

By: Senator(s) Hyde-Smith

To: Highways and
Transportation

SENATE BILL NO. 2659

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE TRANSPORTATION COMMISSION TO CONDUCT A STUDY ON THE
3 FEASIBILITY OF SELLING ADVERTISEMENTS TO BE PAINTED ON THE
4 PAVEMENT OF HIGHWAYS MAINTAINED BY THE MISSISSIPPI DEPARTMENT OF
5 TRANSPORTATION; AND FOR RELATED PURPOSES.

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

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

9 65-1-8. (1) The Mississippi Transportation Commission shall
10 have the following general powers, duties and responsibilities:

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

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

15 (c) To make recommendations to the Legislature
16 regarding alterations or modifications in any existing
17 transportation policies;

18 (d) To study means of encouraging travel and
19 transportation of goods by the combination of motor vehicle and
20 other modes of transportation;

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

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

27 (2) In addition to the general powers, duties and
28 responsibilities listed in subsection (1) of this section, the

29 Mississippi Transportation Commission shall have the following
30 specific powers:

31 (a) To make rules and regulations whereby the
32 Transportation Department shall change or relocate any and all
33 highways herein or hereafter fixed as constituting a part of the
34 state highway system, as may be deemed necessary or economical in
35 the construction or maintenance thereof; to acquire by gift,
36 purchase, condemnation or otherwise, land or other property
37 whatsoever that may be necessary for a state highway system as
38 herein provided, with full consideration to be given to the
39 stimulation of local public and private investment when acquiring
40 such property in the vicinity of Mississippi towns, cities and
41 population centers;

42 (b) To enforce by mandamus, or other proper legal
43 remedies, all legal rights or rights of action of the Mississippi
44 Transportation Commission with other public bodies, corporations
45 or persons;

46 (c) To make and publish rules, regulations and
47 ordinances for the control of and the policing of the traffic on
48 the state highways, and to prevent their abuse by any or all
49 persons, natural or artificial, by trucks, tractors, trailers or
50 any other heavy or destructive vehicles or machines, or by any
51 other means whatsoever, by establishing weights of loads or of
52 vehicles, types of tires, width of tire surfaces, length and width
53 of vehicles, with reasonable variations to meet approximate
54 weather conditions, and all other proper police and protective
55 regulations, and to provide ample means for the enforcement of
56 same. The violation of any of the rules, regulations or
57 ordinances so prescribed by the commission shall constitute a
58 misdemeanor. No rule, regulation or ordinance shall be made that
59 conflicts with any statute now in force or which may hereafter be
60 enacted, or with any ordinance of municipalities. A monthly
61 publication giving general information to the boards of

62 supervisors, employees and the public may be issued under such
63 rules and regulations as the commission may determine;

64 (d) To give suitable numbers to highways and to change
65 the number of any highway that shall become a part of the state
66 highway system. However, nothing herein shall authorize the
67 number of any highway to be changed so as to conflict with any
68 designation thereof as a U.S. numbered highway. Where, by a
69 specific act of the Legislature, the commission has been directed
70 to give a certain number to a highway, the commission shall not
71 have the authority to change such number;

72 (e) (i) To make proper and reasonable rules,
73 regulations, and ordinances for the placing, erection, removal or
74 relocation of telephone, telegraph or other poles, signboards,
75 fences, gas, water, sewerage, oil or other pipelines, and other
76 obstructions that may, in the opinion of the commission,
77 contribute to the hazards upon any of the state highways, or in
78 any way interfere with the ordinary travel upon such highways, or
79 the construction, reconstruction or maintenance thereof, and to
80 make reasonable rules and regulations for the proper control
81 thereof. Any violation of such rules or regulations or
82 noncompliance with such ordinances shall constitute a misdemeanor;

83 (ii) Except as otherwise provided for in this
84 paragraph, whenever the order of the commission shall require the
85 removal of, or other changes in the location of telephone,
86 telegraph or other poles, signboards, gas, water, sewerage, oil or
87 other pipelines; or other similar obstructions on the right-of-way
88 or such other places where removal is required by law, the owners
89 thereof shall at their own expense move or change the same to
90 conform to the order of the commission. Any violation of such
91 rules or regulations or noncompliance with such orders shall
92 constitute a misdemeanor;

93 (iii) Rural water districts, rural water systems,
94 nonprofit water associations and municipal public water systems in

95 municipalities with a population of ten thousand (10,000) or less,
96 according to the latest federal decennial census, shall not be
97 required to bear the cost and expense of removal and relocation of
98 water and sewer lines and facilities constructed or in place in
99 the rights-of-way of state highways. The cost and expense of such
100 removal and relocation, including any unpaid prior to July 1,
101 2002, shall be paid by the Department of Transportation;

102 (iv) Municipal public sewer systems and municipal
103 gas systems owned by municipalities with a population of ten
104 thousand (10,000) or less, according to the latest federal
105 decennial census, shall not be required to bear the cost and
106 expense of removal and relocation of lines and facilities
107 constructed or in place in the rights-of-way of state highways.
108 The cost and expense of such removal and relocation, including any
109 unpaid prior to July 1, 2003, shall be paid by the Department of
110 Transportation;

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

128 (g) To make proper and reasonable rules and regulations
129 to control the cutting or opening of the road surfaces for
130 subsurface installations;

131 (h) To make proper and reasonable rules and regulations
132 for the removal from the public rights-of-way of any form of
133 obstruction, to cooperate in improving their appearance, and to
134 prescribe minimum clearance heights for seed conveyors, pipes,
135 passageways or other structure of private or other ownership above
136 the highways;

137 (i) To establish, and have the Transportation
138 Department maintain and operate, and to cooperate with the state
139 educational institutions in establishing, enlarging, maintaining
140 and operating a laboratory or laboratories for testing materials
141 and for other proper highway purposes;

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

145 (k) To establish and have enforced set-back
146 regulations;

147 (l) To cooperate with proper state authorities in
148 producing limerock for highway purposes and to purchase same at
149 cost;

150 (m) To provide for the purchase of necessary equipment
151 and vehicles and to provide for the repair and housing of same, to
152 acquire by gift, purchase, condemnation or otherwise, land or
153 lands and buildings in fee simple, and to authorize the
154 Transportation Department to construct, lease or otherwise provide
155 necessary and proper permanent district offices for the
156 construction and maintenance divisions of the department, and for
157 the repair and housing of the equipment and vehicles of the
158 department; however, in each Supreme Court district only two (2)
159 permanent district offices shall be set up, but a permanent status
160 shall not be given to any such offices until so provided by act of

161 the Legislature and in the meantime, all shops of the department
162 shall be retained at their present location. As many local or
163 subdistrict offices, shops or barns may be provided as is
164 essential and proper to economical maintenance of the state
165 highway system;

166 (n) To cooperate with the Department of Archives and
167 History in having placed and maintained suitable historical
168 markers, including those which have been approved and purchased by
169 the State Historical Commission, along state highways, and to have
170 constructed and maintained roadside driveways for convenience and
171 safety in viewing them when necessary;

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

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

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

194 to be paid from state highway funds other than earmarked
195 construction funds;

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

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

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

221 (u) To request and to accept the use of persons
222 convicted of an offense, whether a felony or a misdemeanor, for
223 work on any road construction, repair or other project of the
224 Transportation Department. The commission is also authorized to
225 request and to accept the use of persons who have not been
226 convicted of an offense but who are required to fulfill certain

227 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
228 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
229 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
230 of 1972. The commission is authorized to enter into any
231 agreements with the Department of Corrections, the State Parole
232 Board, any criminal court of this state, and any other proper
233 official regarding the working, guarding, safekeeping, clothing
234 and subsistence of such persons performing work for the
235 Transportation Department. Such persons shall not be deemed
236 agents, employees or involuntary servants of the Transportation
237 Department while performing such work or while going to and from
238 work or other specified areas;

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

241 (w) The Mississippi Transportation Commission is
242 further authorized, in its discretion, to expend funds for the
243 purchase of service pins for employees of the Mississippi
244 Transportation Department;

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

254 (y) The Mississippi Transportation Commission may
255 delegate the authority to enter into a supplemental agreement to a
256 contract 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 (z) (i) The Mississippi Transportation Commission, in
260 its 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 (ii) 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 paragraph (z). Repayments to a private entity that advances
278 funds to the Mississippi Transportation Commission under this
279 paragraph (z) may not include interest or other fees or charges,
280 and the total amount repaid shall not exceed the total amount of
281 funds advanced to the commission by the entity.

282 (iii) 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 (iv) 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 item (iii) of this paragraph (z);

293 (aa) The Mississippi Transportation Commission, in its
294 discretion, may purchase employment practices liability insurance,
295 and may purchase an excess policy to cover catastrophic losses
296 incurred under the commission's self-insured workers' compensation
297 program authorized under Section 71-3-5. Such policies shall be
298 written by the agent or agents of a company or companies
299 authorized to do business in the State of Mississippi. The
300 deductibles shall be in an amount deemed reasonable and prudent by
301 the commission, and the premiums thereon shall be paid from the
302 State Highway Fund. Purchase of insurance under this paragraph
303 shall not serve as an actual or implied waiver of sovereign
304 immunity or of any protection afforded the commission under the
305 Mississippi Tort Claims Act;

306 (bb) The Mississippi Transportation Commission is
307 further authorized, in its discretion, to expend funds for the
308 purchase of promotional materials for safety purposes, highway
309 beautification purposes and recruitment purposes;

310 (cc) The Mississippi Transportation Commission shall
311 conduct a study on the feasibility of selling advertisements to be
312 painted on the pavement of highways maintained by the
313 Transportation Department. The commission shall report the
314 results of such study to the Legislature by not later than
315 December 31, 2005.

316 **SECTION 2.** This act shall take effect and be in force from
317 and after its passage.