

*****Adopted***
AMENDMENT No. 1 PROPOSED TO**

House Bill NO. 928

By Senator(s) Committee

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

9 **SECTION 1.** Section 69-51-5, Mississippi Code of 1972, is
10 amended as follows:

11 69-51-5. (1) The Commissioner of Agriculture and Commerce
12 is authorized to make cash payments to producers of ethanol,
13 anhydrous alcohol and wet alcohol located in the state. These
14 payments shall apply only to ethanol, anhydrous alcohol and wet
15 alcohol fermented and produced at plants in the state. For
16 purposes of this section, an entity that holds a controlling
17 interest in more than one (1) ethanol plant is considered a single
18 producer. The amount of the payment for each producer's annual
19 production is:

20 (a) Except as provided in subsection (2) of this
21 section, for each gallon of ethanol or anhydrous alcohol produced
22 in Mississippi in accordance with subsection (13) of this section
23 on or before June 30, 2005, or for ten (10) years after the start
24 of production, whichever is later, Twenty Cents (20¢) per gallon;
25 and

26 (b) For each gallon of wet alcohol produced in
27 Mississippi in accordance with subsection (13) of this section on
28 or before June 30, 2005, or for ten (10) years after the start of

29 production, whichever is later, a payment in cents per gallon
30 calculated by the formula "alcohol purity in percent divided by
31 five (5)," and rounded to the nearest cent per gallon, but not
32 less than Eleven Cents (11¢) per gallon.

33 The producer payments for anhydrous alcohol and wet alcohol
34 under this section may be paid to the original producer.

35 No payments shall be made for production that occurs after
36 June 30, 2015.

37 (2) If the level of production at an ethanol plant increases
38 due to an increase in the production capacity of the plant, the
39 payment under subsection (1)(a) of this section applies to the
40 additional increment of production until ten (10) years after the
41 increased production began. Once a plant's production capacity
42 reaches thirty million (30,000,000) gallons per year, no
43 additional increment shall qualify for the payment.

44 (3) The commissioner is authorized to make payments to
45 producers of ethanol or wet alcohol in the amount of One and
46 One-half Cents (1-1/2¢) for each kilowatt hour of electricity
47 generated using biomass in a cogeneration facility at an ethanol
48 plant located in the state. Payments under this subsection shall
49 be made only for electricity generated at cogeneration facilities
50 that begin operation by June 30, 2005. The payments apply to
51 electricity generated on or before the date ten (10) years after
52 the producer first qualifies for payment under this subsection.
53 Total payments under this subsection in any fiscal year may not
54 exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00). For
55 the purposes of this subsection:

56 "Cogeneration" means the combined generation of:

57 (a) Electrical or mechanical power; and

58 (b) Steam or forms of useful energy, such as heat, that
59 are used for industrial, commercial, heating or cooling purposes.

60 (4) Payments under subsections (1) and (2) of this section
61 to all producers may not exceed Thirty-seven Million Dollars
62 (\$37,000,000.00) in a fiscal year. * * * Total payments under
63 subsections (1) and (2) of this section to a producer in a fiscal

64 year may not exceed Six Million Dollars (\$6,000,000.00).

65 (5) By the last day of October, January, April and July,
66 each producer shall file a claim for payment for ethanol,
67 anhydrous alcohol and wet alcohol production during the preceding
68 three (3) calendar months. A producer with more than one (1)
69 plant shall file a separate claim for each plant. A producer that
70 files a claim under this subsection shall include a statement of
71 the producer's total ethanol, anhydrous alcohol and wet alcohol
72 production in Mississippi during the quarter covered by the claim,
73 including anhydrous alcohol and wet alcohol produced or received
74 from an outside source. A producer shall file a separate claim
75 for any amount claimed under subsection (3) of this section. For
76 each claim and statement of total ethanol, anhydrous alcohol and
77 wet alcohol production filed under this section, the volume of
78 ethanol, anhydrous alcohol and wet alcohol production or amounts
79 of electricity generated using biomass must be examined by an
80 independent certified public accountant in accordance with
81 standards established by the American Institute of Certified
82 Public Accountants.

83 (6) Payments shall be made November 15, February 15, May 15
84 and August 15. A separate payment shall be made for each claim
85 filed. Except as provided in subsection (9) of this section, the
86 total quarterly payment to a producer under this subsection,
87 excluding amounts paid under subsection (3) of this section, may
88 not exceed One Million Five Hundred Thousand Dollars
89 (\$1,500,000.00). * * *

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

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

96 (a) An application for approval of the new production
97 capacity;

98 (b) An appropriate letter of long-term financial

99 commitment for construction of the new production capacity; and
100 (c) Copies of all necessary permit applications for
101 construction of the new production capacity. The commissioner may
102 approve new production capacity based on the order in which the
103 applications are received.

104 (9) Notwithstanding the quarterly payment limits of
105 subsections (4) and (6), the commissioner shall make an additional
106 payment in the eighth quarter of each fiscal biennium to ethanol
107 producers for Twenty Cents (20¢) per gallon of production in the
108 eighth quarter of the biennium that is greater than seven million
109 five hundred thousand (7,500,000) gallons.

110 (10) The commissioner shall adopt rules to implement this
111 chapter and objective criteria by rule for who is eligible or not
112 eligible for payment in compliance with this chapter.

113 (11) A plant in production or under construction by June 30,
114 2005, shall continue to receive uninterrupted payments under this
115 section of at least Twenty Cents (20¢) per gallon of ethanol
116 produced until July 1, 2015.

117 (12) Promotional or educational efforts related to ethanol
118 that are financed wholly or partially with state funds and that
119 promote or identify a particular crop or commodity used to produce
120 ethanol must also include a description of the other potential
121 sources of ethanol listed in Section 69-51-3.

122 (13) It is the intent of this legislation that at least
123 fifty percent (50%) of the corn, biomass and resource commodities
124 shall be furnished totally by Mississippi farmers insofar as the
125 supply is available.

126 **SECTION 2.** This act shall take effect and be in force from
127 and after July 1, 2003.

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

1 AN ACT TO AMEND SECTION 69-51-5, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE COMMISSIONER OF AGRICULTURE MAY MAKE CERTAIN CASH
3 PAYMENTS TO PRODUCERS OF ETHANOL, ANHYDROUS ALCOHOL AND WET
4 ALCOHOL THAT IS PRODUCED IN MISSISSIPPI FROM NON-MISSISSIPPI
5 ORIGINATED PRODUCTS; TO DECLARE LEGISLATIVE INTENT THAT AT LEAST
6 50% OF THE CORN AND BIOMASS BE FURNISHED BY MISSISSIPPI FARMERS;

7 AND FOR RELATED PURPOSES.