

By: Representative Moak

To: Education

HOUSE BILL NO. 434

1 AN ACT TO AMEND SECTION 29-3-27, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE SALE OF SIXTEENTH SECTION OR LIEU LAND TO CERTAIN
 3 RETIRED AND DISABLED VETERANS OF THE UNITED STATES ARMED FORCES;
 4 TO AMEND SECTION 29-3-29, MISSISSIPPI CODE OF 1972, TO REQUIRE
 5 CERTAIN ACTIONS BY THE BOARD OF EDUCATION AN THE COUNTY BOARD OF
 6 SUPERVISORS BEFORE SIXTEENTH SECTION OR LIEU LANDS MAY BE SOLD TO
 7 THOSE VETERANS; TO AMEND SECTIONS 29-3-1, 29-3-3, 29-3-11,
 8 29-3-25, 29-3-41, 29-3-71, 29-3-73 AND 29-3-111, MISSISSIPPI CODE
 9 OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION 19-3-35,
 10 MISSISSIPPI CODE OF 1972, TO REQUIRE THE COUNTY BOARD OF
 11 SUPERVISORS TO PUBLISH A LIST OF ALL SIXTEENTH SECTION OR LIEU
 12 LANDS SOLD; AND FOR RELATED PURPOSES.

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

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

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

21 (a) For industrial development, * * * to any persons,
 22 firms, or corporations in fee simple, or any lesser estate * * *,
 23 for a purchase price not less than the fair market value thereof;
 24 or

25 (b) To any legal resident of the State of Mississippi
 26 who is a retired veteran of active duty service in the Armed
 27 Forces of the United States or a veteran rated as having one
 28 hundred percent (100%) permanent service-connected disability by
 29 the Veterans Administration, and who has continuously leased,
 30 improved and actually occupied the specific tract of land for no
 31 less than ten (10) consecutive years as his primary residence.

32 Any sale authorized pursuant to this paragraph must be in fee



33 simple or any lesser estate for a purchase price not less than the
34 fair market value. In no event may a tract consisting of more
35 than five (5) acres be sold to one (1) person, and no person may
36 own more than one (1) tract at any time.

37 When any such sale is made, the deed shall be executed in the
38 name of the State of Mississippi by the superintendent of
39 the * * * board of education.

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

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

64 **SECTION 2.** Section 29-3-29, Mississippi Code of 1972, is
65 amended as follows:



66 29-3-29. Before any sixteenth section school land or land
67 granted in lieu thereof may be sold or leased for industrial
68 development or sold to a veteran of the Armed Forces of the United
69 States under * * * this chapter, the board of education
70 controlling such land shall first determine that such sale or
71 lease will be fair market value. In the determination of the fair
72 market value of said land the comparative sales method shall be
73 used, and the highest and best use of said sixteenth section lands
74 shall be determined on the basis of finding that said land shall
75 be susceptible to any use that comparative land in private
76 ownership may be used, * * * that the acreage to be sold or leased
77 is not in excess of the amount of land authorized in Section
78 29-3-37 or an amount reasonably required for immediate use and for
79 such future expansion as may be reasonably anticipated, * * * that
80 such sale or lease will be beneficial to and in the best interest
81 of the schools of the district for which said land is held and if
82 sold or leased for industrial development, that there will be
83 prompt and substantial industrial development on, in, or under the
84 land after the sale or lease. All of said findings, including the
85 amount of the sale price or gross rental for said land, shall be
86 spread on the minutes of the board of education. Also, if the
87 board of education proposes to sell said land, said board shall
88 first enter into a contract or obtain a legal option to purchase,
89 for a specified price not in excess of fair market value, other
90 land in the county of acreage of equivalent fair market value, and
91 such contract or option shall be spread on the minutes of said
92 board. However, not more than one hundred (100) acres in any one
93 (1) sixteenth section school lands in any county may be sold under
94 this chapter for the purpose of being made an industrial park or a
95 part of such industrial park, provided the provisions of this
96 section and Sections 57-5-1 and 57-5-23 are fully complied with.

97 A certified copy of the resolution or order of the board of
98 education, setting out the foregoing findings, together with a



99 certified copy of the order approving and setting out the terms of
100 the contract or option to purchase other lands where a sale of
101 land is proposed * * *, shall be forwarded to the county board of
102 supervisors, which board shall make an independent investigation
103 of the proposed sale or lease and of the proposed purchase of
104 other land. If the land is being sold or leased for industrial
105 development, an application to the Mississippi Development
106 Authority, for the certificate authorizing the sale or lease must
107 be forwarded to the county board of supervisors in addition to the
108 other items required in this section.

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

114 If the said county board of supervisors shall not concur in
115 the findings of the board of education, or shall find that the
116 proposed sale or lease will not be in the best interest of the
117 schools of the district, then it may, by resolution or order,
118 disapprove the proposed sale or lease, and such action shall be
119 final.

120 There shall be reserved all minerals in, on, and under any
121 lands conveyed under the provisions of this section.

122 However, * * * in any county bordering on the State of Alabama,
123 traversed by the Tombigbee River, in which U.S. Highway 82
124 intersects U.S. Highway 45 and in which is situated a state
125 supported institution of higher learning, upon the sale of any
126 sixteenth section lands for industrial purposes as provided by
127 law, the board of education, the superintendent of education and
128 the Mississippi Development Authority, may sell and convey all
129 minerals except oil, gas, sulphur and casinghead gas on, in and
130 under the said sixteenth section lands so sold for industrial
131 purposes. Said oil, gas, sulphur and casinghead gas shall be



132 reserved together with such rights of use, ingress and egress as
133 shall not unreasonably interfere with the use of the lands by the
134 purchaser. Prior written approval for such use, ingress and
135 egress, shall be obtained from the surface owner or, if such
136 approval is unreasonably withheld, may be obtained from the
137 chancery court of the county in which said land is located.

138 If the land is being sold or leased for industrial
139 development, certified copies of the resolutions or orders of the
140 board of supervisors and of the board of education and of the
141 application to the Mississippi Development Authority shall be
142 transmitted to the county superintendent of education, if there be
143 one in the county, who, if he approves the proposed sale or lease,
144 shall so certify and forward same to the Mississippi Development
145 Authority. If there be no county superintendent of education in
146 the county, then the board of education whose district embraces
147 the entire county shall so certify and transmit said copies to the
148 Mississippi Development Authority for further action.

149 Upon receipt of the aforesaid application and certified
150 copies of the * * * resolution and orders, the Mississippi
151 Development Authority shall make investigation to determine
152 whether or not the proposed sale or lease of the land for
153 industrial development will promote prompt and substantial
154 industrial development thereon, therein, or thereunder. If the
155 authority finds that such sale or lease will promote prompt and
156 substantial industrial development * * *, and further finds that
157 the person, firm or corporation who proposes to establish said
158 industry is financially responsible, and that the acreage to be
159 sold or leased is not in excess of the amount of land reasonably
160 required for immediate use and for such future expansion as may be
161 reasonably anticipated, then the authority, in its discretion, may
162 issue a certificate to the board of education of said district so
163 certifying, and said certificate shall be the authority for the
164 board of education to enter into the proposed sale or lease. If



165 the Mississippi Development Authority does not so find, then it
166 shall decline to issue said certificate which action shall be
167 final.

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



198 education who may proceed forthwith to sell or lease said land in
199 accordance with the proposition so submitted to the electors. If
200 less than two-thirds (2/3) of those voting in such special
201 election vote in favor of the said sale or lease, then said land
202 shall not be sold or leased.

203 The board of education shall * * * be required, prior to
204 passing of a resolution expressing its intent to sell the land for
205 industrial development or to a veteran of the Armed Forces of the
206 United States, to publish a notice of intent to sell said land for
207 three (3) consecutive weeks in a newspaper published in said
208 county or, if there be none, in a newspaper having a general
209 circulation in said county, and to post three (3) notices thereof
210 in three (3) public places in said county, one (1) of which shall
211 be at the courthouse, for said time. If within the period of
212 three (3) weeks following the first publication of said intent, a
213 petition signed by twenty percent (20%) of the qualified electors
214 of said county shall be filed with the board of supervisors
215 requesting an election concerning the sale, then an election shall
216 be called as hereinabove provided.

217 **SECTION 3.** Section 29-3-1, Mississippi Code of 1972, is
218 amended as follows:

219 29-3-1. (1) Sixteenth section school lands, or lands granted
220 in lieu thereof, constitute property held in trust for the benefit
221 of the public schools and must be treated as such. The board of
222 education under the general supervision of the Secretary of State,
223 shall have control and jurisdiction of said school trust lands and
224 of all funds arising from any disposition thereof heretofore or
225 hereafter made. It shall be the duty of the board of education to
226 manage the school trust lands and all funds arising therefrom as
227 trust property. Accordingly, the board shall assure that adequate
228 compensation is received for all sales and uses of the trust
229 lands, except for uses by the public schools.



230 (2) In the event the board of supervisors declines to approve
231 the rental value of the land set by the board of education, the
232 board of education shall within ten (10) days appoint one (1)
233 appraiser, the board of supervisors shall within twenty (20) days
234 appoint one (1) appraiser and the two (2) appraisers so appointed
235 shall within twenty (20) days appoint a third appraiser whose duty
236 it shall be to appraise the land, exclusive of buildings and
237 improvements, the title to which is not held in trust for the
238 public schools, and to file a written report with each board
239 setting forth their recommendation for the rental value of the
240 land within thirty (30) days. The cost of the appraisal shall be
241 paid from any available sixteenth section school funds or other
242 school funds of the district. If no appeal is taken within twenty
243 (20) days as provided hereunder, the lease shall be executed in
244 accordance with said recommended rental value within thirty (30)
245 days of the receipt of the appraisers' report. In the event any
246 party is aggrieved by the decision of the appraisers setting forth
247 the appraised rental value, the party so aggrieved shall be
248 entitled to an appeal to the chancery court in which the land is
249 located. Such appeal shall be taken within twenty (20) days
250 following the decision. The chancery court, on appeal, may review
251 all of the proceedings, may receive additional evidence, and make
252 findings of fact, as well as conclusions of law to insure that a
253 fair and reasonable return may be obtained on the sixteenth
254 section lands or lands in lieu thereof.

255 **SECTION 4.** Section 29-3-3, Mississippi Code of 1972, is
256 amended as follows:

257 29-3-3. The board of education may employ one or more
258 competent persons to ascertain the true condition of the title and
259 to institute and prosecute, in the chancery court of the county
260 where the land lies, all necessary suits to establish and confirm
261 the title to each parcel of such land and to fix the date of the
262 expiration of any lease of the same. If any person other than an



263 individual authorized in Section 29-3-27 to purchase sixteenth
264 section or lieu lands claims any of the land in fee simple or upon
265 any other terms than that of a lease to expire at a fixed date
266 with absolute reversion to the state in trust, or if the title to
267 such lands rest in parol by destruction of records or otherwise,
268 suit shall be instituted at once or as soon as practicable to test
269 the legality of such claims or to reestablish the lost record.

270 **SECTION 5.** Section 29-3-11, Mississippi Code of 1972, is
271 amended as follows:

272 29-3-11. It shall likewise be the duty of the board of
273 education to ascertain whether or not such county has title to all
274 lieu lands to which it may, by law, be entitled. If it is
275 determined that such county does not have title to all such lands,
276 the board of education shall certify the fact to the Secretary of
277 State who shall institute proper proceedings to secure such lands
278 for such county unless title to the lieu lands has been conveyed
279 by a sale authorized under Section 29-3-27.

280 **SECTION 6.** Section 29-3-25, Mississippi Code of 1972, is
281 amended as follows:

282 29-3-25. The Secretary of State shall make a report to the
283 Legislature every year, setting forth a statement of all sixteenth
284 section and lieu lands sold during that year, and shall maintain a
285 copy of the report within his office.

286 **SECTION 7.** Section 29-3-41, Mississippi Code of 1972, is
287 amended as follows:

288 29-3-41. After any parcels of sixteenth section lands have
289 been classified as hereinabove provided, all land which has been
290 classified as forest land and which is not now under lease
291 shall * * * not be sold or leased. The lands classified as forest
292 lands which may be under a lease that has a fixed date of
293 expiration shall not be re-leased when said lease expires; nor
294 shall the lessee be permitted to cut or remove any timber
295 therefrom except according to the terms of his lease. Such lands



296 shall be reserved and kept as forest lands. Provided further,
297 that the mineral rights in all such lands may be leased for oil,
298 gas, or mineral purposes, and the board of education may grant
299 leases to the surface of said lands classified as forest, which
300 are limited to hunting and fishing rights and activities in
301 relation thereto, and which shall not extend for a period longer
302 than fifteen (15) years. It shall be the duty of the board of
303 education to lease said hunting and fishing rights at public
304 contract after having advertised same for rent in a newspaper
305 published in said county or, if no newspaper be published in said
306 county, then in a newspaper having a general circulation therein,
307 for two (2) successive weeks, the first being at least ten (10)
308 days prior to said public contract. Said hunting and fishing
309 rights shall be leased to the person offering the highest annual
310 rental.

311 * * * If the board of education receives an acceptable bid,
312 the most recent holder of said hunting and fishing rights if it
313 shall have made an offer, shall have the final right to extend its
314 lease for the term advertised at the annual rental equal to said
315 highest offer received by the board of education.

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

320 If the board of education determines to lease the land by
321 private contract, the most recent holder of said hunting and
322 fishing rights, if it shall have made an offer, shall have the
323 final right to extend its lease on the same terms and conditions
324 as those contained in the private contract proposed to be accepted
325 by the board of education.

326 **SECTION 8.** Section 29-3-71, Mississippi Code of 1972, is
327 amended as follows:



328 29-3-71. Sixteenth section lands reserved for the use of
329 schools, or lands reserved or granted in lieu of or as a
330 substitute for the sixteenth sections, shall be liable, after the
331 same shall have been sold or leased, to be taxed as other lands
332 are taxed. In case of sale thereof for taxes, only the title of
333 the lessee or his heirs or assigns shall pass by the sale.

334 **SECTION 9.** Section 29-3-73, Mississippi Code of 1972, is
335 amended as follows:

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

348 If title to any sixteenth section or lieu land lying within a
349 drainage district is conveyed by a sale authorized under Section
350 29-3-27, the title holder of the land shall be liable for the pro
351 rata share of the costs, expenses, taxes and assessments relating
352 to the district, and the land must be assessed accordingly.

353 Where such sixteenth section land, or land taken in lieu
354 thereof, shall be held by any lessee, whether his lease shall have
355 heretofore been acquired or shall hereafter be acquired, all such
356 drainage taxes and assessments accruing thereon during such lease
357 shall, in the discretion of the board of education, either be paid
358 by the lessee, his grantees or assigns, or by the board of
359 education, but the liability for such drainage taxes shall be
360 fixed by the lease contract when said lands are leased. Where



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

383 **SECTION 10.** Section 29-3-111, Mississippi Code of 1972, is
384 amended as follows:

385 29-3-111. All monies heretofore or hereafter derived from
386 the leasing of said lands for oil, gas and mineral purposes,
387 including any bonus or delay rental payable under such leases, and
388 all monies derived from the annual payment of rents from the
389 leasing of said lands for agricultural, residential, commercial,
390 industrial, grazing or other purposes, or derived as interest upon
391 loans or investments of principal funds, and all monies heretofore
392 or hereafter derived from the sale of sixteenth section or lieu
393 lands or the sale of timber, may be expended for any of the



394 purposes authorized by law. In cases where said monies have been
395 transferred to the principal fund and it is determined to expend
396 same for any of the purposes authorized by law, such monies shall
397 be transferred to the proper fund for expenditure upon order of
398 the board of education.

399 **SECTION 11.** Section 19-3-35, Mississippi Code of 1972, is
400 amended as follows:

401 19-3-35. The board of supervisors after each meeting shall
402 have an itemized statement made of allowances, to whom, for what,
403 and the amounts; a list of all contracts providing for the
404 expenditure of money and the terms of payment thereof; a statement
405 of all loans from sixteenth section funds, lieu land funds, and
406 sinking, and other trust funds, setting forth to whom made, the
407 amount, and the kind of security approved; a statement or list of
408 all sales of timber, of all leases upon, including all leases for
409 oil, gas and minerals upon, sixteenth section or lieu lands
410 situated in the county or belonging to the county, showing to whom
411 sold or made, description of land involved, the length of the term
412 of any such lease, and the consideration therefor; a statement or
413 list of all sales of sixteenth section or lieu lands situated in
414 the county or belonging to the county, showing to whom sold, a
415 description of the land involved and the consideration therefor;
416 and it shall also publish a recapitulation of all expenditures
417 according to districts and also the county as a whole, and in such
418 recapitulation the total expenses for each item shall be listed
419 for each district, and in the total county recapitulation the
420 total expended from each item shall be listed and same shall be
421 published within fifteen (15) days after adjournment in some
422 newspaper of general circulation published in the county, and if
423 no such newspaper is published in the county, then in a newspaper
424 published elsewhere in the state and having a general circulation
425 in such county. The cost of publishing the same shall be paid for
426 out of the general fund of the county. The cost of such



427 publication shall not exceed one-half (1/2) of the rate now fixed
428 by law for publishing legal notices, and in no event shall the
429 cost of such publication exceed one hundred dollars (\$100.00) in
430 any one (1) month, save, however, in counties of Classes 1 and 2
431 the board of supervisors may expend an amount not to exceed one
432 hundred seventy-five dollars (\$175.00) per month for the
433 publication of said cumulative digest of its proceedings as
434 provided for above. If there be more than one newspaper published
435 in the county, the board of supervisors shall advertise, as
436 provided by law, for contracts for publishing such proceedings,
437 and shall award the contract to the lowest bidder for a period of
438 two (2) years. If no bid be made for the price above mentioned,
439 then the proceedings shall be posted at the courthouse door as
440 hereinafter provided. If there be no newspaper published in such
441 county, then such proceedings shall be posted at the front
442 courthouse door.

443 **SECTION 12.** This act shall take effect and be in force from
444 and after ratification by the electorate of the amendment to the
445 Mississippi Constitution of 1890 set forth in House Concurrent
446 Resolution No. ____, 2003 Regular Session.

