

By: Senator(s) Ross

To: Highways and
Transportation; FinanceCOMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2171

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 PROVIDE THAT TOLLS SHALL CEASE DURING A STATE OF EMERGENCY; TO
15 AMEND SECTIONS 65-3-1 AND 11-46-9, MISSISSIPPI CODE OF 1972, IN
16 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
17 PURPOSES.

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

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

35 comprising the projects shall be built and maintained in
36 accordance with not less than the minimum highway design,
37 construction and maintenance standards established by the
38 contracting governmental entity for such highways, infrastructure
39 and facilities.

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

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

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

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

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

107 (4) If a toll road is a designated evacuation route and a
108 declaration of a state of emergency is issued by the President of
109 the United States or by the Governor, the collection of tolls
110 shall cease until the termination of the state of emergency.

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

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

128 (7) The powers conferred by this section shall be in
129 addition to the powers conferred by any other law, general,
130 special or local. This section shall be construed as an
131 additional and alternative method of funding all or any portion of
132 the purchasing, building, improving, owning or operating of
133 roadways, highways or bridges under the jurisdiction of the

Mississippi Transportation Commission, county boards of supervisors or municipal governing authorities, any provision of the laws of the state or any charter of any municipality to the contrary notwithstanding.

(8) The transportation commission may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(a) The transportation commission shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

(i) Information regarding the proposed project location, scope and limits;

(ii) Information regarding the private entity's qualifications, experience, technical competence and capability to develop the project; and

(iii) Any other information the transportation commission considers relevant or necessary.

(b) The transportation commission shall evaluate each proposal based on the criteria established by the commission. The transportation commission shall approve or disapprove a proposal within ninety (90) days after receipt of the proposal. If the transportation commission needs additional information, it may delay approval for an additional sixty (60) days.

SECTION 3. (1) For the purpose of providing funds to defray the expenses of projects authorized pursuant to Sections 1 and 2 of this act, the board of supervisors of a county or the governing authorities of a municipality shall have the right to borrow money for the project, and to issue revenue bonds therefor in such principal amounts as the board of supervisors or governing authorities may determine to be necessary to provide sufficient funds to defray the expenses of projects authorized pursuant to Sections 1 and 2 of this act. The bonds shall be payable out of any revenues derived from the project, including grants or

167 contributions from the federal government or other sources. Such
168 bonds may be sold at public or private sale at not less than par
169 and shall bear interest at a rate or rates not exceeding that
170 allowed in Section 75-17-103. Any such bonds so issued shall not
171 constitute a debt of the county, the municipality or any political
172 subdivision of the county or the city within the meaning of any
173 constitutional, statutory or charter restriction, limitation or
174 provision. It shall be plainly stated on the face of each bond in
175 substance that the bond has been issued pursuant to the authority
176 granted in this section and that the taxing power of the county or
177 municipality issuing the bond is not pledged to the payment of the
178 bond or the interest on it and that the bond and the interest on
179 it are payable solely from the revenues of the project for which
180 the bond is issued.

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

197 (3) Before issuing any bonds under the provisions of this
198 section, the board of supervisors of the county or the governing
199 authorities of the municipality shall, by resolution spread upon

200 the minutes, declare its intention to issue such bonds for the
201 purposes authorized by this section and shall state in the
202 resolution the amount of bonds proposed to be issued and shall
203 likewise fix in the resolution the date upon which the board of
204 supervisors of the county or the governing authorities of the
205 municipality proposes to direct the issuance of the bonds. Notice
206 of such intention shall be published once a week for at least
207 three (3) consecutive weeks in a newspaper published or having a
208 general circulation in the county or the municipality, with the
209 first publication of the notice to be made not less than
210 twenty-one (21) days prior to the date fixed in the resolution for
211 the issuance of the bonds and the last publication to be made not
212 more than seven (7) days prior to such date. If, on or before the
213 date specified in the resolution, twenty percent (20%) or fifteen
214 hundred (1500), whichever is less, of the qualified electors of
215 the county or municipality shall file a written protest against
216 the issuance of the bonds, then an election upon the issuance of
217 the bonds shall be called, and held, as provided in this section.
218 If no such protest shall be filed, then the board of supervisors
219 of the county or the governing authorities of the municipality may
220 issue such bonds without an election on the question of the
221 issuance of the bonds at any time within a period of two (2) years
222 after the date specified in the resolution.

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

232 placing a cross (X) or check mark (✓) opposite their choice on the
233 proposition.

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

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

261 **SECTION 4.** (1) (a) A special fund, to be designated as the
262 "Toll Road Revenue Bond Fund," is created within the State
263 Treasury. The fund shall be maintained by the State Treasurer as
264 a separate and special fund, separate and apart from the General

265 Fund of the state. Unexpended amounts remaining in the fund at
266 the end of a fiscal year shall not lapse into the State General
267 Fund, and any interest earned or investment earnings on amounts in
268 the fund shall be deposited into such fund.

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

273 (2) Amounts deposited into such special fund shall be
274 disbursed to pay the expenses described in subsection (1) of this
275 section. If any monies in the special fund are not used within
276 six (6) years after the date the proceeds of the bonds authorized
277 under Sections 4 through 19 of this act are deposited into such
278 fund, then the Mississippi Transportation Commission shall provide
279 an accounting of such unused monies to the State Bond Commission.
280 Promptly after the State Bond Commission has certified, by
281 resolution duly adopted, that the projects for which the revenue
282 bonds have been issued shall have been completed, abandoned or
283 cannot be completed in a timely fashion, any amounts remaining in
284 such special fund shall be applied to pay debt service on the
285 bonds issued under Sections 4 through 19 of this act, in
286 accordance with the proceedings authorizing the issuance of such
287 bonds and as directed by the commission.

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

298 Fund, and any interest earned or investment earnings on amounts in
299 the special bond sinking fund shall be deposited into such sinking
300 fund.

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

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

325 **SECTION 7.** The principal of and interest on the bonds
326 authorized under Sections 4 through 19 of this act shall be
327 payable in the manner provided in this section. Such bonds shall
328 bear such date or dates, be in such denomination or denominations,
329 bear interest at such rate or rates (not to exceed the limits set
330 forth in Section 75-17-103, Mississippi Code of 1972), be payable

at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

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

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

SECTION 10.

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

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

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

SECTION 11.

Bonds issued under authority of Sections 4 through 19 of this act shall be revenue bonds of the state, the

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

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

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

SECTION 14. The bonds authorized under the authority of Sections 4 through 19 of this act may be validated in the Chancery

430 Court of the First Judicial District of Hinds County, Mississippi,
431 in the manner and with the force and effect provided by Chapter
432 13, Title 31, Mississippi Code of 1972, for the validation of
433 county, municipal, school district and other bonds. The notice to
434 taxpayers required by such statutes shall be published in a
435 newspaper published or having a general circulation in the City of
436 Jackson, Mississippi.

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

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

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

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

SECTION 19.

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

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

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

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

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

495 The provisions of this section shall be inapplicable to any
496 toll road or bridge built or operated under the authority of
497 Section 1 or Section 2 of Senate Bill No. 2171, 2006 Regular
498 Session.

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

501 11-46-9. (1) A governmental entity and its employees acting
502 within the course and scope of their employment or duties shall
503 not be liable for any claim:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) Arising out of any work performed by a person convicted of a crime when the work is performed pursuant to any

560 sentence or order of any court or pursuant to laws of the State of
561 Mississippi authorizing or requiring such work;

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

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

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

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

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

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

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

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

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

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

617 (y) Arising out of any act or omission relating to a
618 highway, bridge or roadway project under a contract entered into
619 under Section 2 of Senate Bill No. 2171, 2006 Regular Session.

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

622 (a) Is inactive and dormant;

623 (b) Receives no revenue;

624 (c) Has no employees; and

625 (d) Owns no property.

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

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

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