

By: Representative Watson

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
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 PROGRAM THAT  
3 AUTHORIZES THE MISSISSIPPI DEVELOPMENT AUTHORITY TO LOAN OR GRANT  
4 FUNDS FROM THE EMERGING CROPS FUND TO CERTAIN ENTITIES FOR LOAN  
5 REVOLVING FUNDS TO ASSIST IN PROVIDING FINANCING FOR MINORITY  
6 ECONOMIC DEVELOPMENT; TO EXTEND THE REPEALER ON THE PROVISION OF  
7 LAW PROVIDING CERTAIN FUNDS TO THE AGRIBUSINESS AND NATURAL  
8 RESOURCE DEVELOPMENT CENTER THROUGH ALCORN STATE UNIVERSITY DURING  
9 FISCAL YEAR 2001 AND FISCAL YEAR 2002; AND FOR RELATED PURPOSES.

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

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

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

28 (2) (a) The Mississippi Development Authority shall develop  
29 a program which gives fair consideration to making loans for the  
30 processing and manufacturing of goods and services by

31 agribusiness, greenhouse production horticulture, and small  
32 business concerns. It is the policy of the State of Mississippi  
33 that the Mississippi Development Authority shall give due  
34 recognition to and shall aid, counsel, assist and protect, insofar  
35 as is possible, the interests of agribusiness, greenhouse  
36 production horticulture, and small business concerns. To ensure  
37 that the purposes of this subsection are carried out, the  
38 Mississippi Development Authority shall loan not more than One  
39 Million Dollars (\$1,000,000.00) to finance any single  
40 agribusiness, greenhouse production horticulture, or small  
41 business concern. Loans made pursuant to this subsection shall be  
42 made in accordance with the criteria established in Section  
43 57-71-11.

44 (b) The Mississippi Development Authority may, out of  
45 the total amount of bonds authorized to be issued under this  
46 chapter, make available funds to any planning and development  
47 district in accordance with the criteria established in Section  
48 57-71-11. Planning and development districts which receive monies  
49 pursuant to this provision shall use such monies to make loans to  
50 private companies for purposes consistent with this subsection.

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

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

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

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

94 (4) (a) Through June 30, 2006, the Mississippi Development  
95 Authority may loan or grant to qualified planning and development  
96 districts, and to small business investment corporations,

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

115                   (i) The business enterprise must be a private,  
116 for-profit enterprise.

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

122                   (iii) The borrower must have at least five percent  
123 (5%) equity interest in the business enterprise.

124                   (iv) The borrower must demonstrate ability to  
125 repay the loan.

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

128                   (vi) Loan proceeds may be used for financing all  
129 project costs associated with development or expansion of a new

130 small business, including fixed assets, working capital, start-up  
131 costs, rental payments, interest expense during construction and  
132 professional fees related to the project.

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

142 (viii) The maximum amount that may be loaned to  
143 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
144 (\$250,000.00).

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

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

163 the case of a corporation, sixty percent (60%) of the voting  
164 stock, and control sixty percent (60%) of the management and daily  
165 business operations of the business.

166 From and after July 1, 2006, monies not loaned or granted by  
167 the Mississippi Development Authority to planning and development  
168 districts or qualified entities under this subsection, and monies  
169 not loaned by planning and development districts or qualified  
170 entities, shall be deposited to the credit of the sinking fund  
171 created and maintained in the State Treasury for the retirement of  
172 bonds issued under Section 69-2-19.

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

196 each such occasion. The maximum aggregate amount of uncommitted  
197 funds in a loan revolving fund that may be used for such purposes  
198 during a calendar year shall not exceed seventy percent (70%) of  
199 the uncommitted funds in the loan revolving fund on the date the  
200 district first provides temporary funding during the calendar  
201 year.

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

227 (e) If the Mississippi Development Authority  
228 determines, after notifying a planning and development district or

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

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



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

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

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

289 (8) From and after July 1, 1996, the Mississippi Development  
290 Authority shall make available to the Mississippi Small Farm  
291 Development Center One Million Dollars (\$1,000,000.00) to be used  
292 by the center to assist small entrepreneurs as provided in Section  
293 37-101-25, Mississippi Code of 1972. The monies made available by

294 the Mississippi Development Authority shall be drawn from the  
295 Emerging Crops Fund.

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

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

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

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

327 Emerging Crops Fund to be used for the rehabilitation and  
328 maintenance of the Mississippi Farmers Central Market in Jackson,  
329 Mississippi.

330 (13) The Mississippi Development Authority shall make  
331 available to the Mississippi Department of Agriculture and  
332 Commerce an amount not to exceed Twenty-five Thousand Dollars  
333 (\$25,000.00) to be drawn from the cash balance of the Emerging  
334 Crops Fund to be used for advertising purposes related to the  
335 Mississippi Farmers Central Market in Jackson, Mississippi.

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