

## House Amendments to Senate Bill No. 2736

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

11           65-1-8. (1) The Mississippi Transportation Commission shall  
12 have the following general powers, duties and responsibilities:

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

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

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

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

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

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

29           (2) In addition to the general powers, duties and  
30 responsibilities listed in subsection (1) of this section, the  
31 Mississippi Transportation Commission shall have the following  
32 specific powers:

33           (a) To make rules and regulations whereby the  
34 Transportation Department shall change or relocate any and all

35 highways herein or hereafter fixed as constituting a part of the  
36 state highway system, as may be deemed necessary or economical in  
37 the construction or maintenance thereof; to acquire by gift,  
38 purchase, condemnation or otherwise, land or other property  
39 whatsoever that may be necessary for a state highway system as  
40 herein provided, with full consideration to be given to the  
41 stimulation of local public and private investment when acquiring  
42 such property in the vicinity of Mississippi towns, cities and  
43 population centers;

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

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

66 (d) To give suitable numbers to highways and to change  
67 the number of any highway that shall become a part of the state  
68 highway system. However, nothing herein shall authorize the  
69 number of any highway to be changed so as to conflict with any

70 designation thereof as a U.S. numbered highway. Where, by a  
71 specific act of the Legislature, the commission has been directed  
72 to give a certain number to a highway, the commission shall not  
73 have the authority to change such number;

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

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

95 (iii) Rural water districts, rural water systems,  
96 nonprofit water associations and municipal public water systems in  
97 municipalities with a population of ten thousand (10,000) or less,  
98 according to the latest federal decennial census, shall not be  
99 required to bear the cost and expense of removal and relocation of  
100 water and sewer lines and facilities constructed or in place in  
101 the rights-of-way of state highways. The cost and expense of such  
102 removal and relocation, including any unpaid prior to July 1,  
103 2002, shall be paid by the Department of Transportation;

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

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

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

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

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

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

147           (k) To establish and have enforced set-back  
148 regulations;

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

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

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

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

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

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

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

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

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

223           (u) To request and to accept the use of persons  
224 convicted of an offense, whether a felony or a misdemeanor, for  
225 work on any road construction, repair or other project of the  
226 Transportation Department. The commission is also authorized to  
227 request and to accept the use of persons who have not been  
228 convicted of an offense but who are required to fulfill certain  
229 court-imposed conditions pursuant to Section 41-29-150(d)(1) or  
230 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention  
231 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code  
232 of 1972. The commission is authorized to enter into any  
233 agreements with the Department of Corrections, the State Parole  
234 Board, any criminal court of this state, and any other proper  
235 official regarding the working, guarding, safekeeping, clothing  
236 and subsistence of such persons performing work for the  
237 Transportation Department. Such persons shall not be deemed  
238 agents, employees or involuntary servants of the Transportation  
239 Department while performing such work or while going to and from  
240 work or other specified areas;

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

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

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

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

261           (4) (a) The Mississippi Transportation Commission, in its  
262 discretion, may enter into agreements with any county,  
263 municipality, county transportation commission, business,  
264 corporation, partnership, association, individual or other legal  
265 entity, for the purpose of accelerating the completion date of  
266 scheduled highway construction projects.

267           (b) Such an agreement may permit the cost of a highway  
268 construction project to be advanced to the commission by a county,  
269 municipality, county transportation commission, business,  
270 corporation, partnership, association, individual or other legal  
271 entity, and repaid to such entity by the commission when highway  
272 construction funds become available; \* \* \* however \* \* \*:

273           (i) Repayment of funds advanced to the Mississippi  
274 Transportation Commission shall be made no sooner than the  
275 commission's identified projected revenue schedule for funding of  
276 that particular construction project; \* \* \*



277           (ii) No other scheduled highway construction  
278 project established by statute or by the commission may be delayed  
279 by an advanced funding project authorized under this subsection;

280           (iii) Repayments to a private entity that advances  
281 funds to the Mississippi Transportation Commission under this  
282 subsection may not include interest or other fees or charges, and  
283 the total amount repaid shall not exceed the total amount of funds  
284 advanced to the commission by the entity;

285           (iv) The total amount of all repayments by the  
286 commission under this subsection (after federal reimbursement of  
287 the federal share of repayments) shall not exceed three and  
288 seventy-five one-hundredths percent (3.75%) of the department's  
289 annual expenditures. The term "annual expenditures" means the  
290 total amount of expenditures for all department programs for the  
291 fiscal year. This limitation shall only apply when the commission  
292 considers whether to enter into an agreement pursuant to this  
293 subsection. The commission may approve such agreement only if the  
294 repayments do not exceed this limitation.

295           (c) In considering whether to enter into \* \* \* an  
296 agreement pursuant to this subsection, the commission shall  
297 consider the availability of financial resources, the effect of  
298 such agreement on other ongoing highway construction, the urgency  
299 of the public's need for swift completion of the project and any  
300 other relevant factors.

301           (d) An agreement entered into pursuant to this  
302 subsection shall be executed only upon a finding by the  
303 commission, spread upon its minutes, that the acceleration of the  
304 scheduled project is both feasible and beneficial. The commission  
305 shall also spread upon its minutes its findings with regard to the  
306 factors required to be considered pursuant to paragraph (c) of  
307 this subsection.

308           (e) The commission shall notify the State Bond  
309 Commission of the terms of any agreement authorized under this  
310 subsection.

311       (5) The Mississippi Transportation Commission, in its  
312 discretion, may purchase employment practices liability insurance,  
313 and may purchase an excess policy to cover catastrophic losses  
314 incurred under the commission's self-insured workers' compensation  
315 program authorized under Section 71-3-5. Such policies shall be  
316 written by the agent or agents of a company or companies  
317 authorized to do business in the State of Mississippi. The  
318 deductibles shall be in an amount deemed reasonable and prudent by  
319 the commission, and the premiums thereon shall be paid from the  
320 State Highway Fund. Purchase of insurance under this paragraph  
321 shall not serve as an actual or implied waiver of sovereign  
322 immunity or of any protection afforded the commission under the  
323 Mississippi Tort Claims Act.

324       (6) The Mississippi Transportation Commission is \* \* \*  
325 authorized, in its discretion, to expend funds for the purchase of  
326 promotional materials for safety purposes, highway beautification  
327 purposes and recruitment purposes.

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1       AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT REPAYMENTS UNDER CERTAIN AGREEMENTS THAT PERMIT THE  
3 COST OF A HIGHWAY CONSTRUCTION PROJECT TO BE ADVANCED TO THE  
4 MISSISSIPPI TRANSPORTATION COMMISSION MAY NOT EXCEED 3.75% OF THE  
5 NET AMOUNT OF FEDERAL REIMBURSEMENTS TO THE DEPARTMENT OF  
6 TRANSPORTATION AND STATE FUNDS RECEIVED BY THE DEPARTMENT IN ANY  
7 ONE FISCAL YEAR; AND FOR RELATED PURPOSES.

HR40\SB2736A.J

Don Richardson  
Clerk of the House of Representatives