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To: Finance

SENATE BILL NO. 2574

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.