

By: Senator(s) Dearing

To: Highways and  
TransportationSENATE BILL NO. 2102  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 65-1-123, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE MISSISSIPPI TRANSPORTATION COMMISSION MAY  
3 ENTER INTO AN AGREEMENT WITH THE STATE FORESTRY COMMISSION FOR THE  
4 GENERAL SUPERVISION AND MANAGEMENT OF TIMBER ON SELECTED PORTIONS  
5 OF THE RIGHTS-OF-WAY OF THE INTERSTATE HIGHWAY SYSTEM AND  
6 COMPLETED SEGMENTS OF FOUR-LANE HIGHWAYS; TO PROVIDE THAT A  
7 PORTION OF THE MONEY COLLECTED FROM THE SALE OF TIMBER ON  
8 RIGHTS-OF-WAY SHALL BE DEPOSITED INTO THE EDUCATION ENHANCEMENT  
9 FUND AND THE REMAINDER SHALL BE DEPOSITED INTO THE STATE HIGHWAY  
10 FUND; TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION,  
11 AFTER CONSULTATION WITH THE STATE FORESTRY COMMISSION, TO ADOPT  
12 RULES AND REGULATIONS REGARDING THE MANAGEMENT, SALE OR DISPOSAL  
13 OF TIMBER ON HIGHWAY RIGHTS-OF-WAY; AND FOR RELATED PURPOSES.

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

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

17 65-1-123. (1) Except as otherwise provided in subsection  
18 (10) of this section, whenever any personal property has been  
19 acquired in any manner by the Mississippi Transportation  
20 Commission for public use and in the opinion of the commission,  
21 all or any part of the property becomes unnecessary for public  
22 use, the commission is authorized to dispose of such property for  
23 a fair and reasonable cash market price. Any such sale shall be a  
24 sale upon the receipt of sealed bids after reasonable  
25 advertisement for bids in such manner and at such time and place  
26 as the commission may deem proper and advisable, except that the  
27 commission may sell at private sale any such personal property not  
28 necessary for public purposes the cash market value of which is  
29 less than Five Hundred Dollars (\$500.00); however, if the personal  
30 property is timber, the commission may sell at private sale any  
31 such timber not necessary for public purposes the cash market  
32 value of which is less than Five Thousand Dollars (\$5,000.00),



33 except that whenever persons, groups or agencies are permitted to  
34 remove a quantity of timber from highway rights-of-way, and the  
35 cash market value of the timber is estimated by the commission to  
36 be less than One Thousand Dollars (\$1,000.00), it shall not be  
37 necessary to have the timber cruised or appraised and the  
38 commission may sell the timber at private sale. The commission  
39 shall have the right to reject any and all bids in its discretion  
40 and to sell the property theretofore advertised at private sale  
41 for not less than the highest of the rejected bids, or to  
42 readvertise.

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



66 to accept the offer to purchase, then the excess property shall be  
67 sold to the highest bidder upon the receipt by the commission of  
68 sealed bids after reasonable advertisement for bids in such manner  
69 and at such time and place as the commission deems proper and  
70 advisable; however, the commission shall have the right to reject  
71 any and all bids in its discretion and to sell the property  
72 theretofore advertised at private sale for not less than the  
73 highest of the rejected bids, or to readvertise. Upon payment of  
74 the purchase price, the executive director of the department, upon  
75 due authorization by the commission entered on its minutes, may  
76 execute a quitclaim deed conveying such property to the purchaser.

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

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

95 (5) All easements for highway purposes shall be released  
96 when they are determined on the minutes of the commission as no  
97 longer needed for such purposes, and when released, they shall be



filed by the department in the office of the chancery clerk in the county where the property is located.

(6) In no instance shall any part of any property acquired by the commission, or any interest acquired in such property, including, but not limited to, easements, be construed as abandoned by nonuse, nor shall any encroachment on such property for any length of time constitute estoppel or adverse possession against the state's interests.

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

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

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

(10) (a) The Mississippi Transportation Commission may enter into an agreement with the State Forestry Commission for the general supervision and management of timber on selected portions of the rights-of-way of the interstate highway system and those completed segments of four-lane highways in the state. Such an



131 agreement may prescribe the details of, and authority and control  
132 over, the full range of forestry management practices.  
133 Seventy-five percent (75%) of any money collected from the sale of  
134 timber on rights-of-way, less any expenses associated therewith,  
135 shall be deposited into the Education Enhancement Fund created in  
136 Section 37-61-33, and the remainder shall be deposited into the  
137 State Highway Fund to be expended solely for the repair,  
138 maintenance, construction or reconstruction of highways.

139       (b) Subject to the provisions of paragraph (a) of this  
140 subsection, the Mississippi Transportation Commission may, after  
141 consultation with the State Forestry Commission, adopt such rules  
142 and regulations with regard to the management, sale or disposal of  
143 timber on highway rights-of-way as it considers appropriate;  
144 provided, however, such rules and regulations shall be uniform  
145 throughout the state and shall be designed to maximize the value  
146 of such timber or minimize the cost of removing such timber.

147       **SECTION 2.** This act shall take effect and be in force from  
148 and after July 1, 2003.

