

By: Representatives Reeves, Smith (39th),
Robinson (84th), Taylor, Moore, Staples,
Reynolds, Moak, Scott

To: Oil, Gas and Other
Minerals; Ways and Means

HOUSE BILL NO. 1062

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 AMEND SECTION 27-25-721, MISSISSIPPI CODE OF
5 1972, TO CONTINUE THE AD VALOREM TAX EXEMPTION FOR CARBON DIOXIDE
6 AND CARBON DIOXIDE PRODUCTION EQUIPMENT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 27-25-701, Mississippi Code of 1972, is
9 amended as follows:

10 * * *

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

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

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

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

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

29 cash of gas of like quality in the same or nearest gas-producing
30 field.

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

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

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

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

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

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

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

60 (l) "Production" means the total gross amount of gas
61 produced, including all royalty or other interest; that is, the

62 amount for the purpose of the tax imposed by this article shall be
63 measured or determined by meter readings showing one hundred
64 percent (100%) of the full volume expressed in cubic feet at a
65 standard base and flowing temperature of sixty (60) degrees
66 Fahrenheit and at the absolute pressure at which the gas is sold
67 and purchased; correction to be made for pressure according to
68 Boyle's law, and for specific gravity according to the gravity at
69 which the gas is sold and purchased or if not so specified,
70 according to test made by the balance method.

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

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

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

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

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

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

95 * * *

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

98 * * *

99 27-25-703. (1) Except as otherwise provided herein, there
100 is hereby levied, to be collected hereafter, as provided herein,
101 annual privilege taxes upon every person engaging or continuing
102 within this state in the business of producing, or severing gas,
103 as defined herein, from below the soil or water for sale,
104 transport, storage, profit or for commercial use. The amount of
105 such tax shall be measured by the value of the gas produced and
106 shall be levied and assessed at a rate of six percent (6%) of the
107 value thereof at the point of production, except as otherwise
108 provided in subsection (4) of this section.

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

122 (3) Natural gas and condensate produced from any wells for
123 which drilling is commenced after March 15, 1987, and before July
124 1, 1990, shall be exempt from the tax levied under this section
125 for a period of two (2) years beginning on the date of first sale
126 of production from such wells.

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

133 (5) (a) Natural gas produced from discovery wells for which
134 drilling or re-entry commenced on or after April 1, 1994, but
135 before July 1, 1999, shall be exempt from the tax levied under
136 this section for a period of five (5) years beginning on the
137 earlier of one (1) year from completion of the well or the date of
138 first sale from such well, provided that the average monthly sales
139 price of such gas does not exceed Three Dollars and Fifty Cents
140 (\$3.50) per one thousand (1,000) cubic feet. The exemption for
141 natural gas produced from discovery wells as described in this
142 paragraph (a) shall be repealed from and after July 1, 2003,
143 provided that any such production for which a permit was granted
144 by the board before July 1, 2003, shall be exempt for an entire
145 period of five (5) years, notwithstanding that the repeal of this
146 provision has become effective. Natural gas produced from
147 development wells or replacement wells drilled in connection with
148 discovery wells for which drilling commenced on or after January
149 1, 1994, shall be assessed at a rate of three percent (3%) of the
150 value thereof at the point of production for a period of three (3)
151 years. The reduced rate of assessment of natural gas produced
152 from development wells or replacement wells as described in this
153 paragraph (a) shall be repealed from and after January 1, 2003,
154 provided that any such production for which drilling commenced
155 before January 1, 2003, shall be assessed at the reduced rate for
156 an entire period of three (3) years, notwithstanding that the
157 repeal of this provision has become effective.

158 (b) Natural gas produced from discovery wells for which
159 drilling or re-entry commenced on or after July 1, 1999, shall be

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

184 (6) (a) Gas produced from a development well for which
185 drilling commenced on or after April 1, 1994, but before July 1,
186 1999, and for which three-dimensional seismic was utilized in
187 connection with the drilling of such well, shall be assessed at a
188 rate of three percent (3%) of the value of the gas at the point of
189 production for a period of five (5) years, provided that the
190 average monthly sales price of such gas does not exceed Three
191 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
192 feet. The reduced rate of assessment of gas produced from a

193 development well as described in this subsection and for which
194 three-dimensional seismic was utilized shall be repealed from and
195 after July 1, 2003, provided that any such production for which a
196 permit was granted by the board before July 1, 2003, shall be
197 assessed at the reduced rate for an entire period of five (5)
198 years, notwithstanding that the repeal of this provision has
199 become effective.

200 (b) Gas produced from a development well for which
201 drilling commenced on or after July 1, 1999, and for which
202 three-dimensional seismic was utilized in connection with the
203 drilling of such well, shall be assessed at a rate of three
204 percent (3%) of the value of the gas at the point of production
205 for a period of five (5) years, provided that the average monthly
206 sales price of such gas does not exceed Two Dollars and Fifty
207 Cents (\$2.50) per one thousand (1,000) cubic feet. The reduced
208 rate of assessment of gas produced from a development well as
209 described in this paragraph (b) and for which three-dimensional
210 seismic was utilized shall be repealed from and after July 1,
211 2003, provided that any such production for which a permit was
212 granted by the board before July 1, 2003, shall be assessed at the
213 reduced rate for an entire period of five (5) years,
214 notwithstanding that the repeal of this provision has become
215 effective.

216 (7) (a) Natural gas produced before July 1, 1999, from a
217 two-year inactive well as defined in Section 27-25-701 shall be
218 exempt from the taxes levied under this section for a period of
219 three (3) years beginning on the date of first sale of production
220 from such well, provided that the average monthly sales price of
221 such gas does not exceed Three Dollars and Fifty Cents (\$3.50) per
222 one thousand (1,000) cubic feet. The exemption for natural gas
223 produced from an inactive well as described in this subsection
224 shall be repealed from and after July 1, 2003, provided that any
225 such production which began before July 1, 2003, shall be exempt

226 for an entire period of three (3) years, notwithstanding that the
227 repeal of this provision has become effective.

228 (b) Natural gas produced on or after July 1, 1999, from
229 a two-year inactive well as defined in Section 27-25-701 shall be
230 exempt from the taxes levied under this section for a period of
231 three (3) years beginning on the date of first sale of production
232 from such well, provided that the average monthly sales price of
233 such gas does not exceed Two Dollars and Fifty Cents (\$2.50) per
234 one thousand (1,000) cubic feet. The exemption for natural gas
235 produced from an inactive well as described in this paragraph (b)
236 shall be repealed from and after July 1, 2003, provided that any
237 such production which began before July 1, 2003, shall be exempt
238 for an entire period of three (3) years, notwithstanding that the
239 repeal of this provision has become effective.

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

243 * * *

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

246 * * *

247 27-25-721. All gas and carbon dioxide produced or under the
248 ground on producing properties within the State of Mississippi and
249 all producing gas or carbon dioxide equipment, including wells,
250 connections, pumps, derricks and other appurtenances actually
251 owned by and belonging to the producer, and all leases in
252 production, including mineral rights in producing properties,
253 shall be exempt from all ad valorem taxes now levied or hereafter
254 levied by the State of Mississippi, or any other taxing district
255 within this state. This exemption shall not apply to drilling
256 equipment, including derricks, machinery, and other materials
257 necessary to drilling, nor to gas or carbon dioxide gathering
258 systems, nor to the surface of lands leased for gas or carbon

259 dioxide production or upon which gas or carbon dioxide producing
260 properties are situated, but all such drilling equipment,
261 gathering systems, and lands shall be assessed as are other
262 properties and shall be subject to ad valorem tax. However, no
263 additional assessment shall be added to the surface value of such
264 lands by reason of the presence of gas or carbon dioxide
265 thereunder or its production therefrom. The exemption herein
266 granted shall apply to all ad valorem taxes levied in the year
267 1948 and each year thereafter.

268 * * *

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