

By: Representative Reeves

To: Oil, Gas and Other
Minerals

HOUSE BILL NO. 1099

1 AN ACT TO BRING FORWARD SECTIONS 29-7-1, 29-7-3, 29-7-5,
2 29-7-7, 29-7-9, 29-7-13, 29-7-17, 29-7-19 AND 29-7-21, MISSISSIPPI
3 CODE OF 1972, WHICH PERTAIN TO MINERAL LEASES OF STATE LANDS,
4 INCLUDING THOSE THAT ARE SUBMERGED AND OFFSHORE, FOR PURPOSES OF
5 AMENDMENT; TO BRING FORWARD SECTION 27-29-35, MISSISSIPPI CODE OF
6 1972, WHICH REQUIRES COUNTIES AND MUNICIPALITIES TO REDUCE AD
7 VALOREM TAXES IN A CERTAIN AMOUNT IF THEY RECEIVE SEVERANCE TAX
8 REVENUE FROM OFFSHORE DRILLING ON THE MISSISSIPPI GULF COAST, FOR
9 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 29-7-1, Mississippi Code of 1972, is
12 brought forward as follows:

13 29-7-1. (1) The Mississippi Major Economic Impact Authority
14 shall be the mineral lease commission, and shall exercise the
15 duties and responsibilities of the mineral lease commission under
16 the provisions of Section 29-7-1 et seq.

17 (2) The words "mineral lease commission," whenever they may
18 appear in the laws of the State of Mississippi, shall be construed
19 to mean the Mississippi Major Economic Impact Authority.

20 (3) The term "commission" means the Mississippi Major
21 Economic Impact Authority.

22 **SECTION 2.** Section 29-7-3, Mississippi Code of 1972, is
23 brought forward as follows:

24 29-7-3. There shall be no development or extraction of oil,
25 gas, or other minerals from state-owned lands by any private party
26 without first obtaining a mineral lease therefor from the
27 commission. The commission is hereby authorized and empowered,
28 for and on behalf of the state, to lease any and all of the state
29 land now owned (including that submerged or wherever the tide may
30 ebb and flow) or hereafter acquired, to some reputable person,

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

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

64 to be used for leasing state-owned lands, any necessary fees,
65 public bidding process, delay rental payments, shut-in royalty
66 payments, and such other provisions as may be required. The
67 Attorney General shall review the lease form adopted by the
68 commission for legal sufficiency.

69 There shall not be conducted any seismographic or other
70 mineral exploration or testing activities on any state-owned lands
71 within the mineral leasing jurisdiction of the commission without
72 first obtaining a permit therefor from the commission. Upon
73 consultation with the Office of Geology in the Mississippi
74 Department of Environmental Quality, the Secretary of State and
75 any other state agency as the commission deems appropriate, the
76 commission shall promulgate rules and regulations governing all
77 aspects of seismographic or other mineral exploration activity on
78 state lands within its jurisdiction, including the establishing of
79 fees and issuance of permits for the conduct of such mineral
80 exploration activities. The Attorney General shall review the
81 permit form adopted by the commission for legal sufficiency.
82 Provided, however, that persons obtaining permits from the
83 commission for seismographic or other mineral exploration or
84 testing activities on state-owned wildlife management areas, lakes
85 and fish hatcheries, shall be subject to rules and regulations
86 promulgated therefor by the Mississippi Commission on Wildlife,
87 Fisheries and Parks which shall also receive all permit fees for
88 such testing on said lands. In addition, persons obtaining
89 permits from the commission for seismographic or other mineral
90 exploration or testing activities on state-owned marine waters
91 shall be subject to rules and regulations promulgated therefor by
92 the Mississippi Department on Marine Resources which shall also
93 receive all permit fees for such testing on those waters.

94 Further, provided that each permit within the Mississippi
95 Sound or tidelands shall be reviewed by the Mississippi Commission
96 on Marine Resources and such special conditions as it may specify

97 will be included in the permit. Information or data obtained in
98 any mineral exploration activity on any and all state lands shall
99 be disclosed to the state through the commission, upon demand.
100 Such information or data shall be treated as confidential for a
101 period of ten (10) years from the date of receipt thereof and
102 shall not be disclosed to the public or to any firm, individual or
103 agency other than officials or authorized employees of this state.
104 Any person who makes unauthorized disclosure of such confidential
105 information or data shall be guilty of a misdemeanor, and upon
106 conviction thereof, be fined not more than Five Thousand Dollars
107 (\$5,000.00) or imprisoned in the county jail not more than one (1)
108 year, or both.

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

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

158 The Department of Environmental Quality is authorized to
159 employ competent engineering personnel to survey the territorial
160 waters of this state in the Mississippi Sound and the Gulf of
161 Mexico and to prepare a map or plat of such territorial waters,
162 divided into blocks of not more than six thousand (6,000) acres

163 each with coordinates and reference points based upon longitude
164 and latitude surveys. The commission is authorized to adopt such
165 survey, plat or map for leasing of such submerged lands for
166 mineral development; and such leases may, after the adoption of
167 such plat or map, be made by reference to the map or plat, which
168 shall be on permanent file with the commission and a copy thereof
169 on file in the Office of the State Oil and Gas Board.

170 **SECTION 3.** Section 29-7-5, Mississippi Code of 1972, is
171 brought forward as follows:

172 29-7-5. When any state land mentioned in this chapter is
173 known to be within a well-defined proven oil and/or gas field, is
174 subject to waste or dissipation, has not been heretofore leased or
175 under contract, is so situated that the production of such oil
176 and/or gas is needed and useful to the state for any of its
177 buildings and/or institutions and can be profitably used because
178 any such state-owned building or institution is situated thereon
179 or in the immediate vicinity thereof, or when the state needs to
180 drill any well or wells to protect its mineral resources, the said
181 commission is authorized and empowered, in its discretion, to make
182 contracts within the limit of appropriations made for such
183 purposes; said contracts to be let, in the manner now provided by
184 law for letting public contracts, for drilling a well or wells on
185 such land or lands mentioned in this section for oil and/or gas,
186 completing the said well or wells as a producer of oil and/or gas,
187 and connecting any such well or wells to any such state-owned
188 property or institution for use of the production therefrom for
189 fuel or other purposes.

190 The commission is hereby further authorized and empowered in
191 its discretion to proceed to drill under its own direction such
192 well or wells on such state land as it may deem advisable, and to
193 employ such drillers and employees as will be necessary in
194 carrying on such operations; and said commission is further
195 authorized in its discretion to purchase, lease, or hire any

196 machinery, tools, and other equipment necessary for drilling such
197 well or wells, to be paid for by the commission out of any funds
198 appropriated by the Legislature for the purpose of carrying out
199 the provisions of this chapter. The said commission may, in its
200 discretion, sell or contract the sale of any surplus oil and/or
201 gas not needed by any state building or institution produced from
202 any such well or wells, or may exchange or dispose of any of same
203 by reciprocal agreement in order to serve any distant state-owned
204 institution, but any oil, gas and/or other mineral so disposed of
205 shall not be so disposed of at any amount or value less than the
206 market price thereof.

207 Said commission shall determine in all cases whether it would
208 be to the best interest of the state to dispose of said resources
209 by lease or proceed by contract to drill to the actual exploration
210 and exploitation of said resources by the state itself, and shall
211 be governed entirely by a consideration of the best interest of
212 the state.

213 **SECTION 4.** Section 29-7-7, Mississippi Code of 1972, is
214 brought forward as follows:

215 29-7-7. The state mineral lease commission is authorized and
216 empowered to contract for the construction and/or laying and
217 operation of a suitable state-owned pipeline or lines for the
218 transportation of any state-owned natural gas and/or oil for use
219 by the state-owned buildings and/or institutions as fuel or other
220 purposes, whenever said commission shall determine that the same
221 will be for the best interest of the state and/or any of its
222 buildings or institutions. Said commission shall construct and
223 lay any such state-owned pipeline mentioned in this section where
224 practicable in, under, and along any street, alley, sidewalk,
225 road, or other public property, and where necessary may exercise
226 the right of eminent domain for sufficient right-of-way and/or
227 easement in, under, and along private property in the manner

228 provided by law for the exercise of the right of eminent domain by
229 the state in other cases.

230 **SECTION 5.** Section 29-7-9, Mississippi Code of 1972, is
231 brought forward as follows:

232 29-7-9. The State Mineral Lease Commission shall keep a
233 well-bound book for the purpose of keeping the minutes of all its
234 proceedings, contracts, papers, and records, all of which shall be
235 printed or written therein in full, and shall keep a permanent
236 file in such place and manner containing all original contracts
237 and/or leases as shall be designated by the commission.

238 **SECTION 6.** Section 29-7-13, Mississippi Code of 1972, is
239 brought forward as follows:

240 29-7-13. All sums of money realized and/or received from the
241 sale of any and all oil or gas or other minerals, lease contract,
242 rentals, royalties, or otherwise, contemplated by this chapter,
243 shall be immediately deposited in the General Fund of the State
244 Treasury.

245 **SECTION 7.** Section 29-7-17, Mississippi Code of 1972, is
246 brought forward as follows:

247 29-7-17. (1) Any person found by the commission to be
248 violating any of the provisions of Section 29-7-3, or any rule or
249 regulation or written order of the commission in pursuance
250 thereof, or any condition or limitation of a permit shall be
251 subject to a civil penalty of not more than Ten Thousand Dollars
252 (\$10,000.00) for each violation, such penalty to be assessed and
253 levied by the commission after a hearing as hereinafter provided.
254 Each day upon which a violation occurs shall be deemed a separate
255 and additional violation. Appeals from the imposition of a civil
256 penalty may be taken to the appropriate chancery court in the same
257 manner as appeals from the orders of the commission. If the
258 appellant desires to stay the execution of a civil penalty
259 assessed by the commission, he shall give bond with sufficient
260 resident sureties of one or more guaranty or surety companies

261 authorized to do business in this state, payable to the State of
262 Mississippi, in an amount equal to double the amount of any civil
263 penalty assessed by the commission, as to which the stay of
264 execution is desired, on the condition that if the judgment shall
265 be affirmed the appellant shall pay all costs of the assessment
266 entered against him.

267 (2) In lieu of, or in addition to, the penalty provided in
268 subsection (1) of this section, the commission shall have power to
269 institute and maintain in the name of the state any and all
270 proceedings necessary or appropriate to enforce the provisions of
271 Section 29-7-3, rules and regulations promulgated, and orders and
272 permits made and issued thereunder, in the appropriate circuit,
273 chancery, county or justice court of the county in which venue may
274 lie. The commission may obtain mandatory or prohibitory
275 injunctive relief, either temporary or permanent, and it shall not
276 be necessary in such cases that the state plead or prove: (i)
277 that irreparable damage would result if the injunction did not
278 issue; (ii) that there is no adequate remedy at law; or (iii) that
279 a written complaint or commission order has first been issued for
280 the alleged violation.

281 (3) Any person who violates any of the provisions of, or
282 fails to perform any duty imposed by, Section 29-7-3 or any rule
283 or regulation issued hereunder, or who violates any order or
284 determination of the commission promulgated pursuant to such
285 section, and causes the death of fish, shellfish, or other
286 wildlife shall be liable, in addition to the penalties provided in
287 subsections (1), (2), (4) and (5) of this section, to pay to the
288 state an additional amount equal to the sum of money reasonably
289 necessary to restock such waters or replenish such wildlife as
290 determined by the commission after consultation with the
291 Mississippi Commission on Wildlife, Fisheries and Parks and the
292 Mississippi Department on Marine Resources. Such amount may be
293 recovered by the commission on behalf of the state in a civil

294 action brought in the appropriate county or circuit court of the
295 county in which venue may lie.

296 (4) Any person who, through misadventure, happenstance or
297 otherwise causes damage to or destruction of state-owned lands or
298 structures or other property thereon necessitating remedial or
299 cleanup action shall be liable for the cost of such remedial or
300 cleanup action and the commission may recover the cost of same by
301 a civil action brought in the circuit court of the county in which
302 venue may lie. This penalty may be recovered in lieu of or in
303 addition to the penalties provided in subsections (1), (2), (3)
304 and (5) of this section.

305 (5) It shall be unlawful for any person to conduct
306 unauthorized mineral exploration, development, or extraction
307 activity or to violate the provisions of Section 29-7-3 or the
308 rules and regulations of the commission which relate to mineral
309 exploration, development, or extraction activity and, upon
310 conviction thereof, such person shall be guilty of a misdemeanor,
311 and fined not less than Five Hundred Dollars (\$500.00) nor more
312 than Five Thousand Dollars (\$5,000.00) for each offense. Each day
313 on which such violation occurs or continues shall constitute a
314 separate offense.

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

320 (7) Proceedings before the commission on civil violations
321 prescribed hereinabove shall be conducted in the manner set forth
322 in this chapter.

323 **SECTION 8.** Section 29-7-19, Mississippi Code of 1972, is
324 brought forward as follows:

325 29-7-19. (1) The hearings, as provided under Section
326 29-7-21(1), may be conducted by the commission itself at a regular

327 or special meeting of the commission, or the commission may
328 designate a hearing officer, who may conduct such hearings in the
329 name of the commission at any time and place as conditions and
330 circumstances may warrant. The hearing officer shall have the
331 record prepared of any hearing that he has conducted for the
332 commission. The record shall be submitted to the commission along
333 with that hearing officer's findings of fact and recommended
334 decision. Upon receipt and review of the record of the hearing
335 and the hearing officer's findings of fact and recommended
336 decision, the commission shall render its decision in the matter.
337 The decision shall become final after it is entered on the minutes
338 and shall be considered the final administrative agency decision
339 on the matter. The decision may be appealed under Section
340 29-7-21(2).

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

346 **SECTION 9.** Section 29-7-21, Mississippi Code of 1972, is
347 brought forward as follows:

348 29-7-21. (1) Any person or interested party aggrieved by
349 any final rule, regulation, permit or order of the commission may
350 file a petition with the commission within thirty (30) days after
351 the final rule, regulation, permit or order is entered on the
352 minutes. The petition shall set forth the grounds and reasons for
353 the complaint and request a hearing of the matter involved.
354 However, there shall be no hearing on the same subject matter that
355 has previously been held before the commission or its designated
356 hearing officer. The commission shall fix the time and place of
357 the hearing and notify the petitioners thereof. In pending
358 matters, the commission shall have the same powers as to
359 subpoenaing witnesses, administering oaths, examining witnesses

360 under oath and conducting the hearing, as is now vested by law in
361 the Mississippi Public Service Commission, as to hearings before
362 it, with the additional power that the executive director may
363 issue all subpoenas, both at the instance of the petitioner and of
364 the commission. At the hearings the petitioner, and any other
365 interested party, may offer exhibits, present witnesses, and
366 otherwise submit evidence, as the commission deems appropriate.
367 After the hearing, the commission's decision shall be deemed the
368 final administrative agency decision on the matter.

369 (2) Any interested person aggrieved by any final rule,
370 regulation, permit or order of the commission issued under this
371 section, regardless of the amount involved, may appeal to the
372 Chancery Court of the First Judicial District of Hinds County,
373 Mississippi, which shall be taken and perfected as hereinafter
374 provided, within thirty (30) days from the date that the final
375 rule, regulation or order is filed for record in the office of the
376 commission. The chancery court may affirm the rule, regulation,
377 permit, or order, or reverse the same for further proceedings as
378 the court may require. All appeals shall be on the record, taken
379 and perfected, heard and determined either in termtime or in
380 vacation, including a transcript of pleadings and testimony, both
381 oral and documentary, filed and heard before the commission, and
382 the appeal shall be heard and disposed of promptly by the court as
383 a preference cause. In perfecting any appeal provided by this
384 section, the provisions of law respecting notice to the reporter
385 and the allowance of bills of exception, now or hereafter in force
386 respecting appeals from the chancery court to the Supreme Court,
387 shall be applicable. However, the reporter shall transcribe his
388 notes and file the transcript of the record with the board within
389 thirty (30) days after approval of the appeal bond.

390 (3) Upon the filing with the commission of a petition for
391 appeal to the Hinds County Chancery Court, it shall be the duty of
392 the commission, as promptly as possible and within sixty (60) days

393 after approval of the appeal bond, if required, to file with the
394 clerk of the chancery court to which the appeal is taken, a copy
395 of the petition for appeal and of the rule, regulation, permit or
396 order appealed from, and the original and one (1) copy of the
397 transcript of the record of proceedings in evidence before the
398 commission. After the filing of the petition, the appeal shall be
399 perfected by the filing with the clerk of the chancery court to
400 which the appeal is taken of bond in the sum of Five Hundred
401 Dollars (\$500.00) with two (2) sureties or with a surety company
402 qualified to do business in Mississippi as the surety, conditioned
403 to pay the cost of the appeal; the bond to be approved by any
404 member of the commission, or by the clerk of the court to which
405 the appeal is taken. The perfection of an appeal shall not stay
406 or suspend the operation of any rule, regulation, permit or order
407 of the board, but the judge of the chancery court to which the
408 appeal is taken may award a writ of supersedeas to any rule,
409 regulation, permit or order of the commission after five (5) days'
410 notice to the commission and after hearing. Any order or judgment
411 staying the operation of any rule, regulation, permit or order of
412 the commission shall contain a specific finding, based upon
413 evidence submitted to the chancery judge and identified by
414 reference thereto, that great or irreparable damage would result
415 to the appellant if he is denied relief, and the stay shall not
416 become effective until a supersedeas bond shall have been executed
417 and filed with and approved by the clerk of the court or the
418 chancery judge, payable to the state. The supersedeas bond shall
419 be in an amount fixed by the chancery judge to protect the lessee
420 or permittee from loss or damage from the stay and conditioned as
421 the chancery judge may direct in the order granting the
422 supersedeas. If the appeal is of a commission order concerning
423 the lease of state lands for minerals, that appeal shall be given
424 priority over other matters pending in the chancery court. If the

425 appeal is of a commission permit, that appeal shall be given
426 priority over other matters pending in chancery court.

427 **SECTION 10.** Section 27-29-35, Mississippi Code of 1972, is
428 brought forward as follows:

429 27-29-35. From and after July 1, 2004, the board of
430 supervisors of a county shall reduce the ad valorem taxes levied
431 by the county in an amount equal to one-half (1/2) of the county's
432 share of the revenue derived from the oil and gas severance tax
433 under Sections 27-25-505 and 27-25-705 as a result of offshore
434 drilling on the Mississippi Gulf Coast. From and after July 1,
435 2004, the governing authorities of a municipality shall reduce the
436 ad valorem taxes levied by the municipality in an amount equal to
437 one-half (1/2) of the municipality's share of the revenue derived
438 from the oil and gas severance tax under Sections 27-25-505 and
439 27-25-705 as a result of offshore drilling on the Mississippi Gulf
440 Coast.

441 **SECTION 11.** This act shall take effect and be in force from
442 and after July 1, 2006.