

By: Representative Moss

To: Transportation

HOUSE BILL NO. 545

1 AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO DONATE
3 CERTAIN EXCESS MOTOR VEHICLES TO COUNTIES OR MUNICIPALITIES FOR
4 LAW ENFORCEMENT PURPOSES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 65-1-123, Mississippi Code of 1972, is
7 amended as follows:

8 65-1-123. (1) Except as otherwise provided in subsections
9 (10) or (11) of this section, whenever any personal property has
10 been acquired in any manner by the Mississippi Transportation
11 Commission for public use and in the opinion of the commission,
12 all or any part of the property becomes unnecessary for public
13 use, the commission is authorized to dispose of such property for
14 a fair and reasonable cash market price. Any such sale shall be a
15 sale upon the receipt of sealed bids after reasonable
16 advertisement for bids in such manner and at such time and place
17 as the commission may deem proper and advisable, except that the
18 commission may sell at private sale any such personal property not
19 necessary for public purposes the cash market value of which is
20 less than Five Hundred Dollars (\$500.00); however, if the personal
21 property is timber, the commission may sell at private sale any
22 such timber not necessary for public purposes the cash market
23 value of which is less than Five Thousand Dollars (\$5,000.00),
24 except that whenever persons, groups or agencies are permitted to
25 remove a quantity of timber from highway rights-of-way, and the
26 cash market value of the timber is estimated by the commission to
27 be less than One Thousand Dollars (\$1,000.00), it shall not be
28 necessary to have the timber cruised or appraised and the

29 commission may sell the timber at private sale. The commission
30 shall have the right to reject any and all bids in its discretion
31 and to sell the property theretofore advertised at private sale
32 for not less than the highest of the rejected bids, or to
33 readvertise.

34 (2) Except as otherwise provided in subsections (3) and (4)
35 of this section, whenever real property, with the exception of
36 easements for highway purposes, has been acquired by the
37 Mississippi Transportation Commission, in any manner, for public
38 use and in the opinion of the commission all or any part thereof
39 becomes unnecessary for public use, the same shall be declared on
40 the minutes of the commission as excess property and shall be sold
41 at private sale at market value. If the excess property was a
42 total take from the original owner, then the commission shall
43 offer to such owner, in writing, the first right of refusal to
44 purchase such excess property; however, if after due diligence the
45 original owner cannot be located, then the commission shall offer
46 the first right of refusal to purchase the property to the
47 adjoining property owner or owners. If the excess property was a
48 partial take from the current owner of the parcel of real property
49 from which the excess property was originally taken, then the
50 commission shall be required to offer in writing the first right
51 of refusal to purchase such excess property to such owner. If
52 within forty-five (45) days any owner to whom the commission has
53 offered the first right of refusal under the provisions of this
54 subsection fails to accept the offer to purchase, the property
55 shall then be offered to the adjoining property owner or owners.
56 If within forty-five (45) days an adjoining property owner fails
57 to accept the offer to purchase, then the excess property shall be
58 sold to the highest bidder upon the receipt by the commission of
59 sealed bids after reasonable advertisement for bids in such manner
60 and at such time and place as the commission deems proper and
61 advisable; however, the commission shall have the right to reject

62 any and all bids in its discretion and to sell the property
63 theretofore advertised at private sale for not less than the
64 highest of the rejected bids, or to readvertise. Upon payment of
65 the purchase price, the executive director of the department, upon
66 due authorization by the commission entered on its minutes, may
67 execute a quitclaim deed conveying such property to the purchaser.

68 (3) Whenever the commission acquires by fee simple interest
69 any property determined to be an uneconomic remnant outside the
70 right-of-way, then the commission may sell the property to the
71 adjoining property owner or owners for an amount not less than the
72 market value established by the county tax assessor or a state
73 licensed or certified appraiser.

74 (4) Whenever the commission desires to sell any real
75 property used as maintenance lots, the property shall be sold to
76 the highest bidder upon the receipt by the commission of sealed
77 bids and after reasonable advertisement for bids in such manner
78 and at such time and place as the commission deems proper and
79 advisable; however, the commission, in its discretion, may reject
80 any and all bids and sell the property advertised at private sale
81 for not less than the highest of the rejected bids, or may
82 readvertise. Upon payment of the purchase price, the executive
83 director of the department, upon authorization by the commission
84 entered on its minutes, may execute a quitclaim deed conveying the
85 property to the purchaser.

86 (5) All easements for highway purposes shall be released
87 when they are determined on the minutes of the commission as no
88 longer needed for such purposes, and when released, they shall be
89 filed by the department in the office of the chancery clerk in the
90 county where the property is located.

91 (6) In no instance shall any part of any property acquired
92 by the commission, or any interest acquired in such property,
93 including, but not limited to, easements, be construed as
94 abandoned by nonuse, nor shall any encroachment on such property

95 for any length of time constitute estoppel or adverse possession
96 against the state's interests.

97 (7) It is the intent of the Legislature that the
98 Transportation Commission shall declare property it has acquired
99 and which is no longer needed for public purposes as excess and to
100 sell and/or dispose of such excess property in accordance with the
101 provisions of this section as soon as practicable after such
102 property becomes excess in fact. Unnecessary or excess property
103 or property interests shall be disposed of only upon order of the
104 Transportation Commission on its minutes as provided in this
105 section.

106 (8) Whenever any real property has been acquired by the
107 Transportation Commission and in the opinion of the commission all
108 or any part of the property will not be utilized in the near
109 future, the property shall be so declared by the Transportation
110 Commission on its minutes and the commission may lease or rent the
111 property for its market value.

112 (9) This section shall not apply to any sale, donation,
113 exchange or other conveyance of real property when the Legislature
114 otherwise expressly authorizes or directs the commission to sell,
115 donate, exchange or otherwise convey specifically described real
116 property.

117 (10) (a) As an alternative to the sale of timber under
118 subsection (1) of this section, the Mississippi Transportation
119 Commission may enter into an agreement with the State Forestry
120 Commission for the general supervision and management of timber on
121 selected portions of the rights-of-way of the interstate highway
122 system and those completed segments of four-lane highways in the
123 state. Such an agreement may prescribe the details of, and
124 authority and control over, the full range of forestry management
125 practices. Seventy-five percent (75%) of any money collected from
126 the sale of timber on rights-of-way, less any expenses associated
127 therewith, shall be deposited into the Education Enhancement Fund

128 created in Section 37-61-33, and the remainder shall be deposited
129 into the State Highway Fund to be expended solely for the repair,
130 maintenance, construction or reconstruction of highways.

131 (b) Subject to the provisions of paragraph (a) of this
132 subsection, the Mississippi Transportation Commission may, after
133 consultation with the State Forestry Commission, adopt such rules
134 and regulations with regard to the management, sale or disposal of
135 timber on highway rights-of-way as it considers appropriate;
136 provided, however, such rules and regulations shall be uniform
137 throughout the state and shall be designed to maximize the value
138 of such timber or minimize the cost of removing such timber.

139 (11) Notwithstanding the provisions of subsection (1) of
140 this section, any motor vehicles owned by the Transportation
141 Department that are determined by the Transportation Commission as
142 no longer needed or useful to the department and that have a fair
143 and reasonable cash market price of less than Five Thousand
144 Dollars (\$5,000.00), may be donated, upon order of the commission
145 entered upon its official minutes, to counties or municipalities
146 for law enforcement purposes.

147 **SECTION 2.** This act shall take effect and be in force from
148 and after July 1, 2006.