

By: Senator(s) Scoper, Kirby, Ross, Dearing To: Finance

SENATE BILL NO. 3060
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 27-25-701, MISSISSIPPI CODE OF 1972,
2 TO EXCLUDE CARBON DIOXIDE FROM THE DEFINITION OF THE TERM "GAS" IN
3 THE LAW PROVIDING FOR THE TAXATION OF SEVERED GAS; TO AMEND
4 SECTION 27-25-703, MISSISSIPPI CODE OF 1972, IN CONFORMITY
5 THERETO; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 27-25-701, Mississippi Code of 1972, is
8 amended as follows:

9 27-25-701. Whenever used in this article, the following
10 words and terms shall have the definition and meaning ascribed to
11 them in this section, unless the intention to give a more limited
12 meaning is disclosed by the context:

13 (a) "Tax commission" means the Tax Commission of the
14 State of Mississippi.

15 (b) "Commissioner" means the Chairman of the State Tax
16 Commission.

17 (c) "Annual" means the calendar year or the taxpayer's
18 fiscal year when permission is obtained from the commissioner to
19 use a fiscal year as a tax period in lieu of a calendar year.

20 (d) "Value" means the sale price, or market value, at
21 the mouth of the well. If the gas is exchanged for something
22 other than cash, or if there is no sale at the time of severance,
23 or if the relation between the buyer and the seller is such that
24 the consideration paid, if any, is not indicative of the true
25 value or market price, then the commissioner shall determine the
26 value of the gas subject to tax, considering the sale price for
27 cash of gas of like quality in the same or nearest gas-producing
28 field.

29 (e) "Taxpayer" means any person liable for the tax
30 imposed by this article.

31 (f) "Gas" means natural and casinghead gas and any gas
32 or vapor taken from below the surface of the soil or water in this
33 state, regardless of whether produced from a gas well or from a
34 well also productive of oil or any other product; provided,
35 however, the term "gas" shall not include carbon dioxide.

36 (g) "Casinghead gas" means any gas or vapor indigenous
37 to an oil stratum and produced from such stratum with oil.

38 (h) "Severed" means the extraction or withdrawing by
39 any means whatsoever, from below the surface of the soil or water,
40 of any gas.

41 (i) "Person" means any natural person, firm,
42 copartnership, joint venture, association, corporation, estate,
43 trust, or any other group, or combination acting as a unit, and
44 the plural as well as the singular number.

45 (j) "Producer" means any person owning, controlling,
46 managing or leasing any oil or gas property, or oil or gas well,
47 and any person who produces in any manner any gas by taking it
48 from the earth or water in this state, and shall include any
49 person owning any royalty or other interest in any gas or its
50 value, whether produced by him, or by some other person on his
51 behalf, either by lease contract or otherwise.

52 (k) "Engaging in business" means any act or acts
53 engaged in (personal or corporate) by producers, or parties at
54 interest, the result of which gas is severed from the soil or
55 water, for storage, transport or manufacture, or by which there is
56 an exchange of money, or goods, or thing of value, for gas which
57 has been or is in process of being severed from the soil or water.

58 (l) "Production" means the total gross amount of gas
59 produced, including all royalty or other interest; that is, the
60 amount for the purpose of the tax imposed by this article shall be
61 measured or determined by meter readings showing one hundred
62 percent (100%) of the full volume expressed in cubic feet at a

63 standard base and flowing temperature of sixty (60) degrees
64 Fahrenheit and at the absolute pressure at which the gas is sold
65 and purchased; correction to be made for pressure according to
66 Boyle's law, and for specific gravity according to the gravity at
67 which the gas is sold and purchased or if not so specified,
68 according to test made by the balance method.

69 (m) "Gathering system" means the pipelines,
70 compressors, pumps, regulators, separators, dehydrators, meters,
71 metering installations and all other property used in gathering
72 gas from the well from which it is produced if such properties are
73 owned by other than the operator, and all such properties, if
74 owned by the operator, beyond the first metering installation that
75 is nearest the well.

76 (n) "Discovery well" means any well producing gas from
77 a single pool in which a well has not been previously produced in
78 paying quantities after testing.

79 (o) "Development wells" means all gas producing wells
80 other than discovery wells and replacement wells.

81 (p) "Replacement well" means a well drilled on a
82 drilling and/or production unit to replace another well which is
83 drilled in the same unit and completed in the same pool.

84 (q) "Three-dimensional seismic" means data which is
85 regularly organized in three (3) orthogonal directions and thus
86 suitable for interpretation with a three-dimensional software
87 package on an interactive work station.

88 (r) "Two-year inactive well" means any oil or gas well
89 certified by the State Oil and Gas Board as having not produced
90 oil or gas in more than a total of thirty (30) days during a
91 twelve (12) consecutive month period in the two (2) years before
92 the date of certification.

93 SECTION 2. Section 27-25-703, Mississippi Code of 1972, is
94 amended as follows:

95 27-25-703. (1) Except as otherwise provided herein, there
96 is hereby levied, to be collected hereafter, as provided herein,

97 annual privilege taxes upon every person engaging or continuing
98 within this state in the business of producing, or severing gas,
99 as defined herein, from below the soil or water for sale,
100 transport, storage, profit or for commercial use. The amount of
101 such tax shall be measured by the value of the gas produced and
102 shall be levied and assessed at a rate of six percent (6%) of the
103 value thereof at the point of production, except as otherwise
104 provided in subsection (4) of this section.

105 (2) The tax is hereby levied upon the entire production in
106 this state, regardless of the place of sale or to whom sold or by
107 whom used, or the fact that the delivery may be made to points
108 outside the state, but not levied upon that gas * * * lawfully
109 injected into the earth for cycling, repressuring, lifting or
110 enhancing the recovery of oil, nor upon gas lawfully vented or
111 flared in connection with the production of oil, nor upon gas
112 condensed into liquids on which the oil severance tax of six
113 percent (6%) is paid; save and except, however, if any gas so
114 injected into the earth is sold for such purposes, then the gas so
115 sold shall not be excluded in computing the tax * * *. The tax
116 shall accrue at the time the gas is produced or severed from the
117 soil or water, and in its natural, unrefined or unmanufactured
118 state.

119 (3) Natural gas and condensate produced from any wells for
120 which drilling is commenced after March 15, 1987, and before July
121 1, 1990, shall be exempt from the tax levied under this section
122 for a period of two (2) years beginning on the date of first sale
123 of production from such wells.

124 (4) Any well which begins commercial production of occluded
125 natural gas from coal seams on or after March 20, 1990, and before
126 July 1, 1993, shall be taxed at the rate of three and one-half
127 percent (3-1/2%) of the gross value of the occluded natural gas
128 from coal seams at the point of production for a period of five
129 (5) years after such well begins production.

130 (5) Natural gas produced from discovery wells for which

131 drilling or re-entry commenced on or after April 1, 1994, shall be
132 exempt from the tax levied under this section for a period of five
133 (5) years beginning on the earlier of one (1) year from completion
134 of the well or the date of first sale from such well, provided
135 that the average monthly sales price of such gas does not exceed
136 Three Dollars and Fifty Cents (\$3.50) per one thousand (1,000)
137 cubic feet. The exemption for natural gas produced from discovery
138 wells as described in this subsection shall be repealed from and
139 after July 1, 1999, provided that any such production for which a
140 permit was granted by the board before July 1, 1999, shall be
141 exempt for an entire period of five (5) years, notwithstanding
142 that the repeal of this provision has become effective. Natural
143 gas produced from development wells or replacement wells drilled
144 in connection with discovery wells for which drilling commenced on
145 or after January 1, 1994, shall be assessed at a rate of three
146 percent (3%) of the value thereof at the point of production for a
147 period of three (3) years. The reduced rate of assessment of
148 natural gas produced from development wells or replacement wells
149 as described in this subsection shall be repealed from and after
150 January 1, 1999, provided that any such production for which
151 drilling commenced before January 1, 1999, shall be assessed at
152 the reduced rate for an entire period of three (3) years,
153 notwithstanding that the repeal of this provision has become
154 effective.

155 (6) Gas produced from a development well for which drilling
156 commenced on or after April 1, 1994, and for which
157 three-dimensional seismic was utilized in connection with the
158 drilling of such well, shall be assessed at a rate of three
159 percent (3%) of the value of the gas at the point of production
160 for a period of five (5) years, provided that the average monthly
161 sales price of such gas does not exceed Three Dollars and Fifty
162 Cents (\$3.50) per one thousand (1,000) cubic feet. The reduced
163 rate of assessment of gas produced from a development well as
164 described in this subsection and for which three-dimensional

165 seismic was utilized shall be repealed from and after July 1,
166 1999, provided that any such production for which a permit was
167 granted by the board before July 1, 1999, shall be assessed at the
168 reduced rate for an entire period of five (5) years,
169 notwithstanding that the repeal of this provision has become
170 effective.

171 (7) Natural gas produced from a two-year inactive well as
172 defined in Section 27-25-701 shall be exempt from the taxes levied
173 under this section for a period of three (3) years beginning on
174 the date of first sale of production from such well, provided that
175 the average monthly sales price of such gas does not exceed Three
176 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
177 feet. The exemption for natural gas produced from an inactive
178 well as described in this subsection shall be repealed from and
179 after July 1, 1999, provided that any such production which began
180 before July 1, 1999, shall be exempt for an entire period of three
181 (3) years, notwithstanding that the repeal of this provision has
182 become effective.

183 (8) The State Oil and Gas Board shall have the exclusive
184 authority to determine the qualification of wells defined in
185 paragraphs (n) through (r) of Section 27-15-701.

186 SECTION 3. This act shall take effect and be in force from
187 and after its passage.