

By: Senator(s) Robertson, Dawkins, Dearing,
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To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3103

1 AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS
2 OF THE STATE OF MISSISSIPPI IN THE AMOUNT OF \$5,000,000.00 FOR THE
3 PURPOSE OF PROVIDING FUNDS FOR THE MISSISSIPPI LAND, WATER AND
4 TIMBER RESOURCES FUND; TO AMEND SECTION 69-46-7, MISSISSIPPI CODE
5 OF 1972, TO REQUIRE THAT A CERTAIN AMOUNT OF THE MONEY IN THE
6 LAND, WATER AND TIMBER FUND SHALL BE UTILIZED TO ENCOURAGE,
7 PROMOTE AND INITIATE THE DEVELOPMENT OF ALTERNATIVE ENERGY
8 STRATEGIES, APPLIED RESEARCH TECHNOLOGIES AND COMMERCIALIZATION
9 ENTERPRISES THAT FOCUS ON MISSISSIPPI NATURAL RESOURCES; TO
10 AUTHORIZE A CERTAIN AMOUNT OF MONEY IN THE FUND TO BE UTILIZED BY
11 THE MISSISSIPPI DEVELOPMENT AUTHORITY, THE DEPARTMENT OF
12 AGRICULTURE AND COMMERCE AND THE DEPARTMENT OF AUDIT TO DEFRAY
13 COSTS INCURRED IN ASSISTING IN THE ADMINISTRATION OF THE
14 MISSISSIPPI LAND, WATER AND TIMBER RESOURCES ACT; AND FOR RELATED
15 PURPOSES.

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

17 **SECTION 1.** As used in Sections 1 through 16 of this act, the
18 following words shall have the meanings ascribed herein unless the
19 context clearly requires otherwise:

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

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

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

29 **SECTION 2.** (1) The commission, at one time, or from time to
30 time, may declare by resolution the necessity for issuance of
31 general obligation bonds of the State of Mississippi to provide
32 funds for the Mississippi Land, Water and Timber Resources Fund
33 created in Section 69-46-7, Mississippi Code of 1972. Upon the

34 adoption of a resolution by the Mississippi Land, Water and Timber
35 Resources Board, declaring the necessity for the issuance of any
36 part or all of the general obligation bonds authorized by this
37 section, the Mississippi Land, Water and Timber Resources Board
38 shall deliver a certified copy of its resolution or resolutions to
39 the commission. Upon receipt of such resolution, the commission,
40 in its discretion, may act as the issuing agent, prescribe the
41 form of the bonds, advertise for and accept bids, issue and sell
42 the bonds so authorized to be sold and do any and all other things
43 necessary and advisable in connection with the issuance and sale
44 of such bonds. The total amount of bonds issued under Sections 1
45 through 16 of this act shall not exceed Five Million Dollars
46 (\$5,000,000.00). No bonds shall be issued under Sections 1
47 through 16 of this act after July 1, 2008.

48 (2) The proceeds of bonds issued pursuant to Sections 1
49 through 16 of this act shall be deposited into the Mississippi
50 Land, Water and Timber Resources Fund created pursuant to Section
51 69-46-7. Any investment earnings on bonds issued pursuant to
52 Sections 1 through 16 of this act shall be used to pay debt
53 service on bonds issued under Sections 1 through 16 of this act,
54 in accordance with the proceedings authorizing issuance of such
55 bonds.

56 **SECTION 3.** The principal of and interest on the bonds
57 authorized under Sections 1 through 16 of this act shall be
58 payable in the manner provided in this section. Such bonds shall
59 bear such date or dates, be in such denomination or denominations,
60 bear interest at such rate or rates (not to exceed the limits set
61 forth in Section 75-17-101, Mississippi Code of 1972), be payable
62 at such place or places within or without the State of
63 Mississippi, shall mature absolutely at such time or times not to
64 exceed twenty-five (25) years from date of issue, be redeemable
65 before maturity at such time or times and upon such terms, with or
66 without premium, shall bear such registration privileges, and

67 shall be substantially in such form, all as shall be determined by
68 resolution of the commission.

69 **SECTION 4.** The bonds authorized by Sections 1 through 16 of
70 this act shall be signed by the chairman of the commission, or by
71 his facsimile signature, and the official seal of the commission
72 shall be affixed thereto, attested by the secretary of the
73 commission. The interest coupons, if any, to be attached to such
74 bonds may be executed by the facsimile signatures of such
75 officers. Whenever any such bonds shall have been signed by the
76 officials designated to sign the bonds who were in office at the
77 time of such signing but who may have ceased to be such officers
78 before the sale and delivery of such bonds, or who may not have
79 been in office on the date such bonds may bear, the signatures of
80 such officers upon such bonds and coupons shall nevertheless be
81 valid and sufficient for all purposes and have the same effect as
82 if the person so officially signing such bonds had remained in
83 office until their delivery to the purchaser, or had been in
84 office on the date such bonds may bear. However, notwithstanding
85 anything herein to the contrary, such bonds may be issued as
86 provided in the Registered Bond Act of the State of Mississippi.

87 **SECTION 5.** All bonds and interest coupons issued under
88 Sections 1 through 16 of the provisions of this act have all the
89 qualities and incidents of negotiable instruments under the
90 provisions of the Uniform Commercial Code, and in exercising the
91 powers granted by Sections 1 through 16 of this act, the
92 commission shall not be required to and need not comply with the
93 provisions of the Uniform Commercial Code.

94 **SECTION 6.** The commission shall act as the issuing agent for
95 the bonds authorized under Sections 1 through 16 of this act,
96 prescribe the form of the bonds, advertise for and accept bids,
97 issue and sell the bonds so authorized to be sold, pay all fees
98 and costs incurred in such issuance and sale, and do any and all
99 other things necessary and advisable in connection with the

100 issuance and sale of such bonds. The commission is authorized and
101 empowered to pay the costs that are incident to the sale, issuance
102 and delivery of the bonds authorized under Sections 1 through 16
103 of this act from the proceeds derived from the sale of such bonds.
104 The commission shall sell such bonds on sealed bids at public
105 sale, and for such price as it may determine to be for the best
106 interest of the State of Mississippi, but no such sale shall be
107 made at a price less than par plus accrued interest to the date of
108 delivery of the bonds to the purchaser. All interest accruing on
109 such bonds so issued shall be payable semiannually or annually;
110 however, the first interest payment may be for any period of not
111 more than one (1) year.

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

119 The commission, when issuing any bonds under the authority of
120 Sections 1 through 16 of this act, may provide that bonds, at the
121 option of the State of Mississippi, may be called in for payment
122 and redemption at the call price named therein and accrued
123 interest on such date or dates named therein.

124 **SECTION 7.** The bonds issued under the provisions of Sections
125 1 through 16 of this act are general obligations of the State of
126 Mississippi, and for the payment thereof the full faith and credit
127 of the State of Mississippi is irrevocably pledged. If the funds
128 appropriated by the Legislature are insufficient to pay the
129 principal of and the interest on such bonds as they become due,
130 then the deficiency shall be paid by the State Treasurer from any
131 funds in the State Treasury not otherwise appropriated. All such

132 bonds shall contain recitals on their faces substantially covering
133 the provisions of this section.

134 **SECTION 8.** Upon the issuance and sale of bonds under the
135 provisions of Sections 1 through 16 of this act, the commission
136 shall transfer the proceeds of any such sale or sales to the
137 Mississippi Land, Water and Timber Resources Fund created in
138 Section 69-46-7, Mississippi Code of 1972.

139 **SECTION 9.** The bonds authorized under Sections 1 through 16
140 of this act may be issued without any other proceedings or the
141 happening of any other conditions or things other than those
142 proceedings, conditions and things which are specified or required
143 by Sections 1 through 16 of this act. Any resolution providing
144 for the issuance of bonds under the provisions of Sections 1
145 through 16 of this act shall become effective immediately upon its
146 adoption by the commission, and any such resolution may be adopted
147 at any regular or special meeting of the commission by a majority
148 of its members.

149 **SECTION 10.** The bonds authorized under the authority of
150 Sections 1 through 16 of this act may be validated in the Chancery
151 Court of the First Judicial District of Hinds County, Mississippi,
152 in the manner and with the force and effect provided by Chapter
153 13, Title 31, Mississippi Code of 1972, for the validation of
154 county, municipal, school district and other bonds. The notice to
155 taxpayers required by such statutes shall be published in a
156 newspaper published or having a general circulation in the City of
157 Jackson, Mississippi.

158 **SECTION 11.** Any holder of bonds issued under the provisions
159 of Sections 1 through 16 of this act or of any of the interest
160 coupons pertaining thereto may, either at law or in equity, by
161 suit, action, mandamus or other proceeding, protect and enforce
162 any and all rights granted under Sections 1 through 16 of this
163 act, or under such resolution, and may enforce and compel
164 performance of all duties required by Sections 1 through 16 of

165 this act to be performed, in order to provide for the payment of
166 bonds and interest thereon.

167 **SECTION 12.** All bonds issued under the provisions of
168 Sections 1 through 16 of this act shall be legal investments for
169 trustees and other fiduciaries, and for savings banks, trust
170 companies and insurance companies organized under the laws of the
171 State of Mississippi, and such bonds shall be legal securities
172 which may be deposited with and shall be received by all public
173 officers and bodies of this state and all municipalities and
174 political subdivisions for the purpose of securing the deposit of
175 public funds.

176 **SECTION 13.** Bonds issued under the provisions of Sections 1
177 through 16 of this act and income therefrom shall be exempt from
178 all taxation in the State of Mississippi.

179 **SECTION 14.** The proceeds of the bonds issued under Sections
180 1 through 16 of this act shall be used solely for the purposes
181 herein provided, including the costs incident to the issuance and
182 sale of such bonds.

183 **SECTION 15.** The State Treasurer is authorized, without
184 further process of law, to certify to the Department of Finance
185 and Administration the necessity for warrants, and the Department
186 of Finance and Administration is authorized and directed to issue
187 such warrants, in such amounts as may be necessary to pay when due
188 the principal of, premium, if any, and interest on, or the
189 accreted value of, all bonds issued under Sections 1 through 16 of
190 this act; and the State Treasurer shall forward the necessary
191 amount to the designated place or places of payment of such bonds
192 in ample time to discharge such bonds, or the interest thereon, on
193 the due dates thereof.

194 **SECTION 16.** Sections 1 through 16 of this act shall be
195 deemed to be full and complete authority for the exercise of the
196 powers herein granted, but Sections 1 through 16 of this act shall

197 not be deemed to repeal or to be in derogation of any existing law
198 of this state.

199 **SECTION 17.** Section 69-46-7, Mississippi Code of 1972, is
200 amended as follows:

201 69-46-7. (1) (a) The Mississippi Land, Water and Timber
202 Resources Board may accept and expend funds appropriated or
203 otherwise made available by the Legislature and funds from any
204 other source in order to carry out the provisions of the
205 Mississippi Land, Water and Timber Resources Act. Such funds
206 shall be deposited into a special fund hereby established in the
207 State Treasury to be known as the "Mississippi Land, Water and
208 Timber Resources Fund." Unexpended amounts derived from bond
209 proceeds or private funds, or both, remaining in the fund at the
210 end of a fiscal year shall not lapse into the State General Fund,
211 and any investment earnings or interest earned on such amounts in
212 the fund shall be deposited to the credit of the fund. All other
213 unexpended amounts remaining in the fund at the end of a fiscal
214 year shall lapse into the State General Fund. At least Four
215 Million Dollars (\$4,000,000.00) in the fund shall be used for the
216 purposes described in Section 69-46-5(i) and for the payment of
217 reasonable costs incurred by the Mississippi Technology Alliance
218 in administering projects for such purposes. The board may
219 provide to the Mississippi Department of Agriculture and Commerce
220 not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), in
221 the aggregate, of monies in the fund that are derived from
222 proceeds of bonds issued under Sections 1 through 16 of Chapter
223 538, Laws of 2001, and/or Sections 1 through 16 of Chapter 542,
224 Laws of 2002, for the purpose of providing additional funds to
225 defray costs incurred by the department in assisting the board in
226 carrying out the provisions of the Mississippi Land, Water and
227 Timber Resources Act. However, the Mississippi Department of
228 Agriculture and Commerce may not use any portion of such funds for
229 the purpose of hiring any person as an employee as defined in

230 Section 25-3-91(c). The Mississippi Department of Agriculture may
231 escalate its budget and expend such funds, when provided by the
232 board, in accordance with rules and regulations of the Department
233 of Finance and Administration in a manner consistent with the
234 escalation of federal funds. The board may provide to the
235 Mississippi Development Authority not more than Two Hundred Fifty
236 Thousand Dollars (\$250,000.00), in the aggregate, of monies in the
237 fund that are derived from proceeds of bonds issued under Sections
238 1 through 16 of Chapter 538, Laws of 2001, and/or Sections 1
239 through 16 of Chapter 542, Laws of 2002, for the purpose of
240 providing additional funds to defray costs incurred by the
241 Mississippi Development Authority in assisting the board in
242 carrying out the provisions of the Mississippi Land, Water and
243 Timber Resources Act. However, the Mississippi Development
244 Authority may not use any portion of such funds for the purpose of
245 hiring any person as an employee as defined in Section 25-3-91(c).
246 The Mississippi Development Authority may escalate its budget and
247 expend such funds, when provided by the board, in accordance with
248 rules and regulations of the Department of Finance and
249 Administration in a manner consistent with the escalation of
250 federal funds.

251 (b) (i) The Mississippi Land, Water and Timber
252 Resources Board may provide to the Mississippi Department of
253 Agriculture and Commerce not more than One Hundred Twenty-five
254 Thousand Dollars (\$125,000.00), in the aggregate, of monies in the
255 fund that are derived from proceeds of bonds issued under Sections
256 1 through 16 of Chapter 505, Laws of 2003, and One Hundred
257 Twenty-five Thousand Dollars (\$125,000.00), in the aggregate, of
258 monies in the fund that are derived from proceeds of bonds issued
259 under Section 1 through 16 of Senate Bill No. 3103, 2004 Regular
260 Session, for the purpose of providing additional funds to defray
261 costs incurred by the department in assisting the board in
262 carrying out the provisions of the Mississippi Land, Water and

263 Timber Resources Act. However, the Mississippi Department of
264 Agriculture and Commerce may not use any portion of such funds for
265 the purpose of hiring any person as an employee as defined in
266 Section 25-3-91(c). The Mississippi Department of Agriculture and
267 Commerce may escalate its budget and expend such funds, when
268 provided by the board, in accordance with rules and regulations of
269 the Department of Finance and Administration in a manner
270 consistent with the escalation of federal funds.

271 (ii) The Mississippi Land, Water and Timber
272 Resources Board may provide to the Mississippi Development
273 Authority not more than One Hundred Twenty-five Thousand Dollars
274 (\$125,000.00), in the aggregate, of monies in the fund that are
275 derived from proceeds of bonds issued under Sections 1 through 16
276 of Chapter 505, Laws of 2003, and One Hundred Twenty-five Thousand
277 Dollars (\$125,000.00), in the aggregate, of monies in the fund
278 that are derived from proceeds of bonds issued under Section 1
279 through 16 of Senate Bill No. 3103, 2004 Regular Session, for the
280 purpose of providing additional funds to defray costs incurred by
281 the Mississippi Development Authority in assisting the board in
282 carrying out the provisions of the Mississippi Land, Water and
283 Timber Resources Act. However, the Mississippi Development
284 Authority may not use any portion of such funds for the purpose of
285 hiring any person as an employee as defined in Section 25-3-91(c).
286 The Mississippi Development Authority may escalate its budget and
287 expend such funds, when provided by the board, in accordance with
288 rules and regulations of the Department of Finance and
289 Administration in a manner consistent with the escalation of
290 federal funds.

291 (iii) The Mississippi Land, Water and Timber
292 Resources Board may provide to the Department of Audit not more
293 than Fifty Thousand Dollars (\$50,000.00), in the aggregate, of
294 monies in the fund that are derived from proceeds of bonds issued
295 under Sections 1 through 16 of Chapter 505, Laws of 2003, and

296 Fifty Thousand Dollars (\$50,000.00), in the aggregate, of monies
297 in the fund that are derived from proceeds of bonds issued under
298 Section 1 through 16 of Senate Bill No. 3103, 2004 Regular
299 Session, for the purpose of providing additional funds to defray
300 costs incurred by the department in assisting the board in
301 carrying out the provisions of the Mississippi Land, Water and
302 Timber Resources Act. However, the Department of Audit may not
303 use any portion of such funds for the purpose of hiring any person
304 as an employee as defined in Section 25-3-91(c). The Department
305 of Audit may escalate its budget and expend such funds, when
306 provided by the board, in accordance with rules and regulations of
307 the Department of Finance and Administration in a manner
308 consistent with the escalation of federal funds.

309 (2) The Mississippi Land, Water and Timber Resources Board
310 shall set aside One Million Dollars (\$1,000,000.00) of the monies
311 in the Mississippi Land, Water and Timber Resources Fund that are
312 derived from proceeds of bonds issued under Sections 1 through 16
313 of Chapter 505, Laws of 2003, for the purpose of providing funds
314 to the Mississippi Department of Agriculture and Commerce for use
315 in making payments to ethanol producers under Section 69-51-5
316 during the state fiscal year beginning July 1, 2003, and ending
317 June 30, 2004. Any monies set aside which are not used for such
318 purposes during the fiscal year shall no longer be set aside for
319 such purposes after the end of the fiscal year. In addition, if
320 the Commissioner of Agriculture and Commerce determines during
321 such fiscal year that no ethanol producer will be eligible for
322 such payments during the fiscal year, the commissioner shall
323 inform the board of his determination and the monies set aside
324 shall no longer be set aside for such purposes. The Mississippi
325 Department of Agriculture and Commerce may escalate its budget and
326 expend funds, when provided by the board under this subsection
327 (2), in accordance with rules and regulations of the Department of

328 Finance and Administration in a manner consistent with the
329 escalation of federal funds.

330 (3) In anticipation of the issuance of bonds authorized for
331 the purpose of providing funds for the Mississippi Land, Water and
332 Timber Resources Fund, the State Bond Commission is authorized to
333 negotiate and enter into any purchase, loan, credit or other
334 agreement with any bank, trust company or other lending
335 institution or to issue and sell interim notes for the purpose of
336 carrying out the provisions of the Mississippi Land, Water and
337 Timber Resources Act. All borrowings made under this subsection
338 (3) shall be evidenced by notes of the State of Mississippi, which
339 shall be issued from time to time, for such amounts, in such form
340 and in such denomination and subject to such terms and conditions
341 of sale and issuance, prepayment or redemption and maturity, rate
342 or rates of interest not to exceed the maximum rate authorized for
343 bonds in Section 75-17-101, and time of payment of interest as the
344 State Bond Commission shall agree to in such agreement. Such
345 notes shall constitute general obligations of the State of
346 Mississippi, and shall be backed by the full faith and credit of
347 the state. Such notes may also be issued for the purpose of
348 refunding previously issued notes. No note shall mature more than
349 three (3) years following the date of its issuance. The State
350 Bond Commission is authorized to provide for the compensation of
351 any purchaser of the notes by payment of a fixed fee or commission
352 and for all other costs and expenses of issuance and service,
353 including paying agent costs. Such costs and expenses may be paid
354 from the proceeds of the notes. Borrowings made under the
355 provisions of this subsection (3) shall not exceed the aggregate
356 sum of Five Million Dollars (\$5,000,000.00) outstanding at any one
357 time.

358 **SECTION 18.** This act shall take effect and be in force from
359 and after July 1, 2004.