

**\*\*\* Pending \*\*\***

**COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1634**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

16           **SECTION 1.** Section 29-7-1, Mississippi Code of 1972, is  
17 amended as follows:

18           29-7-1. (1) The Mississippi Major Economic Impact Authority  
19 shall be the mineral lease commission, and shall exercise the  
20 duties and responsibilities of the mineral lease commission \* \* \*  
21 under the provisions of Section 29-7-1 et seq.

22           (2) The words "mineral lease commission," wherever they may  
23 appear in the laws of the State of Mississippi, shall be construed  
24 to mean the Mississippi Major Economic Impact Authority.

25           (3) The term "commission" means the Mississippi Major  
26 Economic Impact Authority.

27           **SECTION 2.** Section 29-7-3, Mississippi Code of 1972, is  
28 amended as follows:

29           29-7-3. There shall be no development or extraction of oil,  
30 gas, or other minerals from state-owned lands by any private party  
31 without first obtaining a mineral lease therefor from the  
32 commission. The commission is hereby authorized and empowered,  
33 for and on behalf of the state, to lease any and all of the state  
34 land now owned (including that submerged or whereover the tide may

35 ebb and flow) or hereafter acquired, to some reputable person,  
36 association, or company for oil and/or gas and/or other minerals  
37 in and under and which may be produced therefrom, excepting,  
38 however, sixteenth section school land, lieu lands, and such  
39 forfeited tax land and property the title to which is subject to  
40 any lawful redemption, for such consideration and upon such terms  
41 and conditions as the commission deems just and proper. No  
42 mineral lease of offshore lands shall allow offshore drilling  
43 operations north of the coastal barrier islands, except in Blocks  
44 40, 41, 42 and 43. Further, surface offshore drilling operations  
45 will not be allowed within one (1) mile of Cat Island. The  
46 commission may only offer for lease the state-owned lands in  
47 Blocks 40, 41, 42, 43, 63, 64 and 66 through 98 as shown on the  
48 Mississippi Department of Environmental Quality Bureau of Geology  
49 Plat of Lease Blocks (Open File Report 151) on terms and  
50 conditions and for a length of time as determined by the  
51 commission. The commission may not lease any lands or submerged  
52 lands off the Mississippi Gulf Coast that have been leased by the  
53 Department on Marine Resources before January 1, 2004, for any  
54 public or private oyster reef lease, or any lands or submerged  
55 lands within one (1) mile of that lease, for the purposes of  
56 drilling offshore for oil, gas and other minerals.

57 Consistent with the conservation policies of this state under  
58 Section 53-1-1 et seq., the commission may offer for public bid  
59 any tracts or blocks of state-owned lands not currently under  
60 lease, which have been identified to the commission as having  
61 development potential for oil or natural gas, not less than once a  
62 year. Upon consultation with the Office of Geology in the  
63 Mississippi Department of Environmental Quality, the Secretary of  
64 State and any other state agency as the commission deems  
65 appropriate, the commission shall promulgate rules and regulations  
66 consistent with this chapter governing all aspects of the process

67 of leasing state lands within its jurisdiction for mineral  
68 development, including the setting of all terms of the lease form  
69 to be used for leasing state-owned lands, any necessary fees,  
70 public bidding process, delay rental payments, shut-in royalty  
71 payments, and such other provisions as may be required. The  
72 Attorney General shall review the lease form adopted by the  
73 commission for legal sufficiency.

74 There shall not be conducted any seismographic or other  
75 mineral exploration or testing activities on any state-owned lands  
76 within the mineral leasing jurisdiction of the commission without  
77 first obtaining a permit therefor from the commission. Upon  
78 consultation with the Office of Geology in the Mississippi  
79 Department of Environmental Quality, the Secretary of State and  
80 any other state agency as the commission deems appropriate, the  
81 commission shall \* \* \* promulgate rules and regulations governing  
82 all aspects of seismographic or other mineral exploration activity  
83 on state lands within its jurisdiction, including the establishing  
84 of fees and issuance of permits for the conduct of such mineral  
85 exploration activities. The Attorney General shall review the  
86 permit form adopted by the commission for legal sufficiency.

87 Provided, however, that persons obtaining permits from the  
88 commission for seismographic or other mineral exploration or  
89 testing activities on state-owned wildlife management areas, lakes  
90 and fish hatcheries, shall be subject to rules and regulations  
91 promulgated therefor by the Mississippi Commission on Wildlife,  
92 Fisheries and Parks which shall also receive all permit fees for  
93 such testing on said lands. In addition, persons obtaining  
94 permits from the commission for seismographic or other mineral  
95 exploration or testing activities on state-owned marine waters  
96 shall be subject to rules and regulations promulgated therefor by  
97 the Mississippi Department on Marine Resources which shall also  
98 receive all permit fees for such testing on those waters.

99 Further, provided that each permit within the Mississippi  
100 Sound or tidelands shall be reviewed by the Mississippi Commission  
101 on Marine Resources and such special conditions as it may specify  
102 will be included in the permit. Information or data obtained in  
103 any mineral exploration activity on any and all state lands shall  
104 be disclosed to the state through the commission, upon demand.  
105 Such information or data shall be treated as confidential for a  
106 period of ten (10) years from the date of receipt thereof and  
107 shall not be disclosed to the public or to any firm, individual or  
108 agency other than officials or authorized employees of this state.  
109 Any person who makes unauthorized disclosure of such confidential  
110 information or data shall be guilty of a misdemeanor, and upon  
111 conviction thereof, be fined not more than Five Thousand Dollars  
112 (\$5,000.00) or imprisoned in the county jail not more than one (1)  
113 year, or both.

114 Whenever any such land or property is leased for oil and gas  
115 and/or other minerals, such lease contract shall provide for a  
116 lease royalty to the state of at least three-sixteenths (3/16) of  
117 such oil and gas or other minerals, same to be paid in the manner  
118 prescribed by the commission. Of the monies received in  
119 connection with the execution of such leases, five-tenths of one  
120 percent (5/10 of 1%) shall be retained in a special fund to be  
121 appropriated by the Legislature, One Hundred Thousand Dollars  
122 (\$100,000.00) of which amount to be used by the commission for the  
123 administration of the leasing and permitting under this section,  
124 and the remainder of such amount shall be deposited into the  
125 Education Trust Fund, created in Section 206A, Mississippi  
126 Constitution of 1890; and two percent (2%) shall be paid into a  
127 special fund to be designated as the "Gulf and Wildlife Protection  
128 Fund," to be appropriated by the Legislature, one-half (1/2)  
129 thereof to be apportioned as follows: an amount which shall not  
130 exceed One Million Dollars (\$1,000,000.00) shall be used by the

131 Mississippi Department of Wildlife, Fisheries and Parks and the  
132 Mississippi Department on Marine Resources solely for the purpose  
133 of cleanup, remedial or abatement actions involving pollution as a  
134 result of the exploration or production of oil or gas, and any  
135 amount in excess of such One Million Dollars (\$1,000,000.00) shall  
136 be deposited into the Education Trust Fund created in Section  
137 206A, Mississippi Constitution of 1890. The remaining one-half  
138 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned  
139 as follows: an amount which shall not exceed One Million Dollars  
140 (\$1,000,000.00) shall be used by the Mississippi Commission on  
141 Wildlife, Fisheries and Parks and the Mississippi Department on  
142 Marine Resources for use first in the prudent management,  
143 preservation, protection and conservation of existing waters,  
144 lands and wildlife of this state and then, provided such purposes  
145 are accomplished, for the acquisition of additional waters and  
146 lands and any amount in excess of such One Million Dollars  
147 (\$1,000,000.00) shall be deposited into the Education Trust Fund,  
148 created in Section 206A, Mississippi Constitution of 1890.  
149 However, in the event that the Legislature is not in session to  
150 appropriate funds from the Gulf and Wildlife Protection Fund for  
151 the purpose of cleanup, remedial or abatement actions involving  
152 pollution as a result of the exploration or production of oil or  
153 gas, then the Mississippi Department of Wildlife, Fisheries and  
154 Parks and the Mississippi Department on Marine Resources may make  
155 expenditures from this special fund account solely for said  
156 purpose. The commission may lease the submerged beds for sand and  
157 gravel on such a basis as it may deem proper, but where the waters  
158 lie between this state and an adjoining state, there must be a  
159 cash realization to this state, including taxes paid for such sand  
160 and gravel, equal to that being had by such adjoining state, in  
161 all cases the requisite consents therefor being lawfully obtained  
162 from the United States.

163           The Department of Environmental Quality is authorized to  
164 employ competent engineering personnel to survey the territorial  
165 waters of this state in the Mississippi Sound and the Gulf of  
166 Mexico and to prepare a map or plat of such territorial waters,  
167 divided into blocks of not more than six thousand (6,000) acres  
168 each with coordinates and reference points based upon longitude  
169 and latitude surveys. The commission is authorized to adopt such  
170 survey, plat or map for leasing of such submerged lands for  
171 mineral development; and such leases may, after the adoption of  
172 such plat or map, be made by reference to the map or plat, which  
173 shall be on permanent file with the commission and a copy thereof  
174 on file in the Office of the State Oil and Gas Board.

175           **SECTION 3.** Section 29-7-17, Mississippi Code of 1972, is  
176 amended as follows:

177           29-7-17. (1) Any person found by the commission to be  
178 violating any of the provisions of Section 29-7-3, or any rule or  
179 regulation or written order of the commission in pursuance  
180 thereof, or any condition or limitation of a permit shall be  
181 subject to a civil penalty of not more than Ten Thousand Dollars  
182 (\$10,000.00) for each violation, such penalty to be assessed and  
183 levied by the commission after a hearing as hereinafter provided.  
184 Each day upon which a violation occurs shall be deemed a separate  
185 and additional violation. Appeals from the imposition of a civil  
186 penalty may be taken to the appropriate chancery court in the same  
187 manner as appeals from the orders of the commission. If the  
188 appellant desires to stay the execution of a civil penalty  
189 assessed by the commission, he shall give bond with sufficient  
190 resident sureties of one or more guaranty or surety companies  
191 authorized to do business in this state, payable to the State of  
192 Mississippi, in an amount equal to double the amount of any civil  
193 penalty assessed by the commission, as to which the stay of  
194 execution is desired, on the condition that if the judgment shall

195 be affirmed the appellant shall pay all costs of the assessment  
196 entered against him.

197 (2) In lieu of, or in addition to, the penalty provided in  
198 subsection (1) of this section, the commission shall have power to  
199 institute and maintain in the name of the state any and all  
200 proceedings necessary or appropriate to enforce the provisions of  
201 Section 29-7-3, rules and regulations promulgated, and orders and  
202 permits made and issued thereunder, in the appropriate circuit,  
203 chancery, county or justice court of the county in which venue may  
204 lie. The commission may obtain mandatory or prohibitory  
205 injunctive relief, either temporary or permanent, and it shall not  
206 be necessary in such cases that the state plead or prove: (i)  
207 that irreparable damage would result if the injunction did not  
208 issue; (ii) that there is no adequate remedy at law; or (iii) that  
209 a written complaint or commission order has first been issued for  
210 the alleged violation.

211 (3) Any person who violates any of the provisions of, or  
212 fails to perform any duty imposed by, Section 29-7-3 or any rule  
213 or regulation issued hereunder, or who violates any order or  
214 determination of the commission promulgated pursuant to such  
215 section, and causes the death of fish, shellfish, or other  
216 wildlife shall be liable, in addition to the penalties provided in  
217 subsections (1), (2), (4) and (5) of this section, to pay to the  
218 state an additional amount equal to the sum of money reasonably  
219 necessary to restock such waters or replenish such wildlife as  
220 determined by the commission after consultation with the  
221 Mississippi Commission on Wildlife, Fisheries and Parks and the  
222 Mississippi Department on Marine Resources. Such amount may be  
223 recovered by the commission on behalf of the state in a civil  
224 action brought in the appropriate county or circuit court of the  
225 county in which venue may lie.

226 (4) Any person who, through misadventure, happenstance or  
227 otherwise causes damage to or destruction of state-owned lands or  
228 structures or other property thereon necessitating remedial or  
229 cleanup action shall be liable for the cost of such remedial or  
230 cleanup action and the commission may recover the cost of same by  
231 a civil action brought in the circuit court of the county in which  
232 venue may lie. This penalty may be recovered in lieu of or in  
233 addition to the penalties provided in subsections (1), (2), (3)  
234 and (5) of this section.

235 (5) It shall be unlawful for any person to conduct  
236 unauthorized mineral exploration, development, or extraction  
237 activity or to violate the provisions of Section 29-7-3 or the  
238 rules and regulations of the commission which relate to mineral  
239 exploration, development, or extraction activity and, upon  
240 conviction thereof, such person shall be guilty of a misdemeanor,  
241 and fined not less than Five Hundred Dollars (\$500.00) nor more  
242 than Five Thousand Dollars (\$5,000.00) for each offense. Each day  
243 on which such violation occurs or continues shall constitute a  
244 separate offense.

245 (6) In lieu of or in addition to the penalties prescribed  
246 hereinabove, any person convicted by a court of law or found  
247 guilty by the commission of unlawful mineral extraction activity  
248 on state-owned lands shall repay to the state the fair market  
249 value of the minerals unlawfully extracted.

250 (7) Proceedings before the commission on civil violations  
251 prescribed hereinabove shall be conducted in the manner set forth  
252 in this chapter.

253 **SECTION 4.** The following shall be codified as Section  
254 29-7-19, Mississippi Code of 1972:

255 29-7-19. (1) The hearings, as provided under Section  
256 29-7-21(1), may be conducted by the commission itself at a regular  
257 or special meeting of the commission, or the commission may



258 designate a hearing officer, who may conduct such hearings in the  
259 name of the commission at any time and place as conditions and  
260 circumstances may warrant. The hearing officer shall have the  
261 record prepared of any hearing that he has conducted for the  
262 commission. The record shall be submitted to the commission along  
263 with that hearing officer's findings of fact and recommended  
264 decision. Upon receipt and review of the record of the hearing  
265 and the hearing officer's findings of fact and recommended  
266 decision, the commission shall render its decision in the matter.  
267 The decision shall become final after it is entered on the minutes  
268 and shall be considered the final administrative agency decision  
269 on the matter. The decision may be appealed under Section  
270 29-7-21(2).

271 (2) All hearings before the commission shall be recorded  
272 either by a court reporter, tape or mechanical recorders and  
273 subject to transcription upon order of the commission or any  
274 interested party, but if the request for transcription originates  
275 with an interested party, that party shall pay the cost thereof.

276 **SECTION 5.** The following shall be codified as Section  
277 29-7-21, Mississippi Code of 1972:

278 29-7-21. (1) Any person or interested party aggrieved by  
279 any final rule, regulation, permit or order of the commission may  
280 file a petition with the commission within thirty (30) days after  
281 the final rule, regulation, permit or order is entered on the  
282 minutes. The petition shall set forth the grounds and reasons for  
283 the complaint and request a hearing of the matter involved.  
284 However, there shall be no hearing on the same subject matter that  
285 has previously been held before the commission or its designated  
286 hearing officer. The commission shall fix the time and place of  
287 the hearing and notify the petitioners thereof. In pending  
288 matters, the commission shall have the same powers as to  
289 subpoenaing witnesses, administering oaths, examining witnesses

290 under oath and conducting the hearing, as is now vested by law in  
291 the Mississippi Public Service Commission, as to hearings before  
292 it, with the additional power that the executive director may  
293 issue all subpoenas, both at the instance of the petitioner and of  
294 the commission. At the hearings the petitioner, and any other  
295 interested party, may offer exhibits, present witnesses, and  
296 otherwise submit evidence, as the commission deems appropriate.  
297 After the hearing, the commission's decision shall be deemed the  
298 final administrative agency decision on the matter.

299 (2) Any interested person aggrieved by any final rule,  
300 regulation, permit or order of the commission issued under this  
301 section, regardless of the amount involved, may appeal to the  
302 Chancery Court of the First Judicial District of Hinds County,  
303 Mississippi, which shall be taken and perfected as hereinafter  
304 provided, within thirty (30) days from the date that the final  
305 rule, regulation or order is filed for record in the office of the  
306 commission. The chancery court may affirm the rule, regulation,  
307 permit, or order, or reverse the same for further proceedings as  
308 the court may require. All appeals shall be on the record, taken  
309 and perfected, heard and determined either in termtime or in  
310 vacation, including a transcript of pleadings and testimony, both  
311 oral and documentary, filed and heard before the commission, and  
312 the appeal shall be heard and disposed of promptly by the court as  
313 a preference cause. In perfecting any appeal provided by this  
314 section, the provisions of law respecting notice to the reporter  
315 and the allowance of bills of exception, now or hereafter in force  
316 respecting appeals from the chancery court to the Supreme Court,  
317 shall be applicable. However, the reporter shall transcribe his  
318 notes and file the transcript of the record with the board within  
319 thirty (30) days after approval of the appeal bond.

320 (3) Upon the filing with the commission of a petition for  
321 appeal to the Hinds County Chancery Court, it shall be the duty of

322 the commission, as promptly as possible and within sixty (60) days  
323 after approval of the appeal bond, if required, to file with the  
324 clerk of the chancery court to which the appeal is taken, a copy  
325 of the petition for appeal and of the rule, regulation, permit or  
326 order appealed from, and the original and one (1) copy of the  
327 transcript of the record of proceedings in evidence before the  
328 commission. After the filing of the petition, the appeal shall be  
329 perfected by the filing with the clerk of the chancery court to  
330 which the appeal is taken of bond in the sum of Five Hundred  
331 Dollars (\$500.00) with two (2) sureties or with a surety company  
332 qualified to do business in Mississippi as the surety, conditioned  
333 to pay the cost of the appeal; the bond to be approved by any  
334 member of the commission, or by the clerk of the court to which  
335 the appeal is taken. The perfection of an appeal shall not stay  
336 or suspend the operation of any rule, regulation, permit or order  
337 of the board, but the judge of the chancery court to which the  
338 appeal is taken may award a writ of supersedeas to any rule,  
339 regulation, permit or order of the commission after five (5) days'  
340 notice to the commission and after hearing. Any order or judgment  
341 staying the operation of any rule, regulation, permit or order of  
342 the commission shall contain a specific finding, based upon  
343 evidence submitted to the chancery judge and identified by  
344 reference thereto, that great or irreparable damage would result  
345 to the appellant if he is denied relief, and the stay shall not  
346 become effective until a supersedeas bond shall have been executed  
347 and filed with and approved by the clerk of the court or the  
348 chancery judge, payable to the state. If the appeal is of a  
349 commission order concerning the lease of state lands for minerals,  
350 that appeal shall be given priority over other matters pending in  
351 the chancery court. If the appeal is of a commission permit, that  
352 appeal shall be given priority over other matters pending in  
353 chancery court. In all other cases, the supersedeas bond shall be

354 in an amount fixed by the chancery judge to protect the lessee or  
355 permittee from loss or damage from the stay and conditioned as the  
356 chancery judge may direct in the order granting the supersedeas.

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1         AN ACT TO AMEND SECTION 29-7-1, MISSISSIPPI CODE OF 1972, TO  
2 TRANSFER THE AUTHORITY OF THE MINERAL LEASE COMMISSION TO THE  
3 MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY; TO AMEND SECTION  
4 29-7-3, MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE  
5 COMMISSION TO LEASE STATE-OWNED LANDS THAT HAVE DEVELOPMENT  
6 POTENTIAL FOR OIL OR NATURAL GAS; TO PROVIDE CERTAIN RESTRICTIONS  
7 FOR DRILLING FOR OIL OR NATURAL GAS IN OFFSHORE WATERS; TO AMEND  
8 SECTION 29-7-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
9 PROVISIONS OF THIS ACT; TO CREATE A NEW SECTION TO BE CODIFIED AS  
10 SECTION 29-7-19, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR HEARINGS  
11 TO BE HEARD BY THE COMMISSION; TO CREATE A NEW SECTION TO BE  
12 CODIFIED AS SECTION 29-7-21, MISSISSIPPI CODE OF 1972, TO PROVIDE  
13 FOR AN APPEALS PROCESS FOR DECISIONS MADE BY THE COMMISSION; AND  
14 FOR RELATED PURPOSES.