

By: Representative McCoy

To: Ways and Means

HOUSE BILL NO. 756
(As Sent to Governor)

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, DOMESTICATED FISH PRODUCTS AND MARINE
5 AQUACULTURE PRODUCTS; AND FOR RELATED 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 marine aquaculture products, the production of plants or food
64 by commercial horticulturists, the processing of milk and milk
65 products, the processing of poultry and livestock feed, and the
66 irrigation of farm crops.

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

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

92 (f) Upon every person operating a telegraph or
93 telecommunications business for the transmission of messages or
94 conversations originating in this state or terminating in this

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

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

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

125 SECTION 2. Nothing in this act shall affect or defeat any
126 claim, assessment, appeal, suit, right or cause of action for
127 taxes due or accrued under the sales tax laws amended by this act

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

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