

By: Representative Livingston

To: Education

HOUSE BILL NO. 1143
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 29-3-119, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A SCHOOL DISTRICT ENTITLED TO EXPENDABLE SIXTEENTH
3 SECTION TOWNSHIP FUNDS SHALL HAVE TWELVE MONTHS FROM THE END OF
4 THE YEAR IN WHICH THE FUNDS ARE COLLECTED TO ASSERT A CLAIM FOR
5 ITS SHARE OF SUCH FUNDS AGAINST THE CUSTODIAL SCHOOL DISTRICT; TO
6 AMEND SECTION 29-3-121, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
7 FOR PURPOSES OF DIVIDING TOWNSHIP FUNDS, SCHOOL DISTRICTS SHALL
8 BASE THEIR LISTS OF SCHOOL CHILDREN ON THEIR END OF THE FIRST
9 MONTH ENROLLMENT; TO AMEND SECTION 29-3-123, MISSISSIPPI CODE OF
10 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO AMEND
11 SECTION 29-3-81, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL
12 SUPERINTENDENTS TO MAKE THE LEASE FORM FOR SIXTEENTH SECTION
13 SCHOOL LAND LEASES AVAILABLE FOR INSPECTION IN THE OFFICE OF THE
14 SUPERINTENDENT; AND FOR RELATED PURPOSES.

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

16 SECTION 1. Section 29-3-119, Mississippi Code of 1972, is
17 amended as follows:

18 29-3-119. (1) Where there is only one (1) school district
19 in the township to which the available funds belong, such school
20 district shall be entitled to the whole of such funds, and the
21 funds shall be handled in the manner * * * set forth in this
22 section.

23 (2) In cases where a township having available funds is
24 occupied by two (2) or more school districts or parts of school
25 districts, the available funds of the township shall be divided
26 between the districts lying wholly or partly within such township
27 in proportion to the number of * * * children residing in that
28 portion of each district which lies within such township and who
29 are * * * enrolled in the schools of that district, as compared to
30 the total number of * * * children residing in such township
31 and * * * enrolled in the schools of all districts lying wholly or
32 partly in that township. For such purpose, annual lists shall be

33 made of all * * * children who reside in the township and who
34 are * * * enrolled in the schools of each district lying wholly or
35 partly in that township, which lists shall be made in accordance
36 with Section 29-3-121. * * * Municipal separate school districts
37 shall be entitled to their pro rata part of such funds in the same
38 manner as other school districts.

39 (3) * * * Where there is no * * * child residing in a
40 township in which funds are available for distribution and where
41 one or more school districts embrace all or part of any such
42 township, such funds shall be distributed in the following manner:

43 (a) Where any such township is located wholly within
44 one (1) school district, the available township funds shall be
45 distributed to that school district.

46 (b) Where any such township having such funds available
47 for distribution is located either in whole or in part in two (2)
48 or more school districts, such available funds shall be
49 distributed to the two (2) or more school districts in proportion
50 to the number of * * * children residing in that part of the two
51 (2) or more school districts which is common or coextensive to
52 each of the school districts, distribution being made on the basis
53 of the enrollment * * * of the school children in their respective
54 school districts.

55 (4) The school district having jurisdiction and control of
56 the sixteenth section or lieu lands in the township (the
57 "custodial school district") shall pay to each other school
58 district lying wholly or partly in the township which is entitled
59 to a part of the township funds the district's pro rata share of
60 the available township funds, as determined from the lists of
61 children prepared pursuant to Section 29-3-121, promptly after
62 collecting such funds. The custodial school district shall make
63 its books and records pertaining to the income and funds of any
64 shared township available for inspection and copying to all other
65 school districts sharing in the income from the township upon
66 reasonable notice of such request. Any district entitled to such
67 funds which is not paid promptly may assert a claim against the
68 custodial school district for its share of the funds not later
69 than twelve (12) months from the end of the calendar year in which

70 the custodial school district collected such funds.

71 SECTION 2. Section 29-3-121, Mississippi Code of 1972, is
72 amended as follows:

73 29-3-121. It shall be the duty of the superintendent of each
74 school district to make or cause to be made annual lists of the
75 children enrolled in the schools of such district and who reside
76 in such district, which lists shall be based upon the end of the
77 first month enrollment required to be reported to the State
78 Department of Education for the then current school year. The
79 lists shall be made separately as to the townships in which such
80 children reside. Such lists shall be filed with the * * *
81 superintendent of the custodial school district on or before
82 December 31 of each year, and the lists shall be used in making
83 the division of the available funds of each township during the
84 ensuing calendar year, as provided by Section 29-3-119. The
85 superintendent of the custodial school district shall make such
86 lists available, upon request, to each school district sharing in
87 the revenues of the township. Any school district failing to
88 timely provide the list to the superintendent of the custodial
89 school district shall forfeit its right to such funds unless the
90 school board of the custodial school district and the school board
91 of the other district or districts entitled to such funds have
92 executed a written agreement providing for the distribution of
93 such funds in a manner agreed upon by the school districts. All
94 such lists shall be retained and preserved by the * * *
95 superintendent of the custodial school district as a public
96 record. Such lists shall not be made, however, as to any township
97 which is wholly within one (1) school district. If any
98 superintendent of a school district participating in the division
99 of such funds shall challenge in writing the accuracy of any such
100 list, the Office of the State Auditor, upon receipt of such
101 challenge, may, in its discretion, order and arrange for and
102 supervise a recount of the children enrolled in the schools of

103 such district and who reside in such district. All costs incurred
104 in conducting the recount shall be borne by the challenging
105 district and the district in which the recount is conducted on a
106 pro rata basis, as determined from the results of the recount.
107 Such costs may be paid from the school district's share of the
108 available township funds. Such recount, when obtained, shall
109 supersede the original list for the purposes of Sections 29-3-115
110 through 29-3-123.

111 SECTION 3. Section 29-3-123, Mississippi Code of 1972, is
112 amended as follows:

113 29-3-123. It shall be unlawful for any township funds to be
114 expended by the custodial school district or paid over to school
115 districts as provided in Sections 29-3-115 through 29-3-123, where
116 there are two (2) or more school districts or parts of school
117 districts in the township until lists of the * * * children
118 residing in each district or part of district within such
119 township * * * who are * * * enrolled in the schools thereof * * *
120 have been made as required under Section 29-3-121. Such lists
121 shall be made annually before any payment of the expendable
122 sixteenth section revenues shall be made to school districts as
123 provided in * * * Sections 29-3-115 through 29-3-123. Any member
124 of a local school board * * * or any * * * superintendent of a
125 school district who shall order the payment of such funds or who
126 shall issue a pay certificate therefor in violation of the
127 provisions of this section shall be liable upon his bond for the
128 amount so paid.

129 Nothing in * * * Sections 29-3-115 through 29-3-123 shall
130 repeal or restrict the expenditure of funds by the Board of
131 Supervisors of Claiborne County under Chapters 661, 662 and 663,
132 Laws of 1950; or the expenditure by the Board of Supervisors of
133 Adams County of any funds under Chapter 615, Laws of 1950.

134 SECTION 4. Section 29-3-81, Mississippi Code of 1972, is
135 amended as follows:

136 29-3-81. (1) Sixteenth section lands, or any lands granted
137 in lieu of sixteenth section lands, classified as agricultural may
138 be leased for the cultivation of rice, or pasturage, for a term
139 not to exceed ten (10) years. All other sixteenth section or lieu
140 lands classified as agricultural may be leased for a term not
141 exceeding five (5) years. All leases of land classified as
142 agricultural shall be for a term to expire on December 31. Except
143 in those cases when the holder of an existing lease on
144 agricultural land elects to re-lease such land, as authorized
145 under this subsection, it shall be the duty of the board of
146 education to lease the sixteenth section or lieu lands at public
147 contract after having advertised such lands for rent in a
148 newspaper published in the county or, if no newspaper is published
149 in the county, then in a newspaper having a general circulation
150 therein, for two (2) successive weeks, the first being at least
151 ten (10) days before the public contract. The lease form and the
152 terms so prescribed shall be on file and available for inspection
153 in the office of the superintendent from and after the public
154 notice by advertisement and until finally accepted by the board.
155 However, before the expiration of an existing lease of land
156 classified as agricultural land, the board of education, in its
157 discretion and subject to the prior approval of the Secretary of
158 State, may authorize the holder of the existing lease to re-lease
159 the land, on no more than one (1) occasion, for a term not to
160 exceed five (5) years and for a rental amount that is no less than
161 one hundred twenty percent (120%) of the total rental value of the
162 existing lease. If the holder of the existing lease elects not to
163 re-lease the land, the board of education shall publish an
164 advertisement of agricultural land for rent which publication
165 shall be not more than four (4) months before the expiration of
166 the term of an existing lease of the land. An election by the
167 holder of the existing lease not to re-lease the land shall not
168 preclude his participation in the bidding process established

169 under this section. Subject to the classification of the land,
170 the board of education shall enter into a new lease on
171 agricultural land before the expiration of an existing lease on
172 the same land, and the new lease shall take effect on the day
173 immediately following the day on which the existing lease expires.

174 The board of education may require bidders to furnish bond or
175 submit evidence of financial ability.

176 Bids received by the board of education in response to the
177 advertisement shall be opened at a regular or special meeting of
178 the board. The board of education, at its option, may reject all
179 bids or accept the highest and best bid received in response to
180 the advertisement, or the board of education may hold an auction
181 among those who submitted bids in response to the advertisement.
182 If the board of education elects to hold an auction, no bidder
183 shall be granted any preference. The opening bid at the auction
184 shall be highest bid received in response to the advertisement.

185 (2) (a) If the board of education receives an acceptable
186 bid in response to the advertisement and elects not to hold an
187 auction among those submitting bids, then the holder of the
188 existing lease may submit a second bid in an amount not less than
189 one hundred five percent (105%) of the highest acceptable bid
190 received if the holder of the existing lease: (i) submitted a bid
191 in response to the advertisement; and (ii) constructed or made
192 improvements on the leasehold premises after receiving approval of
193 the board of education during the term of the existing lease. For
194 purposes of this subsection, the term "improvements" shall not
195 include any work or items that are done customarily on an annual
196 basis in the preparing, planting, growing, cultivating or
197 harvesting of crops or other farm products.

198 (b) If the holder of the existing lease elects to
199 submit a second bid, the board of education shall hold an auction
200 among those who submitted bids in response to the advertisement.
201 The opening bid at the auction shall be the second bid of the

202 holder of the existing lease. However, no leaseholder may submit
203 a second bid if: (i) any rent, taxes or other payment required
204 under his lease are past due; or (ii) he is otherwise in default
205 of any term or provision of the lease and such default has not
206 been corrected or cured to the satisfaction of the board of
207 education after more than thirty (30) days' notice to the
208 leaseholder of the default.

209 (c) If an auction is held, the auction may be conducted
210 at the meeting at which bids are opened or at a subsequent regular
211 or special meeting. The board shall announce the time and place
212 of the auction at the meeting at which bids are opened, and no
213 further notice of the auction is required.

214 (d) If no bid acceptable to the board of education is
215 received after the advertisement or at auction, the board of
216 education may lease, within ninety (90) days, the lands by private
217 contract for an amount greater than the highest bid previously
218 rejected in order to acquire a fair rental value for the lands.
219 If no bids are received in response to the advertisement, the
220 board of education may negotiate a private contract for a fair
221 rental value, and the term of such contract shall expire on
222 December 31 of the same calendar year in which the contract is
223 made. The board of education may take the notes for the rent and
224 attend to their collection. The board has the right and remedies
225 for the security and collection of such rents given by law to the
226 agricultural landlords.

227 (e) If an existing lease is terminated before the
228 expiration of the term originally set therein, upon finding that
229 immediate action is necessary to prevent damage or loss to growing
230 crops or to prevent loss of opportunity to lease the land for the
231 current growing season, the board of education may negotiate a
232 private contract for a fair rental value, and the term of such
233 lease shall expire on December 31 of the same calendar year in
234 which the contract is made.

235 (3) Any holder of a lease on agricultural land that: (a)
236 was granted before July 1, 1997; and (b) has an expiration date on
237 or after April 1 but before December 31 during the final year of
238 the lease term, may extend the term of such lease to December 31
239 next following the expiration date originally provided for in the
240 lease. If such lease is extended, the rent for the period from
241 the original expiration date in the lease to December 31 next
242 following the original expiration date shall be one hundred five
243 percent (105%) of the annual rent provided in the existing lease
244 prorated over the period of the lease extension. At the
245 expiration of the extended lease term or at the expiration of the
246 original lease term if the lease holder does not extend such
247 lease, the land shall be offered for lease as provided in
248 subsections (1) and (2) of this section.

249 SECTION 5. This act shall take effect and be in force from
250 and after July 1, 1999.