

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



A Review of the Department of Finance and Administration's Site Selection Process for the Relocation of the Mississippi Crime Laboratory

PEER determined that the actions of the Department of Finance and Administration (DFA) were not in conflict with House Bill 1010, 2007 Regular Session, in regard to selection of a site for the Mississippi Crime Laboratory. DFA selected a site on state-owned property that would accommodate future relocation of other Department of Public Safety offices, as well as future relocation of the State Tax Commission, while improving the infrastructure of existing state agencies in the area. DFA's actions represented a reasonable long-term approach for utilizing state resources.

Regarding whether privately owned land could have been acquired for the site of the crime laboratory, House Bill 1010, 2007 Regular Session, does not contain a provision allowing the acquisition of privately owned land as a possible site. Land other than state-owned land leased from the Department of Mental Health for relocation of the crime laboratory would require additional legislative action for approval.

Regarding whether subsequent legislation passed in 2009 opened the process to selection of a site from one of three counties, House Bill 1722, 2009 Regular Session, does open the site selection process to the selection of a site from three counties, rather than from one county. However, the process that DFA used to select the site for the crime laboratory was completed prior to the passage of House Bill 1722, 2009 Regular Session.

If the Legislature intends for DFA to undertake a site selection process that encompasses both public and private land in the three counties specified in House Bill 1722, 2009 Regular Session, then the process would need to be re-opened. The process would need to include a request for proposals that defines specific site selection criteria for the relocation of the central office of the Mississippi Crime Laboratory and the State Medical Examiner. However, such a process would incur additional costs, both in terms of time and resources, and might ultimately result in the selection of the same site that DFA has already identified for the relocation. Given the urgency of the need for a new crime laboratory, both the Department of Finance and Administration staff and the Commissioner of the Department of Public Safety are anxious to proceed with construction of the facility on the chosen site.

November 9, 2009

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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November 9, 2009

Honorable Haley Barbour, Governor
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Honorable Billy McCoy, Speaker of the House
Members of the Mississippi State Legislature

On November 9, 2009, the PEER Committee authorized release of the report entitled **A Review of the Department of Finance and Administration's Site Selection Process for the Relocation of the Mississippi Crime Laboratory.**

A handwritten signature in cursive script that reads "Harvey Moss". The signature is written in black ink and is positioned above a horizontal line.

Representative Harvey Moss, Chair

This report does not recommend increased funding or additional staff.

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A Review of the Department of Finance and Administration's Site Selection Process for the Relocation of the Mississippi Crime Laboratory

Executive Summary

Introduction

During the 2007 Regular Session, the Legislature passed House Bill 1010, which authorized the Department of Public Safety to relocate certain offices (including the Mississippi Crime Laboratory) to the grounds of the Mississippi Law Enforcement Officers' Training Academy in Rankin County. The bill also authorized the Department of Public Safety to enter into long-term leases with the Department of Mental Health. In addition, the bill created a committee for the purpose of studying the relocation of the State Tax Commission¹ to Rankin County.

Based on the provisions of that bill, and upon an already existing need to improve the infrastructure of the state-owned land in Rankin County, the Department of Finance and Administration (DFA) decided to explore possibilities for co-locating all offices of the Department of Public Safety and the State Tax Commission to the same site in Rankin County. By the summer of 2008, the Department of Finance and Administration had focused its planning efforts and decided to co-locate these agencies on a portion of state-owned land in Rankin County that is currently under a long-term lease with the Department of Mental Health.

Since that time, due primarily to concerns over a decline in state revenues, the decision to move forward with the relocation of the entire Department of Public Safety and the State Tax Commission has been put on hold, but the relocation and modernization of the Mississippi Crime Laboratory has moved forward. In spite of the fact that now a single facility was being considered for construction, the Department of Finance and Administration retained the Department of Mental Health

¹ Senate Bill 2712, 2009 Regular Session, reorganizes the State Tax Commission into the Department of Revenue and an independent board of tax appeals. The bill becomes effective July 1, 2010.

property as the site of preference to accommodate the possible future relocation of the other offices of the Department of Public Safety, as well as the State Tax Commission, should that become a reality. However, prior to making a formal public announcement of the selected site, DFA staff were asked to view a parcel of privately owned land near the Mississippi Law Enforcement Officers' Training Academy in Rankin County as a possible location for the Mississippi Crime Laboratory. DFA staff viewed this land, but decided to move forward with the site that had already been selected. (Exhibit A, page iii, contains a timeline for the site selection process. Exhibit B, page iv, is a map of the five sites involved in the selection process.)

During the 2009 Regular Session, the Legislature passed House Bill 1722, which provides \$12,000,000 toward the costs of constructing, furnishing, and equipping of the building and related facilities for the central office of the Mississippi Crime Laboratory and the State Medical Examiner. However, the bill states that the building and related facilities are to be located in Hinds, Madison, or Rankin counties, even though the Department of Finance and Administration had already selected a site in Rankin County for the relocation of the Mississippi Crime Laboratory.

The purpose of this review was to determine whether the Department of Finance and Administration acted prudently in considering sites and selecting one for a new crime laboratory.

Conclusions

In conducting this review, the PEER Committee sought to answer three primary questions regarding the selection of a site for the Mississippi Crime Laboratory. Following are these three questions and summary answers.

Were the actions of the Department of Finance and Administration in conflict with the provisions of House Bill 1010, 2007 Regular Session?

Regarding the selection of a site for the Mississippi Crime Laboratory, the actions of the Department of Finance and Administration were not in conflict with House Bill 1010, 2007 Regular Session. DFA selected a site for the relocation of the Mississippi Crime Laboratory that would accommodate the future relocation of other Department of Public Safety offices and the future relocation of the State Tax Commission while improving the infrastructure of the existing state agencies in the area. DFA's actions represented a reasonable long-term approach for utilizing state resources.

EXHIBIT A: DPS SITE SELECTION TIMELINES

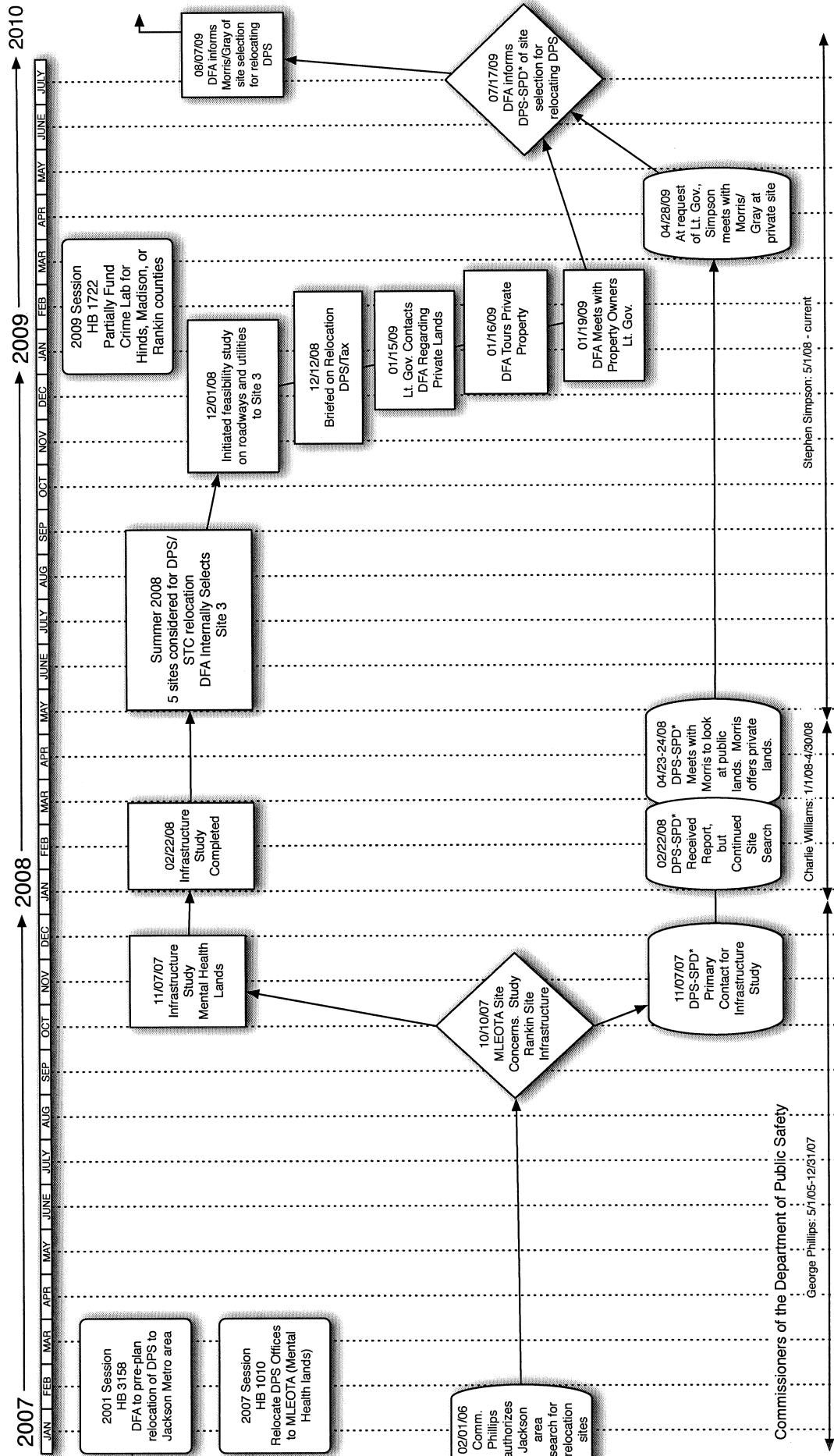
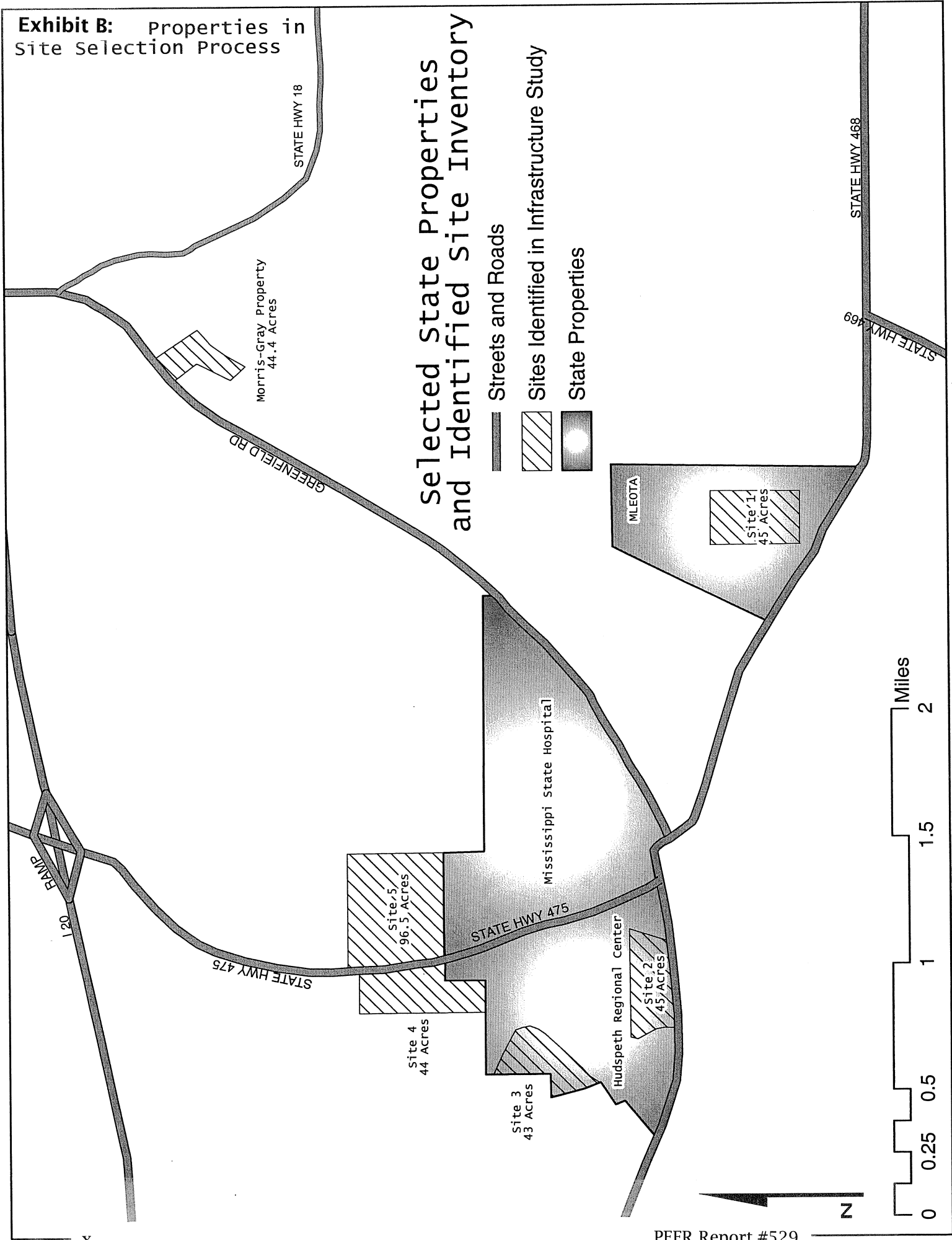


Exhibit B: Properties in Site Selection Process

Selected State Properties and Identified Site Inventory

- Streets and Roads
- ▨ Sites Identified in Infrastructure Study
- State Properties



Does House Bill 1010, 2007 Regular Session, contain a provision allowing the acquisition of privately owned land?

House Bill 1010, 2007 Regular Session, does not contain a provision allowing the acquisition of privately owned land. Land other than state-owned land leased from the Department of Mental Health for the relocation of the Mississippi Crime Laboratory would require additional legislative action for approval.

Does House Bill 1722, 2009 Regular Session, open the site selection process to the selection of a site from three counties, rather than from one county?

House Bill 1722, 2009 Regular Session, which provides \$12,000,000 for the Mississippi Crime Laboratory, does open the site selection process to the selection of a site from three counties, rather than from one county. However, the process that the Department of Finance and Administration used to select Site 3 for the Mississippi Crime Laboratory was completed prior to the passage of House Bill 1722, 2009 Regular Session, on April 17, 2009.

Action Needed to Resolve Conflicting Statutory Mandates

If the Legislature intends for the Department of Finance and Administration to undertake a site selection process that encompasses both public and private land in the three counties specified in House Bill 1722, 2009 Regular Session, then the process would need to be re-opened. The process would need to include a request for proposals that defines specific site selection criteria for the relocation of the central office of the Mississippi Crime Laboratory and the State Medical Examiner. However, such a process would incur additional costs, both in terms of time and resources, and might ultimately result in the selection of Site 3 in Rankin County, the site already identified for the relocation.

Given the urgency of the need for a new crime laboratory, both Department of Finance and Administration staff and the Commissioner of the Department of Public Safety are anxious to proceed with construction of the facility on the chosen site.

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A Review of the Department of Finance and Administration's Site Selection Process for the Relocation of the Mississippi Crime Laboratory

Introduction

Authority

The PEER Committee conducted this review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-51 et seq. (1972).

Problem Statement

During the 2007 Regular Session, the Legislature passed House Bill 1010, which authorizes the Department of Public Safety to relocate certain offices (including the Mississippi Crime Laboratory) to the grounds of the Mississippi Law Enforcement Officers' Training Academy in Rankin County. The bill also authorizes the Department of Public Safety to enter into long-term leases with the Department of Mental Health. In addition, the bill created a committee for the purpose of studying the relocation of the State Tax Commission¹ to Rankin County.

Based on the provisions of that bill, and upon an already existing need to improve the infrastructure of the state-owned land in Rankin County, the Department of Finance and Administration (DFA) decided to explore possibilities for co-locating all offices of the Department of Public Safety and the State Tax Commission to the same site in Rankin County. By the summer of 2008, the Department of Finance and Administration had focused its planning efforts and decided to co-locate these agencies on a portion of state-owned land in Rankin County that is currently under a long-term lease with the Department of Mental Health.

Since that time, due primarily to concerns over a decline in state revenues, the decision to move forward with the

¹ Senate Bill 2712, 2009 Regular Session, reorganizes the State Tax Commission into the Department of Revenue and an independent board of tax appeals. The bill becomes effective July 1, 2010.

relocation of the entire Department of Public Safety and the State Tax Commission has been put on hold, but the relocation and modernization of the Mississippi Crime Laboratory has moved forward. In spite of the fact that now a single facility was being considered for construction, the Department of Finance and Administration retained the Department of Mental Health property as the site of preference to accommodate the possible future relocation of the other offices of the Department of Public Safety, as well as the State Tax Commission, should that become a reality. However, prior to making a formal public announcement of the selected site, DFA staff were asked to view a parcel of privately owned land near the Mississippi Law Enforcement Officers' Training Academy in Rankin County as a possible location for the Mississippi Crime Laboratory. DFA staff viewed this land, but decided to move forward with the site that had already been selected. (Exhibit 1, page 3, contains a timeline for the site selection process.)

During the 2009 Regular Session, the Legislature passed House Bill 1722, which provides \$12,000,000 toward the costs of constructing, furnishing, and equipping of the building and related facilities for the central office of the Mississippi Crime Laboratory and the State Medical Examiner. However, the bill states that the building and related facilities are to be located in Hinds, Madison, or Rankin counties, even though the Department of Finance and Administration had already selected a site in Rankin County for the relocation of the Mississippi Crime Laboratory.

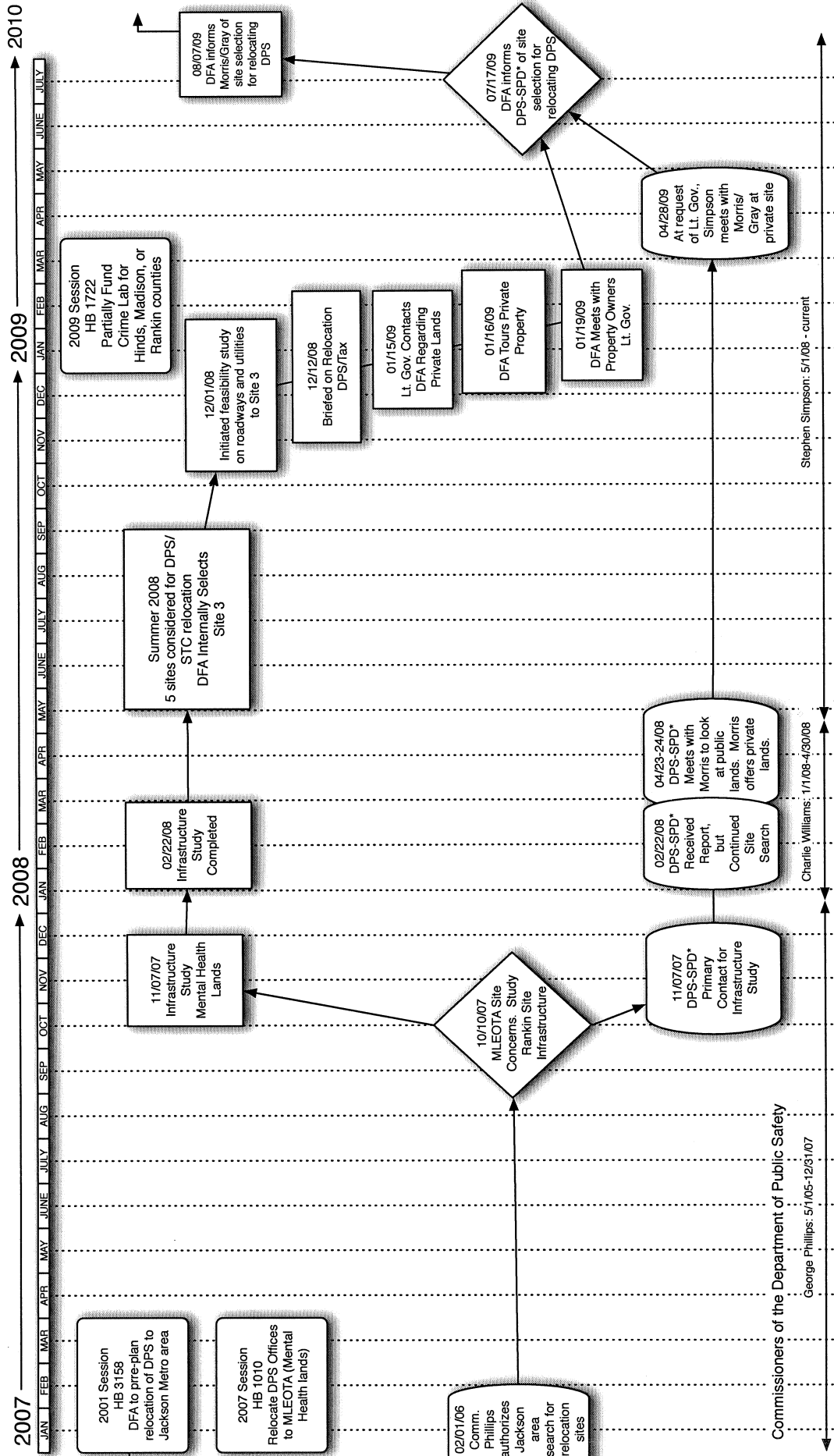
The purpose of this review was to determine whether the Department of Finance and Administration acted prudently in considering sites and selecting one for a new crime laboratory.

Scope and Purpose

In conducting this review, the PEER Committee sought to answer the following questions regarding the selection of a site for the Mississippi Crime Laboratory:

- Were the actions of the Department of Finance and Administration in conflict with the provisions of House Bill 1010, 2007 Regular Session?
- Does House Bill 1010, 2007 Regular Session, contain a provision allowing the acquisition of privately owned land?

EXHIBIT 1: DPS SITE SELECTION TIMELINES



- Does House Bill 1722, 2009 Regular Session, open the site selection process to the selection of a site from one of three counties, rather than from one county?

Method

In conducting this review, the PEER Committee:

- interviewed staff of the Department of Finance and Administration;
- interviewed staff of the Department of Public Safety;
- interviewed Mr. Morris Gray and Mr. James Morris, joint owners of a parcel of land that the Department of Finance and Administration viewed after the department had selected a site for the relocation of the Mississippi Crime Laboratory;
- reviewed three pieces of legislation related to the relocation of the Mississippi Crime Laboratory (House Bill 3158, 2001 Regular Session; House Bill 1010, 2007 Regular Session; and House Bill 1722, 2009 Regular Session); and,
- reviewed relevant documentation concerning the site selection process for the Mississippi Crime Laboratory.

Background

The Search for Land for Relocation of the Mississippi Crime Laboratory

In 1894, the State of Mississippi purchased approximately 3,250 acres of land in Rankin County. In 1926, the Legislature appropriated funds to construct a hospital on approximately 312 acres of this land for the benefit of the state's mentally ill. The hospital opened in 1935 and the state used the surrounding land to establish a working dairy, livestock, and farming operation for the support of the hospital. Although the dairy, livestock, and farming operation no longer exists, the state allows the Department of Mental Health to lease the surrounding state-owned land for the financial benefit of the department.

Much of the unleased land falls within the floodplain. However, portions of the currently leased land are suitable for development or use. The Department of Mental Health has long-term leases with twelve state agencies for the use of about 1,040 of the 3,250 acres. Among the state agencies with long-term leases is the Department of Public Safety. Among other uses, the lease is for the operation of the Mississippi Law Enforcement Officers' Training Academy.

The Department of Finance and Administration has explored the possibilities for co-locating the Department of Public Safety and the State Tax Commission on land in Rankin County under the control of the Department of Mental Health. To date, the actions of the Department of Finance and Administration concerning the relocation of the Mississippi Crime Laboratory have been guided by two of three bills passed by the Legislature (see the following section). The third bill was passed after the Department of Finance and Administration had selected a site for the relocation of the Mississippi Crime Laboratory.

Summaries of the Bills Concerning the Relocation of the Mississippi Crime Laboratory

Legislation related to the relocation of the Mississippi Crime Laboratory includes the following bills:

- House Bill 3158, 2001 Regular Session (passed April 16, 2001);
- House Bill 1010, 2007 Regular Session (passed April 21, 2007); and,

- House Bill 1722, 2009 Regular Session (passed April 17, 2009).

The following subsections briefly summarize each of these bills.

House Bill 3158, 2001 Regular Session

House Bill 3158, 2001 Regular Session, Section 2, Subsection 5, Paragraph j authorizes the Department of Finance and Administration, acting through the Bureau of Building, Grounds, and Real Property Management, to pre-plan or to continue to plan the relocation of the headquarters of the Department of Public Safety to a new location in the Jackson metropolitan area.

House Bill 3158 was approved by the Governor on April 16, 2001. It became effective on passage.

House Bill 1010, 2007 Regular Session

House Bill 1010, 2007 Regular Session, Section 1, Subsection 1 authorizes the Department of Public Safety, upon consultation with the Department of Finance and Administration, to relocate the offices of the Mississippi Highway Safety Patrol, the Mississippi Crime Laboratory, and the Public Safety Planning Division to the grounds of the Mississippi Law Enforcement Officers' Training Academy in Rankin County. (See Appendix A, page 21, for the text of the bill.) Section 1, Subsection 2 authorizes the Department of Public Safety to enter into long-term leases with the Department of Mental Health.

Section 2, Subsection 1 created a committee for the purpose of studying the relocation of the State Tax Commission to Rankin County.

House Bill 1010 was approved by the Governor on April 21, 2007. It became effective on passage.

House Bill 1722, 2009 Regular Session

House Bill 1722, 2009 Regular Session, Section 45, Subsection 2, Paragraph a, Subparagraph i creates the "2009 Mississippi Crime Laboratory and State Medical Examiner Central Office Construction Fund." (See Appendix B, page 22, for the text of Section 45 of the bill.) Section 45, Subsection 2, Paragraph a, Subparagraph ii states that monies deposited into the fund shall be disbursed to pay the costs of constructing, furnishing, and equipping of a building and related facilities for the central office of the Mississippi Crime Laboratory and the State Medical Examiner which shall be located in Hinds County, Madison County, or Rankin County.

Section 45, Subsection 3, Paragraph a permits the State Bond Commission to issue general obligation bonds to provide funds for the costs of constructing, furnishing, and equipping of the building and related facilities described in the previous paragraph. The total amount of bonds issued is not to exceed \$12,000,000.

House Bill 1722 was approved by the Governor on April 17, 2009. It became effective on passage.

Were the actions of the Department of Finance and Administration in conflict with the provisions of House Bill 1010, 2007 Regular Session?

Regarding the selection of a site for the Mississippi Crime Laboratory, the actions of the Department of Finance and Administration were not in conflict with House Bill 1010, 2007 Regular Session. DFA selected a site for the relocation of the Mississippi Crime Laboratory that would accommodate the future relocation of other Department of Public Safety offices and the future relocation of the State Tax Commission while improving the infrastructure of the existing state agencies in the area. DFA's actions represented a reasonable long-term approach for utilizing state resources.

To arrive at the above conclusion, this chapter addresses the following questions:

- Does House Bill 1010, 2007 Regular Session, authorize the Department of Public Safety to relocate the offices of the Mississippi Highway Safety Patrol, the Mississippi Crime Laboratory, and the Public Safety Planning Division to a site other than the grounds of the Mississippi Law Enforcement Officers' Training Academy in Rankin County?
- How did the relocation of the Department of Public Safety and the relocation of the State Tax Commission become coupled?
- How did the Department of Finance and Administration select a site for the relocation of the Department of Public Safety and the relocation of the State Tax Commission?
- When did the Department of Finance and Administration publicize the fact that Site 3 had been selected for relocation of the Mississippi Crime Laboratory?
- Why has the focus of the site selection decision now shifted from the relocation of two agencies to the relocation of part of one agency--namely, the Mississippi Crime Laboratory?

Does House Bill 1010, 2007 Regular Session, authorize the Department of Public Safety to relocate the offices of the Mississippi Highway Safety Patrol, the Mississippi Crime Laboratory, and the Public Safety Planning Division to a site other than the grounds of the Mississippi Law Enforcement Officers' Training Academy in Rankin County?

House Bill 1010, 2007 Regular Session, Section 1, Subsection 1 states:

. . . [t]he Mississippi Department of Public Safety, upon consultation with the Department of Finance and Administration, is authorized to relocate the existing offices of the Mississippi Highway Safety Patrol, the Mississippi Crime Laboratory, and the Public Safety Planning Division, currently located at 1900 East Woodrow Wilson, Jackson, Hinds County, Mississippi, to the Law Enforcement Officers' Training Academy property, located at 5000 Highway 468 East, Pearl, Rankin County, Mississippi.

Section 1, Subsection 2 states:

. . . [t]he Department of Public Safety shall have the power and discretion to enter into, sign, execute and deliver long-term or multiyear leases of real and personal property with the Department of Mental Health.

PEER believes it is reasonable to interpret Section 1 of House Bill 1010, 2007 Regular Session, as being sufficiently broad to allow the Department of Public Safety to lease other Department of Mental Health lands.

How did the relocation of the Department of Public Safety and the relocation of the State Tax Commission become coupled?

House Bill 1010, 2007 Regular Session, does not give specific authority to couple the relocation of the specified offices of the Department of Public Safety and the relocation of the State Tax Commission. However, the Department of Finance and Administration used this bill to explore possibilities for co-location to Rankin County, since Section 1 of the bill authorizes the relocation of the specified offices of the Department of Public Safety to Rankin County and Section 2 creates a committee to study the relocation of the State Tax Commission to Rankin County.

Although House Bill 1010, 2007 Regular Session, authorizes the Department of Public Safety to relocate the offices of the Mississippi Highway Safety Patrol, the Mississippi Crime Laboratory, and the Public Safety Planning Division, the Department of Finance and Administration expanded the focus of the site selection

decision from the relocation of the specified offices to the relocation of the Department of Public Safety, since pre-planning for the latter relocation had been undertaken in 2001 in accordance with House Bill 3158, 2001 Regular Session.

Thus the Department of Finance and Administration, in consultation with leadership from the House and the Senate Public Property committees, the House Ways and Means Committee, and the Senate Finance Committee, coupled the relocation of the Department of Public Safety and the relocation of the State Tax Commission.

How did the Department of Finance and Administration select a site for the relocation of the Department of Public Safety and the relocation of the State Tax Commission?

On November 7, 2007, the Department of Finance and Administration contracted with Williford, Gearhart, and Knight, Engineers and Surveyors, for a study to assess the adequacy of the existing infrastructure (i. e., water, sewer, gas, electric, transportation, data, and telecommunications) serving the twelve state agencies located on land in Rankin County that is under control of the Department of Mental Health (including the Mississippi Law Enforcement Officers' Training Academy). In particular, the Department of Finance and Administration wanted to determine whether the existing infrastructure had the capacity to serve the current and future needs of the twelve state agencies and to determine whether improvements would be needed to serve the needs of additional state agencies. One component of the study was to make recommendations regarding the relocation of the Department of Public Safety and the State Tax Commission to the area.

On February 22, 2008, the Department of Finance and Administration received the final report of the infrastructure study. The report found that significant infrastructure improvements are needed in all areas of the state government complex in Rankin County, even if the Department of Public Safety and the State Tax Commission do not locate to the area. Also, the report identified five sites in Rankin County that were "available and suitable for future development:"

- *Site 1*--Undeveloped portion of state-owned land located on the north side of State Road 468 South containing approximately 45 acres (on the campus of the Mississippi Law Enforcement Officers' Training Academy);
- *Site 2*--Undeveloped portion of state-owned land on the north side of State Road 468 West containing approximately 45 acres;

- *Site 3*--Undeveloped portion of state-owned land on the north side of State Road 468 West containing approximately 43 acres;
- *Site 4*--Undeveloped portion of privately owned land on the west side of State Road 475 containing approximately 44 acres; and,
- *Site 5*--Undeveloped portion of privately owned land on the east side of State Road 475 containing approximately 96 acres.

See Exhibit 2, page 12, for a map of the five sites.

In the summer of 2008, the Department of Finance and Administration selected the state-owned Site 3 as “the best to meet the requirements of our request from HB 1010.”

When did the Department of Finance and Administration publicize the fact that Site 3 had been selected for relocation of the Mississippi Crime Laboratory?

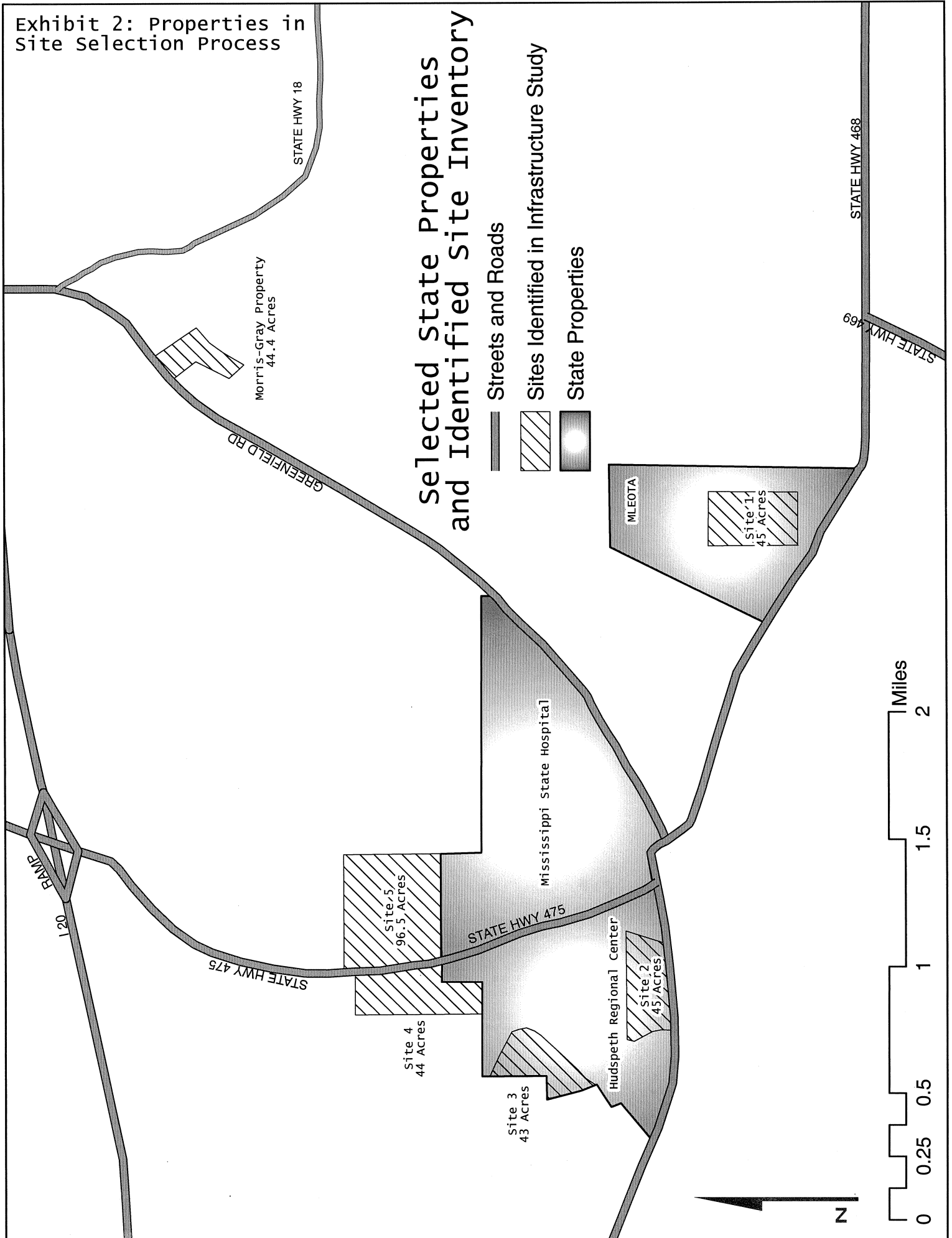
On December 1, 2008, the Department of Finance and Administration contracted with Williford, Gearhart, and Knight, Engineers and Surveyors, for a second study, the purpose of which was to assess the feasibility of extending roadways and utilities to Site 3 as needed to support the relocation of the Department of Public Safety and the State Tax Commission. The Department of Finance and Administration requested the submission of a preliminary report by December 8, 2008, in order to provide documentation to the Legislature in advance of the 2009 Regular Session as to the anticipated costs of relocation of the Department of Public Safety and the State Tax Commission to Site 3.

On December 12, 2008, staff of the Department of Finance and Administration made a presentation to the Legislature titled “DPS/Tax Commission Whitfield Complex: Infrastructure and Potential Agency Relocations.” The presentation stated that relocating the two agencies to the same site would allow a site development package to be let for both agencies at once and would allow both agencies to share infrastructure. In addition, the presentation provided the benefits that the twelve state agencies would realize by the installation of new infrastructure for the two new agencies.

Exhibit 2: Properties in Site Selection Process

Selected State Properties and Identified Site Inventory

- Streets and Roads
- ▨ Sites Identified in Infrastructure Study
- State Properties



Why has the focus of the site selection decision now shifted from the relocation of two agencies to the relocation of part of one agency--namely, the Mississippi Crime Laboratory?

According to staff of the Department of Finance and Administration, the subsequent decision to relocate only the Mississippi Crime Laboratory was “financially driven.” PEER finds no reason to question this decision, as it appears reasonable in light of the decline in revenues that the state has experienced.

However, relocation of the Mississippi Crime Laboratory is moving forward. According to an advisory task force formed by the Attorney General to study the Mississippi Crime Laboratory and the Office of the State Medical Examiner, the current laboratory is “in need of a significant increase in budgets for salaries of DNA analysts, full-time medical examiners and support staff, as well as more equipment, and modern facilities with significantly more square footage.”

The Department of Finance and Administration has selected Site 3 in Rankin County as the preferred location for the Mississippi Crime Laboratory. This selection was made with the anticipation that the other offices of the Department of Public Safety would locate there in the future under a campus design. According to staff of the Department of Finance and Administration, by moving forward under a campus design, the department is attempting to reduce the overall operational costs for the state agencies in the area.

Does House Bill 1010, 2007 Regular Session, contain a provision allowing the acquisition of privately owned land?

House Bill 1010, 2007 Regular Session, does not contain a provision allowing the acquisition of privately owned land. Land other than state-owned land leased from the Department of Mental Health for the relocation of the Mississippi Crime Laboratory would require additional legislative action for approval.

To arrive at the above conclusion, this chapter addresses the following questions:

- How did the privately owned Site 4 and the privately owned Site 5 enter into the site selection decision?
- How did the privately owned land of Mr. Gray and Mr. Morris enter into the site selection decision?
- What series of events led to the consideration of the privately owned land of Mr. Gray and Mr. Morris?
- What were the Department of Finance and Administration's conclusions regarding the privately owned land of Mr. Gray and Mr. Morris?
- Had the privately owned land of Mr. Gray and Mr. Morris proved suitable for the co-location of the two agencies, could the state have pursued this land?

How did the privately owned Site 4 and the privately owned Site 5 enter into the site selection decision?

As mentioned previously, on November 7, 2007, the Department of Finance and Administration contracted with an engineering firm to assess the adequacy of the existing infrastructure serving the twelve agencies located on land in Rankin County that is under control of the Department of Mental Health. The scope of the study, as indicated on documentation provided by the Department of Finance and Administration, was to make recommendations regarding the relocation of the Department of Public Safety and the State Tax Commission "in the areas surrounding the Mississippi State Hospital, State Fire Academy, and Central Mississippi Correctional Facilities." The scope of the study was not limited to state-owned land in the area.

The study identified two privately owned portions of land (Site 4 and Site 5) adjacent to two state-owned portions of land. Site 4 is north of the Department of Mental Health's Hudspeth Center on the west side of State Road 475 and

Site 5 is north of the Department of Mental Health's Whitfield Hospital on the east side of State Road 475.

Although the two privately owned sites were identified in the infrastructure study, according to staff of the Department of Finance and Administration, neither serious consideration nor formal action was given to these sites by the department. In fact, the landowners were never aware that their land had even been identified. This is because the state-owned Site 3 was identified as the most suitable site.

How did the privately owned land of Mr. Gray and Mr. Morris enter into the site selection decision?

An important series of events proceeded independently of the process that the Department of Finance and Administration used to select Site 3 for the Mississippi Crime Laboratory (see the discussion under the following question). The series of events was initiated by Mr. George Phillips during his tenure as Commissioner of the Department of Public Safety (May 1, 2005, to December 31, 2007). An unintended consequence of the series of events was the consideration of land owned jointly by Mr. Gray and Mr. Morris. However, House Bill 1010, 2007 Regular Session, does not contain a provision allowing the acquisition of privately owned land.

What series of events led to the consideration of the privately owned land of Mr. Gray and Mr. Morris?

In February 2006, Commissioner Phillips instructed the Special Projects Director for the Department of Public Safety to identify potential sites for relocation of the Department of Public Safety. This individual identified sites in Brandon, Jackson, and Pearl.

On October 10, 2007, the Department of Public Safety (DPS) Special Projects Director and a Special Projects Officer who functions as a technical engineer for the Department of Finance and Administration met at the Mississippi Law Enforcement Officers' Training Academy in Rankin County to consider locations on the grounds of the academy for the relocation of the Department of Public Safety. However, there were concerns regarding the existing infrastructure of the grounds.

From November 7, 2007, to February 22, 2008, the DPS Special Projects Director also acted as a project participant and as the primary contact for the Department of Public Safety for the infrastructure study initiated by the Department of Finance and Administration on November 7, 2007. As mentioned previously, a component of this study was to make recommendations regarding relocation of the Department of Public Safety and the State Tax

Commission to Rankin County. Thus, the DPS Special Projects Director was participating in two site selection processes--an independent site selection process initiated by the Department of Public Safety and a collaborative site selection process initiated by the Department of Finance and Administration.

Some time after February 22, 2008, the DPS Special Projects Director received a copy of the final report of the infrastructure study that identified sites for the relocation of the Department of Public Safety and the State Tax Commission. By receiving this copy, the DPS Special Projects Director had constructive notice that the report had identified four sites, in addition to a site on the grounds of the Mississippi Law Enforcement Officers' Training Academy, that were "available and suitable for future development." However, the DPS Special Projects Director understood these sites to be merely "suggestions" or "potential sites." In keeping with former Commissioner Phillips's original instructions to look for sites and in keeping with current Commissioner Simpson's updated instructions to continue his job as before, the DPS Special Projects Director continued to look for potential sites for relocation of the Department of Public Safety until July 17, 2009. On that date, the DPS Special Projects Director learned that DFA had selected Site 3. Again, he had been participating in two site selection processes.

On April 23, 2008, the DPS Special Projects Director met with the Director of Community Development and Planning for the City of Brandon. The latter individual arranged a meeting between the DPS Special Projects Director and Alderman-at-Large James Morris to look at sites in the Brandon area.

On April 24, 2008, the DPS Special Projects Director and Mr. Morris viewed several sites in the Brandon Industrial Park. Mr. Morris stated that he owned property adjacent to Highway 18 in Rankin County that was available for development. The DPS Special Projects Director advised Mr. Morris that the Department of Public Safety could not purchase land and that the department had to rely on land being donated to the State of Mississippi or on entering into a long-term lease on Sixteenth Section land.

On January 15, 2009, the Lieutenant Governor contacted the Department of Finance and Administration about a potential site for the relocation of the Mississippi Crime Laboratory. The potential site was a portion of land owned jointly by Mr. Gray and Mr. Morris adjacent to Highway 18 in Rankin County containing approximately forty acres.

On January 16, 2009, staff of the Department of Finance and Administration toured the land and discussed the physical requirements of the Mississippi Crime Laboratory with Mr. Gray and Mr. Morris. The staff did not inform Mr. Gray and Mr. Morris that a site for the relocation of the Mississippi Crime Laboratory had been selected in the summer of 2008.

On January 19, 2009, staff of the Department of Finance and Administration met in the office of the Lieutenant Governor to discuss the relocation of the Mississippi Crime Laboratory with Mr. Gray, Mr. Morris, and representatives of Benchmark Construction. The staff did not inform the participants in the meeting that a site for the relocation of the Mississippi Crime Laboratory had been selected in the summer of 2008.

On April 28, 2009, at the request of the Lieutenant Governor, Commissioner Simpson met with the Lieutenant Governor, Mr. Gray, and Mr. Morris at the privately owned land.

What were the Department of Finance and Administration's conclusions regarding the privately owned land of Mr. Gray and Mr. Morris?

Although the land owned by Mr. Gray and Mr. Morris has sufficient acreage on which to relocate the Mississippi Crime Laboratory, the staff of the Department of Finance and Administration concluded that it does not have sufficient acreage on which to relocate the other offices of the Department of Public Safety and the State Tax Commission in the future.

PEER believes that the Department of Finance and Administration's conclusion regarding the site was based on a perspective that was broader than just the relocation of the Mississippi Crime Laboratory. The DFA staff was aware of the infrastructure needs of the twelve agencies located on land in Rankin County that is under control of the Department of Mental Health and of the economies of scale that could potentially be realized by co-locating the Department of Public Safety and the State Tax Commission, since both agencies were specified by House Bill 1010, 2007 Regular Session, to be located in Rankin County.

By the time the staff of the Department of Finance and Administration met in the office of the Lieutenant Governor on January 19, 2009, DFA had already selected Site 3, a state-owned site, for the relocation of the two agencies. (As mentioned previously, Site 3 had been selected in the summer of 2008.) Mr. Gray and Mr. Morris were not notified that the Department of Finance and Administration had decided to construct the Mississippi Crime Laboratory on Site 3 until another meeting in the office of the Lieutenant Governor on August 7, 2009.

PEER believes that the Department of Finance and Administration's staff should have communicated the status of the site selection decision, as well as the broader perspective on which it was based, to the Lieutenant Governor, Mr. Gray, and Mr. Morris prior to August 7, 2009, and perhaps as early as January 19, 2009.

Had the privately owned land of Mr. Gray and Mr. Morris proved suitable for the co-location of the two agencies, could the state have pursued this land?

As noted previously, the language of House Bill 1010, 2007 Regular Session, authorizes the Department of Public Safety to enter into long-term leases with the Department of Mental Health. The bill does not contain a provision allowing the acquisition of privately owned land and, if pursued, such acquisition would require opening the process to all alternative private sites and additional legislative action for ratification.

Does House Bill 1722, 2009 Regular Session, open the site selection process to the selection of a site from three counties, rather than from one county?

House Bill 1722, 2009 Regular Session, which provides \$12,000,000 for the Mississippi Crime Laboratory, does open the site selection process to the selection of a site from three counties, rather than from one county. However, the process that the Department of Finance and Administration used to select Site 3 for the Mississippi Crime Laboratory was completed prior to the passage of House Bill 1722, 2009 Regular Session, on April 17, 2009.

As noted previously, the Department of Finance and Administration proceeded with the site selection process under House Bill 1010, 2007 Regular Session, that was passed on April 21, 2007, and allowed the Department of Public Safety to enter into long-term leases with the Department of Mental Health. The Department of Finance and Administration focused its efforts on state-owned land available for lease from the Department of Mental Health in Rankin County.

House Bill 1722, 2009 Regular Session, Section 45, Subsection 2, Paragraph a, Subparagraph ii states:

. . .the central office of the Mississippi Crime Laboratory and the State Medical Examiner. . .shall be located in Hinds County, Madison County or Rankin County, Mississippi.

Although House Bill 1722 stated that the Mississippi Crime Laboratory must be located in one of the three counties of the Jackson metropolitan area (Hinds, Madison, or Rankin), the process that the Department of Finance and Administration had used to select Site 3 for the Mississippi Crime Laboratory was completed in the summer of 2008, prior to the passage of House Bill 1722, 2009 Regular Session, on April 17, 2009.

If the Legislature intends for the Department of Finance and Administration to undertake a site selection process that encompasses both public and private land in the three counties specified in House Bill 1722, then the process would need to be re-opened. The process would need to include a request for proposals that defines specific site selection criteria for the relocation of the central office of the Mississippi Crime Laboratory and the State Medical Examiner. However, such a process would incur additional costs, both in terms of time and resources, and might ultimately result in the selection of Site 3 in Rankin County, the site already identified for the relocation.

Given the urgency of the need for a new crime laboratory, both Department of Finance and Administration staff and the Commissioner of the Department of Public Safety are anxious to proceed with construction of the facility on the chosen site.

Appendix A: House Bill 1010, 2007 Regular Session

AN ACT TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY, UPON CONSULTATION WITH THE DEPARTMENT OF FINANCE AND ADMINISTRATION, TO RELOCATE CERTAIN OFFICES TO THE LAW ENFORCEMENT TRAINING ACADEMY IN RANKIN COUNTY, MISSISSIPPI; TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY TO ENTER INTO A LONG-TERM LEASE WITH THE DEPARTMENT OF MENTAL HEALTH; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The Mississippi Department of Public Safety, upon consultation with the Department of Finance and Administration, is authorized to relocate the existing offices of the Mississippi Highway Safety Patrol, the Mississippi Crime Laboratory, and the Public Safety Planning Division, currently located at 1900 East Woodrow Wilson, Jackson, Hinds County, Mississippi, to the Law Enforcement Officers' Training Academy property, located at 5000 Highway 468 East, Pearl, Rankin County, Mississippi.

(2) The Department of Public Safety shall have the power and discretion to enter into, sign, execute and deliver long-term or multiyear leases of real and personal property with the Department of Mental Health.

SECTION 2. (1) There is hereby created a study committee for the purpose of studying the relocation of the State Tax Commission from its existing location to Rankin County, Mississippi. The study committee shall also study and consider the sale or long-term lease of the Robert E. Lee Building, located at the southwest intersection of Lamar and Griffith Streets in Jackson, Hinds County, Mississippi. The committee shall be composed of the respective Chairmen of the House and Senate Public Property Committees, three (3) House members appointed by the Speaker and three (3) Senate members appointed by the Lieutenant Governor. The committee shall meet and determine the highest and best use of the current Mississippi Highway Safety Patrol, State Tax Commission and Robert E. Lee Building properties and report to the Legislature by December 31, 2007.

Appointments shall be made within thirty (30) days after the enactment of this act; and, within fifteen (15) days thereafter on a day to be designated jointly by the President of the Senate and the Speaker of the House, the committee shall meet and organize by selecting from its membership a chairman and a vice chairman. The vice chairman shall also serve as secretary and shall be responsible for keeping all records of the committee. A majority of the members of the committee shall constitute a quorum. In the selection of its officers and the adoption of rules, resolutions and reports, an affirmative vote of a majority of the members of the joint committee from each house shall be required. All members shall be notified in writing of all meetings, such notices to be mailed at least five (5) days prior to the date on which a meeting is to be held. Members of the committee shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session.

(2) No action shall be taken with respect to any sale, lease or development of the real property described in subsection (1) of this section without specific legislative act.

SECTION 3. This act shall take effect and be in force from and after its passage.

Appendix B: House Bill 1722, 2009 Regular Session, Section 45

SECTION 45. (1) As used in this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) “Accreted value” of any bond means, as of any date of computation, an amount equal to the sum of (i) the stated initial value of such bond, plus (ii) the interest accrued thereon from the issue date to the date of computation at the rate, compounded semiannually, that is necessary to produce the approximate yield to maturity shown for bonds of the same maturity.

(b) “State” means the State of Mississippi.

(c) “Commission” means the State Bond Commission.

(2) (a) (i) A special fund, to be designated as the “2009 Mississippi Crime Laboratory and State Medical Examiner Central Office Construction Fund” is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(ii) Monies deposited into the fund shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of constructing, furnishing and equipping of a building and related facilities for the central office of the Mississippi Crime Laboratory and the State Medical Examiner which shall be located in Hinds County, Madison County or Rankin County, Mississippi.

(b) Amounts deposited into such special fund shall be disbursed to pay the costs of the projects described in paragraph (a) of this subsection. Promptly after the commission has certified, by resolution duly adopted, that the projects described in paragraph (a) of this subsection shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this section, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(c) The Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this subsection. The expenditure of monies deposited into the special fund shall be under the direction of the Department of Finance and Administration, and such funds shall be paid by the State Treasurer upon warrants issued by such department, which warrants shall be issued upon requisitions signed by the Executive Director of the Department of Finance and Administration, or his designee.

(3) (a) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in subsection (2) of this section. Upon the adoption of a resolution by the Department of Finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this subsection, the department shall deliver a certified copy of its resolution or resolutions to the

commission. Upon receipt of such resolution, the commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under this section shall not exceed Twelve Million Dollars (\$12,000,000.00).

(b) Any investment earnings on amounts deposited into the special fund created in subsection (2) of this section shall be used to pay debt service on bonds issued under this section, in accordance with the proceedings authorizing issuance of such bonds.

(4) The principal of and interest on the bonds authorized under this section shall be payable in the manner provided in this subsection. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, 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 commission.

(5) The bonds authorized by this section shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the 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.

(6) All bonds and interest coupons issued under the provisions of this section have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by this section, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The commission shall act as issuing agent for the bonds authorized under this section, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell 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 commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under this section from the proceeds derived from the sale of such bonds. The commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If such bonds are sold by sealed bids at public sale, notice of the sale 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, selected by the commission.

The commission, when issuing any bonds under the authority of this section, 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.

(8) The bonds issued under the provisions of this section are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this subsection.

(9) Upon the issuance and sale of bonds under the provisions of this section, the commission shall transfer the proceeds of any such sale or sales to the special fund created in subsection (2) of this section. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

(10) The bonds authorized under this section 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 this section. Any resolution providing for the issuance of bonds under the provisions of this section 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.

(11) The bonds authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

(12) Any holder of bonds issued under the provisions of this section or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under this section, or under such resolution, and may enforce and compel performance of all duties required by this section to be performed, in order to provide for the payment of bonds and interest thereon.

(13) All bonds issued under the provisions of this section shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

(14) Bonds issued under the provisions of this section and income therefrom shall be exempt from all taxation in the State of Mississippi.

(15) The proceeds of the bonds issued under this section shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

(16) 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 this section; 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.

(17) This section shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this section shall not be deemed to repeal or to be in derogation of any existing law of this state.

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