

By: Representatives Dedeaux, Bailey, Clarke, Hudson, Moss, Robinson (63rd), Rogers (61st) To: Appropriations

HOUSE BILL NO. 1049

1 AN ACT TO AMEND SECTION 7-7-213, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE THE STATE AUDITOR TO CHARGE THE ACTUAL COST OF CERTAIN
 3 AUDITS TO STATE AND LOCAL ENTITIES; TO AMEND SECTION 7-7-211,
 4 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;
 5 TO AMEND SECTION 27-103-129, MISSISSIPPI CODE OF 1972, TO REQUIRE
 6 STATE AGENCIES THAT INTEND TO INCREASE FEES CHARGED TO OTHER STATE
 7 AGENCIES TO SUBMIT THEIR PROPOSED FEES TO THE LEGISLATIVE BUDGET
 8 OFFICE, INCLUDING THE METHODS FOR DETERMINING THE FEE AND THE COST
 9 OF PROVIDING THE SERVICE FOR WHICH THE FEE WILL BE CHARGED, AND TO
 10 PROHIBIT THE FEE FROM BECOMING EFFECTIVE UNTIL THE FOLLOWING
 11 FISCAL YEAR; TO AMEND SECTION 29-5-6, MISSISSIPPI CODE OF 1972, TO
 12 PROVIDE THAT THE OFFICE OF GENERAL SERVICES SHALL CHARGE RENTS TO
 13 STATE AGENCIES BASED ON THE COST OF PROVIDING OFFICE SPACE AND
 14 UTILITIES TO EACH AGENCY; TO AMEND SECTION 29-9-13, MISSISSIPPI
 15 CODE OF 1972, TO REQUIRE THE DEPARTMENT OF AUDIT TO CHARGE STATE
 16 AGENCIES THE ACTUAL COST OF MAKING INVENTORY AUDITS; TO AMEND
 17 SECTION 25-59-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
 18 DEPARTMENT OF ARCHIVES AND HISTORY MAY CHARGE REASONABLE FEES FOR
 19 RECORDS STORAGE AND OTHER SERVICES TO STATE AGENCIES USING THE
 20 STATE RECORDS CENTER, PROVIDED THAT THE FEES DO NOT EXCEED THE
 21 ACTUAL COST OF PROVIDING THE SERVICE; TO AMEND SECTION 37-141-5,
 22 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF
 23 STATE INSTITUTIONS OF HIGHER LEARNING TO CHARGE FEES TO ANY STATE
 24 AGENCY OR OTHER ENTITY THAT OCCUPIES SPACE AT THE UNIVERSITY
 25 RESEARCH CENTER, BASED ON THE BOARD'S COST OF PROVIDING SERVICES
 26 TO EACH AGENCY OR ENTITY; TO AMEND SECTION 65-1-8, MISSISSIPPI
 27 CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO
 28 CHARGE REASONABLE FEES NOT TO EXCEED COST TO ANY STATE AGENCY OR
 29 THE OFFICE OF STATE AID ROAD CONSTRUCTION OF THE DEPARTMENT OF
 30 TRANSPORTATION FOR ANY SOIL TESTING OR RECORDS DUPLICATION
 31 SERVICES RENDERED; TO AMEND SECTION 71-5-143, MISSISSIPPI CODE OF
 32 1972, TO AUTHORIZE THE DEPARTMENT OF EMPLOYMENT SECURITY TO
 33 PROVIDE REPORTS TO OTHER STATE AGENCIES AND TO RECOUP THE COSTS OF
 34 PRODUCING THOSE REPORTS; AND FOR RELATED PURPOSES.

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

36 **SECTION 1.** Section 7-7-213, Mississippi Code of 1972, is
 37 amended as follows:

38 7-7-213. The costs of audits and other services required by
 39 Sections 7-7-201 through 7-7-215, except for those audits and
 40 services authorized by Section 7-7-211(k) which shall be funded by
 41 appropriations made by the Legislature from such funds as it deems
 42 appropriate, shall be paid from a special fund that is created in
 43 the State Treasury, to be known as the State Department of Audit

44 Fund, into which will be paid each year the amounts received for
45 performing audits required by law. Except as provided in Section
46 7-7-211(d) and any municipality required under this chapter to be
47 audited by the State Auditor, the amounts to be charged for
48 performing audits and other services shall be the actual
49 cost * * * per auditor day. In the event of failure by any unit
50 of government to pay the charges authorized herein, the Department
51 of Audit shall notify the State Fiscal Officer, and upon a
52 determination that the charges are substantially correct, the
53 State Fiscal Officer shall notify the defaulting unit of his
54 determination. If payment is not made within thirty (30) days
55 after such notification, the State Fiscal Officer shall notify the
56 State Treasurer and Department of Public Accounts that no further
57 warrants are to be issued to the defaulting unit until the
58 deficiency is paid.

59 The cost of any service by the department not required of it
60 under the provisions of the cited sections but made necessary by
61 the willful fault or negligence of an officer or employee of any
62 public office of the state shall be recovered (i) from such
63 officer or employee and/or surety on official bond thereof and/or
64 (ii) from the individual, partnership, corporation or association
65 involved, in the same manner and under the same terms, when
66 necessary, as provided the department for recovering public funds
67 in Section 7-7-211.

68 The State Auditor shall deliver a copy of any audit of the
69 fiscal and financial affairs of a county to the chancery clerk of
70 such county and shall deliver a notice stating that a copy of such
71 audit is on file in the chancery clerk's office to some newspaper
72 published in the county to be published. If no newspaper is
73 published in the county, a copy of such notice shall be delivered
74 to a newspaper having a general circulation therein.

75 **SECTION 2.** Section 7-7-211, Mississippi Code of 1972, is
76 amended as follows:

77 7-7-211. The department shall have the power and it shall be
78 its duty:

79 (a) To identify and define for all public offices of
80 the state and its subdivisions generally accepted accounting
81 principles as promulgated by nationally recognized professional
82 organizations and to consult with the State Fiscal Officer in the
83 prescription and implementation of accounting rules and
84 regulations;

85 (b) To prescribe, for all public offices of regional
86 and local subdivisions of the state, systems of accounting,
87 budgeting and reporting financial facts relating to those offices
88 in conformity with legal requirements and with generally accepted
89 accounting principles as promulgated by nationally recognized
90 professional organizations; to assist such subdivisions in need of
91 assistance in the installation of such systems; to revise such
92 systems when deemed necessary, and to report to the Legislature at
93 periodic times the extent to which each office is maintaining such
94 systems, along with such recommendations to the Legislature for
95 improvement as seem desirable;

96 (c) To study and analyze existing managerial policies,
97 methods, procedures, duties and services of the various state
98 departments and institutions upon written request of the Governor,
99 the Legislature or any committee or other body empowered by the
100 Legislature to make such request to determine whether and where
101 operations can be eliminated, combined, simplified and improved;

102 (d) To postaudit each year and, when deemed necessary,
103 preaudit and investigate the financial affairs of the departments,
104 institutions, boards, commissions or other agencies of state
105 government, as part of the publication of a comprehensive annual
106 financial report for the State of Mississippi. In complying with
107 the requirements of this subsection, the department shall have the
108 authority to conduct all necessary audit procedures on an interim
109 and year-end basis;

110 (e) To postaudit and, when deemed necessary, preaudit
111 and investigate separately the financial affairs of (i) the
112 offices, boards and commissions of county governments and any
113 departments and institutions thereof and therein; (ii) public
114 school districts, departments of education and junior college
115 districts; and (iii) any other local offices or agencies which
116 share revenues derived from taxes or fees imposed by the State
117 Legislature or receive grants from revenues collected by
118 governmental divisions of the state. The cost of such audits,
119 investigations or other services shall be paid * * * by the
120 county, district, department, institution or other agency audited
121 out of its general fund or any other available funds from which
122 such payment is not prohibited by law;

123 (f) To postaudit and, when deemed necessary, preaudit
124 and investigate the financial affairs of the levee boards;
125 agencies created by the Legislature or by executive order of the
126 Governor; profit or nonprofit business entities administering
127 programs financed by funds flowing through the State Treasury or
128 through any of the agencies of the state, or its subdivisions; and
129 all other public bodies supported by funds derived in part or
130 wholly from public funds, except municipalities which annually
131 submit an audit prepared by a qualified certified public
132 accountant using methods and procedures prescribed by the
133 department;

134 (g) To make written demand, when necessary, for the
135 recovery of any amounts representing public funds improperly
136 withheld, misappropriated and/or otherwise illegally expended by
137 an officer, employee or administrative body of any state, county
138 or other public office, and/or for the recovery of the value of
139 any public property disposed of in an unlawful manner by a public
140 officer, employee or administrative body, such demands to be made
141 (i) upon the person or persons liable for such amounts and upon
142 the surety on official bond thereof, and/or (ii) upon any

143 individual, partnership, corporation or association to whom the
144 illegal expenditure was made or with whom the unlawful disposition
145 of public property was made, if such individual, partnership,
146 corporation or association knew or had reason to know through the
147 exercising of reasonable diligence that the expenditure was
148 illegal or the disposition unlawful. Such demand shall be
149 premised on competent evidence, which shall include at least one
150 (1) of the following: (i) sworn statements, (ii) written
151 documentation, (iii) physical evidence, or (iv) reports and
152 findings of government or other law enforcement agencies. Other
153 provisions notwithstanding, a demand letter issued pursuant to
154 this subsection shall remain confidential by the State Auditor
155 until the individual against whom the demand letter is being filed
156 has been served with a copy of such demand letter. If, however,
157 such individual cannot be notified within fifteen (15) days using
158 reasonable means and due diligence, such notification shall be
159 made to the individual's bonding company, if he or she is bonded.
160 Each such demand shall be paid into the proper treasury of the
161 state, county or other public body through the office of the
162 department in the amount demanded within thirty (30) days from the
163 date thereof, together with interest thereon in the sum of one
164 percent (1%) per month from the date such amount or amounts were
165 improperly withheld, misappropriated and/or otherwise illegally
166 expended. In the event, however, such person or persons or such
167 surety shall refuse, neglect or otherwise fail to pay the amount
168 demanded and the interest due thereon within the allotted thirty
169 (30) days, the State Auditor shall have the authority and it shall
170 be his duty to institute suit, and the Attorney General shall
171 prosecute the same in any court of the state to the end that there
172 shall be recovered the total of such amounts from the person or
173 persons and surety on official bond named therein; and the amounts
174 so recovered shall be paid into the proper treasury of the state,
175 county or other public body through the State Auditor. In any

176 case where written demand is issued to a surety on the official
177 bond of such person or persons and the surety refuses, neglects or
178 otherwise fails within one hundred twenty (120) days to either pay
179 the amount demanded and the interest due thereon or to give the
180 State Auditor a written response with specific reasons for
181 nonpayment, then the surety shall be subject to a civil penalty in
182 an amount of twelve percent (12%) of the bond, not to exceed Ten
183 Thousand Dollars (\$10,000.00), to be deposited into the State
184 General Fund;

185 (h) To investigate any alleged or suspected violation
186 of the laws of the state by any officer or employee of the state,
187 county or other public office in the purchase, sale or the use of
188 any supplies, services, equipment or other property belonging
189 thereto; and in such investigation to do any and all things
190 necessary to procure evidence sufficient either to prove or
191 disprove the existence of such alleged or suspected violations.
192 The Department of Investigation of the State Department of Audit
193 may investigate, for the purpose of prosecution, any suspected
194 criminal violation of the provisions of this chapter. For the
195 purpose of administration and enforcement of this chapter, the
196 enforcement employees of the Department of Investigation of the
197 State Department of Audit have the powers of a law enforcement
198 officer of this state, and shall be empowered to make arrests and
199 to serve and execute search warrants and other valid legal process
200 anywhere within the State of Mississippi. All enforcement
201 employees of the Department of Investigation of the State
202 Department of Audit hired on or after July 1, 1993, shall be
203 required to complete the Law Enforcement Officers Training Program
204 and shall meet the standards of the program;

205 (i) To issue subpoenas, with the approval of, and
206 returnable to, a judge of a chancery or circuit court, in termtime
207 or in vacation, to examine the records, documents or other
208 evidence of persons, firms, corporations or any other entities

209 insofar as such records, documents or other evidence relate to
210 dealings with any state, county or other public entity. The
211 circuit or chancery judge must serve the county in which the
212 records, documents or other evidence is located; or where all or
213 part of the transaction or transactions occurred which are the
214 subject of the subpoena;

215 (j) In any instances in which the State Auditor is or
216 shall be authorized or required to examine or audit, whether
217 preaudit or postaudit, any books, ledgers, accounts or other
218 records of the affairs of any public hospital owned or owned and
219 operated by one or more political subdivisions or parts thereof or
220 any combination thereof, or any school district, including
221 activity funds thereof, it shall be sufficient compliance
222 therewith, in the discretion of the State Auditor, that such
223 examination or audit be made from the report of any audit or other
224 examination certified by a certified public accountant and
225 prepared by or under the supervision of such certified public
226 accountant. Such audits shall be made in accordance with
227 generally accepted standards of auditing, with the use of an audit
228 program prepared by the State Auditor, and final reports of such
229 audits shall conform to the format prescribed by the State
230 Auditor. All files, working papers, notes, correspondence and all
231 other data compiled during the course of the audit shall be
232 available, without cost, to the State Auditor for examination and
233 abstracting during the normal business hours of any business day.
234 The expense of such certified reports shall be borne by the
235 respective hospital, or any available school district funds other
236 than minimum program funds, subject to examination or audit. The
237 State Auditor shall not be bound by such certified reports and
238 may, in his or their discretion, conduct such examination or audit
239 from the books, ledgers, accounts or other records involved as may
240 be appropriate and authorized by law;

241 (k) The State Auditor shall have the authority to
242 contract with qualified public accounting firms to perform
243 selected audits required in subsections (d), (e) and (f) of this
244 section, if funds are made available for such contracts by the
245 Legislature, or if funds are available from the governmental
246 entity covered by subsections (d), (e) and (f). Such audits shall
247 be made in accordance with generally accepted standards of
248 auditing, with the use of an audit program prepared by the State
249 Auditor, and final reports of such audits shall conform to the
250 format prescribed by the State Auditor. All files, working
251 papers, notes, correspondence and all other data compiled during
252 the course of the audit shall be available, without cost, to the
253 State Auditor for examination and abstracting during the normal
254 business hours of any business day;

255 (l) The State Auditor shall have the authority to
256 establish training courses and programs for the personnel of the
257 various state and local governmental entities under the
258 jurisdiction of the Office of the State Auditor. The training
259 courses and programs shall include, but not be limited to, topics
260 on internal control of funds, property and equipment control and
261 inventory, governmental accounting and financial reporting, and
262 internal auditing. The State Auditor is authorized to charge a
263 fee from the participants of these courses and programs, which fee
264 shall be deposited into the Department of Audit Special Fund.
265 State and local governmental entities are authorized to pay such
266 fee and any travel expenses out of their general funds or any
267 other available funds from which such payment is not prohibited by
268 law;

269 (m) Upon written request by the Governor or any member
270 of the State Legislature, the State Auditor may audit any state
271 funds and/or state and federal funds received by any nonprofit
272 corporation incorporated under the laws of this state;

273 (n) To conduct performance audits of personal or
274 professional service contracts by state agencies on a random
275 sampling basis, or upon request of the State Personal Service
276 Contract Review Board under Section 25-9-120(3);

277 (o) To annually postaudit the Chickasawhay Natural Gas
278 District. The Department of Audit shall charge the Chickasawhay
279 Natural Gas District, audited by the authority of this paragraph,
280 the sum of Thirty Dollars (\$30.00) per hour for each hour of staff
281 time devoted to the auditing of the district. The Chickasawhay
282 Natural Gas District shall pay for the audit fees from any sums
283 available to the district for its general operations.

284 **SECTION 3.** Section 27-103-129, Mississippi Code of 1972, is
285 amended as follows:

286 27-103-129. (1) To enable the Legislative Budget Office to
287 prepare such budget, it shall have full and plenary power and
288 authority to require all general-fund and special-fund agencies
289 and the Mississippi Department of Transportation and the Office of
290 State Aid Road Construction of the Mississippi Department of
291 Transportation to file a budget request with such information and
292 in such form and in such detail as it may deem necessary and
293 advisable, and it shall have the further power and authority to
294 reduce or eliminate any item or items of requested appropriation
295 by any state agency in the Legislative Budget Office's recommended
296 budget to the Legislature. However, where any item of requested
297 appropriation shall be so reduced or eliminated, the head of the
298 agency involved shall have the right to appear before the
299 appropriate legislative committee to urge a revision of the budget
300 to restore the item reduced or eliminated. Beginning with the
301 1996 fiscal year, the budget requests shall include a definition
302 of the mission of the agency, a description of the duties and
303 responsibilities of the agency, financial data relative to the
304 various programs operated by the agency and performance measures
305 associated with each program of the agency. The performance

306 measures to be contained within the agency budget request shall be
307 developed by cooperative efforts of the Legislative Budget Office,
308 the Department of Finance and Administration and the agency itself
309 and shall be approved jointly by the Legislative Budget Office and
310 the Department of Finance and Administration prior to inclusion
311 within the agency budget request. Beginning with the 1996 fiscal
312 year, the budget requests shall also include in an addendum format
313 a five-year strategic plan for the agency which shall include, but
314 not be limited to, the following items of information: (a) a
315 comprehensive mission statement, (b) performance effectiveness
316 objectives for each program of the agency for each of the five (5)
317 years covered by the plan, (c) a description of significant
318 external factors which may affect the projected levels of
319 performance, (d) a description of the agency's internal management
320 system utilized to evaluate its performance achievements in
321 relationship to the targeted performance levels, (e) an evaluation
322 by the agency of the agency's performance achievements in
323 relationship to the targeted performance levels for the two (2)
324 preceding fiscal years for which accounting records have been
325 finalized.

326 (2) As part of the budget request, all general-fund and
327 special-fund agencies and the Mississippi Department of
328 Transportation and the Office of State Aid Road Construction of
329 the Mississippi Department of Transportation shall submit to the
330 Legislative Budget Office any proposed increases of any fee or
331 charge for services or rent, or other cost recapture that those
332 entities propose charging to any other state general-fund,
333 special-fund, or other state agency. The proposed fee shall be
334 accompanied by a needs assessment that details why the fee should
335 be imposed, the legal authority for imposing the fee, and a cost
336 analysis explaining through a sound methodology that the fee is
337 intended to recapture the costs of providing services, building

338 space, or some other benefit to another agency of state
339 government.

340 Any such fee described in this subsection shall not become
341 effective until the fiscal year beginning on July 1 following the
342 submission of the fee proposal to the Legislative Budget Office.

343 **SECTION 4.** Section 29-5-6, Mississippi Code of 1972, is
344 amended as follows:

345 29-5-6. All monies expended by the Bureau of Capitol
346 Facilities shall be drawn out of the State Treasury only upon the
347 warrant of the Department of Finance and Administration, which
348 shall issue the same only where a specific itemized account shall
349 have been rendered it, which account shall be approved in writing
350 by the Director of the Bureau of Capitol Facilities.

351 Any department, agency or political subdivision of the
352 government of the state, or any organization occupying offices in
353 any of the office buildings under the jurisdiction or control of
354 the Office of General Services shall pay as directed by the office
355 into the fund created in Section 27-104-107(7), a rent to be fixed
356 by the office that shall be based on the actual cost of providing
357 office space and utilities to the agency, department or political
358 subdivision. The Veterans Affairs Board shall pay rent for
359 veterans organizations and veterans auxiliary organizations
360 presently using space in the property described, set apart, and
361 exclusively dedicated as a perpetual memorial to the veterans of
362 World War I, 1914-1918, by Chapter 297, Laws of 1934, if it
363 becomes necessary for such rent to be paid.

364 In the event that the sums are not paid as directed by the
365 Office of General Services, the director of the office may issue a
366 requisition for a warrant to draw the amount as may be due, plus a
367 penalty of ten percent (10%) of the amount, from any fund
368 appropriated for the use of the agency which has failed to pay
369 rental as agreed.

370 **SECTION 5.** Section 29-9-13, Mississippi Code of 1972, is
371 amended as follows:

372 29-9-13. Representatives of the State Department of Audit
373 under the direction of the State Auditor of Public Accounts, in
374 making regular audits of the different state agencies, shall
375 reconcile all invoices and records with the agencies' property
376 inventories, and shall make a check or physical audit of the
377 actual items or properties shown on their inventories and related
378 records. The State Department of Audit shall charge state
379 agencies the actual cost per auditor day for making the inventory
380 audits required under this section. Each state agency, the
381 Secretary of the Senate, and the Clerk of the House of
382 Representatives, when requested to do so, shall furnish a
383 competent person or persons to assist in this check or physical
384 audit. The Auditor shall keep his records current at all times
385 and shall report to the agency concerned any such changes made and
386 the general status of the inventory involved, on the completion of
387 each audit. This report shall also be included in the audit
388 reports of the State Department of Audit covering the different
389 state agencies. The State Auditor shall use such reports from the
390 State Department of Audit to correct and maintain current the
391 inventories in his office.

392 **SECTION 6.** Section 25-59-13, Mississippi Code of 1972, is
393 amended as follows:

394 25-59-13. The transfer of records to the Mississippi
395 Department of Archives and History shall be in accordance with the
396 following:

397 (a) Agencies and appointed or elected officials are
398 hereby authorized and empowered to turn over to the department any
399 records no longer in current official use and the department is
400 authorized, after conducting appropriate archival appraisal, to
401 accept such records and to provide for their administration and
402 preservation.

403 (b) All records of state agencies transferred to the
404 department may be held in the records center or placed directly in
405 the Mississippi State Archives as deemed appropriate.

406 (c) Title to any record placed in the records center
407 shall remain in the agency transferring such records to the
408 department.

409 (d) Title to any record transferred to the Mississippi
410 State Archives shall be vested in the department.

411 (e) The department may make certified copies under seal
412 of any records transferred to it upon the application of any
413 person and those certificates signed by the director shall have
414 the same force and effect as if made by the agency from which the
415 records were received.

416 (f) The department may prescribe and charge reasonable
417 fees for those services, which shall not exceed the actual cost
418 of providing records storage or any other service rendered by the
419 department.

420 **SECTION 7.** Section 37-141-5, Mississippi Code of 1972, is
421 amended as follows:

422 37-141-5. (1) The main office building of the University
423 Research Center and the Department of Economic Development in the
424 City of Jackson shall be known and designated as the Paul B.
425 Johnson, Jr. Building. The Board of Trustees of State
426 Institutions of Higher Learning and the Governor's Office of
427 General Services shall coordinate and cooperate to effect the
428 relocation of the Department of Economic Development to the Paul
429 B. Johnson, Jr. Building and any other related agency relocations
430 necessary to accomplish the requirement of this section if such
431 relocation is feasible. If such relocation of the Department of
432 Economic Development to the Paul B. Johnson, Jr. Building is not
433 feasible because of space limitations, the Governor's Office of
434 General Services shall coordinate the relocation of such
435 department to some other location and shall, if possible, secure

436 the amount of space necessary to also place the University
437 Research Center in the same location with the department.

438 The Office of General Services shall provide proper signs to
439 be placed on the building in accordance with this section.

440 (2) The Board of Trustees of State Institutions of Higher
441 Learning shall be authorized to charge state agencies and other
442 entities that occupy portions of the University Research Center
443 for utilities, maintenance, and security. Those charges shall be
444 based on the board's cost of providing services to each agency or
445 entity. For purposes of this subsection, the University Research
446 Center includes the Paul B. Johnson, Jr., Building, the Edsel E.
447 Thrash Universities Center and the ETV Building.

448 **SECTION 8.** Section 65-1-8, Mississippi Code of 1972, is
449 amended as follows:

450 65-1-8. (1) The Mississippi Transportation Commission shall
451 have the following general powers, duties and responsibilities:

452 (a) To coordinate and develop a comprehensive, balanced
453 transportation policy for the State of Mississippi;

454 (b) To promote the coordinated and efficient use of all
455 available and future modes of transportation;

456 (c) To make recommendations to the Legislature
457 regarding alterations or modifications in any existing
458 transportation policies;

459 (d) To study means of encouraging travel and
460 transportation of goods by the combination of motor vehicle and
461 other modes of transportation;

462 (e) To take such actions as are necessary and proper to
463 discharge its duties pursuant to the provisions of Laws, 1992,
464 Chapter 496, and any other provision of law;

465 (f) To receive and provide for the expenditure of any
466 funds made available to it by the Legislature, the federal
467 government or any other source.

468 (2) In addition to the general powers, duties and
469 responsibilities listed in subsection (1) of this section, the
470 Mississippi Transportation Commission shall have the following
471 specific powers:

472 (a) To make rules and regulations whereby the
473 Transportation Department shall change or relocate any and all
474 highways herein or hereafter fixed as constituting a part of the
475 state highway system, as may be deemed necessary or economical in
476 the construction or maintenance thereof; to acquire by gift,
477 purchase, condemnation or otherwise, land or other property
478 whatsoever that may be necessary for a state highway system as
479 herein provided, with full consideration to be given to the
480 stimulation of local public and private investment when acquiring
481 such property in the vicinity of Mississippi towns, cities and
482 population centers;

483 (b) To enforce by mandamus, or other proper legal
484 remedies, all legal rights or rights of action of the Mississippi
485 Transportation Commission with other public bodies, corporations
486 or persons;

487 (c) To make and publish rules, regulations and
488 ordinances for the control of and the policing of the traffic on
489 the state highways, and to prevent their abuse by any or all
490 persons, natural or artificial, by trucks, tractors, trailers or
491 any other heavy or destructive vehicles or machines, or by any
492 other means whatsoever, by establishing weights of loads or of
493 vehicles, types of tires, width of tire surfaces, length and width
494 of vehicles, with reasonable variations to meet approximate
495 weather conditions, and all other proper police and protective
496 regulations, and to provide ample means for the enforcement of
497 same. The violation of any of the rules, regulations or
498 ordinances so prescribed by the commission shall constitute a
499 misdemeanor. No rule, regulation or ordinance shall be made that
500 conflicts with any statute now in force or which may hereafter be

501 enacted, or with any ordinance of municipalities. A monthly
502 publication giving general information to the boards of
503 supervisors, employees and the public may be issued under such
504 rules and regulations as the commission may determine;

505 (d) To give suitable numbers to highways and to change
506 the number of any highway that shall become a part of the state
507 highway system. However, nothing herein shall authorize the
508 number of any highway to be changed so as to conflict with any
509 designation thereof as a U.S. numbered highway. Where, by a
510 specific act of the Legislature, the commission has been directed
511 to give a certain number to a highway, the commission shall not
512 have the authority to change such number;

513 (e) (i) To make proper and reasonable rules,
514 regulations, and ordinances for the placing, erection, removal or
515 relocation of telephone, telegraph or other poles, signboards,
516 fences, gas, water, sewerage, oil or other pipelines, and other
517 obstructions that may, in the opinion of the commission,
518 contribute to the hazards upon any of the state highways, or in
519 any way interfere with the ordinary travel upon such highways, or
520 the construction, reconstruction or maintenance thereof, and to
521 make reasonable rules and regulations for the proper control
522 thereof. Any violation of such rules or regulations or
523 noncompliance with such ordinances shall constitute a misdemeanor;

524 (ii) Except as otherwise provided for in this
525 paragraph, whenever the order of the commission shall require the
526 removal of, or other changes in the location of telephone,
527 telegraph or other poles, signboards, gas, water, sewerage, oil or
528 other pipelines; or other similar obstructions on the right-of-way
529 or such other places where removal is required by law, the owners
530 thereof shall at their own expense move or change the same to
531 conform to the order of the commission. Any violation of such
532 rules or regulations or noncompliance with such orders shall
533 constitute a misdemeanor;

534 (iii) Rural water districts, rural water systems,
535 nonprofit water associations and municipal public water systems in
536 municipalities with a population of ten thousand (10,000) or less,
537 according to the latest federal decennial census, shall not be
538 required to bear the cost and expense of removal and relocation of
539 water and sewer lines and facilities constructed or in place in
540 the rights-of-way of state highways. The cost and expense of such
541 removal and relocation, including any unpaid prior to July 1,
542 2002, shall be paid by the Department of Transportation;

543 (iv) Municipal public sewer systems and municipal
544 gas systems owned by municipalities with a population of ten
545 thousand (10,000) or less, according to the latest federal
546 decennial census, shall not be required to bear the cost and
547 expense of removal and relocation of lines and facilities
548 constructed or in place in the rights-of-way of state highways.
549 The cost and expense of such removal and relocation, including any
550 unpaid prior to July 1, 2003, shall be paid by the Department of
551 Transportation;

552 (f) To regulate and abandon grade crossings on any road
553 fixed as a part of the state highway system, and whenever the
554 commission, in order to avoid a grade crossing with the railroad,
555 locates or constructs the road on one side of the railroad, the
556 commission shall have the power to abandon and close such grade
557 crossing, and whenever an underpass or overhead bridge is
558 substituted for a grade crossing, the commission shall have power
559 to abandon such grade crossing and any other crossing adjacent
560 thereto. Included in the powers herein granted shall be the power
561 to require the railroad at grade crossings, where any road of the
562 state highway system crosses the same, to place signal posts with
563 lights or other warning devices at such crossings at the expense
564 of the railroad, and to regulate and abandon underpass or overhead
565 bridges and, where abandoned because of the construction of a new
566 underpass or overhead bridge, to close such old underpass or

567 overhead bridge, or, in its discretion, to return the same to the
568 jurisdiction of the county board of supervisors;

569 (g) To make proper and reasonable rules and regulations
570 to control the cutting or opening of the road surfaces for
571 subsurface installations;

572 (h) To make proper and reasonable rules and regulations
573 for the removal from the public rights-of-way of any form of
574 obstruction, to cooperate in improving their appearance, and to
575 prescribe minimum clearance heights for seed conveyors, pipes,
576 passageways or other structure of private or other ownership above
577 the highways;

578 (i) To establish, and have the Transportation
579 Department maintain and operate, and to cooperate with the state
580 educational institutions in establishing, enlarging, maintaining
581 and operating a laboratory or laboratories for testing materials
582 and for other proper highway purposes;

583 (j) To provide, under the direction and with the
584 approval of the Department of Finance and Administration, suitable
585 offices, shops and barns in the City of Jackson;

586 (k) To establish and have enforced set-back
587 regulations;

588 (l) To cooperate with proper state authorities in
589 producing limerock for highway purposes and to purchase same at
590 cost;

591 (m) To provide for the purchase of necessary equipment
592 and vehicles and to provide for the repair and housing of same, to
593 acquire by gift, purchase, condemnation or otherwise, land or
594 lands and buildings in fee simple, and to authorize the
595 Transportation Department to construct, lease or otherwise provide
596 necessary and proper permanent district offices for the
597 construction and maintenance divisions of the department, and for
598 the repair and housing of the equipment and vehicles of the
599 department; however, in each Supreme Court district only two (2)

600 permanent district offices shall be set up, but a permanent status
601 shall not be given to any such offices until so provided by act of
602 the Legislature and in the meantime, all shops of the department
603 shall be retained at their present location. As many local or
604 subdistrict offices, shops or barns may be provided as is
605 essential and proper to economical maintenance of the state
606 highway system;

607 (n) To cooperate with the Department of Archives and
608 History in having placed and maintained suitable historical
609 markers, including those which have been approved and purchased by
610 the State Historical Commission, along state highways, and to have
611 constructed and maintained roadside driveways for convenience and
612 safety in viewing them when necessary;

613 (o) To cooperate, in its discretion, with the
614 Mississippi Department of Wildlife, Fisheries and Parks in
615 planning and constructing roadside parks upon the right-of-way of
616 state highways, whether constructed, under construction, or
617 planned; those parks to utilize where practical barrow pits used
618 in construction of state highways for use as fishing ponds.
619 Those parks shall be named for abundant flora and fauna existing
620 in the area or for the first flora or fauna found on the site;

621 (p) Unless otherwise prohibited by law, to make such
622 contracts and execute such instruments containing such reasonable
623 and necessary appropriate terms, provisions and conditions as in
624 its absolute discretion it may deem necessary, proper or
625 advisable, for the purpose of obtaining or securing financial
626 assistance, grants or loans from the United States of America or
627 any department or agency thereof, including contracts with several
628 counties of the state pertaining to the expenditure of such funds;

629 (q) To cooperate with the Federal Highway
630 Administration in the matter of location, construction and
631 maintenance of the Great River Road, to expend such funds paid to
632 the commission by the Federal Highway Administration or other

633 federal agency, and to authorize the Transportation Department to
634 erect suitable signs marking this highway, the cost of such signs
635 to be paid from state highway funds other than earmarked
636 construction funds;

637 (r) To cooperate, in its discretion, with the
638 Mississippi Forestry Commission and the School of Forestry,
639 Mississippi State University, in a forestry management program,
640 including planting, thinning, cutting and selling, upon the
641 right-of-way of any highway, constructed, acquired or maintained
642 by the Transportation Department, and to sell and dispose of any
643 and all growing timber standing, lying or being on any
644 right-of-way acquired by the commission for highway purposes in
645 the future; such sale or sales to be made in accordance with the
646 sale of personal property which has become unnecessary for public
647 use as provided for in Section 65-1-123, Mississippi Code of 1972;

648 (s) To expend funds in cooperation with the Division of
649 Plant Industry, Mississippi Department of Agriculture and
650 Commerce, the United States government or any department or agency
651 thereof, or with any department or agency of this state, to
652 control, suppress or eradicate serious insect pests, rodents,
653 plant parasites and plant diseases on the state highway
654 rights-of-way;

655 (t) To provide for the placement, erection and
656 maintenance of motorist services business signs and supports
657 within state highway rights-of-way in accordance with current
658 state and federal laws and regulations governing the placement of
659 traffic control devices on state highways, and to establish and
660 collect reasonable fees from the businesses having information on
661 such signs;

662 (u) To request and to accept the use of persons
663 convicted of an offense, whether a felony or a misdemeanor, for
664 work on any road construction, repair or other project of the
665 Transportation Department. The commission is also authorized to

666 request and to accept the use of persons who have not been
667 convicted of an offense but who are required to fulfill certain
668 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
669 99-15-26, or the Pretrial Intervention Act, being Sections
670 99-15-101 through 99-15-127. The commission is authorized to
671 enter into any agreements with the Department of Corrections, the
672 State Parole Board, any criminal court of this state, and any
673 other proper official regarding the working, guarding,
674 safekeeping, clothing and subsistence of such persons performing
675 work for the Transportation Department. Such persons shall not be
676 deemed agents, employees or involuntary servants of the
677 Transportation Department while performing such work or while
678 going to and from work or other specified areas;

679 (v) To provide for the administration of the railroad
680 revitalization program pursuant to Section 57-43-1 et seq.;

681 (w) The Mississippi Transportation Commission is
682 further authorized, in its discretion, to expend funds for the
683 purchase of service pins for employees of the Mississippi
684 Transportation Department;

685 (x) To cooperate with the State Tax Commission by
686 providing for weight enforcement field personnel to collect and
687 assess taxes, fees and penalties and to perform all duties as
688 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
689 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,
690 with regard to vehicles subject to the jurisdiction of the Office
691 of Weight Enforcement. All collections and assessments shall be
692 transferred daily to the State Tax Commission;

693 (y) The Mississippi Transportation Commission may
694 delegate the authority to enter into a supplemental agreement to a
695 contract previously approved by the commission if the supplemental
696 agreement involves an additional expenditure not to exceed One
697 Hundred Thousand Dollars (\$100,000.00);

698 (z) (i) The Mississippi Transportation Commission, in
699 its discretion, may enter into agreements with any county,
700 municipality, county transportation commission, business,
701 corporation, partnership, association, individual or other legal
702 entity, for the purpose of accelerating the completion date of
703 scheduled highway construction projects.

704 (ii) Such an agreement may permit the cost of a
705 highway construction project to be advanced to the commission by a
706 county, municipality, county transportation commission, business,
707 corporation, partnership, association, individual or other legal
708 entity, and repaid to such entity by the commission when highway
709 construction funds become available; provided, however, that
710 repayment of funds advanced to the Mississippi Transportation
711 Commission shall be made no sooner than the commission's
712 identified projected revenue schedule for funding of that
713 particular construction project, and no other scheduled highway
714 construction project established by statute or by the commission
715 may be delayed by an advanced funding project authorized under
716 this paragraph (z). Repayments to a private entity that advances
717 funds to the Mississippi Transportation Commission under this
718 paragraph (z) may not include interest or other fees or charges,
719 and the total amount repaid shall not exceed the total amount of
720 funds advanced to the commission by the entity.

721 (iii) In considering whether to enter into such an
722 agreement, the commission shall consider the availability of
723 financial resources, the effect of such agreement on other ongoing
724 highway construction, the urgency of the public's need for swift
725 completion of the project and any other relevant factors.

726 (iv) Such an agreement shall be executed only upon
727 a finding by the commission, spread upon its minutes, that the
728 acceleration of the scheduled project is both feasible and
729 beneficial. The commission shall also spread upon its minutes its

730 findings with regard to the factors required to be considered
731 pursuant to item (iii) of this paragraph (z);

732 (aa) The Mississippi Transportation Commission, in its
733 discretion, may purchase employment practices liability insurance,
734 and may purchase an excess policy to cover catastrophic losses
735 incurred under the commission's self-insured workers' compensation
736 program authorized under Section 71-3-5. Such policies shall be
737 written by the agent or agents of a company or companies
738 authorized to do business in the State of Mississippi. The
739 deductibles shall be in an amount deemed reasonable and prudent by
740 the commission, and the premiums thereon shall be paid from the
741 State Highway Fund. Purchase of insurance under this paragraph
742 shall not serve as an actual or implied waiver of sovereign
743 immunity or of any protection afforded the commission under the
744 Mississippi Tort Claims Act;

745 (bb) The Mississippi Transportation Commission is
746 further authorized, in its discretion, to expend funds for the
747 purchase of promotional materials for safety purposes, highway
748 beautification purposes and recruitment purposes;

749 (cc) To lease antenna space on communication towers
750 which it owns;

751 (dd) To charge reasonable fees to other state agencies
752 and to the Office of State Aid Road Construction of the Department
753 of Transportation for any soil test or records duplication
754 services so long as the fee does not exceed the actual cost of
755 providing the service.

756 **SECTION 9.** Section 71-5-143, Mississippi Code of 1972, is
757 amended as follows:

758 71-5-143. (1) In the administration of this chapter, the
759 department shall cooperate, to the fullest extent consistent with
760 the provisions of this chapter, with the Social Security Board
761 created by the Social Security Act, approved August 14, 1935, as
762 amended; shall make such reports in such form and containing such

763 information as the Social Security Board may from time to time
764 require, and shall comply with such provisions as the Social
765 Security Board may from time to time find necessary to assure the
766 correctness and verification of such reports; and shall comply
767 with the reasonable, valid and lawful regulations prescribed by
768 the Social Security Board pursuant to and under the authority of
769 the Social Security Act, governing the expenditures of such sums
770 as may be allotted and paid to this state under Title III of the
771 Social Security Act, as amended, for the purpose of assisting in
772 the administration of this chapter.

773 Upon request therefor, the department shall furnish to any
774 agency of the United States charged with the administration of
775 public works, or assistance through public employment, the name,
776 address, ordinary occupation and employment status of each
777 recipient of benefits, and such recipient's rights to further
778 benefits under this chapter.

779 (2) In addition to providing reports to agencies of the
780 federal government, the department may furnish reports to state
781 agencies, provided that it recoups the cost of producing the
782 reports from those agencies.

783 **SECTION 10.** This act shall take effect and be in force from
784 and after July 1, 2006.