

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1130

By Senator(s) Committee

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

7 SECTION 1. It is the goal of this state that ethanol
8 production plants in the state attain a total annual production
9 level of two hundred forty million (240,000,000) gallons.

10 SECTION 2. For the purposes of this act, the following terms
11 shall have the meanings ascribed to them herein unless the context
12 clearly indicates otherwise:

13 (a) "Anhydrous alcohol" means fermentation ethyl
14 alcohol derived from biomass, but that does not meet ASTM
15 specifications or is not denatured and is shipped in bond for
16 further processing.

17 (b) "Biomass" means any organic matter which is
18 available on a renewable basis including agricultural crops and
19 agricultural wastes and residues, wood and wood wastes and
20 residues, and animal wastes.

21 (c) "Ethanol" means fermentation ethyl alcohol which is
22 produced from biomass and, that:

23 (i) Meets all of the specifications in ASTM
24 specification D 4806-88; and

25 (ii) Is denatured as specified in Code of Federal
26 Regulations, Title 27, parts 20 and 21.

27

28 (d) "Ethanol plant" means a plant at which ethanol,
29 anhydrous alcohol or wet alcohol is produced.

30 (e) "Wet alcohol" means agriculturally derived
31 fermentation ethyl alcohol having a purity of at least fifty
32 percent (50%) but less than ninety-nine percent (99%).

33 **SECTION 3.** (1) The Commissioner of Agriculture and Commerce
34 is authorized to make cash payments to producers of ethanol,
35 anhydrous alcohol and wet alcohol located in the state. These
36 payments shall apply only to ethanol, anhydrous alcohol and wet
37 alcohol fermented and produced at plants in the state. For
38 purposes of this section, an entity that holds a controlling
39 interest in more than one (1) ethanol plant is considered a single
40 producer. The amount of the payment for each producer's annual
41 production is:

42 (a) Except as provided in subsection (2) of this
43 section, for each gallon of ethanol or anhydrous alcohol produced
44 on or before June 30, 2005, or for ten (10) years after the start
45 of production, whichever is later, Twenty Cents (20¢) per gallon;
46 and

47 (b) For each gallon produced of wet alcohol on or
48 before June 30, 2003, or for ten (10) years after the start of
49 production, whichever is later, a payment in cents per gallon
50 calculated by the formula "alcohol purity in percent divided by
51 five (5)," and rounded to the nearest cent per gallon, but not
52 less than Eleven Cents (11¢) per gallon.

53 The producer payments for anhydrous alcohol and wet alcohol
54 under this section may be paid to either the original producer of
55 anhydrous alcohol or wet alcohol or the secondary processor, at
56 the option of the original producer, but not to both.

57 No payments shall be made for production that occurs after
58 June 30, 2015.

59 (2) If the level of production at an ethanol plant increases
60 due to an increase in the production capacity of the plant, the
61 payment under subsection (1)(a) of this section applies to the

62 additional increment of production until ten (10) years after the
63 increased production began. Once a plant's production capacity
64 reaches thirty million (30,000,000) gallons per year, no
65 additional increment shall qualify for the payment.

66 (3) The commissioner is authorized to make payments to
67 producers of ethanol or wet alcohol in the amount of One and
68 One-half Cents (1-1/2¢) for each kilowatt hour of electricity
69 generated using closed-loop biomass in a cogeneration facility at
70 an ethanol plant located in the state. Payments under this
71 subsection shall be made only for electricity generated at
72 cogeneration facilities that begin operation by June 30, 2005.
73 The payments apply to electricity generated on or before the date
74 ten (10) years after the producer first qualifies for payment
75 under this subsection. Total payments under this subsection in
76 any fiscal year may not exceed Seven Hundred Fifty Thousand
77 Dollars (\$750,000.00). For the purposes of this subsection:

78 (a) "Closed-loop biomass" means any organic material
79 from a plant that is planted for the purpose of being used to
80 generate electricity or for multiple purposes that include being
81 used to generate electricity; and

82 (b) "Cogeneration" means the combined generation of:

83 (i) Electrical or mechanical power; and

84 (ii) Steam or forms of useful energy, such as
85 heat, that are used for industrial, commercial, heating or cooling
86 purposes.

87 (4) Payments under subsections (1) and (2) of this section
88 to all producers may not exceed Thirty-seven Million Dollars
89 (\$37,000,000.00) in a fiscal year. If the total amount for which
90 all producers are eligible in a quarter exceeds the amount
91 available for payments, the commissioner shall make payments pro
92 rata. Total payments under subsections (1) and (2) of this
93 section to a producer in a fiscal year may not exceed Six Million
94 Dollars (\$6,000,000.00).

95 (5) By the last day of October, January, April and July,
96 each producer shall file a claim for payment for ethanol,

97 anhydrous alcohol and wet alcohol production during the preceding
98 three (3) calendar months. A producer with more than one (1)
99 plant shall file a separate claim for each plant. A producer that
100 files a claim under this subsection shall include a statement of
101 the producer's total ethanol, anhydrous alcohol and wet alcohol
102 production in Mississippi during the quarter covered by the claim,
103 including anhydrous alcohol and wet alcohol produced or received
104 from an outside source. A producer shall file a separate claim
105 for any amount claimed under subsection (3) of this section. For
106 each claim and statement of total ethanol, anhydrous alcohol and
107 wet alcohol production filed under this section, the volume of
108 ethanol, anhydrous alcohol and wet alcohol production or amounts
109 of electricity generated using closed-loop biomass must be
110 examined by an independent certified public accountant in
111 accordance with standards established by the American Institute of
112 Certified Public Accountants.

113 (6) Payments shall be made November 15, February 15, May 15
114 and August 15. A separate payment shall be made for each claim
115 filed. Except as provided in subsection (10) of this section, the
116 total quarterly payment to a producer under this subsection,
117 excluding amounts paid under subsection (3) of this section, may
118 not exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00).

119 (7) If the total amount for which all producers are eligible
120 in a quarter under subsection (3) of this section exceeds the
121 amount available for payments, the commissioner shall make
122 payments pro rata.

123 (8) After July 1, 2002, new production capacity is eligible
124 for payment under this section only if the commissioner received:

125 (a) An application for approval of the new production
126 capacity;

127 (b) An appropriate letter of long-term financial
128 commitment for construction of the new production capacity; and

129 (c) Copies of all necessary permits for construction of
130 the new production capacity. The commissioner may approve new
131 production capacity based on the order in which the applications

132 are received.

133 (9) The commissioner may not approve for payments, pursuant
134 to this act, any new production capacity applied for after
135 December 31, 2003, except that a producer with an approved
136 production capacity of at least twelve million (12,000,000)
137 gallons per year but less than thirty million (30,000,000) gallons
138 per year before July 1, 2004, is approved for thirty million
139 (30,000,000) gallons of production capacity.

140 (10) Notwithstanding the quarterly payment limits of
141 subsection (6), the commissioner shall make an additional payment
142 in the eighth quarter of each fiscal biennium to ethanol producers
143 for Twenty Cents (20¢) per gallon of production in the eighth
144 quarter of the biennium that is greater than seven million five
145 hundred thousand (7,500,000) gallons.

146 (11) The commissioner shall adopt rules to implement this
147 act and objective criteria by rule for who is eligible or not
148 eligible for payment in compliance with this act.

149 (12) A plant in production or under construction by June 30,
150 2005, shall continue to receive uninterrupted payments under
151 Section 3 of this act of at least Twenty Cents (20¢) per gallon of
152 ethanol produced until July 1, 2015.

153 (13) Promotional or educational efforts related to ethanol
154 that are financed wholly or partially with state funds and that
155 promote or identify a particular crop or commodity used to produce
156 ethanol must also include a description of the other potential
157 sources of ethanol listed in Section 2 of this act.

158 (14) No payments shall be made to a producer unless at least
159 ten percent (10%) of the biomass used to produce the ethanol,
160 anhydrous alcohol or wet alcohol is obtained from biomass produced
161 in Mississippi.

162 **SECTION 4.** This act shall take effect and be in force from
163 and after June 30, 2002.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE AND
2 COMMERCE TO MAKE CERTAIN CASH PAYMENTS TO PRODUCERS OF ETHANOL,
3 ANHYDROUS ALCOHOL AND WET ALCOHOL; TO PROVIDE DEFINITIONS; TO
4 PROVIDE DATES BY WHICH EACH PRODUCER MUST FILE A CLAIM FOR
5 PAYMENT; AND FOR RELATED PURPOSES.