

By: Representative Harness

To: Ways and Means

HOUSE BILL NO. 1318

1 AN ACT TO BE KNOWN AS THE "NUCLEAR IN LIEU TAX DISTRIBUTION
2 EQUITY ACT"; TO AMEND SECTION 27-35-309, MISSISSIPPI CODE OF 1972,
3 TO REVISE THE FORMULA PROVIDING FOR THE ALLOCATION OF THE PROCEEDS
4 OF THE NUCLEAR IN LIEU TAX PAID TO THE DEPARTMENT OF REVENUE BY
5 THE GRAND GULF NUCLEAR POWER PLANT; TO REQUIRE THE DEPARTMENT OF
6 REVENUE TO MAKE ANNUALLY ALLOCATION ADJUSTMENTS BASED ON ECONOMIC
7 IMPACT STUDIES AND ENVIRONMENTAL RISK FACTORS; TO REQUIRE THE
8 DEPARTMENT TO PREPARE AN ANNUAL REPORT ON THE NUCLEAR IN LIEU TAX
9 REVENUE COLLECTED AND ALLOCATED UNDER THIS ACT; TO REQUIRE THE
10 REPEAL OF THIS ACT ON JULY 1, 2031; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) This act shall be known and may be cited as
13 the "Nuclear In Lieu Tax Distribution Equity Act."

14 (2) The purpose of this act is to adjust the statutory
15 formula governing the distribution of the Nuclear In Lieu Tax to
16 ensure the equitable allocation of revenues, with priority being
17 given to Claiborne County for hosting the Grand Gulf Nuclear Power
18 Plant and bearing the associated risks and burdens.

19 **SECTION 2.** Section 27-35-309, Mississippi Code of 1972, is
20 amended as follows:

21 27-35-309. (1) The Department of Revenue shall, if
22 practicable, on or before the first Monday of June of each year,



23 make out for each person, firm, company or corporation listed in
24 Section 27-35-303 * * * an assessment of the company's property,
25 both real and personal, tangible and intangible. The Department
26 of Revenue shall apportion the assessment of value of each
27 company's property according to the provisions of this article,
28 except as provided in subsection (3) of this section, as follows:

29 (a) When the property of such public service company is
30 located in more than one (1) county in this state, the Department
31 of Revenue shall direct the company to apportion the assessed
32 value between the counties and municipalities and all other taxing
33 districts therein, in the proportion which the property located
34 therein bears to the entire value of the property of such company
35 as valued by the department, so that to each county, municipality
36 and taxing district therein, there shall be apportioned such part
37 of the entire valuation as will fairly equalize the relative value
38 of the property therein located to the whole value thereof.

39 (b) When the property of such public utility required
40 to be assessed by the provisions of this article is located in
41 more than one (1) state, the assessed value thereof shall be
42 apportioned by the Department of Revenue in such manner as will
43 fairly and equitably determine the principal sum for the value
44 thereof in this state, and after ascertaining such value it shall
45 be apportioned by them as herein provided.

46 The assessment roll shall contain all the property of any
47 such public service company, railroad, person, firm or corporation



48 and the value thereof, and so made that each county, municipality,
49 and taxing district shall receive its just share of taxes
50 proportionately to the amount of property therein situated.

51 (2) (a) The assessment when made shall remain open for
52 twenty (20) days in the Office of the Department of Revenue, and
53 be for such time subject to the objections thereto which may be
54 filed with the Executive Director of the Board of Tax Appeals; but
55 real estate belonging to railroads and which forms no part of the
56 road, and is wholly disconnected from its railroad business, shall
57 not be assessed by the Department of Revenue, but shall be
58 assessed as other real estate is assessed by the tax assessor of
59 the county where situated.

60 (b) The apportionment of the assessed value as required
61 by this section shall be filed with the Department of Revenue by
62 such public service company on or before the last day of the
63 objection period established in paragraph (a) of this subsection
64 (2). If such company shall fail, refuse or neglect to render the
65 apportionment of assessed value as required by this section, such
66 company shall be subject to the penalties provided for in Section
67 27-35-305. The filing of an objection by such public service
68 company shall not preclude such company from filing the property
69 apportionment as required by this section.

70 (3) Any nuclear generating plant which is located in the
71 state, which is owned or operated by a public utility rendering
72 electric service within the state and not exempt from ad valorem



73 taxation under any other statute and which is not owned or
74 operated by an instrumentality of the federal government shall be
75 exempt from county, municipal and district ad valorem taxes. In
76 lieu of the payment of county, municipal and district ad valorem
77 taxes, such public utility shall pay to the Department of Revenue
78 a sum based on the assessed value of such nuclear generating plant
79 in an amount to be determined and distributed as follows:

80 (a) The Department of Revenue shall annually assign an
81 assessed value to any nuclear generating plant described in this
82 subsection in the same manner as for ad valorem tax purposes by
83 using accepted industry methods for appraising and assessing
84 public utility property. The assessed value assigned shall be
85 used for the purpose of determining the in-lieu tax due under this
86 section and shall not be included on the ad valorem tax rolls of
87 the situs taxing authority nor be subject to ad valorem taxation
88 by the situs taxing authority nor shall the assessed value
89 assigned be used in determining the debt limit of the situs taxing
90 authority. However, the assessed value so assigned may be used by
91 the situs taxing authority for the purpose of determining salaries
92 of its public officials.

93 (b) On or before February 1, 1987, for the 1986 taxable
94 year and on or before February 1 of each year through the 1989
95 taxable year, such utility shall pay to the Department of Revenue
96 a sum equal to two percent (2%) of the assessed value as
97 ascertained by the Department of Revenue, but such payment shall



98 not be less than Sixteen Million Dollars (\$16,000,000.00) for any
99 of the four (4) taxable years; all such payments in excess of
100 Sixteen Million Dollars (\$16,000,000.00) for these four (4)
101 taxable years shall be paid into the General Fund of the state.
102 On or before February 1, 1991, for the 1990 taxable year and on or
103 before February 1 of each year thereafter, such utility shall pay
104 to the Department of Revenue a sum equal to two percent (2%) of
105 the assessed value as ascertained by the Department of Revenue,
106 but such payment shall not be less than Twenty Million Dollars
107 (\$20,000,000.00) for any taxable year for as long as such nuclear
108 power plant is licensed to operate and is not being permanently
109 decommissioned; all such payments in excess of Sixteen Million
110 Dollars (\$16,000,000.00) for taxable years 1990 and thereafter
111 shall be paid as follows:

112 (i) An amount of Three Million Forty Thousand
113 Dollars (\$3,040,000.00) annually, beginning with fiscal year 1991
114 and ending with fiscal year 2025, shall be transferred by the
115 Department of Revenue to Claiborne County. * * * Beginning with
116 fiscal year 2026, no less than seventy percent (70%) of the total
117 annual Nuclear In Lieu Tax revenue collected pursuant to this
118 subsection (3) must be transferred to Claiborne County. Until
119 July 1, 2025, such payments may be expended by the Board of
120 Supervisors of Claiborne County for any purpose for which a county
121 is authorized by law to levy an ad valorem tax * * * however,
122 beginning in fiscal year 2026, the board of supervisors shall



123 distribute: sixty percent (60%) of such funds to the Board of
124 Supervisors of Claiborne County to be used for public
125 infrastructure, safety and economic development purposes;
126 twenty-five percent (25%) to Claiborne County School District; and
127 fifteen percent (15%) to the City of Port Gibson. Payments
128 received under this subparagraph (i) shall not be included or
129 considered as proceeds of ad valorem taxes for the purposes of the
130 growth limitation on ad valorem taxes under Sections 27-39-305 and
131 27-39-321. However, should the Board of Supervisors of Claiborne
132 County withdraw its support of the Grand Gulf Nuclear Station
133 off-site emergency plan or otherwise fail to satisfy its off-site
134 emergency plan commitments as determined by the Mississippi
135 Emergency Management Agency and the Federal Emergency Management
136 Agency, Five Hundred Thousand Dollars (\$500,000.00) annually of
137 the funds designated for Claiborne County as described by
138 this * * * subparagraph (i) shall be deposited in the Grand Gulf
139 Disaster Assistance Fund as provided in Section 33-15-51.

140 (ii) An amount of One Hundred Sixty Thousand
141 Dollars (\$160,000.00) annually, beginning with fiscal year 1991
142 and ending with fiscal year 2025, shall be transferred by the
143 Department of Revenue to the City of Port Gibson, Mississippi.
144 Such payments received under this subparagraph (ii) before July 1,
145 2025, and under subparagraph (i) beginning on July 1, 2025, may be
146 expended by the Board of Aldermen of the City of Port Gibson for
147 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. 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 * * * subparagraph (ii) shall be deposited in the Grand Gulf Disaster Assistance Fund as provided in Section 33-15-51.

(iii) * * * Until July 1, 2025, 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 Department of Revenue 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 1991 fiscal year under Sections 27-39-321 and 27-39-305.



197 (d) After distribution of the one-time payment to
198 Claiborne County as set forth in subsection (3)(c) of this
199 section, the Department of Revenue upon certification that the
200 pending lawsuit as described in subsection (3)(c) of this section
201 has been voluntarily dismissed shall promptly deposit an amount of
202 Five Hundred Thousand Dollars (\$500,000.00) into the Grand Gulf
203 Disaster Assistance Trust Fund as provided for in Section
204 33-15-51, which shall be a one-time payment, to be utilized in
205 accordance with the provisions of such section.

206 (e) After distribution of the one-time payment to
207 Claiborne County as set forth in subsection (3)(c) of this section
208 and the payment to the Grand Gulf Disaster Assistance Trust Fund
209 as set forth in subsection (3)(d) of this section, the Department
210 of Revenue upon certification that the pending lawsuit as
211 described in subsection (3)(c) of this section has been
212 voluntarily dismissed shall promptly distribute ten percent (10%)
213 of the remainder of the prior payments remaining in escrow to the
214 General Fund of the state and the balance of the prior payments
215 remaining in escrow shall be distributed to the counties and
216 municipalities in this state wherein such public utility has
217 rendered electric service in the proportion that the amount of
218 electric energy consumed by the retail customers of such public
219 utility in each county, excluding municipalities therein, and in
220 each municipality, for the next preceding fiscal year bears to the
221 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 as provided for in subsection (3) (b) of this section, beginning with fiscal year 2026, the Department of Revenue shall distribute no more than ten percent (10%) of the remainder of the payments to the General Fund of the state and the * * * remaining twenty percent (20%) to the forty-five (45) counties * * * in this state wherein such public utility renders electric service. The distribution under this paragraph (f) must be calculated in the proportion that * * * a county's population bears to the total population of the forty-five (45) counties and with consideration given to the local economic needs and proximity to the Grand Gulf Nuclear Power Plant of each county.

(g) No county, including municipalities therein, shall receive in excess of * * * five percent (5%) 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 3. (1) In recognition of the environmental, health
and safety risks borne by Claiborne County in relation to the
Grand Gulf Nuclear Power Plant, the revised allocation formula
established in Section 27-35-309(3) for Nuclear In Lieu Tax
revenues shall compensate the county for hosting radioactive waste
and enduring emergency preparedness measures and provide funding
for community health programs and infrastructure improvements.

(2) Each year the Department of Revenue shall assess and
adjust allocations of the Nuclear In Lieu Tax revenues based on
the findings of economic impact studies and environmental risk
reports.

SECTION 4. (1) The Department of Revenue shall prepare an
annual report on Nuclear In Lieu Tax revenue allocations. The
report must include no less than the following information:

- (a) The total Nuclear In Lieu Tax revenue collected;
- (b) The revenue allocated under Section 27-35-309(3) to
Claiborne County, the City of Port Gibson, the State General Fund
and the forty-five (45) counties in the Grand Gulf Nuclear Power
Plant service area;
- (c) The methodology used to determine the distribution
calculations; and



270 (d) Any recommended changes the department deems
271 necessary to ensure the continued equity and relevance of the
272 distribution formula.

273 (2) Before February 1 of each year, the department shall
274 submit the report prepared pursuant to this section to the
275 Legislature. In addition, the department shall make the report
276 publicly available on the department's website.

277 **SECTION 5.** Sections 1 through 5 of this act shall stand
278 repealed on July 1, 2031.

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

