuance, denial, suspension or
508 revocation of, or the failure or refusal to issue, deny, suspend
509 or revoke any privilege, ticket, pass, permit, license,
510 certificate, approval, order or similar authorization where the
511 governmental entity or its employee is authorized by law to
512 determine whether or not such authorization should be issued,
513 denied, suspended or revoked unless such issuance, denial,
514 suspension or revocation, or failure or refusal thereof, is of a
515 malicious or arbitrary and capricious nature;

516 (i) Arising out of the assessment or collection of any
517 tax or fee;

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

521 (k) Arising out of the imposition or establishment of a
522 quarantine, whether such quarantine relates to persons or
523 property;

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

528 (m) Of any claimant who at the time the claim arises is
529 an inmate of any detention center, jail, workhouse, penal farm,
530 penitentiary or other such institution, regardless of whether such
531 claimant is or is not an inmate of any detention center, jail,
532 workhouse, penal farm, penitentiary or other such institution when
533 the claim is filed;

534 (n) Arising out of any work performed by a person
535 convicted of a crime when the work is performed pursuant to any
536 sentence or order of any court or pursuant to laws of the State of
537 Mississippi authorizing or requiring such work;

538 (o) Under circumstances where liability has been or is
539 hereafter assumed by the United States, to the extent of such
540 assumption of liability, including, but not limited to, any claim
541 based on activities of the Mississippi National Guard when such
542 claim is cognizable under the National Guard Tort Claims Act of
543 the United States, 32 USC 715 (32 USCS 715), or when such claim
544 accrues as a result of active federal service or state service at
545 the call of the Governor for quelling riots and civil
546 disturbances;

547 (p) Arising out of a plan or design for construction or
548 improvements to public property, including, but not limited to,
549 public buildings, highways, roads, streets, bridges, levees,
550 dikes, dams, impoundments, drainage channels, diversion channels,
551 harbors, ports, wharfs or docks, where such plan or design has
552 been approved in advance of the construction or improvement by the
553 legislative body or governing authority of a governmental entity
554 or by some other body or administrative agency, exercising
555 discretion by authority to give such approval, and where such plan

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

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

560 (r) Arising out of the lack of adequate personnel or
561 facilities at a state hospital or state corrections facility if
562 reasonable use of available appropriations has been made to
563 provide such personnel or facilities;

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

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

568 (u) Arising out of or resulting from riots, unlawful
569 assemblies, unlawful public demonstrations, mob violence or civil
570 disturbances;

571 (v) Arising out of an injury caused by a dangerous
572 condition on property of the governmental entity that was not
573 caused by the negligent or other wrongful conduct of an employee
574 of the governmental entity or of which the governmental entity did
575 not have notice, either actual or constructive, and adequate
576 opportunity to protect or warn against; provided, however, that a
577 governmental entity shall not be liable for the failure to warn of
578 a dangerous condition which is obvious to one exercising due care;

579 (w) Arising out of the absence, condition, malfunction
580 or removal by third parties of any sign, signal, warning device,
581 illumination device, guardrail or median barrier, unless the
582 absence, condition, malfunction or removal is not corrected by the
583 governmental entity responsible for its maintenance within a
584 reasonable time after actual or constructive notice; * * *

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

589 public school district in the state unless the teacher, assistant
590 teacher, principal or assistant principal acted in bad faith or
591 with malicious purpose or in a manner exhibiting a wanton and
592 willful disregard of human rights or safety; or

593 (y) Arising out of any act or omission relating to a
594 highway, bridge or roadway project under a contract entered into
595 under Section 2 of Senate Bill No. 2462, 2005 Regular Session.

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

598 (a) Is inactive and dormant;

599 (b) Receives no revenue;

600 (c) Has no employees; and

601 (d) Owns no property.

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

607 **SECTION 22.** The Attorney General of the State of Mississippi
608 shall submit this act, immediately upon approval by the Governor,
609 or upon approval by the Legislature subsequent to a veto, to the
610 Attorney General of the United States or to the United States
611 District Court for the District of Columbia in accordance with the
612 provisions of the Voting Rights Act of 1965, as amended and
613 extended.

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