

Senate Amendments to House Bill No. 1062

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 (l) "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.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

SS26\HB1062A.J

John O. Gilbert
Secretary of the Senate