

By: Representative Manning

To: Education

## HOUSE BILL NO. 254

1 AN ACT TO AMEND SECTION 29-3-27, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE SALE OF A MAXIMUM OF FIVE ACRES OF SIXTEENTH SECTION  
3 LAND OR LAND GRANTED IN LIEU THEREOF TO THE LEASEHOLDER OF SUCH  
4 LAND, WHO, ON JANUARY 1, 2000, OWNS A HOME ON THE LAND WHICH HE OR  
5 SHE OCCUPIES AS A PERMANENT RESIDENCE; TO AMEND SECTIONS 29-3-1,  
6 29-3-3, 29-3-11, 29-3-25, 29-3-29, 29-3-41, 29-3-71, 29-3-73 AND  
7 29-3-111, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO  
8 AMEND SECTION 19-3-35, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
9 COUNTY BOARD OF SUPERVISORS TO PUBLISH A LIST OF ALL SIXTEENTH  
10 SECTION LAND OR LAND GRANTED IN LIEU THEREOF THAT IS SOLD; AND FOR  
11 RELATED PURPOSES.

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

13 SECTION 1. Section 29-3-27, Mississippi Code of 1972, is  
14 amended as follows:

15 29-3-27. No sixteenth section lands or lands granted in lieu  
16 thereof, in whole or in part, situated within the school district  
17 holding or owning the same shall ever be sold, except that the  
18 board of education may, under the procedures hereinafter provided:

19 (a) Sell such lands for industrial development thereon,  
20 therein, or thereunder to any persons, firms, or corporations in  
21 fee simple, or any lesser estate therein, for a purchase price not  
22 less than the fair market value thereof; or

23 (b) Sell a maximum of five (5) acres to the leaseholder  
24 of the land who, on January 1, 2000, owns a home on the land which  
25 he or she occupies as a permanent residence. Any sale authorized  
26 pursuant to this paragraph shall be in fee simple for a purchase  
27 price not less than the fair market value.

28 \* \* \* When any such sale is made, the deed shall be executed  
29 in the name of the State of Mississippi by the superintendent of  
30 the said board of education.

31 As used in this section and in Sections 29-3-29 and 29-3-61,  
32 the term "industrial development" shall include restoration as a  
33 tourist attraction the place where an organization was founded,  
34 which said organization has since been expanded to be national or  
35 international in its membership, scope, and influence.

36 The proceeds of the sale in fee simple of any sixteenth  
37 section, or lands granted in lieu thereof, in whole or in part, or  
38 such part of said proceeds as may be required to purchase acreage  
39 of equivalent fair market value, shall be used by the board of  
40 education, to purchase other land in the county, which land shall  
41 be held and reserved by the State of Mississippi for the support  
42 of the township schools in lieu of the land thus sold, as other  
43 sixteenth section lieu land is held, and shall be subject to all  
44 laws applicable thereto. Every such sale and every such purchase  
45 of land in lieu thereof shall be reported by the secretary of the  
46 board of education to the Secretary of State and to the State  
47 Forestry Commission within ninety (90) days after the consummation  
48 of each such sale and purchase. Any funds from a sale in fee  
49 simple of any sixteenth section land, or land granted in lieu  
50 thereof, in excess of any amount used to purchase said land in  
51 lieu thereof, shall be treated as corpus and shall be invested by  
52 the board of education as provided by law. Only the income from  
53 such investment shall be expended for current operating expenses  
54 of the schools.

55 SECTION 2. Section 29-3-29, Mississippi Code of 1972, is  
56 amended as follows:

57 29-3-29. Before any sixteenth section school land or land  
58 granted in lieu thereof may be sold or leased for industrial  
59 development thereon, therein or thereunder, or sold to a homeowner  
60 under the provisions of this chapter, the board of education  
61 controlling such land shall first determine that such sale or  
62 lease will be fair market value. In the determination of the fair  
63 market value of said land the comparative sales method shall be

64 used, and the highest and best use of said sixteenth section lands  
65 shall be determined on the basis of finding that said land shall  
66 be susceptible to any use that comparative land in private  
67 ownership may be used, \* \* \* that the acreage to be sold or leased  
68 is not in excess of the amount of land authorized in Section  
69 29-3-27 or an amount reasonably required for immediate use and for  
70 such future expansion as may be reasonably anticipated, \* \* \* that  
71 such sale or lease will be beneficial to and in the best interest  
72 of the schools of the district for which said land is held and if  
73 sold or leased for industrial development, that there will be  
74 prompt and substantial industrial development on, in, or under the  
75 land after the sale or lease. All of said findings, including the  
76 amount of the sale price or gross rental for said land, shall be  
77 spread on the minutes of the board of education. Also, if the  
78 board of education proposes to sell said land, said board shall  
79 first enter into a contract or obtain a legal option to purchase,  
80 for a specified price not in excess of fair market value, other  
81 land in the county of acreage of equivalent fair market value, and  
82 such contract or option shall be spread on the minutes of said  
83 board. However, not more than one hundred (100) acres in any one  
84 (1) sixteenth section school lands in any county may be sold under  
85 this chapter for the purpose of being made an industrial park or a  
86 part of such industrial park, provided the provisions of this  
87 section and Sections 57-5-1 and 57-5-23 are fully complied with.

88 A certified copy of the resolution or order of the board of  
89 education, setting out the foregoing findings, together with a  
90 certified copy of the order approving and setting out the terms of  
91 the contract or option to purchase other lands where a sale of  
92 land is proposed and an application to the Department of Economic  
93 and Community Development for the certificate authorizing said  
94 sale or lease, shall be forwarded to the county board of  
95 supervisors, which board shall make an independent investigation  
96 of the proposed sale or lease and of the proposed purchase of

97 other land.

98           If said county board of supervisors shall concur in the  
99 finding of fact of the board of education, and shall find that it  
100 is to the best interests of the schools of the district to enter  
101 into such sale or lease, it may enter on its minutes a resolution  
102 or order approving the action of the board of education.

103           If the said county board of supervisors shall not concur in  
104 the findings of the board of education, or shall find that the  
105 proposed sale or lease will not be in the best interest of the  
106 schools of the district, then it may, by resolution or order,  
107 disapprove the proposed sale or lease, and such action shall be  
108 final.

109           There shall be reserved all minerals in, on, and under any  
110 lands conveyed under the provisions hereof. Provided, however,  
111 that in any county bordering on the State of Alabama, traversed by  
112 the Tombigbee River, in which U.S. Highway 82 intersects U.S.  
113 Highway 45 and in which is situated a state supported institution  
114 of higher learning, upon the sale of any sixteenth section lands  
115 for industrial purposes as provided by law, the board of  
116 education, the superintendent of education and the Department of  
117 Economic and Community Development, may sell and convey all  
118 minerals except oil, gas, sulphur and casinghead gas on, in and  
119 under the said sixteenth section lands so sold for industrial  
120 purposes. Said oil, gas, sulphur and casinghead gas shall be  
121 reserved together with such rights of use, ingress and egress as  
122 shall not unreasonably interfere with the use of the lands by the  
123 purchaser. Prior written approval for such use, ingress and  
124 egress, shall be obtained from the surface owner or, if such  
125 approval is unreasonably withheld, may be obtained from the  
126 chancery court of the county in which said land is located.

127           If the land is being sold or leased for industrial  
128 development, certified copies of the resolutions or orders of the  
129 board of supervisors and of the board of education and of the

130 application to the Department of Economic and Community  
131 Development shall be transmitted to the county superintendent of  
132 education, if there be one in the county, who, if he approves the  
133 proposed sale or lease, shall so certify and forward same to the  
134 Department of Economic and Community Development. If there be no  
135 county superintendent of education in the county, then the board  
136 of education whose district embraces the entire county shall so  
137 certify and transmit said copies to the Department of Economic and  
138 Community Development for further action.

139       Upon receipt of the aforesaid application and certified  
140 copies of the said resolution and orders, the Department of  
141 Economic and Community Development shall make investigation to  
142 determine whether or not the proposed sale or lease of said land  
143 for industrial development will promote prompt and substantial  
144 industrial development thereon, therein, or thereunder. If the  
145 department finds that such sale or lease will promote prompt and  
146 substantial industrial development thereon, therein or thereunder,  
147 and further finds that the person, firm or corporation who  
148 proposes to establish said industry is financially responsible,  
149 and that the acreage to be sold or leased is not in excess of the  
150 amount of land reasonably required for immediate use and for such  
151 future expansion as may be reasonably anticipated, then the  
152 department, in its discretion, may issue a certificate to the  
153 board of education of said district so certifying, and said  
154 certificate shall be the authority for the board of education to  
155 enter into the proposed sale or lease. If the Department of  
156 Economic and Community Development does not so find, then it shall  
157 decline to issue said certificate which action shall be final.

158       The Department of Economic and Community Development, when  
159 issuing a certificate to the county board of education certifying  
160 its findings and authorizing said sale or lease for industrial  
161 development, may, nevertheless, in its discretion, make such sale  
162 or lease conditioned on and subject to the vote of the qualified

163 electors of said district. Upon receipt of a certificate so  
164 conditioned upon an election, or upon a petition as hereinafter  
165 provided for, the board of education, by resolution spread upon  
166 its minutes, shall forward a copy of the certificate to the board  
167 of supervisors who by resolution upon its minutes, shall call an  
168 election to be held in the manner now provided by law for holding  
169 county elections, and shall fix in such resolution a date upon  
170 which such an election shall be held, of which not less than three  
171 (3) weeks notice shall be given by the clerk of said board of  
172 supervisors by publishing a notice in a newspaper published in  
173 said county once each week for three (3) consecutive weeks  
174 preceding the same, or if no newspaper is published in said  
175 county, then in a newspaper having a general circulation therein,  
176 and by posting a notice for three (3) weeks preceding said  
177 election at three (3) public places in said county. At such  
178 election, all qualified voters of the county may vote, and the  
179 ballots used shall have printed thereon a brief statement of the  
180 proposed sale or lease of said land, including the description and  
181 price, together with the words "For the proposed sale or lease"  
182 and the words "Against the proposed sale or lease," and the voter  
183 shall vote by placing a cross (x) or check (v) opposite his choice  
184 of the proposition. Should the election provided for herein  
185 result in favor of the proposed sale or lease by at least  
186 two-thirds (2/3) of the votes cast being in favor of the said  
187 proposition, the board of supervisors shall notify the board of  
188 education who may proceed forthwith to sell or lease said land in  
189 accordance with the proposition so submitted to the electors. If  
190 less than two-thirds (2/3) of those voting in such special  
191 election vote in favor of the said sale or lease, then said land  
192 shall not be sold or leased.

193 The board of education shall further be required, prior to  
194 passing of a resolution expressing its intent to sell said land,  
195 to publish a notice of intent to sell said land for three (3)

196 consecutive weeks in a newspaper published in said county or, if  
197 there be none, in a newspaper having a general circulation in said  
198 county, and to post three (3) notices thereof in three (3) public  
199 places in said county, one (1) of which shall be at the  
200 courthouse, for said time. If within the period of three (3)  
201 weeks following the first publication of said intent, a petition  
202 signed by twenty percent (20%) of the qualified electors of said  
203 county shall be filed with the board of supervisors requesting an  
204 election concerning the sale, then an election shall be called as  
205 hereinabove provided.

206 SECTION 3. Section 29-3-1, Mississippi Code of 1972, is  
207 amended as follows:

208 29-3-1. (1) Sixteenth section school lands, or lands  
209 granted in lieu thereof, constitute property held in trust for the  
210 benefit of the public schools and must be treated as such. The  
211 board of education under the general supervision of the Secretary  
212 of State, shall have control and jurisdiction of said school trust  
213 lands and of all funds arising from any disposition thereof  
214 heretofore or hereafter made. It shall be the duty of the board  
215 of education to manage the school trust lands and all funds  
216 arising therefrom as trust property. Accordingly, the board shall  
217 assure that adequate compensation is received for all sales and  
218 uses of the trust lands, except for uses by the public schools.

219 (2) In the event the board of supervisors declines to  
220 approve the rental value of the land set by the board of  
221 education, the board of education shall within ten (10) days  
222 appoint one (1) appraiser, the board of supervisors shall within  
223 twenty (20) days appoint one (1) appraiser and the two (2)  
224 appraisers so appointed shall within twenty (20) days appoint a  
225 third appraiser whose duty it shall be to appraise the land,  
226 exclusive of buildings and improvements, the title to which is not  
227 held in trust for the public schools, and to file a written report  
228 with each board setting forth their recommendation for the rental

229 value of the land within thirty (30) days. The cost of the  
230 appraisal shall be paid from any available sixteenth section  
231 school funds or other school funds of the district. If no appeal  
232 is taken within twenty (20) days as provided hereunder, the lease  
233 shall be executed in accordance with said recommended rental value  
234 within thirty (30) days of the receipt of the appraisers' report.  
235 In the event any party is aggrieved by the decision of the  
236 appraisers setting forth the appraised rental value, the party so  
237 aggrieved shall be entitled to an appeal to the chancery court in  
238 which the land is located. Such appeal shall be taken within  
239 twenty (20) days following the decision. The chancery court, on  
240 appeal, may review all of the proceedings, may receive additional  
241 evidence, and make findings of fact, as well as conclusions of law  
242 to insure that a fair and reasonable return may be obtained on the  
243 sixteenth section lands or lands in lieu thereof.

244 SECTION 4. Section 29-3-3, Mississippi Code of 1972, is  
245 amended as follows:

246 29-3-3. The board of education may employ one (1) or more  
247 competent persons to ascertain the true condition of the title and  
248 to institute and prosecute, in the chancery court of the county  
249 where the land lies, all necessary suits to establish and confirm  
250 the title to each parcel of such land and to fix the date of the  
251 expiration of any lease of the same. If any person, other than an  
252 individual authorized in Section 29-3-27 to purchase sixteenth  
253 section or lieu lands, claims any of said land in fee simple or  
254 upon any other terms than that of a lease to expire at a fixed  
255 date with absolute reversion to the state in trust, or if the  
256 title to such lands rest in parol by destruction of records or  
257 otherwise, suit shall be instituted at once or as soon as  
258 practicable to test the legality of such claims or to re-establish  
259 the lost record.

260

261 SECTION 5. Section 29-3-11, Mississippi Code of 1972, is



262 amended as follows:

263           29-3-11. It shall likewise be the duty of the board of  
264 education to ascertain whether or not such county has title to all  
265 lieu lands to which it may, by law, be entitled. If it is  
266 determined that such county does not have title to all such lands,  
267 the board of education shall certify the fact to the Secretary of  
268 State who shall institute proper proceedings to secure such lands  
269 for such county unless title to the lieu lands has been conveyed  
270 by a sale authorized under Section 29-3-27.

271           SECTION 6. Section 29-3-25, Mississippi Code of 1972, is  
272 amended as follows:

273           29-3-25. The Secretary of State shall make a report to the  
274 legislature every year, setting forth a statement of all sixteenth  
275 section and lieu lands sold during that year, and shall maintain a  
276 copy of said report within his office.

277           SECTION 7. Section 29-3-41, Mississippi Code of 1972, is  
278 amended as follows:

279           29-3-41. After any parcels of sixteenth section lands have  
280 been classified as hereinabove provided, all land which has been  
281 classified as forest land and which is not now under lease shall  
282 hereafter not be sold or leased. The lands classified as forest  
283 lands which may be under a lease that has a fixed date of  
284 expiration shall not be re-leased when said lease expires; nor  
285 shall the lessee be permitted to cut or remove any timber  
286 therefrom except according to the terms of his lease. Such lands  
287 shall be reserved and kept as forest lands. Provided further,  
288 that the mineral rights in all such lands may be leased for oil,  
289 gas, or mineral purposes, and the board of education may grant  
290 leases to the surface of said lands classified as forest, which  
291 are limited to hunting and fishing rights and activities in  
292 relation thereto, and which shall not extend for a period longer  
293 than fifteen (15) years. It shall be the duty of the board of  
294 education to lease said hunting and fishing rights at public

295 contract after having advertised same for rent in a newspaper  
296 published in said county or, if no newspaper be published in said  
297 county, then in a newspaper having a general circulation therein,  
298 for two (2) successive weeks, the first being at least ten (10)  
299 days prior to said public contract. Said hunting and fishing  
300 rights shall be leased to the person offering the highest annual  
301 rental.

302         Provided that if the board of education receives an  
303 acceptable bid, the most recent holder of said hunting and fishing  
304 rights if it shall have made an offer, shall have the final right  
305 to extend its lease for the term advertised at the annual rental  
306 equal to said highest offer received by the board of education.

307         If no bid acceptable to the board of education is received  
308 after said advertisement, the board of education may, within  
309 ninety (90) days, lease same by private contract for an amount  
310 greater than the highest bid previously rejected.

311         If the board of education determines to lease the land by  
312 private contract, the most recent holder of said hunting and  
313 fishing rights, if it shall have made an offer, shall have the  
314 final right to extend its lease on the same terms and conditions  
315 as those contained in the private contract proposed to be accepted  
316 by the board of education.

317         SECTION 8. Section 29-3-71, Mississippi Code of 1972, is  
318 amended as follows:

319         29-3-71. Sixteenth section lands reserved for the use of  
320 schools, or lands reserved or granted in lieu of or as a  
321 substitute for the sixteenth sections, shall be liable, after the  
322 same shall have been sold or leased, to be taxed as other lands  
323 are taxed \* \* \*. In case of sale thereof for taxes, only the  
324 title of the lessee or his heirs or assigns shall pass by the  
325 sale.

326

327         SECTION 9. Section 29-3-73, Mississippi Code of 1972, is

328 amended as follows:

329           29-3-73. Where any school land, generally known as sixteenth  
330 sections, reserved for the use of schools, or land reserved or  
331 granted in lieu of or substituted for sixteenth sections lies  
332 within or partly within any drainage district created under the  
333 laws of this state, and will be benefited by such drainage  
334 district, such land so benefited shall be liable for its pro rata  
335 share of the costs, expenses, taxes, and assessments relating to  
336 said district as if owned by an individual, and shall be assessed  
337 accordingly, as other lands are assessed. But in case of a sale  
338 of such lands for such taxes or assessments, only the title of the  
339 lessee holding such lands under lease at the time of the sale  
340 shall pass by the sale.

341           If title to any sixteenth section or lieu land lying within a  
342 drainage district is conveyed by a sale authorized under Section  
343 29-3-27, the titleholder of the land shall be liable for the pro  
344 rata share of the costs, expenses, taxes and assessments relating  
345 to the district, and the land shall be assessed accordingly.

346           Where such sixteenth section land, or land taken in lieu  
347 thereof, shall be held by any lessee, whether his lease shall have  
348 heretofore been acquired or shall hereafter be acquired, all such  
349 drainage taxes and assessments accruing thereon during such lease  
350 shall, in the discretion of the board of education, either be paid  
351 by the lessee, his grantees or assigns, or by the board of  
352 education, but the liability for such drainage taxes shall be  
353 fixed by the lease contract when said lands are leased. Where  
354 said lands have been leased by the superintendent of education,  
355 with the consent of the board of education in open session, and  
356 said lease contract provides that the lessee shall pay all such  
357 drainage taxes and assessments, and the lessee has actually  
358 entered upon and occupied said lands as lessee and is recognized  
359 as such, the school district in which said sixteenth section is  
360 located shall not be liable for such drainage taxes on account of

361 the negligence of the secretary in failing to enter the order of  
362 the board approving said lease contract on its minutes. All such  
363 drainage taxes and assessments accruing on any such lands that  
364 have not been sold or are not leased shall be paid by the board of  
365 education of the school district in which such lands are situated,  
366 out of any sixteenth section funds belonging to the township in  
367 which such lands are located, which may be on hand at the time  
368 when such drainage taxes or assessments become due or which may be  
369 thereafter at any time collected or acquired. For the purpose of  
370 paying such drainage taxes and assessments, the board of education  
371 may borrow all money necessary to pay the same. When any such  
372 funds are borrowed as aforesaid, for the purposes aforesaid, the  
373 same shall be repaid out of the first sixteenth section fund  
374 thereafter derived from the sixteenth section lands so taxed and  
375 assessed.

376 SECTION 10. Section 29-3-111, Mississippi Code of 1972, is  
377 amended as follows:

378 29-3-111. All moneys heretofore or hereafter derived from  
379 the leasing of said lands for oil, gas and mineral purposes,  
380 including any bonus or delay rental payable under such leases, and  
381 all moneys derived from the annual payment of rents from the  
382 leasing of said lands for agricultural, residential, commercial,  
383 industrial, grazing or other purposes, or derived as interest upon  
384 loans or investments of principal funds, and all moneys heretofore  
385 or hereafter derived from the sale of sixteenth section or lieu  
386 lands or the sale of timber, may be expended for any of the  
387 purposes authorized by law. In cases where said moneys have been  
388 transferred to the principal fund and it is determined to expend  
389 same for any of the purposes authorized by law, such moneys shall  
390 be transferred to the proper fund for expenditure upon order of  
391 the board of education.

392 SECTION 11. Section 19-3-35, Mississippi Code of 1972, is  
393 amended as follows:

394 19-3-35. The board of supervisors after each meeting shall  
395 have an itemized statement made of allowances, to whom, for what,  
396 and the amounts; a list of all contracts providing for the  
397 expenditure of money and the terms of payment thereof; a statement  
398 of all loans from sixteenth section funds, lieu land funds, and  
399 sinking, and other trust funds, setting forth to whom made, the  
400 amount, and the kind of security approved; a statement or list of  
401 all sales of timber, of all leases upon, including all leases for  
402 oil, gas and minerals upon, sixteenth section or lieu lands  
403 situated in the county or belonging to the county, showing to whom  
404 sold or made, description of land involved, the length of the term  
405 of any such lease, and the consideration therefor; a statement or  
406 list of all sales of sixteenth section or lieu lands situated in  
407 the county or belonging to the county, showing to whom sold, a  
408 description of the land involved and the consideration therefore;  
409 and it shall also publish a recapitulation of all expenditures  
410 according to districts and also the county as a whole, and in such  
411 recapitulation the total expenses for each item shall be listed  
412 for each district, and in the total county recapitulation the  
413 total expended from each item shall be listed and same shall be  
414 published within fifteen (15) days after adjournment in some  
415 newspaper of general circulation published in the county, and if  
416 no such newspaper is published in the county, then in a newspaper  
417 published elsewhere in the state and having a general circulation  
418 in such county. The cost of publishing the same shall be paid for  
419 out of the general fund of the county. The cost of such  
420 publication shall not exceed one-half (1/2) of the rate now fixed  
421 by law for publishing legal notices, and in no event shall the  
422 cost of such publication exceed One Hundred Dollars (\$100.00) in  
423 any one (1) month, save, however, in counties of classes 1 and 2  
424 the board of supervisors may expend an amount not to exceed One  
425 Hundred Seventy-five Dollars (\$175.00) per month for the  
426 publication of said cumulative digest of its proceedings as

427 provided for above. If there be more than one newspaper published  
428 in the county, the board of supervisors shall advertise, as  
429 provided by law, for contracts for publishing such proceedings,  
430 and shall award the contract to the lowest bidder for a period of  
431 two (2) years. If no bid be made for the price above mentioned,  
432 then the proceedings shall be posted at the courthouse door as  
433 hereinafter provided. If there be no newspaper published in such  
434 county, then such proceedings shall be posted at the front  
435 courthouse door.

436 If any member of a board of supervisors or the chancery clerk  
437 shall fail, refuse or neglect to comply with the provisions of  
438 this section, he shall, upon conviction, be guilty of a  
439 misdemeanor and shall be fined not more than Five Hundred Dollars  
440 (\$500.00) for such failure, refusal or neglect for each offense  
441 and, in addition thereto, shall be liable to a penalty of Five  
442 Hundred Dollars (\$500.00), recoverable on his official bond by  
443 suit filed by any county or district attorney or any interested  
444 citizen, upon his official bond.

445 This shall not be construed to repeal Section 19-3-33, and  
446 where the verbatim proceedings are published as therein provided,  
447 this section shall not apply, it being intended hereby to provide  
448 a method of publishing the proceedings of the board of supervisors  
449 in addition to that now provided for by Section 19-3-33. Where  
450 publication is made under Section 19-3-33, this section shall not  
451 be construed so as to require any other and additional  
452 publication, or notice.

453 SECTION 12. This act shall take effect and be in force from  
454 and after the date that the Secretary of State certifies that  
455 House Concurrent Resolution No. \_\_\_\_\_, 1999 Regular Session, has  
456 been ratified by the electorate at the November 1999 General  
457 Election.