To: Ways and Means

By: Representatives Middleton, Green, Huddleston, Livingston

HOUSE BILL NO. 1749

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

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

SECTION 1. As used in Sections 1 through 18 of this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

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

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

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

SECTION 2. A special fund, to be designated the "Grand Gulf Access Road Construction Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in
the fund shall be deposited into such fund. The expenditure of
monies deposited into the fund shall be under the direction of the
Mississippi Transportation Commission, and such funds shall be
paid by the State Treasurer upon warrants issued by the Department
of Finance and Administration. Monies deposited into such fund
shall be disbursed to pay the cost of constructing a new two-lane
highway from U.S. Highway 61 north of Port Gibson, Mississippi,
running in a northwesterly direction approximately 5.2 miles to
intersect with Grand Gulf Road on the northern side of the Grand
Gulf Nuclear Power Station in Claiborne County, Mississippi.

SECTION 3. For the purpose of providing for the payment of
the principal of and interest upon bonds issued under the
provisions of Sections 1 through 18 of this act, there is hereby
created the "Grand Gulf Access Road Bond Sinking Fund." Such
sinking fund shall consist of the money required to be deposited
into such fund pursuant to Section 27-35-309 and such other
amounts as shall be paid into such fund by appropriation or other
authorization by the Legislature. Funds required in excess of the
amounts available in the Grand Gulf Access Road Bond Sinking Fund
to pay the principal of and interest upon bonds issued under the
provisions of Sections 1 through 18 of this act shall be
appropriated from the State General Fund.

SECTION 4. (1) The Mississippi Transportation Commission,
at one time or from time to time, may declare by resolution the
necessity for issuance of general obligation bonds of the State of
Mississippi to provide funds for all costs incurred or to be
incurred for the purposes described in Section 2 of this act.
Upon the adoption of a resolution by the Mississippi
Transportation Commission declaring the necessity for the issuance
of any part or all of the general obligation bonds authorized by
this section, the Mississippi Transportation Commission shall
deliver a certified copy of its resolution or resolutions to the
commission. Upon receipt of such resolution, the commission, in
its discretion, may act as the issuing agent, prescribe the form
of the bonds, advertise for and accept bids, issue and sell the
bonds so authorized to be sold, and do any and all other things
necessary and advisable in connection with the issuance and sale
of such bonds. The amount of bonds issued under Sections 1
through 18 of this act shall not exceed Ten Million Dollars
($10,000,000.00).

(2) Any investment earnings on amounts deposited into the
Grand Gulf Access Road Construction Fund created in Section 2 of
this act shall be used to pay debt service on bonds issued under
Sections 1 through 18 of this act, in accordance with the
proceedings authorizing issuance of such bonds.

(3) Upon the completion or abandonment of the project
described in Section 2 of this act, as evidenced by a resolution
adopted by the Mississippi Transportation Commission certifying
that such project has been completed or abandoned, the balance, if
any, remaining in the Grand Gulf Access Road Construction Fund
shall be applied promptly to pay debt service on bonds issued
under Sections 1 through 18 of this act, in accordance with the
proceedings authorizing the issuance of such bonds.

SECTION 5. The principal of and interest on the bonds
authorized under Sections 1 through 18 of this act shall be
payable in the manner provided in this section. Such bonds shall
bear such date or dates, be in such denomination or denominations,
bear interest at such rate or rates (not to exceed the limits set
forth in Section 75-17-101), be payable at such place or places
within or without the State of Mississippi, shall mature
absolutely at such time or times not to exceed twenty-five (25)
years from date of issue, be redeemable before maturity at such
time or times and upon such terms, with or without premium, shall
bear such registration privileges, and shall be substantially in
such form, all as shall be determined by resolution of the
commission.
SECTION 6. The bonds authorized by Sections 1 through 18 of this act shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SECTION 7. All bonds and interest coupons issued under the provisions of Sections 1 through 18 of this act have all the qualities and incidents of negotiable instruments under the provisions of the Mississippi Uniform Commercial Code, and in exercising the powers granted by Sections 1 through 18 of this act, the commission shall not be required to and need not comply with the provisions of the Mississippi Uniform Commercial Code.

SECTION 8. The commission shall act as the issuing agent for the bonds authorized under Sections 1 through 18 of this act, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and
empowered to pay the costs that are incident to the sale, issuance
and delivery of the bonds authorized under Sections 1 through 18
of this act from the proceeds derived from the sale of such bonds.
The commission shall sell such bonds on sealed bids at public
sale, and for such price as it may determine to be for the best
interest of the state, but no such sale shall be made at a price
less than par plus accrued interest to the date of delivery of the
bonds to the purchaser. All interest accruing on such bonds so
issued shall be payable semiannually or annually; however, the
first interest payment may be for any period of not more than one
(1) year.

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

The commission, when issuing any bonds under the authority of
Sections 1 through 18 of this act, may provide that bonds, at the
option of the state, may be called in for payment and redemption
at the call price named therein and accrued interest on such date
or dates named therein.

SECTION 9. The bonds issued under the provision of Sections
1 through 18 of this act shall be payable from the Grand Gulf
Access Road Bond Sinking Fund and are general obligations of the
State of Mississippi, and for the payment thereof the full faith
and credit of the State of Mississippi is irrevocably pledged. If
the funds available in the Grand Gulf Access Road Bond Sinking
Fund and any funds appropriated by the Legislature for such
purpose are insufficient to pay the principal of and the interest
upon such bonds as they become due, the deficiency shall be paid
by the State Treasurer from any funds in the State Treasury not
otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

SECTION 10. Upon the issuance and sale of bonds under the provisions of Sections 1 through 18 of this act, the commission shall transfer the proceeds of any such sale or sales to the Grand Gulf Access Road Construction Fund created in Section 2 of this act. The proceeds of such bonds shall be disbursed solely upon the order of the Mississippi Transportation Commission under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SECTION 11. The bonds authorized under Sections 1 through 18 of this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 1 through 18 of this act. Any resolution providing for the issuance of bonds under the provisions of Sections 1 through 18 of this act shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

SECTION 12. The bonds authorized under the authority of Sections 1 through 18 of this act may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SECTION 13. Any holder of bonds issued under the provisions of Sections 1 through 18 of this act or of any of the interest coupons pertaining thereto may, either at law or in equity, by
suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 1 through 18 of this act, or under such resolution, and may enforce and compel performance of all duties required by Sections 1 through 18 of this act to be performed, in order to provide for the payment of bonds and interest thereon.

SECTION 14. All bonds issued under the provisions of Sections 1 through 18 of this act shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SECTION 15. Bonds issued under the provisions of Sections 1 through 18 of this act and income therefrom shall be exempt from all taxation in the State of Mississippi.

SECTION 16. The proceeds of the bonds issued under Sections 1 through 18 this act shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

SECTION 17. The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 1 through 18 of this act; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.
SECTION 18. The provisions of Sections 1 through 18 of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted, but Sections 1 through 18 of this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

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

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

(a) When the property of such public service company is located in more than one (1) county in this state, the State Tax Commission shall direct the company to apportion the assessed value between the counties and municipalities and all other taxing districts therein, in the proportion which the property located therein bears to the entire value of the property of such company as valued by the commission, so that to each county, municipality and taxing district therein, there shall be apportioned such part of the entire valuation as will fairly equalize the relative value of the property therein located to the whole value thereof.

(b) When the property of such public utility required to be assessed by the provisions of this article is located in more than one (1) state, the assessed value thereof shall be apportioned by the State Tax Commission in such manner as will fairly and equitably determine the principal sum for the value thereof in this state, and after ascertaining such value it shall be apportioned by them as herein provided.
The assessment roll shall contain all the property of any such public service company, railroad, person, firm or corporation and the value thereof, and so made that each county, municipality, and taxing district shall receive its just share of taxes proportionately to the amount of property therein situated.

(2) (a) The assessment when made shall remain open for twenty (20) days in the office of the State Tax Commission, and be for such time subject to the objections thereto which may be filed; but real estate belonging to railroads and which forms no part of the road, and is wholly disconnected from its railroad business, shall not be assessed by the State Tax Commission, but shall be assessed as other real estate is assessed by the tax assessor of the county where situated.

(b) The apportionment of the assessed value as required by this section shall be filed with the State Tax Commission by such public service company on or before the first day of August in each year. If such company shall fail, refuse or neglect to render the apportionment of assessed value as required by this section, such company shall be subject to the penalties provided for in Section 27-35-305. The filing of an objection by such public service company shall not preclude such company from filing the property apportionment as required by this section.

(3) Any nuclear generating plant which is located in the state, which is owned or operated by a public utility rendering electric service within the state and not exempt from ad valorem taxation under any other statute and which is not owned or operated by an instrumentality of the federal government shall be exempt from county, municipal and district ad valorem taxes. In lieu of the payment of county, municipal and district ad valorem taxes, such public utility shall pay to the State Tax Commission a sum based on the assessed value of such nuclear generating plant in an amount to be determined and distributed as follows:
(a) The State Tax Commission shall annually assign an assessed value to any nuclear generating plant described in this subsection in the same manner as for ad valorem tax purposes by using accepted industry methods for appraising and assessing public utility property. The assessed value assigned shall be used for the purpose of determining the in-lieu tax due under this section and shall not be included on the ad valorem tax rolls of the situs taxing authority nor be subject to ad valorem taxation by the situs taxing authority nor shall the assessed value assigned be used in determining the debt limit of the situs taxing authority. However, the assessed value so assigned may be used by the situs taxing authority for the purpose of determining salaries of its public officials.

(b) On or before February 1, 1987, for the 1986 taxable year and on or before February 1 of each year through the 1989 taxable year, such utility shall pay to the State Tax Commission a sum equal to two percent (2%) of the assessed value as ascertained by the State Tax Commission, but such payment shall not be less than Sixteen Million Dollars ($16,000,000.00) for any of the four (4) taxable years; all such payments in excess of Sixteen Million Dollars ($16,000,000.00) for these four (4) taxable years shall be paid into the General Fund of the state. On or before February 1, 1991, for the 1990 taxable year and on or before February 1 of each year thereafter, such utility shall pay to the State Tax Commission a sum equal to two percent (2%) of the assessed value as ascertained by the State Tax Commission, but such payment shall not be less than Twenty Million Dollars ($20,000,000.00) for any taxable year for as long as such nuclear power plant is licensed to operate and is not being permanently decommissioned; all such payments in excess of Sixteen Million Dollars ($16,000,000.00) for taxable years 1990 and thereafter shall be paid as follows:

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

(ii) An amount of One Hundred Sixty Thousand Dollars ($160,000.00) annually, beginning with fiscal year 1991, shall be transferred by the State Tax Commission to the City of Port Gibson, Mississippi. Such payments may be expended by the Board of Aldermen of the City of Port Gibson for any purpose for which a municipality is authorized by law to levy an ad valorem tax and shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-305 and 27-39-321. Provided, however, should the Board of Aldermen of the City of Port Gibson withdraw its support of the Grand Gulf Nuclear Station off-site emergency plan or otherwise fail to satisfy its off-site emergency plan commitment, as determined by the Mississippi Emergency Management Agency and the Federal Emergency Management Agency, Fifty Thousand Dollars ($50,000.00) annually of the funds designated for the City of Port Gibson as described by this
subsection (ii) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

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

(c) Pursuant to certification by the Attorney General to the State Treasurer and the State Tax Commission that the suit against the State of Mississippi pending on the effective date of House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, has been voluntarily dismissed with prejudice as to all plaintiffs at the request of the complainants and that no attorney's fees or court costs have been assessed against the state and each of the parties, including Claiborne County and each municipality and school district located in the county, have signed and delivered to the Attorney General a full and complete release in favor of the State of Mississippi and its elected officials of all claims that have been asserted or may be asserted in the suit pending on the effective date of House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the First Judicial District of Hinds County, Mississippi, styled Albert Butler et al v. the Mississippi State Tax Commission et al, and the deposit into the State General Fund of in-lieu payments and interest thereon due the state under subsection (3)(b) of this section but placed in escrow because of the lawsuit described above, the state shall promptly transfer to the Board of Supervisors of Claiborne County out of the State General Fund an amount of Two Million Dollars ($2,000,000.00) which shall be a one-time distribution to Claiborne County from...
the state. Such payment may be expended by the Board of
Supervisors of Claiborne County for any purposes for which a
county is authorized by law to levy an ad valorem tax and shall
not be included or considered as proceeds of ad valorem taxes for
the purposes of the growth limitation on ad valorem taxes for the

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

(e) After distribution of the one-time payment to
Claiborne County as set forth in subsection (3)(c) of this section
and the payment to the Grand Gulf Disaster Assistance Trust Fund
as set forth in subsection (3)(d) of this section, the State Tax
Commission upon certification that the pending lawsuit as
described in subsection (3)(c) of this section has been
voluntarily dismissed shall promptly distribute ten percent (10%) of the remainder of the prior payments remaining in escrow to the
General Fund of the state and the balance of the prior payments
remaining in escrow shall be distributed to the counties and
municipalities in this state wherein such public utility has
rendered electric service in the proportion that the amount of
electric energy consumed by the retail customers of such public
utility in each county, excluding municipalities therein, and in
each municipality, for the next preceding fiscal year bears to the
total amount of electric energy consumed by all retail customers
of such public utility in the State of Mississippi for the next
preceding fiscal year. The payments distributed to the counties
and municipalities under this paragraph (e) may be expended by
such counties and municipalities for any lawful purpose and shall
not be included or considered as proceeds of ad valorem taxes for
the purposes of the growth limitation on ad valorem taxes under

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

(i) The State Tax Commission shall distribute ten
percent (10%) of the remainder of the payments to the Grand Gulf
Access Road Bond Sinking Fund created under Section 3 of House
Bill No. , 2002 Regular Session, until such time as such fund
contains the amount necessary to pay all the principal of and
interest upon any bonds issued pursuant to Sections 1 through 18
of House Bill No. , 2002 Regular Session, when such principal
and interest becomes due; thereafter, the State Tax Commission
shall distribute ten percent (10%) of the remainder of the
payments to the General Fund of the state;

(ii) The State Tax Commission shall distribute the
balance remaining after the distribution required under item (i)
of this paragraph (f) and *** to the counties and municipalities
in this state wherein such public utility renders electric service
in the proportion that the amount of electric energy consumed by
the retail customers of such public utility in each county,
excluding municipalities therein, and in each municipality for the
next preceding fiscal year bears to the total amount of electric
energy consumed by all retail customers of such public utility in
the State of Mississippi for the next preceding fiscal year.

(g) No county, including municipalities therein, shall receive in
excess of twenty percent (20%) of the funds distributed under
paragraph (f) of this subsection.
(h) The revenues received by counties and municipalities under paragraph (f) of this subsection shall not be included or considered as proceeds of ad valorem taxes for the purposes of the growth limitation on ad valorem taxes under Sections 27-39-305 and 27-39-321.

SECTION 20. This act shall take effect and be in force from and after July 1, 2002.