

By: Representatives Reeves, Smith (39th),  
Robinson (84th), Taylor, Moore, Staples,  
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To: Oil, Gas and Other  
Minerals; Ways and Means

HOUSE BILL NO. 1062  
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 27-25-701 AND 27-25-703, MISSISSIPPI  
2 CODE OF 1972, TO CONTINUE THE EXCLUSION OF CARBON DIOXIDE FROM THE  
3 DEFINITION OF THE TERM "GAS" IN THE LAW PROVIDING FOR THE TAXATION  
4 OF SEVERED GAS; TO PROVIDE THAT ANY WELL WHICH BEGINS COMMERCIAL  
5 PRODUCTION OF OCCLUDED NATURAL GAS FROM COAL SEAMS ON OR AFTER  
6 JULY 1, 2004, AND BEFORE JULY 1, 2007, SHALL BE TAXED AT THE RATE  
7 OF 3% OF THE GROSS VALUE OF THE OCCLUDED NATURAL GAS FROM COAL  
8 SEAMS AT THE POINT OF PRODUCTION FOR A PERIOD OF 5 YEARS BEGINNING  
9 ON THE DATE OF THE FIRST SALE OF PRODUCTION FROM SUCH WELL; TO  
10 AMEND SECTION 27-25-721, MISSISSIPPI CODE OF 1972, TO CONTINUE THE  
11 AD VALOREM TAX EXEMPTION FOR CARBON DIOXIDE AND CARBON DIOXIDE  
12 PRODUCTION EQUIPMENT; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-25-701, Mississippi Code of 1972, is  
15 amended as follows:

16 \* \* \*

17 27-25-701. Whenever used in this article, the following  
18 words and terms shall have the definition and meaning ascribed to  
19 them in this section, unless the intention to give a more limited  
20 meaning is disclosed by the context:

21 (a) "Tax commission" means the Tax Commission of the  
22 State of Mississippi.

23 (b) "Commissioner" means the Chairman of the State Tax  
24 Commission.

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

28 (d) "Value" means the sale price, or market value, at  
29 the mouth of the well. If the gas is exchanged for something  
30 other than cash, or if there is no sale at the time of severance,  
31 or if the relation between the buyer and the seller is such that  
32 the consideration paid, if any, is not indicative of the true

33 value or market price, then the commissioner shall determine the  
34 value of the gas subject to tax, considering the sale price for  
35 cash of gas of like quality in the same or nearest gas-producing  
36 field.

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

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

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

46 (h) "Severed" means the extraction or withdrawing by  
47 any means whatsoever, from below the surface of the soil or water,  
48 of any gas.

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

53 (j) "Producer" means any person owning, controlling,  
54 managing or leasing any oil or gas property, or oil or gas well,  
55 and any person who produces in any manner any gas by taking it  
56 from the earth or water in this state, and shall include any  
57 person owning any royalty or other interest in any gas or its  
58 value, whether produced by him, or by some other person on his  
59 behalf, either by lease contract or otherwise.

60 (k) "Engaging in business" means any act or acts  
61 engaged in (personal or corporate) by producers, or parties at  
62 interest, the result of which gas is severed from the soil or  
63 water, for storage, transport or manufacture, or by which there is  
64 an exchange of money, or goods, or thing of value, for gas which  
65 has been or is in process of being severed from the soil or water.

66           (1) "Production" means the total gross amount of gas  
67 produced, including all royalty or other interest; that is, the  
68 amount for the purpose of the tax imposed by this article shall be  
69 measured or determined by meter readings showing one hundred  
70 percent (100%) of the full volume expressed in cubic feet at a  
71 standard base and flowing temperature of sixty (60) degrees  
72 Fahrenheit and at the absolute pressure at which the gas is sold  
73 and purchased; correction to be made for pressure according to  
74 Boyle's law, and for specific gravity according to the gravity at  
75 which the gas is sold and purchased or if not so specified,  
76 according to test made by the balance method.

77           (m) "Gathering system" means the pipelines,  
78 compressors, pumps, regulators, separators, dehydrators, meters,  
79 metering installations and all other property used in gathering  
80 gas from the well from which it is produced if such properties are  
81 owned by other than the operator, and all such properties, if  
82 owned by the operator, beyond the first metering installation that  
83 is nearest the well.

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

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

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

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

96           (r) "Two-year inactive well" means any oil or gas well  
97 certified by the State Oil and Gas Board as having not produced  
98 oil or gas in more than a total of thirty (30) days during a

99 twelve (12) consecutive month period in the two (2) years before  
100 the date of certification.

101 \* \* \*

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

104 \* \* \*

105 27-25-703. (1) Except as otherwise provided herein, there  
106 is hereby levied, to be collected hereafter, as provided herein,  
107 annual privilege taxes upon every person engaging or continuing  
108 within this state in the business of producing, or severing gas,  
109 as defined herein, from below the soil or water for sale,  
110 transport, storage, profit or for commercial use. The amount of  
111 such tax shall be measured by the value of the gas produced and  
112 shall be levied and assessed at a rate of six percent (6%) of the  
113 value thereof at the point of production, except as otherwise  
114 provided in subsection (4) of this section.

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

128 (3) Natural gas and condensate produced from any wells for  
129 which drilling is commenced after March 15, 1987, and before July  
130 1, 1990, shall be exempt from the tax levied under this section

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

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

139 (b) Any well which begins commercial production of  
140 occluded natural gas from coal seams on or after July 1, 2004, and  
141 before July 1, 2007, shall be taxed at the rate of three percent  
142 (3%) of the gross value of the occluded natural gas from coal  
143 seams at the point of production for a period of five (5) years  
144 beginning on the date of the first sale of production from such  
145 well.

146 (5) (a) Natural gas produced from discovery wells for which  
147 drilling or re-entry commenced on or after April 1, 1994, but  
148 before July 1, 1999, shall be exempt from the tax levied under  
149 this section for a period of five (5) years beginning on the  
150 earlier of one (1) year from completion of the well or the date of  
151 first sale from such well, provided that the average monthly sales  
152 price of such gas does not exceed Three Dollars and Fifty Cents  
153 (\$3.50) per one thousand (1,000) cubic feet. The exemption for  
154 natural gas produced from discovery wells as described in this  
155 paragraph (a) shall be repealed from and after July 1, 2003,  
156 provided that any such production for which a permit was granted  
157 by the board before July 1, 2003, shall be exempt for an entire  
158 period of five (5) years, notwithstanding that the repeal of this  
159 provision has become effective. Natural gas produced from  
160 development wells or replacement wells drilled in connection with  
161 discovery wells for which drilling commenced on or after January  
162 1, 1994, shall be assessed at a rate of three percent (3%) of the  
163 value thereof at the point of production for a period of three (3)

164 years. The reduced rate of assessment of natural gas produced  
165 from development wells or replacement wells as described in this  
166 paragraph (a) shall be repealed from and after January 1, 2003,  
167 provided that any such production for which drilling commenced  
168 before January 1, 2003, shall be assessed at the reduced rate for  
169 an entire period of three (3) years, notwithstanding that the  
170 repeal of this provision has become effective.

171 (b) Natural gas produced from discovery wells for which  
172 drilling or re-entry commenced on or after July 1, 1999, shall be  
173 assessed at a rate of three percent (3%) of the value thereof at  
174 the point of production for a period of five (5) years beginning  
175 on the earlier of one (1) year from completion of the well or the  
176 date of first sale from such well, provided that the average  
177 monthly sales price of such gas does not exceed Two Dollars and  
178 Fifty Cents (\$2.50) per one thousand (1,000) cubic feet. The  
179 reduced rate of assessment of natural gas produced from discovery  
180 wells as described in this paragraph (b) shall be repealed from  
181 and after July 1, 2003, provided that any such production for  
182 which a permit was granted by the board before July 1, 2003, shall  
183 be assessed at the reduced rate for an entire period of five (5)  
184 years, notwithstanding that the repeal of this provision has  
185 become effective. Natural gas produced from development wells or  
186 replacement wells drilled in connection with discovery wells for  
187 which drilling commenced on or after July 1, 1999, shall be  
188 assessed at a rate of three percent (3%) of the value thereof at  
189 the point of production for a period of three (3) years. The  
190 reduced rate of assessment of natural gas produced from  
191 development wells or replacement wells as described in this  
192 paragraph (b) shall be repealed from and after January 1, 2003,  
193 provided that any such production for which drilling commenced  
194 before January 1, 2003, shall be assessed at the reduced rate for  
195 an entire period of three (3) years, notwithstanding that the  
196 repeal of this provision has become effective.

197           (6) (a) Gas produced from a development well for which  
198 drilling commenced on or after April 1, 1994, but before July 1,  
199 1999, and for which three-dimensional seismic was utilized in  
200 connection with the drilling of such well, shall be assessed at a  
201 rate of three percent (3%) of the value of the gas at the point of  
202 production for a period of five (5) years, provided that the  
203 average monthly sales price of such gas does not exceed Three  
204 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic  
205 feet. The reduced rate of assessment of gas produced from a  
206 development well as described in this subsection and for which  
207 three-dimensional seismic was utilized shall be repealed from and  
208 after July 1, 2003, provided that any such production for which a  
209 permit was granted by the board before July 1, 2003, shall be  
210 assessed at the reduced rate for an entire period of five (5)  
211 years, notwithstanding that the repeal of this provision has  
212 become effective.

213           (b) Gas produced from a development well for which  
214 drilling commenced on or after July 1, 1999, and for which  
215 three-dimensional seismic was utilized in connection with the  
216 drilling of such well, shall be assessed at a rate of three  
217 percent (3%) of the value of the gas at the point of production  
218 for a period of five (5) years, provided that the average monthly  
219 sales price of such gas does not exceed Two Dollars and Fifty  
220 Cents (\$2.50) per one thousand (1,000) cubic feet. The reduced  
221 rate of assessment of gas produced from a development well as  
222 described in this paragraph (b) and for which three-dimensional  
223 seismic was utilized shall be repealed from and after July 1,  
224 2003, provided that any such production for which a permit was  
225 granted by the board before July 1, 2003, shall be assessed at the  
226 reduced rate for an entire period of five (5) years,  
227 notwithstanding that the repeal of this provision has become  
228 effective.

229           (7) (a) Natural gas produced before July 1, 1999, from a  
230 two-year inactive well as defined in Section 27-25-701 shall be  
231 exempt from the taxes levied under this section for a period of  
232 three (3) years beginning on the date of first sale of production  
233 from such well, provided that the average monthly sales price of  
234 such gas does not exceed Three Dollars and Fifty Cents (\$3.50) per  
235 one thousand (1,000) cubic feet. The exemption for natural gas  
236 produced from an inactive well as described in this subsection  
237 shall be repealed from and after July 1, 2003, provided that any  
238 such production which began before July 1, 2003, shall be exempt  
239 for an entire period of three (3) years, notwithstanding that the  
240 repeal of this provision has become effective.

241           (b) Natural gas produced on or after July 1, 1999, from  
242 a two-year inactive well as defined in Section 27-25-701 shall be  
243 exempt from the taxes levied under this section for a period of  
244 three (3) years beginning on the date of first sale of production  
245 from such well, provided that the average monthly sales price of  
246 such gas does not exceed Two Dollars and Fifty Cents (\$2.50) per  
247 one thousand (1,000) cubic feet. The exemption for natural gas  
248 produced from an inactive well as described in this paragraph (b)  
249 shall be repealed from and after July 1, 2003, provided that any  
250 such production which began before July 1, 2003, shall be exempt  
251 for an entire period of three (3) years, notwithstanding that the  
252 repeal of this provision has become effective.

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

256       \* \* \*

257       **SECTION 3.** Section 27-25-721, Mississippi Code of 1972, is  
258 amended as follows:

259       \* \* \*

260           27-25-721. All gas and carbon dioxide produced or under the  
261 ground on producing properties within the State of Mississippi and

262 all producing gas or carbon dioxide equipment, including wells,  
263 connections, pumps, derricks and other appurtenances actually  
264 owned by and belonging to the producer, and all leases in  
265 production, including mineral rights in producing properties,  
266 shall be exempt from all ad valorem taxes now levied or hereafter  
267 levied by the State of Mississippi, or any other taxing district  
268 within this state. This exemption shall not apply to drilling  
269 equipment, including derricks, machinery, and other materials  
270 necessary to drilling, nor to gas or carbon dioxide gathering  
271 systems, nor to the surface of lands leased for gas or carbon  
272 dioxide production or upon which gas or carbon dioxide producing  
273 properties are situated, but all such drilling equipment,  
274 gathering systems, and lands shall be assessed as are other  
275 properties and shall be subject to ad valorem tax. However, no  
276 additional assessment shall be added to the surface value of such  
277 lands by reason of the presence of gas or carbon dioxide  
278 thereunder or its production therefrom. The exemption herein  
279 granted shall apply to all ad valorem taxes levied in the year  
280 1948 and each year thereafter.

281 \* \* \*

282 **SECTION 4.** This act shall take effect and be in force from  
283 and after its passage.