

By: Senator(s) Posey

To: Finance

SENATE BILL NO. 2171

1 AN ACT TO PROVIDE FOR THE ISSUANCE OF GENERAL OBLIGATION
2 BONDS IN THE AMOUNT OF \$10,000,000.00 FOR THE PURPOSE OF PAYING
3 THE COSTS OF CONSTRUCTING A NEW TWO-LANE HIGHWAY FROM U.S. HIGHWAY
4 61 NORTH OF PORT GIBSON, MISSISSIPPI, TO GRAND GULF ROAD ON THE
5 NORTHERN SIDE OF THE GRAND GULF NUCLEAR POWER STATION IN CLAIBORNE
6 COUNTY, MISSISSIPPI; TO AMEND SECTION 27-35-309, MISSISSIPPI CODE
7 OF 1972, TO PROVIDE THAT THE STATE'S SHARE OF NUCLEAR GENERATING
8 PLANT PAYMENTS IN LIEU OF AD VALOREM TAXES SHALL BE DEPOSITED INTO
9 THE GRAND GULF ACCESS ROAD BOND SINKING FUND TO BE UTILIZED TO PAY
10 THE DEBT SERVICE ON THE BONDS ISSUED PURSUANT TO THIS ACT; AND FOR
11 RELATED PURPOSES.

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

13 SECTION 1. As used in this act, the following words shall
14 have the meanings ascribed herein unless the context clearly
15 requires otherwise:

16 (a) "Accreted value" of any bond means, as of any date
17 of computation, an amount equal to the sum of (i) the stated
18 initial value of such bond, plus (ii) the interest accrued thereon
19 from the issue date to the date of computation at the rate,
20 compounded semiannually, that is necessary to produce the
21 approximate yield to maturity shown for bonds of the same
22 maturity.

23 (b) "State" means the State of Mississippi.

24 (c) "Commission" means the State Bond Commission.

25 SECTION 2. A special fund, to be designated the "Grand Gulf
26 Access Road Construction Fund," is created within the State
27 Treasury. The fund shall be maintained by the State Treasurer as
28 a separate and special fund, separate and apart from the General
29 Fund of the state, and investment earnings on amounts in the fund
30 shall be deposited into such fund. The expenditure of monies

31 deposited into the fund shall be under the direction of the
32 Mississippi Transportation Commission, and such funds shall be
33 paid by the State Treasurer upon warrants issued by the Department
34 of Finance and Administration. Monies deposited into such fund
35 shall be disbursed to pay the cost of constructing a new two-lane
36 highway from U.S. Highway 61 north of Port Gibson, Mississippi,
37 running in a northwesterly direction approximately 5.2 miles to
38 intersect with Grand Gulf Road on the northern side of the Grand
39 Gulf Nuclear Power Station in Claiborne County, Mississippi.

40 SECTION 3. For the purpose of providing for the payment of
41 the principal of and interest upon bonds issued under the
42 provisions of this act, there is hereby created the "Grand Gulf
43 Access Road Bond Sinking Fund." Such sinking fund shall consist
44 of the money required to be deposited into such fund pursuant to
45 Section 27-35-309 and such other amount as shall be paid into such
46 fund by appropriation or other authorization by the Legislature.
47 Funds required in excess of the amounts available in the Grand
48 Gulf Access Road Bond Sinking Fund to pay the principal of and
49 interest upon bonds issued under the provisions of this act shall
50 be appropriated from the State General Fund.

51 SECTION 4. (1) The Mississippi Transportation Commission,
52 at one time or from time to time, may declare by resolution the
53 necessity for issuance of general obligation bonds of the State of
54 Mississippi to provide funds for all costs incurred or to be
55 incurred for the purposes described in Section 2 of this act.
56 Upon the adoption of a resolution by the Mississippi
57 Transportation Commission declaring the necessity for the issuance
58 of any part or all of the general obligation bonds authorized by
59 this section, the Mississippi Transportation Commission shall
60 deliver a certified copy of its resolution or resolutions to the
61 commission. Upon receipt of such resolution, the commission, in
62 its discretion, may act as the issuing agent, prescribe the form
63 of the bonds, advertise for and accept bids, issue and sell the
64 bonds so authorized to be sold, and do any and all other things
65 necessary and advisable in connection with the issuance and sale
66 of such bonds. The amount of bonds issued under this act shall
67 not exceed Ten Million Dollars (\$10,000,000.00).

68 (2) Any investment earnings on amounts deposited into the
69 Grand Gulf Access Road Construction Fund created in Section 2 of
70 this act shall be used to pay debt service on bonds issued under
71 this act, in accordance with the proceedings authorizing issuance
72 of such bonds.

73 (3) Upon the completion or abandonment of the project
74 described in Section 2 of this act, as evidenced by a resolution
75 adopted by the Mississippi Transportation Commission certifying
76 that such project has been completed or abandoned, the balance, if
77 any, remaining in the Grand Gulf Access Road Construction Fund
78 shall be promptly applied to pay debt service on bonds issued
79 under this act, in accordance with the proceedings authorizing the
80 issuance of such bonds.

81 SECTION 5. The principal of and interest on the bonds
82 authorized under this act shall be payable in the manner provided
83 in this section. Such bonds shall bear such date or dates, be in
84 such denomination or denominations, bear interest at such rate or
85 rates (not to exceed the limits set forth in Section 75-17-101),
86 be payable at such place or places within or without the State of
87 Mississippi, shall mature absolutely at such time or times not to
88 exceed twenty-five (25) years from date of issue, be redeemable
89 before maturity at such time or times and upon such terms, with or
90 without premium, shall bear such registration privileges, and
91 shall be substantially in such form, all as shall be determined by
92 resolution of the commission.

93 SECTION 6. The bonds authorized by this act shall be signed
94 by the Chairman of the State Bond Commission, or by his facsimile
95 signature, and the official seal of the commission shall be
96 affixed thereto, attested by the secretary of the commission. The
97 interest coupons, if any, to be attached to such bonds may be
98 executed by the facsimile signatures of such officers. Whenever
99 any such bonds shall have been signed by the officials designated
100 to sign the bonds who were in office at the time of such signing

101 but who may have ceased to be such officers before the sale and
102 delivery of such bonds, or who may not have been in office on the
103 date such bonds may bear, the signatures of such officers upon
104 such bonds and coupons shall nevertheless be valid and sufficient
105 for all purposes and have the same effect as if the person so
106 officially signing such bonds had remained in office until their
107 delivery to the purchaser, or had been in office on the date such
108 bonds may bear. However, notwithstanding anything herein to the
109 contrary, such bonds may be issued as provided in the Registered
110 Bond Act of the State of Mississippi.

111 SECTION 7. All bonds and interest coupons issued under the
112 provisions of this act have all the qualities and incidents of
113 negotiable instruments under the provisions of the Mississippi
114 Uniform Commercial Code, and in exercising the powers granted by
115 this act, the commission shall not be required to and need not
116 comply with the provisions of the Mississippi Uniform Commercial
117 Code.

118 SECTION 8. The commission shall act as the issuing agent for
119 the bonds authorized under this act, prescribe the form of the
120 bonds, advertise for and accept bids, issue and sell the bonds so
121 authorized to be sold, pay all fees and costs incurred in such
122 issuance and sale, and do any and all other things necessary and
123 advisable in connection with the issuance and sale of such bonds.

124 The commission is authorized and empowered to pay the costs that
125 are incident to the sale, issuance and delivery of the bonds
126 authorized under this act from the proceeds derived from the sale
127 of such bonds. The commission shall sell such bonds on sealed
128 bids at public sale, and for such price as it may determine to be
129 for the best interest of the state, but no such sale shall be made
130 at a price less than par plus accrued interest to the date of
131 delivery of the bonds to the purchaser. All interest accruing on
132 such bonds so issued shall be payable semiannually or annually;
133 however, the first interest payment may be for any period of not

134 more than one (1) year.

135 Notice of the sale of any such bonds shall be published at
136 least one (1) time, not less than ten (10) days before the date of
137 sale, and shall be so published in one or more newspapers
138 published or having a general circulation in the City of Jackson,
139 Mississippi, and in one or more other newspapers or financial
140 journals with a national circulation, to be selected by the
141 commission.

142 The commission, when issuing any bonds under the authority of
143 this act, may provide that bonds, at the option of the state, may
144 be called in for payment and redemption at the call price named
145 therein and accrued interest on such date or dates named therein.

146 SECTION 9. The bonds issued under the provision of this act
147 shall be payable from the Grand Gulf Access Road Bond Sinking Fund
148 and are general obligations of the State of Mississippi, and for
149 the payment thereof the full faith and credit of the State of
150 Mississippi is irrevocably pledged. If the funds available in the
151 Grand Gulf Access Road Bond Sinking Fund and any funds
152 appropriated by the Legislature for such purpose are insufficient
153 to pay the principal of and the interest upon such bonds as they
154 become due, the deficiency shall be paid by the State Treasurer
155 from any funds in the State Treasury not otherwise appropriated.
156 All such bonds shall contain recitals on their faces substantially
157 covering the foregoing provisions of this section.

158 SECTION 10. Upon the issuance and sale of bonds under the
159 provisions of this act, the commission shall transfer the proceeds
160 of any such sale or sales to the Grand Gulf Access Road
161 Construction Fund created in Section 2 of this act. The proceeds
162 of such bonds shall be disbursed solely upon the order of the
163 Mississippi Transportation Commission under such restrictions, if
164 any, as may be contained in the resolution providing for the
165 issuance of the bonds.

166 SECTION 11. The bonds authorized under this act may be

167 issued without any other proceedings or the happening of any other
168 conditions or things other than those proceedings, conditions and
169 things which are specified or required by this act. Any
170 resolution providing for the issuance of bonds under the
171 provisions of this act shall become effective immediately upon its
172 adoption by the commission, and any such resolution may be adopted
173 at any regular or special meeting of the commission by a majority
174 of its members.

175 SECTION 12. The bonds authorized under the authority of this
176 act may be validated in the Chancery Court of the First Judicial
177 District of Hinds County, Mississippi, in the manner and with the
178 force and effect provided by Chapter 13, Title 31, Mississippi
179 Code of 1972, for the validation of county, municipal, school
180 district and other bonds. The notice to taxpayers required by
181 such statutes shall be published in a newspaper published or
182 having a general circulation in the City of Jackson, Mississippi.

183 SECTION 13. Any holder of bonds issued under the provisions
184 of this act or of any of the interest coupons pertaining thereto
185 may, either at law or in equity, by suit, action, mandamus or
186 other proceeding, protect and enforce any and all rights granted
187 under this act, or under such resolution, and may enforce and
188 compel performance of all duties required by this act to be
189 performed, in order to provide for the payment of bonds and
190 interest thereon.

191 SECTION 14. All bonds issued under the provisions of this
192 act shall be legal investments for trustees and other fiduciaries,
193 and for savings banks, trust companies and insurance companies
194 organized under the laws of the State of Mississippi, and such
195 bonds shall be legal securities which may be deposited with and
196 shall be received by all public officers and bodies of this state
197 and all municipalities and political subdivisions for the purpose
198 of securing the deposit of public funds.

199 SECTION 15. Bonds issued under the provisions of this act

200 and income therefrom shall be exempt from all taxation in the
201 State of Mississippi.

202 SECTION 16. The proceeds of the bonds issued under this act
203 shall be used solely for the purposes herein provided, including
204 the costs incident to the issuance and sale of such bonds.

205 SECTION 17. The State Treasurer is authorized, without
206 further process of law, to certify to the Department of Finance
207 and Administration the necessity for warrants, and the Department
208 of Finance and Administration is authorized and directed to issue
209 such warrants, in such amounts as may be necessary to pay when due
210 the principal of, premium, if any, and interest on, or the
211 accreted value of, all bonds issued under this act; and the State
212 Treasurer shall forward the necessary amount to the designated
213 place or places of payment of such bonds in ample time to
214 discharge such bonds, or the interest thereon, on the due dates
215 thereof.

216 SECTION 18. The provisions of this act shall be deemed to be
217 full and complete authority for the exercise of the powers therein
218 granted, but this act shall not be deemed to repeal or to be in
219 derogation of any existing law of this state.

220 SECTION 19. Section 27-35-309, Mississippi Code of 1972, is
221 amended as follows:

222 27-35-309. (1) The State Tax Commission shall, if
223 practicable, on or before the first Monday of June of each year,
224 make out for each person, firm, company or corporation listed in
225 Section 27-35-303, Mississippi Code of 1972, an assessment of said
226 company's property, both real and personal, tangible and
227 intangible. The State Tax Commission shall apportion the
228 assessment of value of each company's property according to the
229 provisions of this article, except as provided in subsection (3)
230 of this section, as follows:

231 (a) When the property of such public service company is
232 located in more than one (1) county in this state, the State Tax

233 Commission shall direct the company to apportion the assessed
234 value between the counties and municipalities and all other taxing
235 districts therein, in the proportion which the property located
236 therein bears to the entire value of the property of such company
237 as valued by the commission, so that to each county, municipality
238 and taxing district therein, there shall be apportioned such part
239 of the entire valuation as will fairly equalize the relative value
240 of the property therein located to the whole value thereof.

241 (b) When the property of such public utility required
242 to be assessed by the provisions of this article is located in
243 more than one (1) state, the assessed value thereof shall be
244 apportioned by the State Tax Commission in such manner as will
245 fairly and equitably determine the principal sum for the value
246 thereof in this state, and after ascertaining such value it shall
247 be apportioned by them as herein provided.

248 The assessment roll shall contain all the property of any
249 such public service company, railroad, person, firm or corporation
250 and the value thereof, and so made that each county, municipality,
251 and taxing district shall receive its just share of taxes
252 proportionately to the amount of property therein situated.

253 (2) (a) The assessment when made shall remain open for one
254 (1) month in the office of the State Tax Commission, and be for
255 such time subject to the objections thereto which may be filed;
256 but real estate belonging to railroads and which forms no part of
257 the road, and is wholly disconnected from its railroad business,
258 shall not be assessed by the State Tax Commission, but shall be
259 assessed as other real estate is assessed by the tax assessor of
260 the county where situated.

261 (b) The apportionment of the assessed value as required
262 by this section shall be filed with the State Tax Commission by
263 such public service company on or before the first day of August
264 in each year. If such company shall fail, refuse or neglect to
265 render the apportionment of assessed value as required by this

266 section, such company shall be subject to the penalties provided
267 for in Section 27-35-305. The filing of an objection by such
268 public service company shall not preclude such company from filing
269 the property apportionment as required by this section.

270 (3) Any nuclear generating plant which is located in the
271 state, which is owned or operated by a public utility rendering
272 electric service within the state and not exempt from ad valorem
273 taxation under any other statute and which is not owned or
274 operated by an instrumentality of the federal government shall be
275 exempt from county, municipal and district ad valorem taxes. In
276 lieu of the payment of county, municipal and district ad valorem
277 taxes, such public utility shall pay to the State Tax Commission a
278 sum based on the assessed value of such nuclear generating plant
279 in an amount to be determined and distributed as follows:

280 (a) The State Tax Commission shall annually assign an
281 assessed value to any nuclear generating plant described in this
282 subsection in the same manner as for ad valorem tax purposes by
283 using accepted industry methods for appraising and assessing
284 public utility property. The assessed value assigned shall be
285 used for the purpose of determining the in-lieu tax due under this
286 section and shall not be included on the ad valorem tax rolls of
287 the situs taxing authority nor be subject to ad valorem taxation
288 by the situs taxing authority nor shall the assessed value
289 assigned be used in determining the debt limit of the situs taxing
290 authority. However, the assessed value so assigned may be used by
291 the situs taxing authority for the purpose of determining salaries
292 of its public officials.

293 (b) On or before February 1, 1987, for the 1986 taxable
294 year and on or before February 1 of each year through the 1989
295 taxable year, such utility shall pay to the State Tax Commission a
296 sum equal to two percent (2%) of the assessed value as ascertained
297 by the State Tax Commission, but such payment shall not be less
298 than Sixteen Million Dollars (\$16,000,000.00) for any of the four

299 (4) taxable years; all such payments in excess of Sixteen Million
300 Dollars (\$16,000,000.00) for these four (4) taxable years shall be
301 paid into the General Fund of the state. On or before February 1,
302 1991, for the 1990 taxable year and on or before February 1 of
303 each year thereafter, such utility shall pay to the State Tax
304 Commission a sum equal to two percent (2%) of the assessed value
305 as ascertained by the State Tax Commission, but such payment shall
306 not be less than Twenty Million Dollars (\$20,000,000.00) for any
307 taxable year for as long as such nuclear power plant is licensed
308 to operate and is not being permanently decommissioned; all such
309 payments in excess of Sixteen Million Dollars (\$16,000,000.00) for
310 taxable years 1990 and thereafter shall be paid as follows:

311 (i) An amount of Three Million Forty Thousand
312 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991,
313 shall be transferred by the State Tax Commission to Claiborne
314 County. Such payments may be expended by the Board of Supervisors
315 of Claiborne County for any purpose for which a county is
316 authorized by law to levy an ad valorem tax and shall not be
317 included or considered as proceeds of ad valorem taxes for the
318 purposes of the growth limitation on ad valorem taxes under
319 Sections 27-39-305 and 27-39-321. Provided, however, should the
320 Board of Supervisors of Claiborne County withdraw its support of
321 the Grand Gulf Nuclear Station off-site emergency plan or
322 otherwise fail to satisfy its off-site emergency plan commitments
323 as determined by the Mississippi Emergency Management Agency and
324 the Federal Emergency Management Agency, Five Hundred Thousand
325 Dollars (\$500,000.00) annually of the funds designated for
326 Claiborne County as described by this subsection (i) shall be
327 deposited in the Grand Gulf Disaster Assistance Fund as provided
328 in Section 33-15-51.

329 (ii) An amount of One Hundred Sixty Thousand
330 Dollars (\$160,000.00) annually, beginning with fiscal year 1991,
331 shall be transferred by the State Tax Commission to the City of

332 Port Gibson, Mississippi. Such payments may be expended by the
333 Board of Aldermen of the City of Port Gibson for any purpose for
334 which a municipality is authorized by law to levy an ad valorem
335 tax and shall not be included or considered as proceeds of ad
336 valorem taxes for the purposes of the growth limitation on ad
337 valorem taxes under Sections 27-39-305 and 27-39-321. Provided,
338 however, should the Board of Aldermen of the City of Port Gibson
339 withdraw its support of the Grand Gulf Nuclear Station off-site
340 emergency plan or otherwise fail to satisfy its off-site emergency
341 plan commitment, as determined by the Mississippi Emergency
342 Management Agency and the Federal Emergency Management Agency,
343 Fifty Thousand Dollars (\$50,000.00) annually of the funds
344 designated for the City of Port Gibson as described by this
345 subsection (ii) shall be deposited in the Grand Gulf Disaster
346 Assistance Fund as provided in Section 33-15-51.

347 (iii) The remaining balance of the payments in
348 excess of Sixteen Million Dollars (\$16,000,000.00) annually, less
349 amounts transferred under (i) and (ii) of this subsection,
350 beginning with fiscal year 1991, shall be allocated in accordance
351 with subsection (3)(f) of this section.

352 (c) Pursuant to certification by the Attorney General
353 to the State Treasurer and the State Tax Commission that the suit
354 against the State of Mississippi pending on the effective date of
355 House Bill 8, First Extraordinary Session of 1990 [Laws, 1990 Ex
356 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the
357 First Judicial District of Hinds County, Mississippi, styled
358 Albert Butler et al v. the Mississippi State Tax Commission et al,
359 has been voluntarily dismissed with prejudice as to all plaintiffs
360 at the request of the complainants and that no attorney's fees or
361 court costs have been assessed against the state and each of the
362 parties, including Claiborne County and each municipality and
363 school district located in the county, have signed and delivered
364 to the Attorney General a full and complete release in favor of

365 the State of Mississippi and its elected officials of all claims
366 that have been asserted or may be asserted in the suit pending on
367 the effective date of House Bill 8, First Extraordinary Session of
368 1990 [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the
369 Chancery Court for the First Judicial District of Hinds County,
370 Mississippi, styled Albert Butler et al v. the Mississippi State
371 Tax Commission et al, and the deposit into the State General Fund
372 of in-lieu payments and interest thereon due the state under
373 subsection (3)(b) of this section but placed in escrow because of
374 the lawsuit described above, the state shall promptly transfer to
375 the Board of Supervisors of Claiborne County out of the State
376 General Fund an amount of Two Million Dollars (\$2,000,000.00)
377 which shall be a one-time distribution to Claiborne County from
378 the state. Such payment may be expended by the Board of
379 Supervisors of Claiborne County for any purposes for which a
380 county is authorized by law to levy an ad valorem tax and shall
381 not be included or considered as proceeds of ad valorem taxes for
382 the purposes of the growth limitation on ad valorem taxes for the
383 1991 fiscal year under Sections 27-39-321 and 27-39-305.

384 (d) After distribution of the one-time payment to
385 Claiborne County as set forth in subsection (3)(c) of this
386 section, the State Tax Commission upon certification that the
387 pending lawsuit as described in subsection (3)(c) of this section
388 has been voluntarily dismissed shall promptly deposit an amount of
389 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
390 Disaster Assistance Trust Fund as provided for in Section
391 33-15-51, which shall be a one-time payment, to be utilized in
392 accordance with the provisions of such section.

393 (e) After distribution of the one-time payment to
394 Claiborne County as set forth in subsection (3)(c) of this section
395 and the payment to the Grand Gulf Disaster Assistance Trust Fund
396 as set forth in subsection (3)(d) of this section, the State Tax
397 Commission upon certification that the pending lawsuit as

398 described in subsection (3)(c) of this section has been
399 voluntarily dismissed shall promptly distribute ten percent (10%)
400 of the remainder of the prior payments remaining in escrow to the
401 General Fund of the state and the balance of the prior payments
402 remaining in escrow shall be distributed to the counties and
403 municipalities in this state wherein such public utility has
404 rendered electric service in the proportion that the amount of
405 electric energy consumed by the retail customers of such public
406 utility in each county, excluding municipalities therein, and in
407 each municipality, for the next preceding fiscal year bears to the
408 total amount of electric energy consumed by all retail customers
409 of such public utility in the State of Mississippi for the next
410 preceding fiscal year. The payments distributed to the counties
411 and municipalities under this paragraph (e) may be expended by
412 such counties and municipalities for any lawful purpose and shall
413 not be included or considered as proceeds of ad valorem taxes for
414 the purposes of the growth limitation on ad valorem taxes under
415 Sections 27-39-321 and 27-39-305.

416 (f) After distribution of the payments for fiscal year
417 1991 as set forth in Section 19-9-151 and distribution of the
418 payments as provided for in subsection (3)(b) of this section:

419 (i) The State Tax Commission shall distribute Ten
420 percent (10%) of the remainder of the payments to the Grand Gulf
421 Access Road Bond Sinking Fund created under Section 3, Senate Bill
422 No. 2171, 1999 Regular Session, until such time as such fund
423 contains the amount necessary to pay all the principal of and
424 interest upon any bonds issued pursuant to Senate Bill No. 2171,
425 1999 Regular Session, when such principal and interest becomes
426 due; thereafter, the State Tax Commission shall distribute ten
427 percent (10%) of the remainder of the payments to the General Fund
428 of the state; and

429 (ii) The State Tax Commission shall distribute the
430 balance remaining after the distribution required under item (i)

431 of this paragraph (f) to the counties and municipalities in this
432 state wherein such public utility renders electric service in the
433 proportion that the amount of electric energy consumed by the
434 retail customers of such public utility in each county, excluding
435 municipalities therein, and in each municipality for the next
436 preceding fiscal year bears to the total amount of electric energy
437 consumed by all retail customers of such public utility in the
438 State of Mississippi for the next preceding fiscal year.

439 (g) No county, including municipalities therein, shall
440 receive in excess of twenty percent (20%) of the funds distributed
441 under paragraph (f) of this subsection.

442 (h) The revenues received by counties and
443 municipalities under paragraph (f) of this subsection shall not be
444 included or considered as proceeds of ad valorem taxes for the
445 purposes of the growth limitation on ad valorem taxes under
446 Sections 27-39-305 and 27-39-321.

447 SECTION 20. This act shall take effect and be in force from
448 and after July 1, 1999.