

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 444

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972,
2 WHICH CREATES THE EMERGING CROPS FUND, TO EXTEND THE REPEALER ON
3 THE PROVISION OF LAW PROVIDING CERTAIN FUNDS TO THE AGRIBUSINESS
4 AND NATURAL RESOURCE DEVELOPMENT CENTER THROUGH ALCORN STATE
5 UNIVERSITY DURING FISCAL YEAR 2001 AND FISCAL YEAR 2002; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 69-2-13, Mississippi Code of 1972, is
9 amended as follows:

10 69-2-13. (1) There is hereby established in the State
11 Treasury a fund to be known as the "Emerging Crops Fund," which
12 shall be used to pay the interest on loans made to farmers for
13 nonland capital costs of establishing production of emerging crops
14 on land in Mississippi, and to make loans and grants which are
15 authorized under this section to be made from the fund. The fund
16 shall be administered by the Mississippi Development Authority. A
17 board comprised of the directors of the authority, the Mississippi
18 Cooperative Extension Service, the Mississippi Small Farm
19 Development Center and the Mississippi Agricultural and Forestry
20 Experiment Station, or their designees, shall develop definitions,
21 guidelines and procedures for the implementation of this chapter.
22 Funds for the Emerging Crops Fund shall be provided from the
23 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
24 and from repayment of interest loans made from the fund.

25 (2) (a) The Mississippi Development Authority shall develop
26 a program which gives fair consideration to making loans for the
27 processing and manufacturing of goods and services by
28 agribusiness, greenhouse production horticulture, and small
29 business concerns. It is the policy of the State of Mississippi

30 that the Mississippi Development Authority shall give due
31 recognition to and shall aid, counsel, assist and protect, insofar
32 as is possible, the interests of agribusiness, greenhouse
33 production horticulture, and small business concerns. To ensure
34 that the purposes of this subsection are carried out, the
35 Mississippi Development Authority shall loan not more than One
36 Million Dollars (\$1,000,000.00) to finance any single
37 agribusiness, greenhouse production horticulture, or small
38 business concern. Loans made pursuant to this subsection shall be
39 made in accordance with the criteria established in Section
40 57-71-11.

41 (b) The Mississippi Development Authority may, out of
42 the total amount of bonds authorized to be issued under this
43 chapter, make available funds to any planning and development
44 district in accordance with the criteria established in Section
45 57-71-11. Planning and development districts which receive monies
46 pursuant to this provision shall use such monies to make loans to
47 private companies for purposes consistent with this subsection.

48 (c) The Mississippi Development Authority is hereby
49 authorized to engage legal services, financial advisors,
50 appraisers and consultants if needed to review and close loans
51 made hereunder and to establish and assess reasonable fees,
52 including, but not limited to, liquidation expenses.

53 (3) (a) The Mississippi Development Authority shall, in
54 addition to the other programs described in this section, provide
55 for a program of loans to be made to agribusiness or greenhouse
56 production horticulture enterprises for the purpose of encouraging
57 thereby the extension of conventional financing and the issuance
58 of letters of credit to such agribusiness or greenhouse production
59 horticulture enterprises by private institutions. Monies to make
60 such loans by the Mississippi Development Authority shall be drawn
61 from the Emerging Crops Fund. The amount of a loan to any single
62 agribusiness or greenhouse production horticulture enterprise

63 under this paragraph (a) shall not exceed twenty percent (20%) of
64 the total cost of the project for which financing is sought or Two
65 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
66 interest shall be charged on such loans, and only the amount
67 actually loaned shall be required to be repaid. Repayments shall
68 be deposited into the Emerging Crops Fund.

69 (b) The Mississippi Development Authority shall, in
70 addition to the other programs described in this section, provide
71 for a program of loans or loan guaranties, or both, to be made to
72 or on behalf of any agribusiness enterprise engaged in beef
73 processing for the purpose of encouraging thereby the extension of
74 conventional financing and the issuance of letters of credit to
75 such agribusiness enterprises by private institutions. Monies to
76 make such loans or loan guaranties, or both, by the Mississippi
77 Development Authority shall be drawn from the Emerging Crops Fund
78 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
79 in the aggregate. The amount of a loan to any single agribusiness
80 enterprise or loan guaranty on behalf of such agribusiness
81 enterprise, or both, under this paragraph (b) shall not exceed the
82 total cost of the project for which financing is sought or
83 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
84 The interest charged on a loan made under this paragraph (b) shall
85 be at a rate determined by the Mississippi Development Authority.
86 All repayments of any loan made under this paragraph (b) shall be
87 deposited into the Emerging Crops Fund. Assistance received by an
88 agribusiness enterprise under this paragraph (b) shall not
89 disqualify the agribusiness enterprise from obtaining any other
90 assistance under this chapter.

91 (4) (a) Through June 30, 2004, the Mississippi Development
92 Authority may loan or grant to qualified planning and development
93 districts, and to small business investment corporations,
94 bank-based community development corporations, the Recruitment and
95 Training Program, Inc., the City of Jackson Business Development

96 Loan Fund, the Lorman Southwest Mississippi Development
97 Corporation, the West Jackson Community Development Corporation,
98 the East Mississippi Development Corporation, and other entities
99 meeting the criteria established by the Mississippi Development
100 Authority (all referred to hereinafter as "qualified entities"),
101 funds for the purpose of establishing loan revolving funds to
102 assist in providing financing for minority economic development.
103 The monies loaned or granted by the Mississippi Development
104 Authority shall be drawn from the Emerging Crops Fund and shall
105 not exceed Twenty-five Million Dollars (\$25,000,000.00) in the
106 aggregate. Planning and development districts or qualified
107 entities which receive monies pursuant to this provision shall use
108 such monies to make loans to minority business enterprises
109 consistent with criteria established by the Mississippi
110 Development Authority. Such criteria shall include, at a minimum,
111 the following:

112 (i) The business enterprise must be a private,
113 for-profit enterprise.

114 (ii) If the business enterprise is a
115 proprietorship, the borrower must be a resident citizen of the
116 State of Mississippi; if the business enterprise is a corporation
117 or partnership, at least fifty percent (50%) of the owners must be
118 resident citizens of the State of Mississippi.

119 (iii) The borrower must have at least five percent
120 (5%) equity interest in the business enterprise.

121 (iv) The borrower must demonstrate ability to
122 repay the loan.

123 (v) The borrower must not be in default of any
124 previous loan from the state or federal government.

125 (vi) Loan proceeds may be used for financing all
126 project costs associated with development or expansion of a new
127 small business, including fixed assets, working capital, start-up

128 costs, rental payments, interest expense during construction and
129 professional fees related to the project.

130 (vii) Loan proceeds shall not be used to pay off
131 existing debt for loan consolidation purposes; to finance the
132 acquisition, construction, improvement or operation of real
133 property which is to be held primarily for sale or investment; to
134 provide for, or free funds, for speculation in any kind of
135 property; or as a loan to owners, partners or stockholders of the
136 applicant which do not change ownership interest by the applicant.
137 However, this does not apply to ordinary compensation for services
138 rendered in the course of business.

139 (viii) The maximum amount that may be loaned to
140 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
141 (\$250,000.00).

142 (ix) The Mississippi Development Authority shall
143 review each loan before it is made, and no loan shall be made to
144 any borrower until the loan has been reviewed and approved by the
145 Mississippi Development Authority.

146 (b) For the purpose of this subsection, the term
147 "minority business enterprise" means a socially and economically
148 disadvantaged small business concern, organized for profit,
149 performing a commercially useful function which is owned and
150 controlled by one or more minorities or minority business
151 enterprises certified by the Mississippi Development Authority, at
152 least fifty percent (50%) of whom are resident citizens of the
153 State of Mississippi. For purposes of this subsection, the term
154 "socially and economically disadvantaged small business concern"
155 shall have the meaning ascribed to such term under the Small
156 Business Act (15 USCS, Section 637(a)), or women, and the term
157 "owned and controlled" means a business in which one or more
158 minorities or minority business enterprises certified by the
159 Mississippi Development Authority own sixty percent (60%) or, in
160 the case of a corporation, sixty percent (60%) of the voting

161 stock, and control sixty percent (60%) of the management and daily
162 business operations of the business.

163 From and after July 1, 2004, monies not loaned or granted by
164 the Mississippi Development Authority to planning and development
165 districts or qualified entities under this subsection, and monies
166 not loaned by planning and development districts or qualified
167 entities, shall be deposited to the credit of the sinking fund
168 created and maintained in the State Treasury for the retirement of
169 bonds issued under Section 69-2-19.

170 (c) Notwithstanding any other provision of this
171 subsection to the contrary, if federal funds are not available for
172 commitments made by a planning and development district to provide
173 assistance under any federal loan program administered by the
174 planning and development district in coordination with the
175 Appalachian Regional Commission or Economic Development
176 Administration, or both, a planning and development district may
177 use funds in its loan revolving fund, which have not been
178 committed otherwise to provide assistance, for the purpose of
179 providing temporary funding for such commitments. If a planning
180 and development district uses uncommitted funds in its loan
181 revolving fund to provide such temporary funding, the district
182 shall use funds repaid to the district under the temporarily
183 funded federal loan program to replenish the funds used to provide
184 the temporary funding. Funds used by a planning and development
185 district to provide temporary funding under this paragraph (c)
186 must be repaid to the district's loan revolving fund no later than
187 twelve (12) months after the date the district provides the
188 temporary funding. A planning and development district may not
189 use uncommitted funds in its loan revolving fund to provide
190 temporary funding under this paragraph (c) on more than two (2)
191 occasions during a calendar year. A planning and development
192 district may provide temporary funding for multiple commitments on
193 each such occasion. The maximum aggregate amount of uncommitted

194 funds in a loan revolving fund that may be used for such purposes
195 during a calendar year shall not exceed seventy percent (70%) of
196 the uncommitted funds in the loan revolving fund on the date the
197 district first provides temporary funding during the calendar
198 year.

199 (d) If the Mississippi Development Authority determines
200 that a planning and development district or qualified entity has
201 provided loans to minority businesses in a manner inconsistent
202 with the provisions of this subsection, then the amount of such
203 loans so provided shall be withheld by the Mississippi Development
204 Authority from any additional grant funds to which the planning
205 and development district or qualified entity becomes entitled
206 under this subsection. If the Mississippi Development Authority
207 determines, after notifying such planning and development district
208 or qualified entity twice in writing and providing such planning
209 and development district or qualified entity a reasonable
210 opportunity to comply, that a planning and development district or
211 qualified entity has consistently failed to comply with this
212 subsection, the Mississippi Development Authority may declare such
213 planning and development district or qualified entity in default
214 under this subsection and, upon receipt of notice thereof from the
215 Mississippi Development Authority, such planning and development
216 district or qualified entity shall immediately cease providing
217 loans under this subsection, shall refund to the Mississippi
218 Development Authority for distribution to other planning and
219 development districts or qualified entities all funds held in its
220 revolving loan fund and, if required by the Mississippi
221 Development Authority, shall convey to the Mississippi Development
222 Authority, all administrative and management control of loans
223 provided by it under this subsection.

224 (e) If the Mississippi Development Authority
225 determines, after notifying a planning and development district or
226 qualified entity twice in writing and providing copies of such

227 notification to each member of the Legislature in whose district
228 or in a part of whose district such planning and development
229 district or qualified entity is located and providing such
230 planning and development district or qualified entity a reasonable
231 opportunity to take corrective action, that a planning and
232 development district or qualified entity administering a revolving
233 loan fund under the provisions of this subsection is not actively
234 engaged in lending as defined by the rules and regulations of the
235 Mississippi Development Authority, the Mississippi Development
236 Authority may declare such planning and development district or
237 qualified entity in default under this subsection and, upon
238 receipt of notice thereof from the Mississippi Development
239 Authority, such planning and development district or qualified
240 entity shall immediately cease providing loans under this
241 subsection, shall refund to the Mississippi Development Authority
242 for distribution to other planning and development districts or
243 qualified entities all funds held in its revolving loan fund and,
244 if required by the Mississippi Development Authority, shall convey
245 to the Mississippi Development Authority all administrative and
246 management control of loans provided by it under this subsection.

247 (5) The Mississippi Development Authority shall develop a
248 program which will assist minority business enterprises by
249 guaranteeing bid, performance and payment bonds which such
250 minority businesses are required to obtain in order to contract
251 with federal agencies, state agencies or political subdivisions of
252 the state. Monies for such program shall be drawn from the monies
253 allocated under subsection (4) of this section to assist the
254 financing of minority economic development and shall not exceed
255 Three Million Dollars (\$3,000,000.00) in the aggregate. The
256 Mississippi Development Authority may promulgate rules and
257 regulations for the operation of the program established pursuant
258 to this subsection. For the purpose of this subsection (5) the

259 term "minority business enterprise" has the meaning assigned such
260 term in subsection (4) of this section.

261 (6) The Mississippi Development Authority may loan or grant
262 to public entities and to nonprofit corporations funds to defray
263 the expense of financing (or to match any funds available from
264 other public or private sources for the expense of financing)
265 projects in this state which are devoted to the study, teaching
266 and/or promotion of regional crafts and which are deemed by the
267 authority to be significant tourist attractions. The monies
268 loaned or granted shall be drawn from the Emerging Crops Fund and
269 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
270 in the aggregate.

271 (7) Through June 30, 2006, the Mississippi Development
272 Authority shall make available to the Mississippi Department of
273 Agriculture and Commerce funds for the purpose of establishing
274 loan revolving funds and other methods of financing for
275 agribusiness programs administered under the Mississippi
276 Agribusiness Council Act of 1993. The monies made available by
277 the Mississippi Development Authority shall be drawn from the
278 Emerging Crops Fund and shall not exceed One Million Two Hundred
279 Thousand Dollars (\$1,200,000.00) in the aggregate. The
280 Mississippi Department of Agriculture and Commerce shall establish
281 control and auditing procedures for use of these funds. These
282 funds will be used primarily for quick payment to farmers for
283 vegetable and fruit crops processed and sold through vegetable
284 processing plants associated with the Department of Agriculture
285 and Commerce and the Mississippi State Extension Service.

286 (8) From and after July 1, 1996, the Mississippi Development
287 Authority shall make available to the Mississippi Small Farm
288 Development Center One Million Dollars (\$1,000,000.00) to be used
289 by the center to assist small entrepreneurs as provided in Section
290 37-101-25, Mississippi Code of 1972. The monies made available by

291 the Mississippi Development Authority shall be drawn from the
292 Emerging Crops Fund.

293 (9) The Mississippi Development Authority shall make
294 available to the Agribusiness and Natural Resource Development
295 Center through Alcorn State University an amount not to exceed Two
296 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
297 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
298 year 2002 from the cash balance of the Emerging Crops Fund to
299 support the development of a cooperative program for agribusiness
300 development, marketing and natural resources development. This
301 subsection (9) shall stand repealed on June 30, 2006.

302 (10) The Mississippi Development Authority shall make
303 available to the Small Farm Development Center at Alcorn State
304 University funds in an aggregate amount not to exceed Three
305 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
306 balance of the Emerging Crops Fund. The Small Farm Development
307 Center at Alcorn State University shall use such funds to make
308 loans to producers of sweet potatoes and cooperatives anywhere in
309 the State of Mississippi owned by sweet potato producers to assist
310 in the planting of sweet potatoes and the purchase of sweet potato
311 production and harvesting equipment. A report of the loans made
312 under this subsection shall be furnished by January 15 of each
313 year to the Chairman of the Senate Agriculture Committee and the
314 Chairman of the House Agriculture Committee.

315 (11) The Mississippi Development Authority shall make
316 available to the Mississippi Department of Agriculture and
317 Commerce "Make Mine Mississippi" program an amount not to exceed
318 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
319 the cash balance of the Emerging Crops Fund.

320 (12) The Mississippi Development Authority shall make
321 available to the Mississippi Department of Agriculture and
322 Commerce an amount not to exceed One Hundred Fifty Thousand
323 Dollars (\$150,000.00) to be drawn from the cash balance of the

324 Emerging Crops Fund to be used for the rehabilitation and
325 maintenance of the Mississippi Farmers Central Market in Jackson,
326 Mississippi.

327 (13) The Mississippi Development Authority shall make
328 available to the Mississippi Department of Agriculture and
329 Commerce an amount not to exceed Twenty-five Thousand Dollars
330 (\$25,000.00) to be drawn from the cash balance of the Emerging
331 Crops Fund to be used for advertising purposes related to the
332 Mississippi Farmers Central Market in Jackson, Mississippi.

333 **SECTION 2.** This act shall take effect and be in force from
334 and after June 30, 2004.