

By: Representatives Mayo, Whittington

To: Ways and Means

HOUSE BILL NO. 343

1 AN ACT TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION
2 BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO THE MISSISSIPPI
3 DEPARTMENT OF AGRICULTURE AND COMMERCE FOR USE IN MAKING PAYMENTS
4 TO ETHANOL PRODUCERS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** As used in this act, the following words shall
7 have the meanings ascribed herein unless the context clearly
8 requires otherwise:

9 (a) "Accreted value" of any bond means, as of any date
10 of computation, an amount equal to the sum of (i) the stated
11 initial value of such bond, plus (ii) the interest accrued thereon
12 from the issue date to the date of computation at the rate,
13 compounded semiannually, that is necessary to produce the
14 approximate yield to maturity shown for bonds of the same
15 maturity.

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

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

18 **SECTION 2.** (1) (a) A special fund, to be designated as the
19 "Ethanol Producers Payment Fund" is created within the State
20 Treasury. The fund shall be maintained by the State Treasurer as
21 a separate and special fund, separate and apart from the General
22 Fund of the state. Unexpended amounts remaining in the fund at
23 the end of a fiscal year shall not lapse into the State General
24 Fund, and any interest earned or investment earnings on amounts in
25 the fund shall be deposited into such fund.

26 (b) Monies deposited into the fund shall be disbursed,
27 in the discretion of the Mississippi Department of Agriculture and

28 Commerce, for the purpose of making payments to ethanol producers
29 under Section 69-51-5.

30 (2) The expenditure of monies deposited into the special
31 fund shall be under the direction of the Mississippi Department of
32 Agriculture and Commerce, and such funds shall be paid by the
33 State Treasurer upon warrants issued by such department, which
34 warrants shall be issued upon requisitions signed by the
35 Commissioner of the Mississippi Department of Agriculture and
36 Commerce, or his designee.

37 **SECTION 3.** (1) The commission, at one time, or from time to
38 time, may declare by resolution the necessity for issuance of
39 general obligation bonds of the State of Mississippi to provide
40 funds for all costs incurred or to be incurred for the purposes
41 described in Section 2 of this act. Upon the adoption of a
42 resolution by the Mississippi Department Agriculture and Commerce,
43 declaring the necessity for the issuance of any part or all of the
44 general obligation bonds authorized by this section, the
45 Mississippi Department of Agriculture and Commerce shall deliver a
46 certified copy of its resolution or resolutions to the commission.
47 Upon receipt of such resolution, the commission, in its
48 discretion, may act as the issuing agent, prescribe the form of
49 the bonds, advertise for and accept bids, issue and sell the bonds
50 so authorized to be sold and do any and all other things necessary
51 and advisable in connection with the issuance and sale of such
52 bonds. The total amount of bonds issued under this act shall not
53 exceed Eighteen Million Dollars (\$18,000,000.00).

54 (2) Any investment earnings on amounts deposited into the
55 special fund created in Section 2 of this act shall be used to pay
56 debt service on bonds issued under this act, in accordance with
57 the proceedings authorizing issuance of such bonds.

58 **SECTION 4.** The principal of and interest on the bonds
59 authorized under this act shall be payable in the manner provided
60 in this section. Such bonds shall bear such date or dates, be in

61 such denomination or denominations, bear interest at such rate or
62 rates (not to exceed the limits set forth in Section 75-17-101,
63 Mississippi Code of 1972), be payable at such place or places
64 within or without the State of Mississippi, shall mature
65 absolutely at such time or times not to exceed twenty-five (25)
66 years from date of issue, be redeemable before maturity at such
67 time or times and upon such terms, with or without premium, shall
68 bear such registration privileges, and shall be substantially in
69 such form, all as shall be determined by resolution of the
70 commission.

71 **SECTION 5.** The bonds authorized by this act shall be signed
72 by the chairman of the commission, or by his facsimile signature,
73 and the official seal of the commission shall be affixed thereto,
74 attested by the secretary of the commission. The interest
75 coupons, if any, to be attached to such bonds may be executed by
76 the facsimile signatures of such officers. Whenever any such
77 bonds shall have been signed by the officials designated to sign
78 the bonds who were in office at the time of such signing but who
79 may have ceased to be such officers before the sale and delivery
80 of such bonds, or who may not have been in office on the date such
81 bonds may bear, the signatures of such officers upon such bonds
82 and coupons shall nevertheless be valid and sufficient for all
83 purposes and have the same effect as if the person so officially
84 signing such bonds had remained in office until their delivery to
85 the purchaser, or had been in office on the date such bonds may
86 bear. However, notwithstanding anything herein to the contrary,
87 such bonds may be issued as provided in the Registered Bond Act of
88 the State of Mississippi.

89 **SECTION 6.** All bonds and interest coupons issued under the
90 provisions of this act have all the qualities and incidents of
91 negotiable instruments under the provisions of the Uniform
92 Commercial Code, and in exercising the powers granted by this act,

93 the commission shall not be required to and need not comply with
94 the provisions of the Uniform Commercial Code.

95 **SECTION 7.** The commission shall act as the issuing agent for
96 the bonds authorized under this act, prescribe the form of the
97 bonds, advertise for and accept bids, issue and sell the bonds so
98 authorized to be sold, pay all fees and costs incurred in such
99 issuance and sale, and do any and all other things necessary and
100 advisable in connection with the issuance and sale of such bonds.
101 The commission is authorized and empowered to pay the costs that
102 are incident to the sale, issuance and delivery of the bonds
103 authorized under this act from the proceeds derived from the sale
104 of such bonds. The commission shall sell such bonds on sealed
105 bids at public sale, and for such price as it may determine to be
106 for the best interest of the State of Mississippi, but no such
107 sale shall be made at a price less than par plus accrued interest
108 to the date of delivery of the bonds to the purchaser. All
109 interest accruing on such bonds so issued shall be payable
110 semiannually or annually; however, the first interest payment may
111 be for any period of not 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 this act, may provide that bonds, at the option of the State of
121 Mississippi, may be called in for payment and redemption at the
122 call price named therein and accrued interest on such date or
123 dates named therein.

124 **SECTION 8.** The bonds issued under the provisions of this act
125 are general obligations of the State of Mississippi, and for the

126 payment thereof the full faith and credit of the State of
127 Mississippi is irrevocably pledged. If the funds appropriated by
128 the Legislature are insufficient to pay the principal of and the
129 interest on such bonds as they become due, then the deficiency
130 shall be paid by the State Treasurer from any funds in the State
131 Treasury not otherwise appropriated. All such bonds shall contain
132 recitals on their faces substantially covering the provisions of
133 this section.

134 **SECTION 9.** Upon the issuance and sale of bonds under the
135 provisions of this act, the commission shall transfer the proceeds
136 of any such sale or sales to the special fund created in Section 2
137 of this act. The proceeds of such bonds shall be disbursed solely
138 upon the order of the Mississippi Department of Agriculture and
139 Commerce under such restrictions, if any, as may be contained in
140 the resolution providing for the issuance of the bonds.

141 **SECTION 10.** The bonds authorized under this act may be
142 issued without any other proceedings or the happening of any other
143 conditions or things other than those proceedings, conditions and
144 things which are specified or required by this act. Any
145 resolution providing for the issuance of bonds under the
146 provisions of this act shall become effective immediately upon its
147 adoption by the commission, and any such resolution may be adopted
148 at any regular or special meeting of the commission by a majority
149 of its members.

150 **SECTION 11.** The bonds authorized under the authority of this
151 act may be validated in the Chancery Court of the First Judicial
152 District of Hinds County, Mississippi, in the manner and with the
153 force and effect provided by Chapter 13, Title 31, Mississippi
154 Code of 1972, for the validation of county, municipal, school
155 district and other bonds. The notice to taxpayers required by
156 such statutes shall be published in a newspaper published or
157 having a general circulation in the City of Jackson, Mississippi.

158 **SECTION 12.** Any holder of bonds issued under the provisions
159 of this act or of any of the interest coupons pertaining thereto
160 may, either at law or in equity, by suit, action, mandamus or
161 other proceeding, protect and enforce any and all rights granted
162 under this act, or under such resolution, and may enforce and
163 compel performance of all duties required by this act to be
164 performed, in order to provide for the payment of bonds and
165 interest thereon.

166 **SECTION 13.** All bonds issued under the provisions of this
167 act shall be legal investments for trustees and other fiduciaries,
168 and for savings banks, trust companies and insurance companies
169 organized under the laws of the State of Mississippi, and such
170 bonds shall be legal securities which may be deposited with and
171 shall be received by all public officers and bodies of this state
172 and all municipalities and political subdivisions for the purpose
173 of securing the deposit of public funds.

174 **SECTION 14.** Bonds issued under the provisions of this act
175 and income therefrom shall be exempt from all taxation in the
176 State of Mississippi.

177 **SECTION 15.** The proceeds of the bonds issued under this act
178 shall be used solely for the purposes herein provided, including
179 the costs incident to the issuance and sale of such bonds.

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

191 **SECTION 17.** This act shall be deemed to be full and complete
192 authority for the exercise of the powers herein granted, but this
193 act shall not be deemed to repeal or to be in derogation of any
194 existing law of this state.

195 **SECTION 18.** This act shall take effect and be in force from
196 and after July 1, 2006.