SENATE BILL NO. 2134

AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO INCREASE THE SALES TAX UPON THE PROVISION OF INTERSTATE TELECOMMUNICATIONS SERVICES FROM 5.5% TO 7%; TO AMEND SECTION 27-38-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AMOUNTS IN THE TELECOMMUNICATIONS AD VALOREM TAX REDUCTION FUND AT THE END OF A FISCAL YEAR THAT ARE NOT NECESSARY TO PAY REFUNDS TO TELECOMMUNICATIONS PROVIDERS UNDER THE MISSISSIPPI TELECOMMUNICATIONS TAX REFORM ACT SHALL LAPSE INTO THE STATE GENERAL FUND; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-65-19, Mississippi Code of 1972, is amended as follows:

27-65-19. (1) (a) Except as otherwise provided in this subsection, upon every person selling to consumers, electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel, there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross income of the business. Provided, gross income from sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use, and sales of potable water for residential, noncommercial or nonagricultural use shall be excluded from taxable gross income of the business. Provided further, upon every such seller using electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel for nonindustrial purposes, there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the cost or value of the product or service used.
(b) There is hereby levied, assessed and shall be collected a tax equal to one and one-half percent (1-1/2%) of the gross income of the business when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to or used by a manufacturer, custom processor or public service company for industrial purposes, which shall include that used to generate electricity, to operate an electrical distribution or transmission system, to operate pipeline compressor or pumping stations or to operate railroad locomotives; provided, however, that:

(i) From and after July 1, 2000, through June 30, 2001, sales of fuel used to produce electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale shall be taxed at the rate of one and one-eighth percent (1.125%);

(ii) From and after July 1, 2001, through June 30, 2002, sales of fuel used to produce electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale shall be taxed at the rate of three-fourths of one percent (0.75%);

(iii) From and after July 1, 2002, through June 30, 2003, sales of fuel used to produce electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale shall be taxed at the rate of three-eighths of one percent (0.375%);

(iv) From and after July 1, 2003, sales of fuel used to produce electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale shall be exempt from sales tax as provided in Section 27-65-107.

(c) The one and one-half percent (1-1/2%) industrial rate provided for in this subsection shall also apply when the electricity, current, power, steam, coal, natural gas, liquefied
petroleum gas or other fuel is sold to a producer or processor for use directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of plants or food by commercial horticulturists, the processing of milk and milk products, the processing of poultry and livestock feed, and the irrigation of farm crops.

(d) The one and one-half percent (1-1/2%) rate provided for in this subsection shall not apply to sales of fuel for automobiles, trucks, truck-tractors, buses, farm tractors or airplanes.

(e) Upon every person operating a telegraph or telephone business for the transmission of messages or conversations between points within this state, there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross income of such business, with no deduction or allowance for any part of an intrastate rate charge because of routing across a state line. Charges by one telecommunications provider to another telecommunications provider for services that are resold by such other telecommunications provider, including, but not limited to, access charges, shall not be subject to the tax levied pursuant to this paragraph (e). However, any sale of a prepaid telephone calling card or prepaid authorization number, or both, shall be deemed to be the sale of tangible personal property subject only to such taxes imposed by law on the sale of tangible personal property. If the sale of a prepaid telephone calling card or prepaid authorization number does not take place at the vendor's place of business, it shall be conclusively determined to take place at the customer's shipping address. The reauthorization of a prepaid telephone calling card or a prepaid authorization number shall be conclusively determined to take place at the customer's billing address.

(f) Upon every person operating a telegraph or telecommunications business for the transmission of messages or
conversations originating in this state or terminating in this
state via interstate telecommunications, which are charged to the
customer's service address in this state, regardless of where such
amount is billed or paid, there is hereby levied, assessed and
shall be collected a tax equal to **seven percent (7%)** of the gross
income received by such business from such interstate
telecommunications. However, a person, upon proof that he has
paid a tax in another state on such event, shall be allowed a
credit against the tax imposed in this paragraph (f) on interstate
telecommunications charges to the extent that the amount of such
tax is properly due and actually paid in such other state and to
the extent that the rate of sales tax imposed by and paid to such
other state does not exceed the rate of sales tax imposed by this
paragraph (f). Charges by one telecommunications provider to
another telecommunications provider for services that are resold
by such other telecommunications provider, including, but not
limited to, access charges, shall not be subject to the tax levied
pursuant to this paragraph (f).

(2) Persons making sales to consumers of electricity,
current, power, natural gas, liquefied petroleum gas or other fuel
for residential heating, lighting or other residential
noncommercial or nonagricultural use or sales of potable water for
residential, noncommercial or nonagricultural use shall indicate
on each statement rendered to customers that such charges are
exempt from sales taxes.

(3) There is hereby levied, assessed and shall be paid on
transportation charges on shipments moving between points within
this state when paid directly by the consumer, a tax equal to the rate applicable to the sale of the property being transported.
Such tax shall be reported and paid directly to the State Tax
Commission by the consumer.
27-38-7. (1) There is created in the State Treasury a special fund to be known as the Telecommunications Ad Valorem Tax Reduction Fund, into which shall be deposited the money specified in Section 27-65-75(15) and such other money as the Legislature may provide by appropriation. The money in the fund shall be used to make the payments provided for in Section 27-38-5.

(2) The Telecommunications Ad Valorem Tax Reduction Fund shall be administered by the State Tax Commission, and money in the fund shall be expended upon appropriation by the Legislature. Any interest earned on amounts in the fund shall be deposited to the credit of the fund. Amounts remaining in the fund at the end of the state fiscal year that are not necessary to pay the refunds required by this chapter shall lapse into the State General Fund. The State Tax Commission shall make the calculations necessary to make the distributions required pursuant to Section 27-38-5, and shall make the transfer of unexpended amounts required to be made pursuant to Section 27-38-5.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.