MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003
By: Representative Ford
To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 771

AN ACT TO AMEND SECTIONS 27-25-503 AND 27-25-703, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE EXEMPTIONS TO THE LEVY OF PRIVILEGE TAX ON CERTAIN OIL AND GAS PRODUCTION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-25-503, Mississippi Code of 1972, is amended as follows:

(1) Except as otherwise provided herein, there is hereby levied, to be collected hereafter, as provided herein, annual privilege taxes upon every person engaging or continuing within this state in the business of producing, or severing oil, as defined herein, from the soil or water for sale, transport, storage, profit or for commercial use. The amount of such tax shall be measured by the value of the oil produced, and shall be levied and assessed at the rate of six percent (6%) of the value thereof at the point of production. However, such tax shall be levied and assessed at the rate of three percent (3%) of the value of the oil at the point of production on oil produced by an enhanced oil recovery method in which carbon dioxide is used; provided, that such carbon dioxide is transported by pipeline to the oil well site and on oil produced by any other enhanced oil recovery method approved and permitted by the State Oil and Gas Board on or after April 1, 1994, pursuant to Section 53-3-101 et seq.

(2) The tax is hereby levied upon the entire production in this state regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery may be made to points outside the state, and the tax shall accrue at the time such oil
is severed from the soil, or water, and in its natural, unrefined
or unmanufactured state.

(3) (a) Oil produced from a discovery well for which
drilling or re-entry commenced on or after April 1, 1994, but
before July 1, 1999, shall be exempt from the taxes levied under
this section for a period of five (5) years beginning on the date
of first sale of production from such well, provided that the
average monthly sales price of such oil does not exceed
Twenty-five Dollars ($25.00) per barrel. The exemption for oil
produced from a discovery well as described in this paragraph (a)
shall be repealed from and after July 1, 2005, provided that any
such production for which a permit was granted by the board before
July 1, 2005, shall be exempt for an entire period of five (5)
years, notwithstanding that the repeal of this provision has
become effective. Oil produced from development wells or
replacement wells drilled in connection with discovery wells for
which drilling commenced on or after January 1, 1994, but before
July 1, 1999, shall be assessed at the rate of three percent (3%)
of the value of the oil at the point of production for a period of
three (3) years. The reduced rate of assessment of oil produced
from development wells or replacement wells as described in this
paragraph (a) shall be repealed from and after January 1, 2005,
provided that any such production for which drilling commenced
before January 1, 2004, shall be assessed at the reduced rate for
an entire period of three (3) years, notwithstanding that the
repeal of this provision has become effective.

(b) Oil produced from a discovery well for which
drilling or re-entry commenced on or after July 1, 1999, shall be
assessed at the rate of three percent (3%) of the value of the oil
at the point of production for a period of five (5) years
beginning on the date of first sale of production from such well,
provided that the average monthly sales price of such oil does not
exceed Twenty Dollars ($20.00) per barrel. The reduced rate of
assessment of oil produced from a discovery well as described in paragraph (b) shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Oil produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after July 1, 1999, shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of three (3) years. The reduced rate of assessment of oil produced from development wells or replacement wells as described in this paragraph (b) shall be repealed from and after January 1, 2005, provided that any such production for which drilling commenced before July 1, 2005, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(4) (a) Oil produced from a development well for which drilling commenced on or after April 1, 1994, but before July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of five (5) years, provided that the average monthly sales price of such oil does not exceed Twenty-five Dollars ($25.00) per barrel. The reduced rate of assessment of oil produced from a development well as described in this paragraph (a) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.
(b) Oil produced from a development well for which drilling commenced on or after July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well shall be assessed at the rate of three percent (3%) of the value of the oil at the point of production for a period of five (5) years, provided that the average monthly sales price of such oil does not exceed Twenty Dollars ($20.00) per barrel. The reduced rate of assessment of oil produced from a development well as described in this paragraph (b) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(5) (a) Oil produced before July 1, 1999, from a two-year inactive well as defined in Section 27-25-501 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such oil does not exceed Twenty-five Dollars ($25.00) per barrel. The exemption for oil produced from an inactive well shall be repealed from and after July 1, 2005, provided that any such production which began before July 1, 2005, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Oil produced on or after July 1, 1999, from a two-year inactive well as defined in Section 27-25-501 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such oil does not exceed Twenty Dollars ($20.00) per barrel. The exemption for oil produced from an inactive well shall be repealed from and after July 1, 2005, provided that any such production which began before July 1, 2005, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.
from and after July 1, 2005, provided that any such production which began before July 1, 2005, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(6) (a) As used in this subsection the term "marginal well" means:

(i) A well producing a monthly average of twenty (20) barrels of oil a day or less from a depth of seven thousand five hundred (7,500) feet or less; or

(ii) A well producing a monthly average of forty (40) barrels of oil a day or less from a depth that is more than seven thousand five hundred (7,500) feet.

(b) The owner of a marginal well shall be entitled to a refund of two-thirds (2/3) of the taxes he pays monthly pursuant to this section on oil produced from such well if the average monthly sales price of oil he produces from such well does not exceed Twelve Dollars ($12.00) per barrel. In order to receive the refund provided for in this subsection the owner shall present the State Tax Commission with a statement from the State Oil and Gas Board certifying that the well is a marginal well within the meaning of this subsection. The State Tax Commission shall then determine the average monthly sales price of the oil sold from such well and pay the refund to the owner if it determines that the owner is eligible for such refund. Funds for such refund shall come from the General Fund.

(c) This subsection (6) shall stand repealed from and after July 1, 2005.

(7) The State Oil and Gas Board shall have the exclusive authority to determine the qualification of wells defined in paragraphs (n) through (r) of Section 27-25-501.

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

[Until July 1, 2004, this section shall read as follows:]
27-25-703. (1) Except as otherwise provided herein, there
is hereby levied, to be collected hereafter, as provided herein,
al annual privilege taxes upon every person engaging or continuing
within this state in the business of producing, or severing gas,
as defined herein, from below the soil or water for sale,
transport, storage, profit or for commercial use. The amount of
such tax shall be measured by the value of the gas produced and
shall be levied and assessed at a rate of six percent (6%) of the
value thereof at the point of production, except as otherwise
provided in subsection (4) of this section.

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

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

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

(5) (a) Natural gas produced from discovery wells for which drilling or re-entry commenced on or after April 1, 1994, but before July 1, 1999, shall be exempt from the tax levied under this section for a period of five (5) years beginning on the earlier of one (1) year from completion of the well or the date of first sale from such well, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from discovery wells as described in this paragraph (a) shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be exempt for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Natural gas produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after January 1, 1994, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of three (3) years. The reduced rate of assessment of natural gas produced from development wells or replacement wells as described in this paragraph (a) shall be repealed from and after January 1, 2005, provided that any such production for which drilling commenced before January 1, 2005, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Natural gas produced from discovery wells for which drilling or re-entry commenced on or after July 1, 1999, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of five (5) years beginning on the earlier of one (1) year from completion of the well or the date of first sale from such well, provided that the average
monthly sales price of such gas does not exceed Two Dollars and
Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The
reduced rate of assessment of natural gas produced from discovery
wells as described in this paragraph (b) shall be repealed from
and after July 1, 2005, provided that any such production for
which a permit was granted by the board before July 1, 2005, shall
be assessed at the reduced rate for an entire period of five (5)
years, notwithstanding that the repeal of this provision has
become effective. Natural gas produced from development wells or
replacement wells drilled in connection with discovery wells for
which drilling commenced on or after July 1, 1999, shall be
assessed at a rate of three percent (3%) of the value thereof at
the point of production for a period of three (3) years. The
reduced rate of assessment of natural gas produced from
development wells or replacement wells as described in this
paragraph (b) shall be repealed from and after January 1, 2005,
provided that any such production for which drilling commenced
before January 1, 2005, shall be assessed at the reduced rate for
an entire period of three (3) years, notwithstanding that the
repeal of this provision has become effective.

(6) (a) Gas produced from a development well for which
drilling commenced on or after April 1, 1994, but before July 1,
1999, and for which three-dimensional seismic was utilized in
connection with the drilling of such well, shall be assessed at a
rate of three percent (3%) of the value of the gas at the point of
production for a period of five (5) years, provided that the
average monthly sales price of such gas does not exceed Three
Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic
feet. The reduced rate of assessment of gas produced from a
development well as described in this subsection and for which
three-dimensional seismic was utilized shall be repealed from and
after July 1, 2005, provided that any such production for which a
permit was granted by the board before July 1, 2005, shall be
assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(b) Gas produced from a development well for which drilling commenced on or after July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well, shall be assessed at a rate of three percent (3%) of the value of the gas at the point of production for a period of five (5) years, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of gas produced from a development well as described in this paragraph (b) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(7) (a) Natural gas produced before July 1, 1999, from a two-year inactive well as defined in Section 27-25-701 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from an inactive well as described in this subsection shall be repealed from and after July 1, 2005, provided that any such production which began before July 1, 2005, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Natural gas produced on or after July 1, 1999, from a two-year inactive well as defined in Section 27-25-701 shall be
exempt from the taxes levied under this section for a period of
three (3) years beginning on the date of first sale of production
from such well, provided that the average monthly sales price of
such gas does not exceed Two Dollars and Fifty Cents ($2.50) per
one thousand (1,000) cubic feet. The exemption for natural gas
produced from an inactive well as described in this paragraph (b)
shall be repealed from and after July 1, 2005, provided that any
such production which began before July 1, 2005, shall be exempt
for an entire period of three (3) years, notwithstanding that the
repeal of this provision has become effective.

(8) The State Oil and Gas Board shall have the exclusive
authority to determine the qualification of wells defined in
paragraphs (n) through (r) of Section 27-25-701.

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

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

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

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

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

(5) (a) Natural gas produced from discovery wells for which drilling or re-entry commenced on or after April 1, 1994, but before July 1, 1999, shall be exempt from the tax levied under this section for a period of five (5) years beginning on the earlier of one (1) year from completion of the well or the date of first sale from such well, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from discovery wells as described in this paragraph (a) shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be exempt for an entire period of five (5) years, notwithstanding that the repeal of this

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provision has become effective. Natural gas produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after January 1, 1994, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of three (3) years. The reduced rate of assessment of natural gas produced from development wells or replacement wells as described in this paragraph (a) shall be repealed from and after January 1, 2005, provided that any such production for which drilling commenced before January 1, 2005, shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Natural gas produced from discovery wells for which drilling or re-entry commenced on or after July 1, 1999, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of five (5) years beginning on the earlier of one (1) year from completion of the well or the date of first sale from such well, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of natural gas produced from discovery wells as described in this paragraph (b) shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective. Natural gas produced from development wells or replacement wells drilled in connection with discovery wells for which drilling commenced on or after July 1, 1999, shall be assessed at a rate of three percent (3%) of the value thereof at the point of production for a period of three (3) years. The reduced rate of assessment of natural gas produced from development wells or replacement wells as described in this

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paragraph (b) shall be repealed from and after January 1, 2005, provided that any such production for which drilling commenced before January 1, 2005 shall be assessed at the reduced rate for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(6) (a) Gas produced from a development well for which drilling commenced on or after April 1, 1994, but before July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well, shall be assessed at a rate of three percent (3%) of the value of the gas at the point of production for a period of five (5) years, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of gas produced from a development well as described in this subsection and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2005, provided that any such production for which a permit was granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(b) Gas produced from a development well for which drilling commenced on or after July 1, 1999, and for which three-dimensional seismic was utilized in connection with the drilling of such well, shall be assessed at a rate of three percent (3%) of the value of the gas at the point of production for a period of five (5) years, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The reduced rate of assessment of gas produced from a development well as described in this paragraph (b) and for which three-dimensional seismic was utilized shall be repealed from and after July 1, 2005, provided that any such production for which a permit was
granted by the board before July 1, 2005, shall be assessed at the reduced rate for an entire period of five (5) years, notwithstanding that the repeal of this provision has become effective.

(7) (a) Natural gas produced before July 1, 1999, from a two-year inactive well as defined in Section 27-25-701 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such gas does not exceed Three Dollars and Fifty Cents ($3.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from an inactive well as described in this subsection shall be repealed from and after July 1, 2005, provided that any such production which began before July 1, 2005, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(b) Natural gas produced on or after July 1, 1999, from a two-year inactive well as defined in Section 27-25-701 shall be exempt from the taxes levied under this section for a period of three (3) years beginning on the date of first sale of production from such well, provided that the average monthly sales price of such gas does not exceed Two Dollars and Fifty Cents ($2.50) per one thousand (1,000) cubic feet. The exemption for natural gas produced from an inactive well as described in this paragraph (b) shall be repealed from and after July 1, 2005, provided that any such production which began before July 1, 2005, shall be exempt for an entire period of three (3) years, notwithstanding that the repeal of this provision has become effective.

(8) The State Oil and Gas Board shall have the exclusive authority to determine the qualification of wells defined in paragraphs (n) through (r) of Section 27-25-701.

SECTION 3. This act shall take effect and be in force from and after January 1, 2003.