

By: Representative Ford

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 771

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

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

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

8 27-25-503. (1) Except as otherwise provided herein, there
9 is hereby levied, to be collected hereafter, as provided herein,
10 annual privilege taxes upon every person engaging or continuing
11 within this state in the business of producing, or severing oil,
12 as defined herein, from the soil or water for sale, transport,
13 storage, profit or for commercial use. The amount of such tax
14 shall be measured by the value of the oil produced, and shall be
15 levied and assessed at the rate of six percent (6%) of the value
16 thereof at the point of production. However, such tax shall be
17 levied and assessed at the rate of three percent (3%) of the value
18 of the oil at the point of production on oil produced by an
19 enhanced oil recovery method in which carbon dioxide is used;
20 provided, that such carbon dioxide is transported by pipeline to
21 the oil well site and on oil produced by any other enhanced oil
22 recovery method approved and permitted by the State Oil and Gas
23 Board on or after April 1, 1994, pursuant to Section 53-3-101 et
24 seq.

25 (2) The tax is hereby levied upon the entire production in
26 this state regardless of the place of sale or to whom sold, or by
27 whom used, or the fact that the delivery may be made to points
28 outside the state, and the tax shall accrue at the time such oil



29 is severed from the soil, or water, and in its natural, unrefined
30 or unmanufactured state.

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39 shall be repealed from and after July 1, 2005, provided that any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

55 (b) Oil produced from a discovery well for which
56 drilling or re-entry commenced on or after July 1, 1999, shall be
57 assessed at the rate of three percent (3%) of the value of the oil
58 at the point of production for a period of five (5) years
59 beginning on the date of first sale of production from such well,
60 provided that the average monthly sales price of such oil does not
61 exceed Twenty Dollars (\$20.00) per barrel. The reduced rate of



62 assessment of oil produced from a discovery well as described in
63 this paragraph (b) shall be repealed from and after July 1, 2005,
64 provided that any such production for which a permit was granted
65 by the board before July 1, 2005, shall be assessed at the reduced
66 rate for an entire period of five (5) years, notwithstanding that
67 the repeal of this provision has become effective. Oil produced
68 from development wells or replacement wells drilled in connection
69 with discovery wells for which drilling commenced on or after July
70 1, 1999, shall be assessed at the rate of three percent (3%) of
71 the value of the oil at the point of production for a period of
72 three (3) years. The reduced rate of assessment of oil produced
73 from development wells or replacement wells as described in this
74 paragraph (b) shall be repealed from and after January 1, 2005,
75 provided that any such production for which drilling commenced
76 before July 1, 2005, shall be assessed at the reduced rate for an
77 entire period of three (3) years, notwithstanding that the repeal
78 of this provision has become effective.

79 (4) (a) Oil produced from a development well for which
80 drilling commenced on or after April 1, 1994, but before July 1,
81 1999, and for which three-dimensional seismic was utilized in
82 connection with the drilling of such well shall be assessed at the
83 rate of three percent (3%) of the value of the oil at the point of
84 production for a period of five (5) years, provided that the
85 average monthly sales price of such oil does not exceed
86 Twenty-five Dollars (\$25.00) per barrel. The reduced rate of
87 assessment of oil produced from a development well as described in
88 this paragraph (a) and for which three-dimensional seismic was
89 utilized shall be repealed from and after July 1, 2005, provided
90 that any such production for which a permit was granted by the
91 board before July 1, 2005, shall be assessed at the reduced rate
92 for an entire period of five (5) years, notwithstanding that the
93 repeal of this provision has become effective.



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

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

120 (b) Oil produced on or after July 1, 1999, from a
121 two-year inactive well as defined in Section 27-25-501 shall be
122 exempt from the taxes levied under this section for a period of
123 three (3) years beginning on the date of first sale of production
124 from such well, provided that the average monthly sales price of
125 such oil does not exceed Twenty Dollars (\$20.00) per barrel. The
126 exemption for oil produced from an inactive well shall be repealed



127 from and after July 1, 2005, provided that any such production
128 which began before July 1, 2005, shall be exempt for an entire
129 period of three (3) years, notwithstanding that the repeal of this
130 provision has become effective.

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

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

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

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

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

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

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

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



160 27-25-703. (1) Except as otherwise provided herein, there
161 is hereby levied, to be collected hereafter, as provided herein,
162 annual privilege taxes upon every person engaging or continuing
163 within this state in the business of producing, or severing gas,
164 as defined herein, from below the soil or water for sale,
165 transport, storage, profit or for commercial use. The amount of
166 such tax shall be measured by the value of the gas produced and
167 shall be levied and assessed at a rate of six percent (6%) of the
168 value thereof at the point of production, except as otherwise
169 provided in subsection (4) of this section.

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

183 (3) Natural gas and condensate produced from any wells for
184 which drilling is commenced after March 15, 1987, and before July
185 1, 1990, shall be exempt from the tax levied under this section
186 for a period of two (2) years beginning on the date of first sale
187 of production from such wells.

188 (4) Any well which begins commercial production of occluded
189 natural gas from coal seams on or after March 20, 1990, and before
190 July 1, 1993, shall be taxed at the rate of three and one-half
191 percent (3-1/2%) of the gross value of the occluded natural gas



192 from coal seams at the point of production for a period of five
193 (5) years after such well begins production.

194 (5) (a) Natural gas produced from discovery wells for which
195 drilling or re-entry commenced on or after April 1, 1994, but
196 before July 1, 1999, shall be exempt from the tax levied under
197 this section for a period of five (5) years beginning on the
198 earlier of one (1) year from completion of the well or the date of
199 first sale from such well, provided that the average monthly sales
200 price of such gas does not exceed Three Dollars and Fifty Cents
201 (\$3.50) per one thousand (1,000) cubic feet. The exemption for
202 natural gas produced from discovery wells as described in this
203 paragraph (a) shall be repealed from and after July 1, 2005,
204 provided that any such production for which a permit was granted
205 by the board before July 1, 2005, shall be exempt for an entire
206 period of five (5) years, notwithstanding that the repeal of this
207 provision has become effective. Natural gas produced from
208 development wells or replacement wells drilled in connection with
209 discovery wells for which drilling commenced on or after January
210 1, 1994, shall be assessed at a rate of three percent (3%) of the
211 value thereof at the point of production for a period of three (3)
212 years. The reduced rate of assessment of natural gas produced
213 from development wells or replacement wells as described in this
214 paragraph (a) shall be repealed from and after January 1, 2005,
215 provided that any such production for which drilling commenced
216 before January 1, 2005, shall be assessed at the reduced rate for
217 an entire period of three (3) years, notwithstanding that the
218 repeal of this provision has become effective.

219 (b) Natural gas produced from discovery wells for which
220 drilling or re-entry commenced on or after July 1, 1999, shall be
221 assessed at a rate of three percent (3%) of the value thereof at
222 the point of production for a period of five (5) years beginning
223 on the earlier of one (1) year from completion of the well or the
224 date of first sale from such well, provided that the average



225 monthly sales price of such gas does not exceed Two Dollars and
226 Fifty Cents (\$2.50) per one thousand (1,000) cubic feet. The
227 reduced rate of assessment of natural gas produced from discovery
228 wells as described in this paragraph (b) shall be repealed from
229 and after July 1, 2005, provided that any such production for
230 which a permit was granted by the board before July 1, 2005, shall
231 be assessed at the reduced rate for an entire period of five (5)
232 years, notwithstanding that the repeal of this provision has
233 become effective. Natural gas produced from development wells or
234 replacement wells drilled in connection with discovery wells for
235 which drilling commenced on or after July 1, 1999, shall be
236 assessed at a rate of three percent (3%) of the value thereof at
237 the point of production for a period of three (3) years. The
238 reduced rate of assessment of natural gas produced from
239 development wells or replacement wells as described in this
240 paragraph (b) shall be repealed from and after January 1, 2005,
241 provided that any such production for which drilling commenced
242 before January 1, 2005, shall be assessed at the reduced rate for
243 an entire period of three (3) years, notwithstanding that the
244 repeal of this provision has become effective.

245 (6) (a) Gas produced from a development well for which
246 drilling commenced on or after April 1, 1994, but before July 1,
247 1999, and for which three-dimensional seismic was utilized in
248 connection with the drilling of such well, shall be assessed at a
249 rate of three percent (3%) of the value of the gas at the point of
250 production for a period of five (5) years, provided that the
251 average monthly sales price of such gas does not exceed Three
252 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
253 feet. The reduced rate of assessment of gas produced from a
254 development well as described in this subsection and for which
255 three-dimensional seismic was utilized shall be repealed from and
256 after July 1, 2005, provided that any such production for which a
257 permit was granted by the board before July 1, 2005, shall be



258 assessed at the reduced rate for an entire period of five (5)
259 years, notwithstanding that the repeal of this provision has
260 become effective.

261 (b) Gas produced from a development well for which
262 drilling commenced on or after July 1, 1999, and for which
263 three-dimensional seismic was utilized in connection with the
264 drilling of such well, shall be assessed at a rate of three
265 percent (3%) of the value of the gas at the point of production
266 for a period of five (5) years, provided that the average monthly
267 sales price of such gas does not exceed Two Dollars and Fifty
268 Cents (\$2.50) per one thousand (1,000) cubic feet. The reduced
269 rate of assessment of gas produced from a development well as
270 described in this paragraph (b) and for which three-dimensional
271 seismic was utilized shall be repealed from and after July 1,
272 2005, provided that any such production for which a permit was
273 granted by the board before July 1, 2005, shall be assessed at the
274 reduced rate for an entire period of five (5) years,
275 notwithstanding that the repeal of this provision has become
276 effective.

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

289 (b) Natural gas produced on or after July 1, 1999, from
290 a two-year inactive well as defined in Section 27-25-701 shall be



291 exempt from the taxes levied under this section for a period of
292 three (3) years beginning on the date of first sale of production
293 from such well, provided that the average monthly sales price of
294 such gas does not exceed Two Dollars and Fifty Cents (\$2.50) per
295 one thousand (1,000) cubic feet. The exemption for natural gas
296 produced from an inactive well as described in this paragraph (b)
297 shall be repealed from and after July 1, 2005, provided that any
298 such production which began before July 1, 2005, shall be exempt
299 for an entire period of three (3) years, notwithstanding that the
300 repeal of this provision has become effective.

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

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

306 27-25-703. (1) Except as otherwise provided herein, there
307 is hereby levied, to be collected hereafter, as provided herein,
308 annual privilege taxes upon every person engaging or continuing
309 within this state in the business of producing, or severing gas,
310 as defined herein, from below the soil or water for sale,
311 transport, storage, profit or for commercial use. The amount of
312 such tax shall be measured by the value of the gas produced and
313 shall be levied and assessed at a rate of six percent (6%) of the
314 value thereof at the point of production, except as otherwise
315 provided in subsection (4) of this section.

316 (2) The tax is hereby levied upon the entire production in
317 this state, regardless of the place of sale or to whom sold or by
318 whom used, or the fact that the delivery may be made to points
319 outside the state, but not levied upon that gas, including carbon
320 dioxide, lawfully injected into the earth for cycling,
321 repressuring, lifting or enhancing the recovery of oil, nor upon
322 gas lawfully vented or flared in connection with the production of
323 oil, nor upon gas condensed into liquids on which the oil



324 severance tax of six percent (6%) is paid; save and except,
325 however, if any gas so injected into the earth is sold for such
326 purposes, then the gas so sold shall not be excluded in computing
327 the tax, unless such gas is carbon dioxide which is sold to be
328 used and is used in Mississippi in an enhanced oil recovery
329 method, in which event there shall be no severance tax levied on
330 carbon dioxide so sold and used. The tax shall accrue at the time
331 the gas is produced or severed from the soil or water, and in its
332 natural, unrefined or unmanufactured state.

333 (3) Natural gas and condensate produced from any wells for
334 which drilling is commenced after March 15, 1987, and before July
335 1, 1990, shall be exempt from the tax levied under this section
336 for a period of two (2) years beginning on the date of first sale
337 of production from such wells.

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

344 (5) (a) Natural gas produced from discovery wells for which
345 drilling or re-entry commenced on or after April 1, 1994, but
346 before July 1, 1999, shall be exempt from the tax levied under
347 this section for a period of five (5) years beginning on the
348 earlier of one (1) year from completion of the well or the date of
349 first sale from such well, provided that the average monthly sales
350 price of such gas does not exceed Three Dollars and Fifty Cents
351 (\$3.50) per one thousand (1,000) cubic feet. The exemption for
352 natural gas produced from discovery wells as described in this
353 paragraph (a) shall be repealed from and after July 1, 2005,
354 provided that any such production for which a permit was granted
355 by the board before July 1, 2005, shall be exempt for an entire
356 period of five (5) years, notwithstanding that the repeal of this



357 provision has become effective. Natural gas produced from
358 development wells or replacement wells drilled in connection with
359 discovery wells for which drilling commenced on or after January
360 1, 1994, shall be assessed at a rate of three percent (3%) of the
361 value thereof at the point of production for a period of three (3)
362 years. The reduced rate of assessment of natural gas produced
363 from development wells or replacement wells as described in this
364 paragraph (a) shall be repealed from and after January 1, 2005,
365 provided that any such production for which drilling commenced
366 before January 1, 2005, shall be assessed at the reduced rate for
367 an entire period of three (3) years, notwithstanding that the
368 repeal of this provision has become effective.

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



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

395 (6) (a) Gas produced from a development well for which
396 drilling commenced on or after April 1, 1994, but before July 1,
397 1999, and for which three-dimensional seismic was utilized in
398 connection with the drilling of such well, shall be assessed at a
399 rate of three percent (3%) of the value of the gas at the point of
400 production for a period of five (5) years, provided that the
401 average monthly sales price of such gas does not exceed Three
402 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
403 feet. The reduced rate of assessment of gas produced from a
404 development well as described in this subsection and for which
405 three-dimensional seismic was utilized shall be repealed from and
406 after July 1, 2005, provided that any such production for which a
407 permit was granted by the board before July 1, 2005, shall be
408 assessed at the reduced rate for an entire period of five (5)
409 years, notwithstanding that the repeal of this provision has
410 become effective.

411 (b) Gas produced from a development well for which
412 drilling commenced on or after July 1, 1999, and for which
413 three-dimensional seismic was utilized in connection with the
414 drilling of such well, shall be assessed at a rate of three
415 percent (3%) of the value of the gas at the point of production
416 for a period of five (5) years, provided that the average monthly
417 sales price of such gas does not exceed Two Dollars and Fifty
418 Cents (\$2.50) per one thousand (1,000) cubic feet. The reduced
419 rate of assessment of gas produced from a development well as
420 described in this paragraph (b) and for which three-dimensional
421 seismic was utilized shall be repealed from and after July 1,
422 2005, provided that any such production for which a permit was



423 granted by the board before July 1, 2005, shall be assessed at the
424 reduced rate for an entire period of five (5) years,
425 notwithstanding that the repeal of this provision has become
426 effective.

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

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

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

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

