

By: Senator(s) Thames

To: Education

SENATE BILL NO. 2697

1 AN ACT TO CREATE THE MISSISSIPPI CELEBRITY HONORARY OR
 2 MEMORIAL FORESTLAND PROGRAM FOR THE BENEFIT OF PUBLIC EDUCATION;
 3 TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF EDUCATION TO PUBLICIZE
 4 AND ENLIST DONORS UNDER THE PROGRAM; TO PROVIDE THAT SUCH LANDS
 5 WILL BE HELD IN TRUST FOR SUCH PURPOSE; TO PROVIDE THAT SUCH LANDS
 6 WILL BE MANAGED FOR THE BENEFIT OF PUBLIC SCHOOLS IN THE MANNER
 7 THAT SIXTEENTH SECTION LANDS ARE MANAGED; TO AMEND SECTION
 8 7-11-13, MISSISSIPPI CODE OF 1972, TO REQUIRE THE SECRETARY OF
 9 STATE TO KEEP A SEPARATE RECORD OF SUCH LANDS; TO AMEND SECTION
 10 29-1-3, MISSISSIPPI CODE OF 1972, TO GRANT SUPERVISORY POWER OVER
 11 SUCH LANDS TO THE SECRETARY OF STATE; TO AMEND SECTION 29-3-1,
 12 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE BOARD OF EDUCATION
 13 OF THE DISTRICT DESIGNATED AS BENEFICIARY OF SUCH LAND SHALL
 14 MANAGE SUCH LANDS; TO AMEND SECTION 1-3-45, MISSISSIPPI CODE OF
 15 1972, TO PROVIDE THAT FORESTLAND MANAGEMENT REQUIREMENTS AND
 16 DUTIES OF THE BOARD OF EDUCATION AND THE STATE FORESTRY COMMISSION
 17 SHALL APPLY TO LANDS DONATED UNDER THE MISSISSIPPI CELEBRITY
 18 HONORARY OR MEMORIAL FORESTLAND PROGRAM; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** (1) There is hereby created the Mississippi
 21 Celebrity Honorary or Memorial Forestland Program for the Benefit
 22 of Public Education.

23 (2) Under this program, celebrities with Mississippi ties
 24 may donate lands to the state to be held in trust for the benefit
 25 of public education in any public school district designated to be
 26 the beneficiary by the celebrity.

27 (3) The Legislature shall name lands donated under this
 28 program as honorary or memorial forestland in the name of the
 29 celebrity.

30 (4) All requirements for managing sixteenth section lands in
 31 trust for education shall apply to lands donated under this
 32 program.

33 (5) The State Superintendent of Education, acting through
 34 the State Department of Education, shall publicize this program
 35 and develop a program to enlist celebrity donations.

36 (6) The Governor shall appoint an honorary state chairman of
37 the program to publicize the program and to enlist donor
38 celebrities.

39 **SECTION 2.** Section 7-11-13, Mississippi Code of 1972, is
40 amended as follows:

41 7-11-13. All state land records, all levee land records and
42 all other land records, except assessment rolls, shall be kept in
43 the office of the Secretary of State and be held by him.

44 The Secretary of State shall keep a record of all state-owned
45 lands in a separate and well bound book. He is authorized and
46 empowered to request of any board, commission, department or other
47 state agency having under its jurisdiction state-owned lands the
48 records herein required to be recorded in his office, and it shall
49 be the duty of any state agency to comply with the request of the
50 Secretary of State.

51 The Secretary of State shall keep a separate record of all
52 lands donated to the state for the benefit of public education
53 under the Mississippi Celebrity Honorary or Memorial Forestland
54 Program for the benefit of public education.

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

57 29-1-3. (1) The Land Commissioner has a supervisory power
58 over sixteenth section lands or lands granted in lieu thereof; and
59 he shall supply to the members of the Legislature, the boards of
60 supervisors, the boards of education and other interested persons
61 information concerning those lands and make such recommendations
62 and suggestions as he may deem proper.

63 (2) The Land Commissioner shall prepare a biennial report
64 which shall include the terms of all leases on sixteenth section
65 school lands, or lands granted in lieu thereof, the condition of
66 the title to all such lands and the current income from all
67 sources earned by such lands, and he shall maintain such report in
68 his office for examination by any interested person.

69 (3) Any state, county or municipal official shall supply
70 annually to the State Land Commissioner such sixteenth section
71 management information as shall be requested by the commissioner.
72 Such information shall include, but not be limited to, the
73 following items pertaining to all new leases, rights-of-way,
74 easements and sales of school trust lands: the number of acres in
75 each parcel; the consideration paid for each transaction; the
76 length and expiration of each lease, easement, or right-of-way;
77 and the use to be made of each parcel. The applicable public
78 official shall likewise report information requested by the State
79 Land Commissioner upon principal fund investments. Such
80 information shall include, but not be limited to, the following
81 items: amounts of monies invested; dates of investment; where
82 invested; form of investment; rate of return of each investment;
83 and the amount of revenue earned upon each investment.

84 The action of mandamus shall lie as is provided under Section
85 29-3-9 to compel the transmittal of information under this
86 subsection by any public official to the best of his knowledge and
87 belief.

88 (4) (a) The Land Commissioner shall have supervisory power
89 over all lands donated for the benefit of public education under
90 the Mississippi Celebrity Honorary or Memorial Forestland Program.

91 (b) All of the requirements of this section shall apply
92 to the donated lands.

93 **SECTION 4.** Section 29-3-1, Mississippi Code of 1972, is
94 amended as follows:

95 29-3-1. (1) Sixteenth section school lands, or lands
96 granted in lieu thereof, constitute property held in trust for the
97 benefit of the public schools and must be treated as such. The
98 Board of Education, under the general supervision of the State
99 Land Commissioner, shall have control and jurisdiction of said
100 school trust lands and of all funds arising from any disposition
101 thereof heretofore or hereafter made. It shall be the duty of the

102 Board of Education to manage the school trust lands and all funds
103 arising therefrom as trust property. Accordingly, the board shall
104 assure that adequate compensation is received for all uses of the
105 trust lands, except for uses by the public schools.

106 (2) In the event the board of supervisors declines to
107 approve the rental value of the land set by the Board of
108 Education, the Board of Education shall within ten (10) days
109 appoint one (1) appraiser, the board of supervisors shall within
110 twenty (20) days appoint one (1) appraiser and the two (2)
111 appraisers so appointed shall within twenty (20) days appoint a
112 third appraiser whose duty it shall be to appraise the land,
113 exclusive of buildings and improvements, the title to which is not
114 held in trust for the public schools, and to file a written report
115 with each board setting forth their recommendation for the rental
116 value of the land within thirty (30) days. The cost of the
117 appraisal shall be paid from any available sixteenth section
118 school funds or other school funds of the district. If no appeal
119 is taken within twenty (20) days as provided hereunder, the lease
120 shall be executed in accordance with said recommended rental value
121 within thirty (30) days of the receipt of the appraisers' report.
122 In the event any party is aggrieved by the decision of the
123 appraisers setting forth the appraised rental value, the party so
124 aggrieved shall be entitled to an appeal to the chancery court in
125 which the land is located. Such appeal shall be taken within
126 twenty (20) days following the decision. The chancery court, on
127 appeal, may review all of the proceedings, may receive additional
128 evidence, and make findings of fact, as well as conclusions of law
129 to insure that a fair and reasonable return may be obtained on the
130 sixteenth section lands or lands in lieu thereof.

131 (3) (a) The Board of Education, under the general
132 supervision of the State Land Commissioner, shall have control and
133 jurisdiction over lands donated under the Mississippi Celebrity

134 Honorary or Memorial Forestland Program and designated for the
135 benefit of that school district.

136 (b) The duties, obligations and responsibilities of the
137 Board of Education related to sixteenth section lands under this
138 section shall apply to such donated lands.

139 **SECTION 5.** Section 29-3-45, Mississippi Code of 1972, is
140 amended as follows:

141 29-3-45. (1) (a) The Board of Education shall by order
142 placed upon its minutes, enter into an agreement with the State
143 Forestry Commission for the general supervision and management of
144 all lands classified as forestlands, as hereinabove provided, and
145 of all timber or other forest products under the control of the
146 board on sixteenth section lands, and lieu lands which have not
147 been so classified; however, any school board may contract with
148 private persons or businesses for the reforestation of sixteenth
149 section lands. When such agreement has been entered into, no
150 timber or other forest products shall be sold from any of said
151 sixteenth section lands or lieu lands except such as have been
152 marked for cutting by the State Forestry Commission's employees,
153 and the said Forestry Commission, or its designated employee,
154 shall fix the minimum total cash price or minimum price per unit,
155 one thousand (1,000) feet or other measure, at which said marked
156 timber or other forest products shall be sold. Said sales may be
157 made for a lump sum or upon a unit price as in the opinion of the
158 board may be calculated to bring the greatest return. Sales shall
159 be made upon such other terms and conditions as to manner of
160 cutting, damages for cutting of unmarked trees, damages to trees
161 not cut and other pertinent matters as the Board of Education
162 shall approve.

163 (b) The State Forestry Commission shall have the sole
164 authority and control in prescribing the forestry management
165 practices and scheduling of all cutting and harvesting of timber
166 or other forest products when such timber stands or other forest

167 products are determined by the State Forestry Commission to be
168 economically ready for cutting and harvesting; however, any school
169 board may contract with private persons or businesses for the
170 reforestation of sixteenth section lands.

171 (c) Should a school board disagree with the Forestry
172 Commission concerning the time of cutting and harvesting, the
173 board may make an appeal to the Forestry Commission at a regular
174 monthly scheduled meeting of the commission. If the school board
175 is not satisfied after the appeal to the commission, the board may
176 then appeal to the Secretary of State who will make the final
177 decision as to the time for cutting and harvesting. In the event,
178 the local school board is divested of its management authority
179 under Section (2) hereof, the Secretary of State, after due
180 consultation with the Forestry Commission, shall retain the right
181 to make final decisions concerning the management and sale of
182 timber and other forest products.

183 (d) It is hereby made the duty of the State Forestry
184 Commission, from time to time, to mark timber which should be cut
185 from said lands, to determine what planting, deadening or other
186 forestry improvements should be made, giving due consideration to
187 food and habitat for wildlife, and to report to the appropriate
188 board of education. The State Forestry Commission and the Board
189 of Education shall supervise the cutting of any timber or
190 harvesting of other forest products sold from said lands herein
191 designated and shall have authority to require any timber-cutting
192 operations on said lands to cease until proper adjustment is made,
193 whenever it shall appear that timber is being cut in violation of
194 the terms of the sale. In the event that it is desired to lease
195 any of such lands or standing timber for turpentine purposes, such
196 lease shall only cover such trees as the State Forestry Commission
197 shall designate, and said commission through its employees shall
198 approve the number of faces, method of chipping and boxing of such

199 timber, and shall fix a minimum total cash price or minimum price
200 per unit.

201 (e) No sale of any timber, turpentine or other forest
202 products lease shall be made until notice of same shall have been
203 published once a week for three (3) consecutive weeks in at least
204 one (1) newspaper published in such county. The first publication
205 of such notice shall be made not less than twenty-one (21) days
206 prior to the date fixed for said sale, and the last publication
207 shall be made not more than seven (7) days prior to such date. If
208 no newspaper is published in such county, then such notice shall
209 be given by publishing the same for the required time in some
210 newspaper having a general circulation in such county and, in
211 addition thereto, by posting a copy of such notice for at least
212 twenty-one (21) days next preceding such sale at three (3) public
213 places in such county.

214 (f) Provided, however, in the case of damage by fire,
215 windstorm or other natural causes which would require immediate
216 sale of the timber, because the time involved for advertisement as
217 prescribed herein would allow decay, rot or destruction
218 substantially decreasing the purchase price to be received had not
219 such delay occurred, the advertisement provisions of this section
220 shall not apply. The Board of Education, with a written
221 recommendation from a designated employee of the State Forestry
222 Commission filed in the minutes of the Board of Education, shall
223 determine when immediate sale of the timber is required. When the
224 Board of Education shall find an immediate sale necessary for the
225 causes stated herein, it shall, in its discretion, set the time
226 for receipt of bids on the purchase of said timber, but shall show
227 due diligence in notifying competitive bidders so that a true
228 competitive bid shall be received.

229 (2) (a) In the event that any member of a local board of
230 education may have a personal interest, either direct or indirect,
231 in the decisions regarding the management or sale of timber or

232 other forest products or in a contract for the sale of timber or
233 other forest products from sixteenth section school lands under
234 the jurisdiction and control of said board, then said board of
235 education shall automatically be divested of all authority and
236 power to manage and sell timber or other forest products on
237 sixteenth section lands under its control and jurisdiction. Said
238 divestiture shall extend for the period of service, and for one
239 (1) year thereafter, of the board member having a direct or
240 indirect personal interest in the sale or decision to sell timber
241 or other forest products.

242 (b) During the time in which any local board of
243 education may be divested of authority and power to manage and
244 sell timber and other forest products, such authority and power
245 shall be vested in the Secretary of State, as supervisory trustee
246 of sixteenth section lands. Upon the appointment or election of a
247 member of a local board of education who may have such an
248 appointment or election of a member of a local board of education
249 who may have such an interest in decisions and contracts regarding
250 the management and sale of timber or other forest products, said
251 board of education shall immediately notify the Secretary of State
252 in writing. Likewise, said board shall give written notification
253 to the Secretary of State within thirty (30) days prior to the
254 expiration of any such divestiture period. Any contractor with a
255 local board of education or the Secretary of State shall be
256 entitled to rely on representations by such board or the Secretary
257 of State as to who has authority to enter contracts for the
258 management or sale of timber or other forest products, and
259 reliance on such representations shall not be grounds for voiding
260 any contract.

261 (c) The laws providing for the management and sale of
262 timber and other forest products by local boards of education
263 shall apply to the management and sale of timber and other forest
264 products by the Secretary of State. The Mississippi Forestry

265 Commission shall provide the Secretary of State with advice and
266 services in the same manner as provided to local boards of
267 education.

268 (d) The Secretary of State shall be paid all monies
269 derived from the sale of timber or other forest products and shall
270 promptly forward the same to the superintendent of education for
271 such school district with instructions for the proper settlement,
272 deposit and investment of said monies. Such local school board
273 shall reimburse the Secretary of State for all direct costs
274 relating to the management and sale of timber or other forest
275 products, and in the case of a sale of timber or other forest
276 products, the Secretary of State may deduct such direct cost from
277 the proceeds of sale. The Secretary of State shall furnish an
278 itemized listing of all direct cost charged to the local school
279 district.

280 (3) This section shall apply to lands donated under the
281 Mississippi Celebrity Honorary or Memorial Forestland Program.
282 The State Forestry Commission shall have sole authority and
283 control in prescribing the forestry management practices for such
284 lands.

285 **SECTION 6.** This act shall take effect and be in force from
286 and after July 1, 2004.