

By: Representative Robinson (84th)

To: Oil, Gas and Other Minerals; Ways and Means

HOUSE BILL NO. 394

1 AN ACT TO IMPOSE AN AD VALOREM TAX ON ALL NONPRODUCING
 2 MINERAL ESTATES AND LEASEHOLD INTERESTS IN MINERALS OWNED
 3 SEPARATELY AND APART FROM THE SURFACE ESTATE; TO PROVIDE THAT
 4 WHERE THE TAX BECOMES DELINQUENT THE MINERAL ESTATE OR LEASEHOLD
 5 INTEREST SHALL BE SOLD IN THE SAME MANNER AS LANDS ARE SOLD FOR
 6 NONPAYMENT OF TAXES; TO AMEND SECTIONS 27-31-85 AND 27-31-1,
 7 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
 8 ACT; TO REPEAL SECTIONS 27-31-73 AND 27-31-75, MISSISSIPPI CODE OF
 9 1972, WHICH RELATE TO THE EXEMPTION OF NONPRODUCING MINERAL AND
 10 LEASEHOLD INTERESTS FROM AD VALOREM TAXES; AND FOR RELATED
 11 PURPOSES.

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

13 **SECTION 1.** (1) From and after January 1, 2005, there shall
 14 be levied an ad valorem tax of Five Cents (5¢) per mineral or
 15 royalty acre, as defined in Section 27-31-71, upon all
 16 nonproducing mineral estates and all leasehold interests in
 17 minerals which are owned separately and apart from the surface
 18 estate. Such tax shall become due and be payable in the same
 19 manner as taxes on the surface estate. All producing mineral
 20 estates and all leasehold interests in minerals which are not
 21 owned separately and apart from the surface estate shall be exempt
 22 from all ad valorem taxes levied on or after January 1, 2005, by
 23 the State of Mississippi, or any county, municipality, levee
 24 district, road district, school district, drainage district or
 25 other taxing district within the state.

26 (2) If the taxes provided for in subsection (1) of this
 27 section are not paid when they become due, such mineral estate or
 28 leasehold interest shall be sold in the same manner and in
 29 accordance with the same procedure as prescribed by law for the
 30 sale of lands for nonpayment of taxes, which procedure shall
 31 include the advertising of mineral estates and leasehold interests

32 on which taxes have not been paid, the providing of notice that a
33 mineral estate or leasehold interest has been sold for nonpayment
34 of taxes, the right to redeem a mineral estate or leasehold
35 interest sold for nonpayment of taxes, the amount necessary to
36 redeem the mineral estate or leasehold interest from the tax sale
37 and the time when the redemption period will expire.

38 **SECTION 2.** Section 27-31-85, Mississippi Code of 1972, is
39 amended as follows:

40 27-31-85. From the taxes levied and collected under and by
41 virtue of Sections 27-31-77 through 27-31-83 inclusive, and
42 Section 1 of this act, the chancery clerk shall retain ten percent
43 (10%) as a fee for the collection thereof, and shall pay the
44 remainder thereof into the proper depository to the credit of the
45 county, one-half (1/2) to the common county fund and one-half
46 (1/2) to the county school fund. Such deposit shall be made on or
47 before the fifteenth day of the month next succeeding that in
48 which such collection may be made. * * *

49 **SECTION 3.** Section 27-31-1, Mississippi Code of 1972, is
50 amended as follows:

51 27-31-1. The following shall be exempt from taxation:

52 (a) All cemeteries used exclusively for burial
53 purposes.

54 (b) All property, real or personal, belonging to the
55 State of Mississippi or any of its political subdivisions, except
56 property of a municipality not being used for a proper municipal
57 purpose and located outside the county or counties in which such
58 municipality is located. A proper municipal purpose within the
59 meaning of this section shall be any authorized governmental or
60 corporate function of a municipality.

61 (c) All property, real or personal, owned by units of
62 the Mississippi National Guard, or title to which is vested in
63 trustees for the benefit of any unit of the Mississippi National

64 Guard; provided such property is used exclusively for such unit,
65 or for public purposes, and not for profit.

66 (d) All property, real or personal, belonging to any
67 religious society, or ecclesiastical body, or any congregation
68 thereof, or to any charitable society, or to any historical or
69 patriotic association or society, or to any garden or pilgrimage
70 club or association and used exclusively for such society or
71 association and not for profit; not exceeding, however, the amount
72 of land which such association or society may own as provided in
73 Section 79-11-33. All property, real or personal, belonging to
74 any rural waterworks system or rural sewage disposal system
75 incorporated under the provisions of Section 79-11-1. All
76 property, real or personal, belonging to any college or
77 institution for the education of youths, used directly and
78 exclusively for such purposes, provided that no such college or
79 institution for the education of youths shall have exempt from
80 taxation more than six hundred forty (640) acres of land;
81 provided, however, this exemption shall not apply to commercial
82 schools and colleges or trade institutions or schools where the
83 profits of same inure to individuals, associations or
84 corporations. All property, real or personal, belonging to an
85 individual, institution or corporation and used for the operation
86 of a grammar school, junior high school, high school or military
87 school. All property, real or personal, owned and occupied by a
88 fraternal and benevolent organization, when used by such
89 organization, and from which no rentals or other profits accrue to
90 the organization, but any part rented or from which revenue is
91 received shall be taxed.

92 (e) All property, real or personal, held and occupied
93 by trustees of public schools, and school lands of the respective
94 townships for the use of public schools, and all property kept in
95 storage for the convenience and benefit of the State of
96 Mississippi in warehouses owned or leased by the State of

97 Mississippi, wherein said property is to be sold by the Alcoholic
98 Beverage Control Division of the State Tax Commission of the State
99 of Mississippi.

100 (f) All property, real or personal, whether belonging
101 to religious or charitable or benevolent organizations, which is
102 used for hospital purposes, and nurses' homes where a part
103 thereof, and which maintain one or more charity wards that are for
104 charity patients, and where all the income from said hospitals and
105 nurses' homes is used entirely for the purposes thereof and no
106 part of the same for profit.

107 (g) The wearing apparel of every person; and also
108 jewelry and watches kept by the owner for personal use to the
109 extent of One Hundred Dollars (\$100.00) in value for each owner.

110 (h) Provisions on hand for family consumption.

111 (i) All farm products grown in this state for a period
112 of two (2) years after they are harvested, when in the possession
113 of or the title to which is in the producer, except the tax of
114 one-fifth of one percent (1/5 of 1%) per pound on lint cotton now
115 levied by the Board of Commissioners of the Mississippi Levee
116 District; and lint cotton for five (5) years, and cottonseed,
117 soybeans, oats, rice and wheat for one (1) year regardless of
118 ownership.

119 (j) All guns and pistols kept by the owner for private
120 use.

121 (k) All poultry in the hands of the producer.

122 (l) Household furniture, including all articles kept in
123 the home by the owner for his own personal or family use; but this
124 shall not apply to hotels, rooming houses or rented or leased
125 apartments.

126 (m) All cattle and oxen.

127 (n) All sheep, goats and hogs.

128 (o) All horses, mules and asses.

129 (p) Farming tools, implements and machinery, when used
130 exclusively in the cultivation or harvesting of crops or timber.

131 (q) All property of agricultural and mechanical
132 associations and fairs used for promoting their objects, and where
133 no part of the proceeds is used for profit.

134 (r) The libraries of all persons.

135 (s) All pictures and works of art, not kept for or
136 offered for sale as merchandise.

137 (t) The tools of any mechanic necessary for carrying on
138 his trade.

139 (u) All state, county, municipal, levee, drainage and
140 all school bonds or other governmental obligations, and all bonds
141 and/or evidences of debts issued by any church or church
142 organization in this state, and all notes and evidences of
143 indebtedness which bear a rate of interest not greater than the
144 maximum rate per annum applicable under the law; and all money
145 loaned at a rate of interest not exceeding the maximum rate per
146 annum applicable under the law; and all stock in or bonds of
147 foreign corporations or associations shall be exempt from all ad
148 valorem taxes.

149 (v) All lands and other property situated or located
150 between the Mississippi River and the levee shall be exempt from
151 the payment of any and all road taxes levied or assessed under any
152 road laws of this state.

153 (w) Any and all money on deposit in either national
154 banks, state banks or trust companies, on open account, savings
155 account or time deposit.

156 (x) All wagons, carts, drays, carriages and other horse
157 drawn vehicles, kept for the use of the owner.

158 (y) (1) Boats, seines and fishing equipment used in
159 fishing and shrimping operations and in the taking or catching of
160 oysters.

161 (2) All towboats, tugboats and barges documented
162 under the laws of the United States, except watercraft of every
163 kind and character used in connection with gaming operations.

164 (z) All materials used in the construction and/or
165 conversion of vessels in this state; vessels while under
166 construction and/or conversion; vessels while in the possession of
167 the manufacturer, builder or converter, for a period of twelve
168 (12) months after completion of construction and/or conversion,
169 and as used herein the term "vessel" shall include ships, offshore
170 drilling equipment, dry docks, boats and barges, except watercraft
171 of every kind and character used in connection with gaming
172 operations.

173 (aa) Sixty-six and two-thirds percent (66-2/3%) of
174 nuclear fuel and reprocessed, recycled or residual nuclear fuel
175 by-products, fissionable or otherwise, used or to be used in
176 generation of electricity by persons defined as public utilities
177 in Section 77-3-3.

178 (bb) All growing nursery stock.

179 (cc) A semitrailer used in interstate commerce.

180 (dd) All property, real or personal, used exclusively
181 for the housing of and provision of services to elderly persons,
182 disabled persons, mentally impaired persons or as a nursing home,
183 which is owned, operated and managed by a not-for-profit
184 corporation, qualified under Section 501(c)(3) of the Internal
185 Revenue Code, whose membership or governing body is appointed or
186 confirmed by a religious society or ecclesiastical body or any
187 congregation thereof.

188 (ee) All vessels while in the hands of bona fide
189 dealers as merchandise and which are not being operated upon the
190 waters of this state shall be exempt from ad valorem taxes. As
191 used in this paragraph, the terms "vessel" and "waters of this
192 state" shall have the meaning ascribed to such terms in Section
193 59-21-3.

194 (ff) All property, real or personal, owned by a
195 nonprofit organization that: (i) is qualified as tax exempt under
196 Section 501(c)(4) of the Internal Revenue Code of 1986, as
197 amended; (ii) assists in the implementation of the national
198 contingency plan or area contingency plan, and which is created in
199 response to the requirements of Title IV, Subtitle B of the Oil
200 Pollution Act of 1990, Public Law 101-380; (iii) engages primarily
201 in programs to contain, clean up and otherwise mitigate spills of
202 oil or other substances occurring in the United States coastal or
203 tidal waters; and (iv) is used for the purposes of the
204 organization.

205 (gg) If a municipality changes its boundaries so as to
206 include within the boundaries of such municipality the project
207 site of any project as defined in Section 57-75-5(f)(iv)1, all
208 real and personal property located on the project site within the
209 boundaries of such municipality that is owned by a business
210 enterprise operating such project, shall be exempt from ad valorem
211 taxation for a period of time not to exceed thirty (30) years upon
212 receiving approval for such exemption by the Mississippi Major
213 Economic Impact Authority. The provisions of this subsection
214 shall not be construed to authorize a breach of any agreement
215 entered into pursuant to Section 21-1-59.

216 (hh) All leases, lease contracts or lease agreements
217 (including, but not limited to, subleases, sublease contracts and
218 sublease agreements), and leaseholds or leasehold interests
219 (including, but not limited to, subleaseholds and subleasehold
220 interests), of or with respect to any and all property (real,
221 personal or mixed) constituting all or any part of a facility for
222 the manufacture, production, generation, transmission and/or
223 distribution of electricity, and any real property related
224 thereto, shall be exempt from ad valorem taxation during the
225 period as the United States is both the title owner of the
226 property and a sublessee of or with respect to the property;

227 however, the exemption authorized by this paragraph (hh) shall not
228 apply to any entity to whom the United States sub-subleases its
229 interest in the property nor to any entity to whom the United
230 States assigns its sublease interest in the property. As used in
231 this paragraph, the term "United States" includes an agency or
232 instrumentality of the United States of America. This paragraph
233 (hh) shall apply to all assessments for ad valorem taxation for
234 the 2003 calendar year and each calendar year thereafter.

235 (ii) All property, real, personal or mixed, including
236 fixtures and leaseholds, used by Mississippi nonprofit entities
237 qualified, on or before January 1, 2005, under Section 501(c)(3)
238 of the Internal Revenue Code to provide support and operate
239 technology incubators for research and development start-up
240 companies, telecommunication start-up companies and/or other
241 technology start-up companies, utilizing technology spun-off from
242 research and development activities of the public colleges and
243 universities of this state, State of Mississippi governmental
244 research or development activities resulting therefrom located
245 within the State of Mississippi.

246 (jj) All property, real, personal or mixed, including
247 fixtures and leaseholds, of start-up companies (as described in
248 paragraph (ii) of this section) for the period of time, not to
249 exceed five (5) years, that the start-up company remains a tenant
250 of a technology incubator (as described in paragraph (ii) of this
251 section).

252 (kk) All producing mineral estates and all leasehold
253 interests in minerals that are not owned separately and apart from
254 the surface estate shall be exempt from all ad valorem taxes
255 levied on or after January 1, 2005.

256 **SECTION 4.** Sections 27-31-73 and 27-31-75, Mississippi Code
257 of 1972, which relate to the exemption of nonproducing mineral and
258 leasehold interests, are repealed.

259 **SECTION 5.** This act shall take effect and be in force
260 retroactively from and after January 1, 2005.