

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2837

1 AN ACT TO GIVE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION  
 2 THE AUTHORITY TO AUDIT THE RECORDS OF ANYONE TRANSPORTING,  
 3 MANUFACTURING, BLENDING, DISTRIBUTING OR SELLING MOTOR FUEL TO  
 4 ENSURE COMPLIANCE WITH ANY MOTOR FUEL TAX COMPLIANCE POLICY  
 5 ADOPTED BY THE MISSISSIPPI TRANSPORTATION COMMISSION; TO AMEND  
 6 SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
 7 MISSISSIPPI TRANSPORTATION COMMISSION TO DEVELOP, ADOPT AND  
 8 IMPLEMENT A FUEL TAX COMPLIANCE POLICY; AND FOR RELATED PURPOSES.

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

10 SECTION 1. For the purpose of ensuring compliance with any  
 11 fuel tax compliance policy adopted by the Mississippi  
 12 Transportation Commission, the Mississippi Department of  
 13 Transportation shall have the authority to audit fuel records and  
 14 reports of anyone transporting, manufacturing, blending,  
 15 distributing or selling any fuel which may be used to power a  
 16 motor vehicle on public roads in the State of Mississippi. The  
 17 department shall use any federal or state funds appropriated to it  
 18 for the purpose of ensuring fuel tax compliance and is authorized  
 19 to have any assistance that it needs from the State Tax Commission  
 20 State Auditor, Department of Agriculture and Commerce, Attorney  
 21 General and all law enforcement agencies within the state.

22 SECTION 2. Section 65-1-8, Mississippi Code of 1972, is  
 23 amended as follows:

24 65-1-8. (1) The Mississippi Transportation Commission shall  
 25 have the following general powers, duties and responsibilities:

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

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

30           (c) To make recommendations to the Legislature  
31 regarding alterations or modifications in any existing  
32 transportation policies;

33           (d) To study means of encouraging travel and  
34 transportation of goods by the combination of motor vehicle and  
35 other modes of transportation;

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

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

42           (2) In addition to the general powers, duties and  
43 responsibilities listed in subsection (1) of this section, the  
44 Mississippi Transportation Commission shall have the following  
45 specific powers:

46           (a) To make rules and regulations whereby the  
47 transportation department shall change or relocate any and all  
48 highways herein or hereafter fixed as constituting a part of the  
49 state highway system, as may be deemed necessary or economical in  
50 the construction or maintenance thereof; to acquire by gift,  
51 purchase, condemnation, or otherwise, land or other property  
52 whatsoever that may be necessary for a state highway system as  
53 herein provided, with full consideration to be given to the  
54 stimulation of local public and private investment when acquiring  
55 such property in the vicinity of Mississippi towns, cities and  
56 population centers;

57           (b) To enforce by mandamus, or other proper legal  
58 remedies, all legal rights or rights of action of the Mississippi  
59 Transportation Commission with other public bodies, corporations  
60 or persons;

61           (c) To make and publish rules, regulations and  
62 ordinances for the control of and the policing of the traffic on

63 the state highways, and to prevent their abuse by any or all  
64 persons, natural or artificial, by trucks, tractors, trailers or  
65 any other heavy or destructive vehicles or machines, or by any  
66 other means whatsoever, by establishing weights of loads or of  
67 vehicles, types of tires, width of tire surfaces, length and width  
68 of vehicles, with reasonable variations to meet approximate  
69 weather conditions, and all other proper police and protective  
70 regulations, and to provide ample means for the enforcement of  
71 same. The violation of any of the rules, regulations or  
72 ordinances so prescribed by the commission shall constitute a  
73 misdemeanor. No rule, regulation or ordinance shall be made that  
74 conflicts with any statute now in force or which may hereafter be  
75 enacted, or with any ordinance of municipalities. A monthly  
76 publication giving general information to the boards of  
77 supervisors, employees and the public may be issued under such  
78 rules and regulations as the commission may determine;

79 (d) To give suitable numbers to highways and to change  
80 the number of any highway that shall become a part of the state  
81 highway system. However, nothing herein shall authorize the  
82 number of any highway to be changed so as to conflict with any  
83 designation thereof as a U.S. numbered highway. Where, by a  
84 specific act of the Legislature, the commission has been directed  
85 to give a certain number to a highway, the commission shall not  
86 have the authority to change such number;

87 (e) To make proper and reasonable rules, regulations,  
88 and ordinances for the placing, erection, removal or relocation of  
89 telephone, telegraph or other poles, signboards, fences, gas,  
90 water, sewerage, oil or other pipelines, and other obstructions  
91 that may, in the opinion of the commission, contribute to the  
92 hazards upon any of the state highways, or in any way interfere  
93 with the ordinary travel upon such highways, or the construction,  
94 reconstruction or maintenance thereof, and to make reasonable  
95 rules and regulations for the proper control thereof. Any

96 violation of such rules or regulations or noncompliance with such  
97 ordinances shall constitute a misdemeanor.

98           Whenever the order of the commission shall require the  
99 removal of, or other changes in the location of telephone,  
100 telegraph, or other poles, signboards, gas, water, sewerage, oil  
101 or other pipelines; or other similar obstructions on the  
102 right-of-way or such other places where removal is required by  
103 law, the owners thereof shall at their own expense move or change  
104 the same to conform to the order of the commission. Any violation  
105 of such rules or regulations or noncompliance with such orders  
106 shall constitute a misdemeanor;

107           (f) To regulate and abandon grade crossings on any road  
108 fixed as a part of the state highway system, and whenever the  
109 commission, in order to avoid a grade crossing with the railroad,  
110 locates or constructs said road on one side of the railroad, the  
111 commission shall have the power to abandon and close such grade  
112 crossing, and whenever an underpass or overhead bridge is  
113 substituted for a grade crossing, the commission shall have power  
114 to abandon such grade crossing and any other crossing adjacent  
115 thereto. Included in the powers herein granted shall be the power  
116 to require the railroad at grade crossings, where any road of the  
117 state highway system crosses the same, to place signal posts with  
118 lights or other warning devices at such crossings at the expense  
119 of the railroad, and to regulate and abandon underpass or overhead  
120 bridges and, where abandoned because of the construction of a new  
121 underpass or overhead bridge, to close such old underpass or  
122 overhead bridge, or, in its discretion, to return the same to the  
123 jurisdiction of the county board of supervisors;

124           (g) To make proper and reasonable rules and regulations  
125 to control the cutting or opening of the road surfaces for  
126 subsurface installations;

127           (h) To make proper and reasonable rules and regulations  
128 for the removal from the public rights-of-way of any form of

129 obstruction, to cooperate in improving their appearance, and to  
130 prescribe minimum clearance heights for seed conveyors, pipes,  
131 passageways or other structure of private or other ownership above  
132 the highways;

133 (i) To establish, and have the transportation  
134 department maintain and operate, and to cooperate with the state  
135 educational institutions in establishing, enlarging, maintaining  
136 and operating a laboratory or laboratories for testing materials  
137 and for other proper highway purposes;

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

141 (k) To establish and have enforced set-back  
142 regulations;

143 (l) To cooperate with proper state authorities in  
144 producing limerock for highway purposes and to purchase same at  
145 cost;

146 (m) To provide for the purchase of necessary equipment  
147 and vehicles and to provide for the repair and housing of same, to  
148 acquire by gift, purchase, condemnation or otherwise, land or  
149 lands and buildings in fee simple, and to authorize the  
150 Transportation Department to construct, lease or otherwise provide  
151 necessary and proper permanent district offices for the  
152 construction and maintenance divisions of the department, and for  
153 the repair and housing of the equipment and vehicles of the  
154 department; however, in each Supreme Court district only two (2)  
155 permanent district offices shall be set up, but a permanent status  
156 shall not be given to any such offices until so provided by act of  
157 the Legislature and in the meantime, all shops of the department  
158 shall be retained at their present location. As many local or  
159 subdistrict offices, shops or barns may be provided as is  
160 essential and proper to economical maintenance of the state  
161 highway system;

162           (n) To cooperate with the Department of Archives and  
163 History in having placed and maintained suitable historical  
164 markers, including those which have been approved and purchased by  
165 the State Historical Commission, along state highways, and to have  
166 constructed and maintained roadside driveways for convenience and  
167 safety in viewing them when necessary; however, no highway or  
168 bridge shall ever be memorialized to a man while living;

169           (o) To cooperate, in its discretion, with the  
170 Mississippi Department of Wildlife, Fisheries and Parks in  
171 planning and constructing roadside parks upon the right-of-way of  
172 state highways, whether constructed, under construction, or  
173 planned; said parks to utilize where practical barrow pits used in  
174 construction of state highways for use as fishing ponds. Said  
175 parks shall be named for abundant flora and fauna existing in the  
176 area or for the first flora or fauna found on the site;

177           (p) Unless otherwise prohibited by law, to make such  
178 contracts and execute such instruments containing such reasonable  
179 and necessary appropriate terms, provisions and conditions as in  
180 its absolute discretion it may deem necessary, proper or  
181 advisable, for the purpose of obtaining or securing financial  
182 assistance, grants or loans from the United States of America or  
183 any department or agency thereof, including contracts with several  
184 counties of the state pertaining to the expenditure of such funds;

185           (q) To cooperate with the Federal Highway  
186 Administration in the matter of location, construction and  
187 maintenance of the Great River Road, to expend such funds paid to  
188 the commission by the Federal Highway Administration or other  
189 federal agency, and to authorize the Transportation Department to  
190 erect suitable signs marking this highway, the cost of such signs  
191 to be paid from state highway funds other than earmarked  
192 construction funds;

193           (r) To cooperate, in its discretion, with the  
194 Mississippi Forestry Commission and the School of Forestry,

195 Mississippi State University, in a forestry management program,  
196 including planting, thinning, cutting and selling, upon the  
197 right-of-way of any highway, constructed, acquired or maintained  
198 by the Transportation Department, and to sell and dispose of any  
199 and all growing timber standing, lying or being on any  
200 right-of-way acquired by the commission for highway purposes in  
201 the future; such sale or sales to be made in accordance with the  
202 sale of personal property which has become unnecessary for public  
203 use as provided for in Section 65-1-123, Mississippi Code of 1972;

204           (s) To expend funds in cooperation with the Division of  
205 Plant Industry, Mississippi Department of Agriculture and  
206 Commerce, the United States government or any department or agency  
207 thereof, or with any department or agency of this state, to  
208 control, suppress or eradicate serious insect pests, rodents,  
209 plant parasites and plant diseases on the state highway  
210 rights-of-way;

211           (t) To provide for the placement, erection and  
212 maintenance of motorist services business signs and supports  
213 within state highway rights-of-way in accordance with current  
214 state and federal laws and regulations governing the placement of  
215 traffic control devices on state highways, and to establish and  
216 collect reasonable fees from the businesses having information on  
217 such signs;

218           (u) To request and to accept the use of persons  
219 convicted of an offense, whether a felony or a misdemeanor, for  
220 work on any road construction, repair or other project of the  
221 Transportation Department. The commission is also authorized to  
222 request and to accept the use of persons who have not been  
223 convicted of an offense but who are required to fulfill certain  
224 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
225 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
226 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
227 of 1972. The commission is authorized to enter into any

228 agreements with the Department of Corrections, the State Parole  
229 Board, any criminal court of this state, and any other proper  
230 official regarding the working, guarding, safekeeping, clothing  
231 and subsistence of such persons performing work for the  
232 Transportation Department. Such persons shall not be deemed  
233 agents, employees or involuntary servants of the Transportation  
234 Department while performing such work or while going to and from  
235 work or other specified areas;

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

238 (w) \* \* \* In its discretion, to expend funds for the  
239 purchase of service pins for employees of the Mississippi  
240 Transportation Department;

241 (x) To cooperate with the State Tax Commission by  
242 providing for weight enforcement field personnel to collect and  
243 assess taxes, fees and penalties and to perform all duties as  
244 required pursuant to Section 27-55-501 et seq., Sections 27-19-1  
245 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,  
246 Mississippi Code of 1972, with regard to vehicles subject to the  
247 jurisdiction of the Office of Weight Enforcement. All collections  
248 and assessments shall be transferred daily to the State Tax  
249 Commission;

250 (y) To develop, adopt and implement a motor fuel tax  
251 compliance policy and to adopt rules and regulations regarding  
252 such policy for any type of motor fuel being imported into,  
253 exported from or transported within the State of Mississippi.

254 (3) The Mississippi Transportation Commission may delegate  
255 the authority to enter into a supplemental agreement to a contract  
256 previously approved by the commission if the supplemental  
257 agreement involves an additional expenditure not to exceed One  
258 Hundred Thousand Dollars (\$100,000.00).

259 (4) (a) The Mississippi Transportation Commission, in its  
260 discretion, may enter into agreements with any county,

261 municipality, county transportation commission, business,  
262 corporation, partnership, association, individual or other legal  
263 entity, for the purpose of accelerating the completion date of  
264 scheduled highway construction projects.

265           **(b)** Such an agreement may permit the cost of a  
266 highway construction project to be advanced to the commission by a  
267 county, municipality, county transportation commission, business,  
268 corporation, partnership, association, individual or other legal  
269 entity, and repaid to such entity by the commission when highway  
270 construction funds become available; provided, however, that  
271 repayment of funds advanced to the Mississippi Transportation  
272 Commission shall be made no sooner than the commission's  
273 identified projected revenue schedule for funding of that  
274 particular construction project, and no other scheduled highway  
275 construction project established by statute or by the commission  
276 may be delayed by an advanced funding project authorized under  
277 this subsection. Repayments to an entity that advances funds to  
278 the Mississippi Transportation Commission under this subsection  
279 may not include interest or other fees or charges, and the total  
280 amount repaid shall not exceed the total amount of funds advanced  
281 to the commission by the entity.

282           **(c)** In considering whether to enter into such an  
283 agreement, the commission shall consider the availability of  
284 financial resources, the effect of such agreement on other ongoing  
285 highway construction, the urgency of the public's need for swift  
286 completion of the project and any other relevant factors.

287           **(d)** Such an agreement shall be executed only upon  
288 a finding by the commission, spread upon its minutes, that the  
289 acceleration of the scheduled project is both feasible and  
290 beneficial. The commission shall also spread upon its minutes its  
291 findings with regard to the factors required to be considered  
292 pursuant to paragraph (c) of this subsection.

293           SECTION 3. This act shall take effect and be in force from  
294 and after July 1, 2001.