

By: Representatives Lamar, White, Clark

To: Ways and Means

HOUSE BILL NO. 1354

1 AN ACT TO AMEND SECTION 7, CHAPTER 483, LAWS OF 2022, TO
 2 INCREASE THE AMOUNT OF STATE REVENUE BONDS THAT MAY BE ISSUED TO
 3 PROVIDE FUNDS FOR THE ABC WAREHOUSE CONSTRUCTION FUND TO ASSIST IN
 4 PAYING THE COSTS ASSOCIATED WITH LAND ACQUISITION FOR, AND THE
 5 DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF A NEW WAREHOUSE
 6 FOR THE DEPARTMENT OF REVENUE'S ALCOHOLIC BEVERAGE CONTROL
 7 DIVISION; TO AMEND SECTION 27-71-11, MISSISSIPPI CODE OF 1972, TO
 8 INCREASE THE AMOUNT OF THE BAILMENT FEE CHARGED BY THE DEPARTMENT
 9 OF REVENUE ON CASES OF STORED ALCOHOLIC BEVERAGES FOR THE PURPOSE
 10 OF PROVIDING FUNDS FOR THE PAYMENT OF THE DEBT SERVICE ON SUCH
 11 BONDS; TO AMEND SECTION 67-1-203, TO PROVIDE THAT THE DEPARTMENT
 12 OF FINANCE AND ADMINISTRATION SHALL SELECT A SITE AT THE HOLMES
 13 COUNTY INDUSTRIAL PARK IN HOLMES COUNTY, MISSISSIPPI, FOR THE
 14 CONSTRUCTION OF A NEW WAREHOUSE FOR THE DEPARTMENT OF REVENUE'S
 15 ALCOHOLIC BEVERAGE CONTROL DIVISION WAREHOUSE, AND THAT A CONTRACT
 16 FOR WAREHOUSE CONSTRUCTION SHALL BE ENTERED INTO NOT LATER THAN
 17 SEPTEMBER 1, 2024; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 7, Chapter 483, Laws of 2022, is amended
 20 as follows:

21 **Section 7. Revenue bonds.** (1) As used in this section, the
 22 following words shall have the meanings ascribed herein unless the
 23 context clearly requires otherwise:

24 (a) "Accreted value" of any bond means, as of any date
 25 of computation, an amount equal to the sum of (i) the stated



26 initial value of such bond, plus (ii) the interest accrued thereon
27 from the issue date to the date of computation at the rate,
28 compounded semiannually, that is necessary to produce the
29 approximate yield to maturity shown for bonds of the same
30 maturity.

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

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

33 (2) (a) Monies deposited into the ABC Warehouse
34 Construction Fund created in Section 6(1) of this act shall be
35 disbursed, in the discretion of the Department of Finance and
36 Administration, to assist in paying the costs associated with land
37 acquisition for, and the design, construction, furnishing and
38 equipping of, a new warehouse for the Department of Revenue's
39 Alcoholic Beverage Control Division.

40 (b) Amounts deposited into the ABC Warehouse
41 Construction Fund created in Section 6(1) of this act shall be
42 disbursed to pay the costs of the projects described in paragraph
43 (a) of this subsection. Promptly after the commission has
44 certified, by resolution duly adopted, that the projects described
45 in paragraph (a) of this subsection have been completed,
46 abandoned, or cannot be completed in a timely fashion, any amounts
47 remaining in such special fund shall be applied to pay debt
48 service on the bonds issued under this section, in accordance with
49 the proceedings authorizing the issuance of such bonds and as
50 directed by the commission.



51 (3) For the purpose of providing for the payment of the
52 principal of and interest upon bonds issued under this section,
53 there is created a special bond sinking fund in the State
54 Treasury. The special bond sinking fund shall consist of such
55 amounts as may be paid into such fund under this act, by
56 appropriation or by other authorization by the Legislature.
57 Except as otherwise provided in this section, monies in the
58 special bond sinking fund shall be used to pay the debt service
59 requirements of the bonds issued under this section. If the
60 special bond sinking fund has a balance below the minimum amount
61 specified in the resolution providing for the issuance of the
62 bonds, or below one and one-half (1-1/2) times the amount needed
63 to pay the annual debt obligations related to the bonds issued
64 under this section, whichever is the lesser amount, the
65 Commissioner of Revenue shall transfer the deficit amount to the
66 bond sinking fund from revenue derived from the twenty-seven and
67 one-half percent (27-1/2%) markup provided for in Section
68 27-71-11. Unexpended amounts remaining in the special bond
69 sinking fund at the end of a fiscal year shall not lapse into the
70 State General Fund, and any interest earned or investment earnings
71 on amounts in the special bond sinking fund shall be deposited
72 into such sinking fund. If the special bond sinking fund has a
73 balance in excess of the amount needed to pay the debt service and
74 meet the obligations related to the bonds issued under this
75 section, as determined in the resolution providing for the



76 issuance of the bonds, the excess monies shall be transferred to
77 the State General Fund.

78 (4) (a) The commission, at one time, or from time to time,
79 may declare by resolution the necessity for issuance of revenue
80 bonds of the State of Mississippi to provide funds for all costs
81 incurred or to be incurred for the purposes described in
82 subsection (2) of this section. Upon the adoption of a resolution
83 by the Department of Finance and Administration, declaring the
84 necessity for the issuance of any part or all of the revenue bonds
85 authorized by this subsection, the Department of Finance and
86 Administration shall deliver a certified copy of its resolution or
87 resolutions to the commission. Upon receipt of such resolution,
88 the commission, in its discretion, may act as the issuing agent,
89 prescribe the form of the bonds, determine the appropriate method
90 for sale of the bonds, advertise for and accept bids or negotiate
91 the sale of the bonds, issue and sell the bonds so authorized to
92 be sold, and do any and all other things necessary and advisable
93 in connection with the issuance and sale of such bonds. The total
94 amount of bonds issued under this section shall not exceed * * *
95 Ninety-five Million Dollars (\$95,000,000.00).

96 (b) Any investment earnings on amounts deposited into
97 the ABC Warehouse Construction Fund created in Section 6(1) of
98 this act shall be used to pay debt service on bonds issued under
99 this section, in accordance with the proceedings authorizing
100 issuance of such bonds.



101 (5) The principal of and interest on the bonds authorized
102 under this section shall be payable in the manner provided in this
103 subsection. Such bonds shall bear such date or dates, be in such
104 denomination or denominations, bear interest at such rate or rates
105 (not to exceed the limits set forth in Section 75-17-101,
106 Mississippi Code of 1972), be payable at such place or places
107 within or without the State of Mississippi, shall mature
108 absolutely at such time or times not to exceed twenty-five (25)
109 years from date of issue, be redeemable before maturity at such
110 time or times and upon such terms, with or without premium, shall
111 bear such registration privileges, and shall be substantially in
112 such form, all as shall be determined by resolution of the
113 commission.

114 (6) The bonds authorized by this section shall be signed by
115 the chairman of the commission, or by his facsimile signature, and
116 the official seal of the commission shall be affixed thereto,
117 attested by the secretary of the commission. The interest
118 coupons, if any, to be attached to such bonds may be executed by
119 the facsimile signatures of such officers. Whenever any such
120 bonds have been signed by the officials designated to sign the
121 bonds who were in office at the time of such signing, but who may
122 have ceased to be such officers before the sale and delivery of
123 such bonds, or who may not have been in office on the date such
124 bonds may bear, the signatures of such officers upon such bonds
125 and coupons shall nevertheless be valid and sufficient for all



126 purposes and have the same effect as if the person so officially
127 signing such bonds had remained in office until their delivery to
128 the purchaser, or had been in office on the date such bonds may
129 bear. However, notwithstanding anything herein to the contrary,
130 such bonds may be issued as provided in the Registered Bond Act of
131 the State of Mississippi.

132 (7) All bonds and interest coupons issued under the
133 provisions of this section have all the qualities and incidents of
134 negotiable instruments under the provisions of the Uniform
135 Commercial Code, and in exercising the powers granted by this
136 section, the commission shall not be required to and need not
137 comply with the provisions of the Uniform Commercial Code.

138 (8) The commission shall act as issuing agent for the bonds
139 authorized under this section, prescribe the form of the bonds,
140 determine the appropriate method for sale of the bonds, advertise
141 for and accept bids or negotiate the sale of the bonds, issue and
142 sell the bonds so authorized to be sold, pay all fees and costs
143 incurred in such issuance and sale, and do any and all other
144 things necessary and advisable in connection with the issuance and
145 sale of such bonds. The commission is authorized and empowered to
146 pay the costs that are incident to the sale, issuance and delivery
147 of the bonds authorized under this section from the proceeds
148 derived from the sale of such bonds. The commission may sell such
149 bonds on sealed bids at public sale or may negotiate the sale of
150 the bonds for such price as it may determine to be for the best



151 interest of the State of Mississippi. All interest accruing on
152 such bonds so issued shall be payable semiannually or annually.

153 If such bonds are sold by sealed bids at public sale, notice
154 of the sale shall be published at least one time, not less than
155 ten (10) days before the date of sale, and shall be so published
156 in one or more newspapers published or having a general
157 circulation in the City of Jackson, Mississippi, selected by the
158 commission.

159 The commission, when issuing any bonds under the authority of
160 this section, may provide that bonds, at the option of the State
161 of Mississippi, may be called in for payment and redemption at the
162 call price named therein and accrued interest on such date or
163 dates named therein.

164 (9) The bonds issued under the provisions of this section
165 shall be revenue bonds of the state, the principal of and interest
166 on which shall be payable solely from and shall be secured by the
167 special bond sinking fund created in subsection (3) of this
168 section. The bonds shall never constitute an indebtedness of the
169 state within the meaning of any state constitutional provision or
170 statutory limitation, and shall never constitute or give rise to a
171 pecuniary liability of the state, or a charge against its general
172 credit or taxing powers, and such fact shall be plainly stated on
173 the face of each such bond. The bonds shall not be considered
174 when computing any limitation of indebtedness of the state. All
175 bonds issued under the authority of this section and all interest



176 coupons applicable thereto shall be construed to be negotiable
177 instruments, despite the fact that they are payable solely from a
178 specified source.

179 (10) Upon the issuance and sale of bonds under the
180 provisions of this section, the commission shall transfer the
181 proceeds of any such sale or sales to the ABC Warehouse
182 Construction Fund created in Section 6(1) of this act. The
183 proceeds of such bonds shall be disbursed solely upon the order of
184 the Department of Finance and Administration under such
185 restrictions, if any, as may be contained in the resolution
186 providing for the issuance of the bonds.

187 (11) The bonds authorized under this section may be issued
188 without any other proceedings or the happening of any other
189 conditions or things other than those proceedings, conditions and
190 things which are specified or required by this section. Any
191 resolution providing for the issuance of bonds under the
192 provisions of this section shall become effective immediately upon
193 its adoption by the commission, and any such resolution may be
194 adopted at any regular or special meeting of the commission by a
195 majority of its members.

196 (12) The bonds authorized under the authority of this
197 section may be validated in the Chancery Court of the First
198 Judicial District of Hinds County, Mississippi, in the manner and
199 with the force and effect provided by Title 31, Chapter 13,
200 Mississippi Code of 1972, for the validation of county, municipal,



201 school district and other bonds. The notice to taxpayers required
202 by such statutes shall be published in a newspaper published or
203 having a general circulation in the City of Jackson, Mississippi.

204 (13) Any holder of bonds issued under the provisions of this
205 section or of any of the interest coupons pertaining thereto may,
206 either at law or in equity, by suit, action, mandamus or other
207 proceeding, protect and enforce any and all rights granted under
208 this section, or under such resolution, and may enforce and compel
209 performance of all duties required by this section to be
210 performed, in order to provide for the payment of bonds and
211 interest thereon.

212 (14) All bonds issued under the provisions of this section
213 shall be legal investments for trustees and other fiduciaries, and
214 for savings banks, trust companies and insurance companies
215 organized under the laws of the State of Mississippi, and such
216 bonds shall be legal securities which may be deposited with and
217 shall be received by all public officers and bodies of this state
218 and all municipalities and political subdivisions for the purpose
219 of securing the deposit of public funds.

220 (15) Bonds issued under the provisions of this section and
221 income therefrom shall be exempt from all taxation in the State of
222 Mississippi.

223 (16) The proceeds of the bonds issued under this section
224 shall be used solely for the purposes herein provided, including
225 the costs incident to the issuance and sale of such bonds.



226 (17) The State Treasurer is authorized, without further
227 process of law, to certify to the Department of Finance and
228 Administration the necessity for warrants. The Department of
229 Finance and Administration is authorized and directed to issue
230 such warrants, in such amounts as may be necessary to pay when due
231 the principal of, premium, if any, and interest on, or the
232 accreted value of, all bonds issued under this section. The State
233 Treasurer shall forward the necessary amount to the designated
234 place or places of payment of such bonds in ample time to
235 discharge such bonds, or the interest thereon, on the due dates
236 thereof.

237 (18) This section shall be deemed to be full and complete
238 authority for the exercise of the powers herein granted, but this
239 section shall not be deemed to repeal or to be in derogation of
240 any existing law of this state.

241 **SECTION 2.** Section 27-71-11, Mississippi Code of 1972, is
242 amended as follows:

243 27-71-11. (1) The department shall from time to time by
244 resolution request the State Bond Commission to provide sufficient
245 funds required to maintain an adequate alcoholic beverage
246 inventory. Said funds shall be provided under the provisions of
247 Chapter 557, Laws of 1966.

248 (2) The department shall add to the cost of all alcoholic
249 beverages a markup of twenty-seven and one-half percent (27-1/2%),



250 inclusive of the three percent (3%) markup imposed by Section
251 27-71-7(2).

252 (3) In addition to other excise taxes and markups imposed in
253 this section and in Section 27-71-7, the department shall add to
254 the cost of all alcoholic beverages shipped a charge of
255 Twenty-five Cents (25¢) per case, to be deposited into the ABC
256 Warehouse Improvements Fund created in Section 67-1-211(2).
257 However, any unobligated amounts above Ten Million Dollars
258 (\$10,000,000.00) remaining in the ABC Warehouse Improvements Fund
259 at the end of a fiscal year shall be transferred to the State
260 General Fund.

261 (4) Notwithstanding the contract for warehouse and
262 distribution operations under Section 67-1-205, the department
263 shall remain responsible for purchasing and selling alcoholic
264 beverages. The department shall sell alcoholic beverages at
265 uniform prices throughout the state. Pricing for all alcoholic
266 beverages shall be set by the addition of the markup and taxes to
267 the price at which the beverages were purchased by the department.

268 (5) A permittee's order shall qualify for shipping when it
269 includes the minimum number of cases of alcoholic beverages as set
270 by the department. The department shall place qualifying orders
271 in a queue for shipment in the order in which the orders are made.
272 An order of fewer than the minimum number of cases, and special
273 orders, shall be added to the permittee's next qualified shipment.
274 The department shall give sufficient notice of any change in the



275 minimum number of cases for shipping and shall allow the
276 opportunity for comment.

277 (6) The department shall set a per-case shipping fee to be
278 charged to permittees. The department shall adjust the fee to
279 match, as closely as possible, the shipping costs as defined in
280 Section 67-1-201. The shipping fee charged under this subsection
281 shall be deposited to the credit of the ABC Shipping Fund created
282 in Section 27-71-29.

283 (7) The department shall charge manufacturers a bailment fee
284 of * * * One Dollar and Seventy-three Cents (\$1.73) per case of
285 alcoholic beverages stored in the warehouse, to be deposited to
286 the credit of the bond sinking fund created in Section 7(3) of
287 Chapter 483, Laws of 2022.

288 **SECTION 3.** Section 67-1-203, Mississippi Code of 1972, is
289 amended as follows:

290 67-1-203. **Warehouse construction.** (1) The Department of
291 Finance and Administration, using the monies available in the ABC
292 Warehouse Construction Fund created in Section 67-1-211(1) and
293 such other monies as the Legislature may make available, shall
294 purchase land for and shall provide for the design and
295 construction of a warehouse for the division in the most expedient
296 and cost-effective manner practicable as determined by the
297 Executive Director of the Department of Finance and
298 Administration.



299 (2) The Department of Finance and Administration shall
300 select a * * * site for the warehouse * * * at the Holmes County
301 Industrial Park located west of Interstate 55 on Mississippi
302 Highway 12 in Holmes County, Mississippi, as such location is the
303 approximate geographical center of the State of Mississippi.

304 * * *

305 (3) The contract for design and construction shall provide
306 that the operator shall be consulted so that the warehouse may, so
307 far as possible, suit the preferences of the operator in
308 furtherance of effective operations. The contract shall also
309 provide that the design shall aim to fill demand for the next
310 twenty-five (25) years.

311 (4) A contract for warehouse construction shall not be
312 entered into unless the construction contractor has demonstrated:

313 (a) The qualifications, experience and management
314 personnel necessary to carry out the terms of the contract;

315 (b) The ability to comply with applicable federal and
316 state laws; and

317 (c) The ability to expedite the design and construction
318 of facilities comparable to the warehouse.

319 (5) A contract for warehouse construction shall be entered
320 into not later than September 1, 2024.

321 **SECTION 4.** This act shall take effect and be in force from
322 and after its passage.

