

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

SENATE BILL NO. 3060
(As Sent to Governor)

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 **[Until July 1, 2004, this section shall read as follows:]**

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

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

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

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

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

29 field.

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

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

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

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

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

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

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

59 (l) "Production" means the total gross amount of gas
60 produced, including all royalty or other interest; that is, the
61 amount for the purpose of the tax imposed by this article shall be
62 measured or determined by meter readings showing one hundred
63 percent (100%) of the full volume expressed in cubic feet at a
64 standard base and flowing temperature of sixty (60) degrees
65 Fahrenheit and at the absolute pressure at which the gas is sold
66 and purchased; correction to be made for pressure according to

67 Boyle's law, and for specific gravity according to the gravity at
68 which the gas is sold and purchased or if not so specified,
69 according to test made by the balance method.

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

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

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

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

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

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

94 **[From and after July 1, 2004, this section shall read as**
95 **follows:]**

96 27-25-701. Whenever used in this article, the following
97 words and terms shall have the definition and meaning ascribed to
98 them in this section, unless the intention to give a more limited
99 meaning is disclosed by the context:

100 (a) "Tax commission" means the Tax Commission of the

101 State of Mississippi.

102 (b) "Commissioner" means the Chairman of the State Tax
103 Commission.

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

107 (d) "Value" means the sale price, or market value, at
108 the mouth of the well. If the gas is exchanged for something
109 other than cash, or if there is no sale at the time of severance,
110 or if the relation between the buyer and the seller is such that
111 the consideration paid, if any, is not indicative of the true
112 value or market price, then the commissioner shall determine the
113 value of the gas subject to tax, considering the sale price for
114 cash of gas of like quality in the same or nearest gas-producing
115 field.

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

118 (f) "Gas" means natural and casinghead gas and any gas
119 or vapor taken from below the surface of the soil or water in this
120 state, regardless of whether produced from a gas well or from a
121 well also productive of oil or any other product.

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

124 (h) "Severed" means the extraction or withdrawing by
125 any means whatsoever, from below the surface of the soil or water,
126 of any gas.

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

131 (j) "Producer" means any person owning, controlling,
132 managing or leasing any oil or gas property, or oil or gas well,
133 and any person who produces in any manner any gas by taking it
134 from the earth or water in this state, and shall include any

135 person owning any royalty or other interest in any gas or its
136 value, whether produced by him, or by some other person on his
137 behalf, either by lease contract or otherwise.

138 (k) "Engaging in business" means any act or acts
139 engaged in (personal or corporate) by producers, or parties at
140 interest, the result of which gas is severed from the soil or
141 water, for storage, transport or manufacture, or by which there is
142 an exchange of money, or goods, or thing of value, for gas which
143 has been or is in process of being severed from the soil or water.

144 (l) "Production" means the total gross amount of gas
145 produced, including all royalty or other interest; that is, the
146 amount for the purpose of the tax imposed by this article shall be
147 measured or determined by meter readings showing one hundred
148 percent (100%) of the full volume expressed in cubic feet at a
149 standard base and flowing temperature of sixty (60) degrees
150 Fahrenheit and at the absolute pressure at which the gas is sold
151 and purchased; correction to be made for pressure according to
152 Boyle's law, and for specific gravity according to the gravity at
153 which the gas is sold and purchased or if not so specified,
154 according to test made by the balance method.

155 (m) "Gathering system" means the pipelines,
156 compressors, pumps, regulators, separators, dehydrators, meters,
157 metering installations and all other property used in gathering
158 gas from the well from which it is produced if such properties are
159 owned by other than the operator, and all such properties, if
160 owned by the operator, beyond the first metering installation that
161 is nearest the well.

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

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

167 (p) "Replacement well" means a well drilled on a
168 drilling and/or production unit to replace another well which is

169 drilled in the same unit and completed in the same pool.

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

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

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

181 **[Until July 1, 2004, this section shall read as follows:]**

182 27-25-703. (1) Except as otherwise provided herein, there
183 is hereby levied, to be collected hereafter, as provided herein,
184 annual privilege taxes upon every person engaging or continuing
185 within this state in the business of producing, or severing gas,
186 as defined herein, from below the soil or water for sale,
187 transport, storage, profit or for commercial use. The amount of
188 such tax shall be measured by the value of the gas produced and
189 shall be levied and assessed at a rate of six percent (6%) of the
190 value thereof at the point of production, except as otherwise
191 provided in subsection (4) of this section.

192 (2) The tax is hereby levied upon the entire production in
193 this state, regardless of the place of sale or to whom sold or by
194 whom used, or the fact that the delivery may be made to points
195 outside the state, but not levied upon that gas * * * lawfully
196 injected into the earth for cycling, repressuring, lifting or
197 enhancing the recovery of oil, nor upon gas lawfully vented or
198 flared in connection with the production of oil, nor upon gas
199 condensed into liquids on which the oil severance tax of six
200 percent (6%) is paid; save and except, however, if any gas so
201 injected into the earth is sold for such purposes, then the gas so
202 sold shall not be excluded in computing the tax * * *. The tax

203 shall accrue at the time the gas is produced or severed from the
204 soil or water, and in its natural, unrefined or unmanufactured
205 state.

206 (3) Natural gas and condensate produced from any wells for
207 which drilling is commenced after March 15, 1987, and before July
208 1, 1990, shall be exempt from the tax levied under this section
209 for a period of two (2) years beginning on the date of first sale
210 of production from such wells.

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

217 (5) Natural gas produced from discovery wells for which
218 drilling or re-entry commenced on or after April 1, 1994, shall be
219 exempt from the tax levied under this section for a period of five
220 (5) years beginning on the earlier of one (1) year from completion
221 of the well or the date of first sale from such well, provided
222 that the average monthly sales price of such gas does not exceed
223 Three Dollars and Fifty Cents (\$3.50) per one thousand (1,000)
224 cubic feet. The exemption for natural gas produced from discovery
225 wells as described in this subsection shall be repealed from and
226 after July 1, 1999, provided that any such production for which a
227 permit was granted by the board before July 1, 1999, shall be
228 exempt for an entire period of five (5) years, notwithstanding
229 that the repeal of this provision has become effective. Natural
230 gas produced from development wells or replacement wells drilled
231 in connection with discovery wells for which drilling commenced on
232 or after January 1, 1994, shall be assessed at a rate of three
233 percent (3%) of the value thereof at the point of production for a
234 period of three (3) years. The reduced rate of assessment of
235 natural gas produced from development wells or replacement wells
236 as described in this subsection shall be repealed from and after

237 January 1, 1999, provided that any such production for which
238 drilling commenced before January 1, 1999, shall be assessed at
239 the reduced rate for an entire period of three (3) years,
240 notwithstanding that the repeal of this provision has become
241 effective.

242 (6) Gas produced from a development well for which drilling
243 commenced on or after April 1, 1994, and for which
244 three-dimensional seismic was utilized in connection with the
245 drilling of such well, shall be assessed at a rate of three
246 percent (3%) of the value of the gas at the point of production
247 for a period of five (5) years, provided that the average monthly
248 sales price of such gas does not exceed Three Dollars and Fifty
249 Cents (\$3.50) per one thousand (1,000) cubic feet. The reduced
250 rate of assessment of gas produced from a development well as
251 described in this subsection and for which three-dimensional
252 seismic was utilized shall be repealed from and after July 1,
253 1999, provided that any such production for which a permit was
254 granted by the board before July 1, 1999, shall be assessed at the
255 reduced rate for an entire period of five (5) years,
256 notwithstanding that the repeal of this provision has become
257 effective.

258 (7) Natural gas produced from a two-year inactive well as
259 defined in Section 27-25-701 shall be exempt from the taxes levied
260 under this section for a period of three (3) years beginning on
261 the date of first sale of production from such well, provided that
262 the average monthly sales price of such gas does not exceed Three
263 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
264 feet. The exemption for natural gas produced from an inactive
265 well as described in this subsection shall be repealed from and
266 after July 1, 1999, provided that any such production which began
267 before July 1, 1999, shall be exempt for an entire period of three
268 (3) years, notwithstanding that the repeal of this provision has
269 become effective.

270 (8) The State Oil and Gas Board shall have the exclusive

271 authority to determine the qualification of wells defined in
272 paragraphs (n) through (r) of Section 27-15-701.

273 **[From and after July 1, 2004, this section shall read as**
274 **follows:]**

275 27-25-703. (1) Except as otherwise provided herein, there
276 is hereby levied, to be collected hereafter, as provided herein,
277 annual privilege taxes upon every person engaging or continuing
278 within this state in the business of producing, or severing gas,
279 as defined herein, from below the soil or water for sale,
280 transport, storage, profit or for commercial use. The amount of
281 such tax shall be measured by the value of the gas produced and
282 shall be levied and assessed at a rate of six percent (6%) of the
283 value thereof at the point of production, except as otherwise
284 provided in subsection (4) of this section.

285 (2) The tax is hereby levied upon the entire production in
286 this state, regardless of the place of sale or to whom sold or by
287 whom used, or the fact that the delivery may be made to points
288 outside the state, but not levied upon that gas, including carbon
289 dioxide, lawfully injected into the earth for cycling,
290 repressuring, lifting or enhancing the recovery of oil, nor upon
291 gas lawfully vented or flared in connection with the production of
292 oil, nor upon gas condensed into liquids on which the oil
293 severance tax of six percent (6%) is paid; save and except,
294 however, if any gas so injected into the earth is sold for such
295 purposes, then the gas so sold shall not be excluded in computing
296 the tax, unless such gas is carbon dioxide which is sold to be
297 used and is used in Mississippi in an enhanced oil recovery
298 method, in which event there shall be no severance tax levied on
299 carbon dioxide so sold and used. The tax shall accrue at the time
300 the gas is produced or severed from the soil or water, and in its
301 natural, unrefined or unmanufactured state.

302 (3) Natural gas and condensate produced from any wells for
303 which drilling is commenced after March 15, 1987, and before July
304 1, 1990, shall be exempt from the tax levied under this section

305 for a period of two (2) years beginning on the date of first sale
306 of production from such wells.

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

313 (5) Natural gas produced from discovery wells for which
314 drilling or re-entry commenced on or after April 1, 1994, shall be
315 exempt from the tax levied under this section for a period of five
316 (5) years beginning on the earlier of one (1) year from completion
317 of the well or the date of first sale from such well, provided
318 that the average monthly sales price of such gas does not exceed
319 Three Dollars and Fifty Cents (\$3.50) per one thousand (1,000)
320 cubic feet. The exemption for natural gas produced from discovery
321 wells as described in this subsection shall be repealed from and
322 after July 1, 1999, provided that any such production for which a
323 permit was granted by the board before July 1, 1999, shall be
324 exempt for an entire period of five (5) years, notwithstanding
325 that the repeal of this provision has become effective. Natural
326 gas produced from development wells or replacement wells drilled
327 in connection with discovery wells for which drilling commenced on
328 or after January 1, 1994, shall be assessed at a rate of three
329 percent (3%) of the value thereof at the point of production for a
330 period of three (3) years. The reduced rate of assessment of
331 natural gas produced from development wells or replacement wells
332 as described in this subsection shall be repealed from and after
333 January 1, 1999, provided that any such production for which
334 drilling commenced before January 1, 1999, shall be assessed at
335 the reduced rate for an entire period of three (3) years,
336 notwithstanding that the repeal of this provision has become
337 effective.

338 (6) Gas produced from a development well for which drilling

339 commenced on or after April 1, 1994, and for which
340 three-dimensional seismic was utilized in connection with the
341 drilling of such well, shall be assessed at a rate of three
342 percent (3%) of the value of the gas at the point of production
343 for a period of five (5) years, provided that the average monthly
344 sales price of such gas does not exceed Three Dollars and Fifty
345 Cents (\$3.50) per one thousand (1,000) cubic feet. The reduced
346 rate of assessment of gas produced from a development well as
347 described in this subsection and for which three-dimensional
348 seismic was utilized shall be repealed from and after July 1,
349 1999, provided that any such production for which a permit was
350 granted by the board before July 1, 1999, shall be assessed at the
351 reduced rate for an entire period of five (5) years,
352 notwithstanding that the repeal of this provision has become
353 effective.

354 (7) Natural gas produced from a two-year inactive well as
355 defined in Section 27-25-701 shall be exempt from the taxes levied
356 under this section for a period of three (3) years beginning on
357 the date of first sale of production from such well, provided that
358 the average monthly sales price of such gas does not exceed Three
359 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
360 feet. The exemption for natural gas produced from an inactive
361 well as described in this subsection shall be repealed from and
362 after July 1, 1999, provided that any such production which began
363 before July 1, 1999, shall be exempt for an entire period of three
364 (3) years, notwithstanding that the repeal of this provision has
365 become effective.

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

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