

By: Representative Harness

To: Ways and Means

## HOUSE BILL NO. 1004

1 AN ACT TO AMEND SECTION 19-9-151, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DISTRIBUTION OF PAYMENTS MADE BY A NUCLEAR  
3 GENERATING PLANT IN LIEU OF AD VALOREM TAXES; TO BRING FORWARD  
4 SECTIONS 19-9-153, 19-9-155 AND 19-9-157, MISSISSIPPI CODE OF  
5 1972, WHICH RELATE TO IN LIEU PAYMENTS TO COUNTIES IN WHICH  
6 NUCLEAR GENERATING PLANTS ARE LOCATED, FOR THE PURPOSES OF  
7 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 27-35-309, WHICH  
8 RELATES TO THE METHODS OF ASSESSING CERTAIN PUBLIC SERVICE  
9 CORPORATION PROPERTY FOR THE PURPOSES OF AD VALOREM TAXATION AND  
10 THE TAXATION OF NUCLEAR GENERATING PLANTS, FOR THE PURPOSES OF  
11 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 19-9-151, Mississippi Code of 1972, is  
14 amended as follows:

15 19-9-151. The in-lieu payments made to the \* \* \* Department  
16 of Revenue pursuant to Section 27-35-309(3)(b), excluding payments  
17 made in excess of Sixteen Million Dollars (\$16,000,000.00) which  
18 are required to be paid into the General Fund of the state, shall  
19 be distributed by the \* \* \* Department of Revenue as follows:

20 (a) For fiscal year 1987, fifty percent (50%) of such  
21 payment shall be paid to the situs county wherein such nuclear  
22 generating plant is located;



(b) For fiscal year 1988, forty-five percent (45%) of such payment shall be paid to the situs county wherein such nuclear generating plant is located;

(c) For fiscal year 1989, forty percent (40%) of such payment shall be paid to the situs county wherein such nuclear generating plant is located;

(d) For fiscal year 1990, thirty-five (35%) of such payment shall be paid to the situs county wherein such nuclear generating plant is located;

(e) For fiscal year 1991 and thereafter through fiscal year 2025, thirty percent (30%) of such payment shall be paid to the situs county wherein such nuclear generating plant is located;

(f) For fiscal year 2026, and each fiscal year thereafter, Fifteen Million Dollars (\$15,000,000.00) of such payment shall be paid to the situs county wherein such nuclear generating plant is located.

**SECTION 2.** Section 19-9-153, Mississippi Code of 1972, is brought forward as follows:

19-9-153. Of the funds received pursuant to Section 19-9-151 by a situs county wherein such nuclear generating plant is located, the board of supervisors of such situs county shall distribute ten percent (10%) of each payment, upon receipt, to the most populous incorporated municipality within the county; however, if such plant is located within a municipality, such payments which would otherwise be made to the situs county



pursuant to Section 19-9-151 shall be divided equally between the situs county and situs municipality.

**SECTION 3.** Section 19-9-155, Mississippi Code of 1972, is brought forward as follows:

19-9-155. Of the funds retained by the situs county after the payment made pursuant to Section 19-9-153, not more than Five Million Five Hundred Thousand Dollars (\$5,500,000.00) per year may be expended by the board of supervisors of the county for any purposes for which a county is authorized by law to levy an ad valorem tax, and any funds in excess of such amount shall be expended in accordance with Section 19-9-157.

**SECTION 4.** Section 19-9-157, Mississippi Code of 1972, is brought forward as follows:

19-9-157. The board of supervisors of the situs county, upon receipt of the payments pursuant to Section 19-9-151 less the payment made according to Section 19-9-153, shall pay all such funds in excess of Five Million Five Hundred Thousand Dollars (\$5,500,000.00) to the governing authorities of the public school districts in such county in the proportion that the net enrollment for the preceding scholastic year of each school district bears to the total net enrollment of the county for the preceding scholastic year. Such funds may be expended only for the purposes of capital improvements to school facilities and only after plans therefor have been submitted to and approved by the State Board of Education. The governing authorities of such school districts may



73 borrow money in anticipation of receipt of payments pursuant to  
74 this section and the levying authority for the school district may  
75 issue negotiable notes therefor, for the purposes set forth  
76 herein. Such loan shall be repaid from the payments received  
77 under this section by the governing authorities of the public  
78 school district. However, no public school districts within the  
79 situs county shall be entitled to any payments after January 1,  
80 1990.

81       **SECTION 5.** Section 27-35-309, Mississippi Code of 1972, is  
82 brought forward as follows:

83       27-35-309. (1) The Department of Revenue shall, if  
84 practicable, on or before the first Monday of June of each year,  
85 make out for each person, firm, company or corporation listed in  
86 Section 27-35-303, Mississippi Code of 1972, an assessment of the  
87 company's property, both real and personal, tangible and  
88 intangible. The Department of Revenue shall apportion the  
89 assessment of value of each company's property according to the  
90 provisions of this article, except as provided in subsection (3)  
91 of this section, as follows:

92           (a) When the property of such public service company is  
93 located in more than one (1) county in this state, the Department  
94 of Revenue shall direct the company to apportion the assessed  
95 value between the counties and municipalities and all other taxing  
96 districts therein, in the proportion which the property located  
97 therein bears to the entire value of the property of such company



98 as valued by the department, so that to each county, municipality  
99 and taxing district therein, there shall be apportioned such part  
100 of the entire valuation as will fairly equalize the relative value  
101 of the property therein located to the whole value thereof.

102 (b) When the property of such public utility required  
103 to be assessed by the provisions of this article is located in  
104 more than one (1) state, the assessed value thereof shall be  
105 apportioned by the Department of Revenue in such manner as will  
106 fairly and equitably determine the principal sum for the value  
107 thereof in this state, and after ascertaining such value it shall  
108 be apportioned by them as herein provided.

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

114 (2) (a) The assessment when made shall remain open for  
115 twenty (20) days in the Office of the Department of Revenue, and  
116 be for such time subject to the objections thereto which may be  
117 filed with the Executive Director of the Board of Tax Appeals; but  
118 real estate belonging to railroads and which forms no part of the  
119 road, and is wholly disconnected from its railroad business, shall  
120 not be assessed by the Department of Revenue, but shall be  
121 assessed as other real estate is assessed by the tax assessor of  
122 the county where situated.



123           (b) The apportionment of the assessed value as required  
124 by this section shall be filed with the Department of Revenue by  
125 such public service company on or before the last day of the  
126 objection period established in paragraph (a) of this subsection  
127 (2). If such company shall fail, refuse or neglect to render the  
128 apportionment of assessed value as required by this section, such  
129 company shall be subject to the penalties provided for in Section  
130 27-35-305. The filing of an objection by such public service  
131 company shall not preclude such company from filing the property  
132 apportionment as required by this section.

133           (3) Any nuclear generating plant which is located in the  
134 state, which is owned or operated by a public utility rendering  
135 electric service within the state and not exempt from ad valorem  
136 taxation under any other statute and which is not owned or  
137 operated by an instrumentality of the federal government shall be  
138 exempt from county, municipal and district ad valorem taxes. In  
139 lieu of the payment of county, municipal and district ad valorem  
140 taxes, such public utility shall pay to the Department of Revenue  
141 a sum based on the assessed value of such nuclear generating plant  
142 in an amount to be determined and distributed as follows:

143           (a) The Department of Revenue shall annually assign an  
144 assessed value to any nuclear generating plant described in this  
145 subsection in the same manner as for ad valorem tax purposes by  
146 using accepted industry methods for appraising and assessing  
147 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 Department of Revenue a sum equal to two percent (2%) of the assessed value as ascertained by the Department of Revenue, 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 Department of Revenue a sum equal to two percent (2%) of the assessed value as ascertained by the Department of Revenue, 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 Department of Revenue 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. 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 Department of Revenue 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





198 which a municipality is authorized by law to levy an ad valorem  
199 tax and shall not be included or considered as proceeds of ad  
200 valorem taxes for the purposes of the growth limitation on ad  
201 valorem taxes under Sections 27-39-305 and 27-39-321. However,  
202 should the Board of Aldermen of the City of Port Gibson withdraw  
203 its support of the Grand Gulf Nuclear Station off-site emergency  
204 plan or otherwise fail to satisfy its off-site emergency plan  
205 commitment, as determined by the Mississippi Emergency Management  
206 Agency and the Federal Emergency Management Agency, Fifty Thousand  
207 Dollars (\$50,000.00) annually of the funds designated for the City  
208 of Port Gibson as described by this subsection (ii) shall be  
209 deposited in the Grand Gulf Disaster Assistance Fund as provided  
210 in Section 33-15-51.

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

216 (c) Pursuant to certification by the Attorney General  
217 to the State Treasurer and the Department of Revenue that the suit  
218 against the State of Mississippi pending on the effective date of  
219 House Bill 8, First Extraordinary Session of 1990, [Laws, 1990 Ex  
220 Session, Ch. 12, eff June 26, 1990], in the Chancery Court for the  
221 First Judicial District of Hinds County, Mississippi, styled  
222 Albert Butler et al v. the Mississippi State Tax Commission et al,



223 has been voluntarily dismissed with prejudice as to all plaintiffs  
224 at the request of the complainants and that no attorney's fees or  
225 court costs have been assessed against the state and each of the  
226 parties, including Claiborne County and each municipality and  
227 school district located in the county, have signed and delivered  
228 to the Attorney General a full and complete release in favor of  
229 the State of Mississippi and its elected officials of all claims  
230 that have been asserted or may be asserted in the suit pending on  
231 the effective date of House Bill 8, First Extraordinary Session of  
232 1990, [Laws, 1990 Ex Session, Ch. 12, eff June 26, 1990], in the  
233 Chancery Court for the First Judicial District of Hinds County,  
234 Mississippi, styled Albert Butler et al v. the Mississippi State  
235 Tax Commission et al, and the deposit into the State General Fund  
236 of in-lieu payments and interest thereon due the state under  
237 subsection (3)(b) of this section but placed in escrow because of  
238 the lawsuit described above, the state shall promptly transfer to  
239 the Board of Supervisors of Claiborne County out of the State  
240 General Fund an amount of Two Million Dollars (\$2,000,000.00)  
241 which shall be a one-time distribution to Claiborne County from  
242 the state. Such payment may be expended by the Board of  
243 Supervisors of Claiborne County for any purposes for which a  
244 county is authorized by law to levy an ad valorem tax and shall  
245 not be included or considered as proceeds of ad valorem taxes for  
246 the purposes of the growth limitation on ad valorem taxes for the  
247 1991 fiscal year under Sections 27-39-321 and 27-39-305.



(d) After distribution of the one-time payment to Claiborne County as set forth in subsection (3)(c) of this section, the Department of Revenue 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 Department of Revenue 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 Sections 27-39-321 and 27-39-305.

(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, the Department of Revenue shall distribute ten percent (10%) of the remainder of the payments to the General Fund of the state and the balance 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



298 included or considered as proceeds of ad valorem taxes for the  
299 purposes of the growth limitation on ad valorem taxes under  
300 Sections 27-39-305 and 27-39-321.

301       **SECTION 6.** This act shall take effect and be in force from  
302 and after July 1, 2025.

