

## House Amendments to Senate Bill No. 2817

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:

17           **SECTION 1.** Section 57-43-15, Mississippi Code of 1972, is  
18 amended as follows:

19           57-43-15. (1) There is established within the Railroad  
20 Revitalization Fund a new account to be entitled the Mississippi  
21 Highway-Railroad Grade Crossing Safety Account. The account shall  
22 be administered by the Mississippi Department of Transportation  
23 and shall consist of (a) such monies as are transferred to it on  
24 July 1, 2001, from the Mississippi Grade Crossing Closure Account;  
25 and (b) thirty-five percent (35%) of collections from the  
26 locomotive fuel tax imposed under Section 27-59-307 for the  
27 previous year. Unexpended amounts remaining in the account at the  
28 end of a fiscal year shall not lapse into the State General Fund;  
29 and any interest earned on amounts in the account shall be  
30 deposited to the credit of the account.

31           (2) The Mississippi Department of Transportation, in  
32 cooperation with the railroads operating in Mississippi, shall  
33 promulgate rules to ensure equitable allocation of the funds  
34 described in subsection (1) of this section to projects throughout  
35 the state, and shall consider the proportionate number of main  
36 line track miles of each railroad and the number of public  
37 roadway/railroad grade crossings on each railroad's main line.  
38 Expenditure of monies from the Mississippi Highway-Railroad Grade  
39 Crossing Safety Account shall be limited to the following  
40 purposes:

41           (a) Financial aid for closure of public  
42 roadway/railroad grade crossings;

43 (b) Realignment of construction costs of roadways being  
44 rerouted to facilitate a closure of a public roadway/railroad  
45 grade crossing;

46 (c) Monies to match federal or other funds for a grade  
47 separation eliminating an at-grade crossing of a public roadway  
48 and railroad; \* \* \*

49 (d) Installation, maintenance or upgrade of  
50 highway-railroad grade crossing signals, at the discretion of the  
51 Mississippi Transportation Commission, based upon the Federal  
52 Railroad Administration ranking of all Mississippi  
53 highway-railroad grade crossings. Not less than ten percent (10%)  
54 of the monies necessary to defray the costs of such installations  
55 must be federal funds;

56 (e) Installation of appropriate warning signs. Not  
57 less than ten percent (10%) of the monies necessary to defray the  
58 costs of such installations must be federal funds;

59 (f) Separation of grades of highway/railroad crossings;

60 (g) Improvement of any grade crossing including the  
61 necessary roadway approaches thereto of any railroad across a  
62 public road highway;

63 (h) Construction, reconstruction, repair or replacement  
64 of the grade crossing surface structure; and

65 (i) Installation of an automatic advance warning signal  
66 alerting a motorist that a grade crossing is ahead.

67 (3) The Mississippi Department of Transportation shall  
68 consider all requests from the state's diagnostic review of public  
69 roadway/railroad grade crossings and from individual railroads for  
70 expenditure of funds for the purposes described in subsection (2)  
71 of this section, and shall establish uniform criteria and  
72 guidelines relating to such crossings and the expenditure of  
73 funds.

74 (4) No later than July 1, 2008, every railroad corporation  
75 shall install and maintain either a stop or yield sign, whichever  
76 may be recommended by a diagnostic survey completed by the  
77 Mississippi Department of Transportation, at every railroad grade

78 crossing at which a railroad corporation is required to maintain a  
79 grade crossing crossbuck sign and where such grade crossing does  
80 not have located thereat an automatic warning device such as  
81 flashing lights and/or gates. Such a stop or yield sign shall  
82 conform with the requirements of the Manual on Uniform Traffic  
83 Control Devices. The Mississippi Department of Transportation may  
84 purchase the appropriate stop or yield signs using federal funds  
85 as provided to the State of Mississippi pursuant to 23 USCS  
86 Section 130, and may furnish the signs to the railroad  
87 corporations upon request. The railroad corporation shall install  
88 and maintain the stop or yield signs at its expense.

89 **SECTION 2.** Section 65-1-175, Mississippi Code of 1972, is  
90 amended as follows:

91 65-1-175. (1) The jurisdiction of the Mississippi  
92 Department of Transportation shall be exclusive with respect to  
93 public roadway/railroad crossings either at grade or otherwise  
94 except to the extent that its jurisdiction is preempted by valid  
95 federal statute, regulation or order.

96 (2) The Mississippi Department of Transportation shall have  
97 power, upon its own motion or upon complaint filed, after having  
98 made proper investigation, and after notice and hearing, if  
99 requested, to abolish any public roadway/railroad crossing  
100 heretofore or hereafter established, to vacate and close that part  
101 of the roadway on such crossing abolished, and to erect barricades  
102 across the roadway in such a manner as to prevent the use of such  
103 crossing as a roadway, when, in the opinion of the department, the  
104 public necessity served by the crossing in question is not such as  
105 to justify the further retention thereof. In any event, if a  
106 roadway/railway crossing is the subject of closure proceedings,  
107 both the local governmental entity and the rail carrier shall be  
108 given formal written notice by the department before any hearing  
109 is conducted by the department. However, a public hearing by the  
110 department to abolish a crossing shall not be required when the  
111 public roadway authority in interest vacates the roadway. In such  
112 instances, the rail carrier, following notification to the

113 department and roadway authority, shall remove any grade crossing  
114 warning devices and the grade crossing surface.

115 (3) The Mississippi Department of Transportation shall have  
116 power, upon its own motion, or upon complaint, and after having  
117 made proper investigation and after notice and hearing, if  
118 requested, to require the installation of adequate and appropriate  
119 luminous reflective warning signs, luminous flashing signals,  
120 crossing gates illuminated at night, stop signs, yield signs or  
121 other warning devices in order to promote the health and safety of  
122 the public. Luminous flashing signals or crossing gate devices  
123 heretofore installed at grade crossings and those installations  
124 hereafter approved by the department shall be deemed adequate and  
125 appropriate. The department shall have authority to determine the  
126 number, type and location of such signs, signals, gates or other  
127 protective devices which shall conform as near as may be with  
128 generally recognized national standards, and the department shall  
129 have authority to prescribe the division of the cost of the  
130 installation and subsequent maintenance of such signs, signals,  
131 gates or other warning devices between the rail carrier or  
132 carriers, the public highway authority in interest and the  
133 Mississippi Department of Transportation. In no event shall any  
134 costs assessed against either the public highway authority in  
135 interest or the rail carrier exceed ten percent (10%) of the costs  
136 of the materials and installation.

137 (4) If the department has ordered the installation of  
138 luminous flashing signals or crossing gate devices at a grade  
139 crossing, the department shall order the installation of temporary  
140 stop signs or yield signs at the roadway intersection with the  
141 grade crossing. Such signs shall remain in place until the  
142 luminous flashing signals or crossing gate devices have been  
143 installed. The department may purchase the appropriate stop or  
144 yield signs using federal funds as provided to the State of  
145 Mississippi pursuant to 23 USCS Section 130, and may furnish the  
146 signs to the railroad corporations upon request. The railroad  
147 corporation shall install and maintain the stop or yield signs at

148 its expense and shall remove the signs after luminous flashing  
149 signals or crossing gate devices have been installed.

150 (5) Nothing in this section shall be construed as amending,  
151 repealing or modifying any duty or responsibility that railroads  
152 had, if any, immediately before the effective date of this act  
153 with regard to any applicable state or federal laws, statutes,  
154 regulations or orders pertaining to the maintenance of signals,  
155 signs and warning devices at roadway/railroad crossings.

156 **SECTION 3.** Section 97-25-4, Mississippi Code of 1972, is  
157 amended as follows:

158 97-25-4. (1) Except as otherwise provided in subsection (2)  
159 of this section, it shall be unlawful for any person to do any of  
160 the following acts without first having obtained written  
161 permission from the owner or operator of the railroad line:

162 (a) To attempt to board or disembark from a moving  
163 freight train;

164 (b) To damage or deface, or attempt to damage or  
165 deface, railroad track, signals, switches, buildings, structures,  
166 bridges, right-of-way, wire lines, motive power, rolling stock or  
167 other property; or

168 (c) To dump, or cause to be dumped, upon railroad  
169 right-of-way any paper, ashes, sweepings, household wastes, glass,  
170 metal, tires, mattresses, furniture, dangerous substances or any  
171 other refuse or substance of any kind.

172 (2) Subsection (1) of this section shall not apply to:

173 (a) Railroad employees engaged in the performance of  
174 their duties; or

175 (b) Representatives of utilities or other agencies with  
176 easements across or along the railroad in the performance of their  
177 duties.

178 (3) Any person who violates the provisions of this section  
179 shall be guilty of a misdemeanor, and upon conviction thereof, be  
180 punished by imprisonment for not more than thirty (30) days or by  
181 a fine of not less than One Hundred Dollars (\$100.00) but not more  
182 than Four Hundred Dollars (\$400.00), or both, and may be required

183 to pay any clean-up costs. In addition, any person who is  
184 convicted for a violation of subsection (1)(b) or subsection  
185 (1)(c) of this section shall be ordered by the court to make  
186 restitution to the owners or operators of the railroad line or  
187 property in an amount determined by the court to compensate for  
188 all damages caused by such person and all costs related to cleanup  
189 necessitated as a result of such person's unlawful conduct.

190 (4) The penalties provided for in this section shall be in  
191 addition to any other penalties provided by law for the same or  
192 similar acts.

193 (5) As used in this section the term "right-of-way" means  
194 track, roadbed and adjacent property which would be readily  
195 recognizable to a reasonable person as railroad property.

196 **SECTION 4.** Section 97-25-5, Mississippi Code of 1972, is  
197 amended as follows:

198 97-25-5. If any person shall willfully obliterate, injure or  
199 destroy any railroad-gate, warning-signals, cattle-gap or any  
200 board or sign erected or maintained by a railroad company in  
201 pursuance of law, he shall be fined not less than One Hundred  
202 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or  
203 be imprisoned in the county jail not exceeding three (3) months,  
204 or both. In addition, any person who is convicted for a violation  
205 of this section shall be ordered by the court to make restitution  
206 to the owners or operators of the railroad line or property in an  
207 amount determined by the court to compensate for all damages  
208 caused by such person and all costs related to cleanup  
209 necessitated as a result of such person's unlawful conduct.

210 **SECTION 5.** Section 97-25-35, Mississippi Code of 1972, is  
211 amended as follows:

212 97-25-35. If any person shall maliciously remove, take,  
213 steal, change or in any manner interfere with any railroad  
214 transmission line, signaling device, microwave tower or any of the  
215 parts or attachments belonging to any communication or signaling  
216 device owned, leased or used by any railroad or transportation  
217 company, he shall, on conviction, be fined not more than Three

218 Thousand Dollars (\$3,000.00), or shall be imprisoned not more than  
219 five (5) years, or both. In addition, any person who is convicted  
220 for a violation of this section shall be ordered by the court to  
221 make restitution to the owners or operators of the railroad line  
222 or property in an amount determined by the court to compensate for  
223 all damages caused by such person and all costs related to cleanup  
224 necessitated as a result of such person's unlawful conduct.

225 **SECTION 6.** This act shall take effect and be in force from  
226 and after July 1, 2007.

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

1 AN ACT TO AMEND SECTION 57-43-15, MISSISSIPPI CODE OF 1972,  
2 TO PRESCRIBE CERTAIN ADDITIONAL PURPOSES FOR WHICH MONIES IN THE  
3 MISSISSIPPI HIGHWAY-RAILROAD GRADE CROSSING SAFETY ACCOUNT WITHIN  
4 THE RAILROAD REVITALIZATION FUND MAY BE EXPENDED; TO REQUIRE  
5 RAILROAD CORPORATIONS TO INSTALL AND MAINTAIN STOP OR YIELD SIGNS  
6 AT CERTAIN GRADE CROSSINGS; TO AMEND SECTION 65-1-175, MISSISSIPPI  
7 CODE OF 1972, TO DELETE THE REQUIREMENT FOR A PUBLIC HEARING BY  
8 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION BEFORE ABOLISHMENT OF  
9 A ROADWAY/RAILWAY CROSSING WHEN THE PUBLIC ROADWAY AUTHORITY  
10 VACATES THE ROADWAY AND TO REQUIRE RAILROAD CORPORATIONS TO  
11 INSTALL AND MAINTAIN STOP OR YIELD SIGNS AT CERTAIN GRADE  
12 CROSSINGS; TO AMEND SECTIONS 97-25-4, 97-25-5 AND 97-25-35,  
13 MISSISSIPPI CODE OF 1972, TO INCREASE PENALTIES AND REQUIRE  
14 RESTITUTION FOR CERTAIN CRIMES RELATING TO RAILROAD PROPERTY; AND  
15 FOR RELATED PURPOSES.

HR40\SB2817A.J

Don Richardson  
Clerk of the House of Representatives