

By: Senator(s) Bryan

To: Finance

SENATE BILL NO. 2134

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,
 2 TO INCREASE THE SALES TAX UPON THE PROVISION OF INTERSTATE
 3 TELECOMMUNICATIONS SERVICES FROM 5.5% TO 7%; TO AMEND SECTION
 4 27-38-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AMOUNTS IN THE
 5 TELECOMMUNICATIONS AD VALOREM TAX REDUCTION FUND AT THE END OF A
 6 FISCAL YEAR THAT ARE NOT NECESSARY TO PAY REFUNDS TO
 7 TELECOMMUNICATIONS PROVIDERS UNDER THE MISSISSIPPI
 8 TELECOMMUNICATIONS TAX REFORM ACT SHALL LAPSE INTO THE STATE
 9 GENERAL FUND; AND FOR RELATED PURPOSES.

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

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

13 27-65-19. (1) (a) Except as otherwise provided in this
 14 subsection, upon every person selling to consumers, electricity,
 15 current, power, potable water, steam, coal, natural gas, liquefied
 16 petroleum gas or other fuel, there is hereby levied, assessed and
 17 shall be collected a tax equal to seven percent (7%) of the gross
 18 income of the business. Provided, gross income from sales to
 19 consumers of electricity, current, power, natural gas, liquefied
 20 petroleum gas or other fuel for residential heating, lighting or
 21 other residential noncommercial or nonagricultural use, and sales
 22 of potable water for residential, noncommercial or nonagricultural
 23 use shall be excluded from taxable gross income of the business.
 24 Provided further, upon every such seller using electricity,
 25 current, power, potable water, steam, coal, natural gas, liquefied
 26 petroleum gas or other fuel for nonindustrial purposes, there is
 27 hereby levied, assessed and shall be collected a tax equal to
 28 seven percent (7%) of the cost or value of the product or service
 29 used.



30 (b) There is hereby levied, assessed and shall be
31 collected a tax equal to one and one-half percent (1-1/2%) of the
32 gross income of the business when the electricity, current, power,
33 steam, coal, natural gas, liquefied petroleum gas or other fuel is
34 sold to or used by a manufacturer, custom processor or public
35 service company for industrial purposes, which shall include that
36 used to generate electricity, to operate an electrical
37 distribution or transmission system, to operate pipeline
38 compressor or pumping stations or to operate railroad locomotives;
39 provided, however, that:

40 (i) From and after July 1, 2000, through June 30,
41 2001, sales of fuel used to produce electric power by a company
42 primarily engaged in the business of producing, generating or
43 distributing electric power for sale shall be taxed at the rate of
44 one and one-eighth percent (1.125%);

45 (ii) From and after July 1, 2001, through June 30,
46 2002, sales of fuel used to produce electric power by a company
47 primarily engaged in the business of producing, generating or
48 distributing electric power for sale shall be taxed at the rate of
49 three-fourths of one percent (0.75%);

50 (iii) From and after July 1, 2002, through June
51 30, 2003, sales of fuel used to produce electric power by a
52 company primarily engaged in the business of producing, generating
53 or distributing electric power for sale shall be taxed at the rate
54 of three-eighths of one percent (0.375%);

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

60 (c) The one and one-half percent (1-1/2%) industrial
61 rate provided for in this subsection shall also apply when the
62 electricity, current, power, steam, coal, natural gas, liquefied



63 petroleum gas or other fuel is sold to a producer or processor for
64 use directly in the production of poultry or poultry products, the
65 production of livestock and livestock products, the production of
66 plants or food by commercial horticulturists, the processing of
67 milk and milk products, the processing of poultry and livestock
68 feed, and the irrigation of farm crops.

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

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

94 (f) Upon every person operating a telegraph or
95 telecommunications business for the transmission of messages or



96 conversations originating in this state or terminating in this
97 state via interstate telecommunications, which are charged to the
98 customer's service address in this state, regardless of where such
99 amount is billed or paid, there is hereby levied, assessed and
100 shall be collected a tax equal to seven percent (7%) of the gross
101 income received by such business from such interstate
102 telecommunications. However, a person, upon proof that he has
103 paid a tax in another state on such event, shall be allowed a
104 credit against the tax imposed in this paragraph (f) on interstate
105 telecommunications charges to the extent that the amount of such
106 tax is properly due and actually paid in such other state and to
107 the extent that the rate of sales tax imposed by and paid to such
108 other state does not exceed the rate of sales tax imposed by this
109 paragraph (f). Charges by one telecommunications provider to
110 another telecommunications provider for services that are resold
111 by such other telecommunications provider, including, but not
112 limited to, access charges, shall not be subject to the tax levied
113 pursuant to this paragraph (f).

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

121 (3) There is hereby levied, assessed and shall be paid on
122 transportation charges on shipments moving between points within
123 this state when paid directly by the consumer, a tax equal to the
124 rate applicable to the sale of the property being transported.
125 Such tax shall be reported and paid directly to the State Tax
126 Commission by the consumer.

127 SECTION 2. Section 27-38-7, Mississippi Code of 1972, is
128 amended as follows:



129 27-38-7. (1) There is created in the State Treasury a
130 special fund to be known as the Telecommunications Ad Valorem Tax
131 Reduction Fund, into which shall be deposited the money specified
132 in Section 27-65-75(15) and such other money as the Legislature
133 may provide by appropriation. The money in the fund shall be used
134 to make the payments provided for in Section 27-38-5.

135 (2) The Telecommunications Ad Valorem Tax Reduction Fund
136 shall be administered by the State Tax Commission, and money in
137 the fund shall be expended upon appropriation by the
138 Legislature. * * * Any interest earned on amounts in the fund
139 shall be deposited to the credit of the fund. Amounts remaining
140 in the fund at the end of the state fiscal year that are not
141 necessary to pay the refunds required by this chapter shall lapse
142 into the State General Fund. The State Tax Commission shall make
143 the calculations necessary to make the distributions required
144 pursuant to Section 27-38-5, and shall make the transfer of
145 unexpended amounts required to be made pursuant to Section
146 27-38-5.

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

