

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2611

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE 1-1/2% INDUSTRIAL SALES TAX RATE SHALL APPLY
3 TO FUEL SOLD TO A PRODUCER FOR USE DIRECTLY IN THE PRODUCTION OF
4 DOMESTICATED FISH AND DOMESTICATED FISH PRODUCTS; AND FOR RELATED
5 PURPOSES.

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

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

9 27-65-19. (1) (a) Except as otherwise provided in this
10 subsection, upon every person selling to consumers, electricity,
11 current, power, potable water, steam, coal, natural gas, liquefied
12 petroleum gas or other fuel, there is hereby levied, assessed and
13 shall be collected a tax equal to seven percent (7%) of the gross
14 income of the business. Provided, gross income from sales to
15 consumers of electricity, current, power, natural gas, liquefied
16 petroleum gas or other fuel for residential heating, lighting or
17 other residential noncommercial or nonagricultural use, and sales
18 of potable water for residential, noncommercial or nonagricultural
19 use shall be excluded from taxable gross income of the business.
20 Provided further, upon every such seller using electricity,
21 current, power, potable water, steam, coal, natural gas, liquefied
22 petroleum gas or other fuel for nonindustrial purposes, there is
23 hereby levied, assessed and shall be collected a tax equal to
24 seven percent (7%) of the cost or value of the product or service
25 used.

26 (b) There is hereby levied, assessed and shall be
27 collected a tax equal to one and one-half percent (1-1/2%) of the
28 gross income of the business when the electricity, current, power,

29 steam, coal, natural gas, liquefied petroleum gas or other fuel is
30 sold to or used by a manufacturer, custom processor or public
31 service company for industrial purposes, which shall include that
32 used to generate electricity, to operate an electrical
33 distribution or transmission system, to operate pipeline
34 compressor or pumping stations or to operate railroad locomotives;
35 provided, however, that:

36 (i) From and after July 1, 2000, through June 30,
37 2001, sales of fuel used to produce electric power by a company
38 primarily engaged in the business of producing, generating or
39 distributing electric power for sale shall be taxed at the rate of
40 one and one-eighth percent (1.125%);

41 (ii) From and after July 1, 2001, through June 30,
42 2002, sales of fuel used to produce electric power by a company
43 primarily engaged in the business of producing, generating or
44 distributing electric power for sale shall be taxed at the rate of
45 three-fourths of one percent (0.75%);

46 (iii) From and after July 1, 2002, through June
47 30, 2003, sales of fuel used to produce electric power by a
48 company primarily engaged in the business of producing, generating
49 or distributing electric power for sale shall be taxed at the rate
50 of three-eighths of one percent (0.375%);

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

56 (c) The one and one-half percent (1-1/2%) industrial
57 rate provided for in this subsection shall also apply when the
58 electricity, current, power, steam, coal, natural gas, liquefied
59 petroleum gas or other fuel is sold to a producer or processor for
60 use directly in the production of poultry or poultry products, the
61 production of livestock and livestock products, the production of

62 domesticated fish and domesticated fish products, the production
63 of plants or food by commercial horticulturists, the processing of
64 milk and milk products, the processing of poultry and livestock
65 feed, and the irrigation of farm crops.

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

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

91 (f) Upon every person operating a telegraph or
92 telecommunications business for the transmission of messages or
93 conversations originating in this state or terminating in this
94 state via interstate telecommunications, which are charged to the

95 customer's service address in this state, regardless of where such
96 amount is billed or paid, there is hereby levied, assessed and
97 shall be collected a tax equal to five and one-half percent (5.5%)
98 of the gross income received by such business from such interstate
99 telecommunications. However, a person, upon proof that he has
100 paid a tax in another state on such event, shall be allowed a
101 credit against the tax imposed in this paragraph (f) on interstate
102 telecommunications charges to the extent that the amount of such
103 tax is properly due and actually paid in such other state and to
104 the extent that the rate of sales tax imposed by and paid to such
105 other state does not exceed the rate of sales tax imposed by this
106 paragraph (f). Charges by one telecommunications provider to
107 another telecommunications provider for services that are resold
108 by such other telecommunications provider, including, but not
109 limited to, access charges, shall not be subject to the tax levied
110 pursuant to this paragraph (f).

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

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

124 SECTION 2. Nothing in this act shall affect or defeat any
125 claim, assessment, appeal, suit, right or cause of action for
126 taxes due or accrued under the sales tax laws amended by this act
127 prior to the date on which such amendments become effective

128 whether such assessments, appeals, suits, claims or actions have
129 been begun before the date on which such amendments become
130 effective or begun thereafter, and the provisions of sales tax
131 laws are expressly continued in full force, effect and operation
132 for the purposes of the assessment, collection and enrollment of
133 liens for any taxes due or accrued and the execution of any
134 warrant under such laws prior to the date on which such amendments
135 become effective, and for the imposition of any penalties,
136 forfeitures or claims for failure to comply with such laws.

137 SECTION 3. This act shall take effect and be in force from
138 and after its passage.