ENGROSSED HOUSE
BILL NO. 2327

By: Tyler of the House

and

Milacek of the Senate

An Act relating to roads, bridges and ferries; amending 69 O.S. 2001, Section 1001, which relates to sale, lease or exchange of unneeded property; authorizing the Department of Transportation to transfer certain surplus materials to local government; providing requirements and limitations for such transfers; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 69 O.S. 2001, Section 1001, is amended to read as follows:

Section 1001. A. The Transportation Commission shall have authority to sell any lands, or interest therein, which may have been acquired for highway purposes, or facilities necessary and incident thereto, and any equipment, materials or supplies which in the opinion of the Commission are no longer serviceable, useful or necessary for the state highway system or the operation of the Department of Transportation. Such authority shall be subject at all times to the continuing right to the use of the lands by any entity operating a sewer, water or gas system, telephone or electrical services, and by public service corporations and rural electric and telephone cooperatives for the construction, reconstruction, maintenance, operation and repair of their facilities of service which may be upon the lands. However, any such land which was acquired by the Commission from a governmental subdivision as a gift, or for a nominal consideration, may be reconveyed to the governmental subdivision by the Commission, upon

repayment by the governmental subdivision to the Commission of any consideration for the original conveyance.

B. Any surplus land which has been leased to a political subdivision by the Commission may be sold and conveyed to the political subdivision for the present fair market value as determined by a competent appraisal and the political subdivision may have credited toward the purchase price of any such property the lease payments which the political subdivision shall have previously made to the Commission.

C. Except as otherwise herein provided, the lands, materials, equipment and supplies shall be sold for cash to the highest and best bidder after notice by publication in a newspaper published in the county where the land is situated, or where the materials, equipment or supplies are located, in two consecutive weekly issues of the newspaper.

D. 1. If the land originally comprised a partial taking leaving an abutting remainder, then prior to conducting such advertisement and solicitation of bids for the sale of any lands or interests therein, the Commission shall notify the person, firm or corporation which originally conveyed the property to the Commission or present successor to the original remainder that same has been declared surplus and is to be offered for sale. Such notice shall be sent by registered mail addressed to the last-known address of such person, firm or corporation, with return receipt requested. Such notice shall contain an offer to sell such property to such person, firm or corporation for an amount not less than the present fair market value thereof as determined by a competent appraisal which shall be obtained by the Commission prior to such offer and notice. The amount of the Commission's requested purchase price based on such appraisal shall be stated in the notice, and the person, firm or corporation receiving such notice and offer shall be informed therein that unless such person, firm or corporation

notifies the Commission in writing within thirty (30) days from the date of receipt of the notice that the Commission's offer of sale is accepted by such person, firm or corporation, the Commission shall proceed to sell the property at public auction as provided for in this section. After the expiration of thirty (30) days from the date of receipt of the notice by the person, firm or corporation to whom it is addressed, if such person, firm or corporation has not notified the Commission in writing of the acceptance of the Commission's offer of sale, the Commission shall proceed to sell such property by public auction and no attempt to accept the Commission's offer by such person, firm or corporation after the expiration of such thirty (30) days shall be honored by the Commission. However, such person, firm or corporation may submit a bid at the public auction of the property in the same manner as any other qualified bidder.

2. If the land to be disposed of originally comprised a total taking leaving no abutting remainder, then such shall be sold to the highest bidder, or as otherwise herein provided except that if the land to be disposed of originally comprised a total taking of less than one (1) acre leaving only one abutting property owner of record, then prior to conducting such advertisement and solicitation of bids for the sale of any such lands or interest therein, the Commission shall notify the sole abutting property owner of record to the taking that such has been declared surplus and is to be offered for sale. Such notice shall be sent by registered mail addressed to the last-known address of such person, firm or corporation, with return receipt requested. Such notice shall contain an offer to sell such property to such person, firm or corporation subject to the same conditions as set forth in paragraph 1 of this subsection.

3. For the purposes of this section, the Commission shall not distinguish between persons from whom surplus lands or interest

therein were acquired by negotiated sale or gift and persons from whom such property was acquired by condemnation proceedings.

E. The Commission may, in its discretion, exchange any such lands for other lands needed for highway purposes, or may lease or rent any lands which are owned by the Department, and are not immediately necessary for highway purposes, on such terms as the Commission determines for the best interests of the state.

F. When the Oklahoma Department of Transportation determines that any equipment or vehicle becomes excess, obsolete, antiquated, unused or otherwise surplus, the Department shall notify the Department of Central Services in writing that such equipment or vehicle is surplus. The notice shall identify:

1. The type, brand or make, and country of manufacture of the equipment or vehicle;

2. The age of the equipment or vehicle including but not limited to mileage;

3. Whether the equipment or vehicle is in good working condition or not;

4. If the equipment or vehicle is not in good working condition, whether it is in repairable condition at reasonable cost;

5. Original cost of the equipment or vehicle; and

6. Present value of the equipment or vehicle, if known.

The Department of Central Services, with any other notice of surplus property, shall notify the eligible individuals or entities as provided in subsection G of this section of the availability of the surplus property of the Oklahoma Department of Transportation.

G. Prior to any advertised public auction or advertised sealed bids to all individuals and entities eligible for participation in the surplus program, the Department, thirty (30) days prior to the advertised auction date, shall offer, at fair market value, the

equipment or vehicles to the individuals or entities, in the following order of priority:

1. Other state agencies;

2. Political subdivisions of the state;

3. Rural fire departments located in this state; and

4. Rural water districts located in this state.

Any equipment or vehicles purchased pursuant to this subsection shall be made available to the purchaser on the date of purchase.

H. The Department is authorized to act on behalf of the Commission in transactions authorized pursuant to this section, except as may be otherwise provided by rule or regulation of the Commission; and, all prior transactions of the Department which are otherwise in conformity with this section are deemed authorized and approved.

I. When the Department of Transportation determines that any road or bridge materials or supplies become excess, unused, or otherwise surplus, the Department shall make such road or bridge material or supplies available to all governmental entities eligible for participation in the surplus program. The Department may be reimbursed for any cost incurred in the recovery or storage of such road or bridge material or supplies. The governmental entity requesting the excess, unused, or otherwise surplus road or bridge materials or supplies shall retrieve such materials or supplies from the Department of Transportation within one hundred eighty (180) days from the completion of project for which the materials or supplies are declared excess or surplus.

<u>The Department, upon request of a local government, may transfer surplus bridge beams to the local government for use in the construction or repair of public roadway bridges. The local government shall not sell the surplus beams. Prior to the transfer, the local government shall cause the surplus beams to be inspected by a registered professional engineer. The local government shall</u>

assume full responsibility for the cost of transporting the beams and for the use of the beams including, but not limited to, the proper removal and disposal of lead-based paint. The Department shall retain the surplus beams for the requesting local government for a period not exceeding one hundred eighty (180) days, after which the Department may otherwise dispose of the surplus beams.

SECTION 2. This act shall become effective November 1, 2004.

Passed the House of Representatives the 25th day of February, 2004.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2004.

_____
Presiding Officer of the Senate