

By: Representative Howell

To: Ways and Means

HOUSE BILL NO. 1658

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE JUNE 30, 2004, REPEAL DATE ON THE PROGRAM THAT
3 AUTHORIZES THE MISSISSIPPI DEVELOPMENT AUTHORITY TO LOAN OR GRANT
4 FUNDS FROM THE EMERGING CROPS FUND TO ASSIST IN PROVIDING
5 FINANCING FOR MINORITY ECONOMIC DEVELOPMENT AND TO INCREASE THE
6 AMOUNT THAT MAY BE DRAWN FOR SUCH PURPOSE FROM \$25,000,000.00 TO
7 \$27,000,000.00; TO EXTEND THE REPEALER ON THE PROVISION OF LAW
8 PROVIDING CERTAIN FUNDS TO THE AGRIBUSINESS AND NATURAL RESOURCE
9 DEVELOPMENT CENTER THROUGH ALCORN STATE UNIVERSITY DURING FISCAL
10 YEAR 2001 AND FISCAL YEAR 2002; TO AMEND SECTION 69-2-19,
11 MISSISSIPPI CODE OF 1972, TO INCREASE THE AGGREGATE AMOUNT OF
12 STATE GENERAL OBLIGATION BONDS THAT MAY BE ISSUED FOR THE EMERGING
13 CROPS FUND FROM \$104,000,000.00 TO \$106,000,000.00; AND FOR
14 RELATED PURPOSES.

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

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

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

33 (2) (a) The Mississippi Development Authority shall develop
34 a program which gives fair consideration to making loans for the
35 processing and manufacturing of goods and services by
36 agribusiness, greenhouse production horticulture, and small
37 business concerns. It is the policy of the State of Mississippi
38 that the Mississippi Development Authority shall give due
39 recognition to and shall aid, counsel, assist and protect, insofar
40 as is possible, the interests of agribusiness, greenhouse
41 production horticulture, and small business concerns. To ensure
42 that the purposes of this subsection are carried out, the
43 Mississippi Development Authority shall loan not more than One
44 Million Dollars (\$1,000,000.00) to finance any single
45 agribusiness, greenhouse production horticulture, or small
46 business concern. Loans made pursuant to this subsection shall be
47 made in accordance with the criteria established in Section
48 57-71-11.

49 (b) The Mississippi Development Authority may, out of
50 the total amount of bonds authorized to be issued under this
51 chapter, make available funds to any planning and development
52 district in accordance with the criteria established in Section
53 57-71-11. Planning and development districts which receive monies
54 pursuant to this provision shall use such monies to make loans to
55 private companies for purposes consistent with this subsection.

56 (c) The Mississippi Development Authority is hereby
57 authorized to engage legal services, financial advisors,
58 appraisers and consultants if needed to review and close loans
59 made hereunder and to establish and assess reasonable fees,
60 including, but not limited to, liquidation expenses.

61 (3) (a) The Mississippi Development Authority shall, in
62 addition to the other programs described in this section, provide
63 for a program of loans to be made to agribusiness or greenhouse
64 production horticulture enterprises for the purpose of encouraging
65 thereby the extension of conventional financing and the issuance

66 of letters of credit to such agribusiness or greenhouse production
67 horticulture enterprises by private institutions. Monies to make
68 such loans by the Mississippi Development Authority shall be drawn
69 from the Emerging Crops Fund. The amount of a loan to any single
70 agribusiness or greenhouse production horticulture enterprise
71 under this paragraph (a) shall not exceed twenty percent (20%) of
72 the total cost of the project for which financing is sought or Two
73 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
74 interest shall be charged on such loans, and only the amount
75 actually loaned shall be required to be repaid. Repayments shall
76 be deposited into the Emerging Crops Fund.

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

99 (4) (a) * * * The Mississippi Development Authority may
100 loan or grant to qualified planning and development districts, and
101 to small business investment corporations, bank-based community
102 development corporations, the Recruitment and Training Program,
103 Inc., the City of Jackson Business Development Loan Fund, the
104 Lorman Southwest Mississippi Development Corporation, the West
105 Jackson Community Development Corporation, the East Mississippi
106 Development Corporation, and other entities meeting the criteria
107 established by the Mississippi Development Authority (all referred
108 to hereinafter as "qualified entities"), funds for the purpose of
109 establishing loan revolving funds to assist in providing financing
110 for minority economic development. The monies loaned or granted
111 by the Mississippi Development Authority shall be drawn from the
112 Emerging Crops Fund and shall not exceed Twenty-seven Million
113 Dollars (\$27,000,000.00) in the aggregate. Planning and
114 development districts or qualified entities which receive monies
115 pursuant to this provision shall use such monies to make loans to
116 minority business enterprises consistent with criteria established
117 by the Mississippi Development Authority. Such criteria shall
118 include, at a minimum, the following:

119 (i) The business enterprise must be a private,
120 for-profit enterprise.

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

126 (iii) The borrower must have at least five percent
127 (5%) equity interest in the business enterprise.

128 (iv) The borrower must demonstrate ability to
129 repay the loan.

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

132 (vi) Loan proceeds may be used for financing all
133 project costs associated with development or expansion of a new
134 small business, including fixed assets, working capital, start-up
135 costs, rental payments, interest expense during construction and
136 professional fees related to the project.

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

146 (viii) The maximum amount that may be loaned to
147 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
148 (\$250,000.00).

149 (ix) The Mississippi Development Authority shall
150 review each loan before it is made, and no loan shall be made to
151 any borrower until the loan has been reviewed and approved by the
152 Mississippi Development Authority.

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

165 minorities or minority business enterprises certified by the
166 Mississippi Development Authority own sixty percent (60%) or, in
167 the case of a corporation, sixty percent (60%) of the voting
168 stock, and control sixty percent (60%) of the management and daily
169 business operations of the business.

170 * * *

171 (c) Notwithstanding any other provision of this
172 subsection to the contrary, if federal funds are not available for
173 commitments made by a planning and development district to provide
174 assistance under any federal loan program administered by the
175 planning and development district in coordination with the
176 Appalachian Regional Commission or Economic Development
177 Administration, or both, a planning and development district may
178 use funds in its loan revolving fund, which have not been
179 committed otherwise to provide assistance, for the purpose of
180 providing temporary funding for such commitments. If a planning
181 and development district uses uncommitted funds in its loan
182 revolving fund to provide such temporary funding, the district
183 shall use funds repaid to the district under the temporarily
184 funded federal loan program to replenish the funds used to provide
185 the temporary funding. Funds used by a planning and development
186 district to provide temporary funding under this paragraph (c)
187 must be repaid to the district's loan revolving fund no later than
188 twelve (12) months after the date the district provides the
189 temporary funding. A planning and development district may not
190 use uncommitted funds in its loan revolving fund to provide
191 temporary funding under this paragraph (c) on more than two (2)
192 occasions during a calendar year. A planning and development
193 district may provide temporary funding for multiple commitments on
194 each such occasion. The maximum aggregate amount of uncommitted
195 funds in a loan revolving fund that may be used for such purposes
196 during a calendar year shall not exceed seventy percent (70%) of
197 the uncommitted funds in the loan revolving fund on the date the

198 district first provides temporary funding during the calendar
199 year.

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

225 (e) If the Mississippi Development Authority
226 determines, after notifying a planning and development district or
227 qualified entity twice in writing and providing copies of such
228 notification to each member of the Legislature in whose district
229 or in a part of whose district such planning and development
230 district or qualified entity is located and providing such

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

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

262 (6) The Mississippi Development Authority may loan or grant
263 to public entities and to nonprofit corporations funds to defray

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

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

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

294 (9) The Mississippi Development Authority shall make
295 available to the Agribusiness and Natural Resource Development
296 Center through Alcorn State University an amount not to exceed Two

297 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
298 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
299 year 2002 from the cash balance of the Emerging Crops Fund to
300 support the development of a cooperative program for agribusiness
301 development, marketing and natural resources development. This
302 subsection (9) shall stand repealed on June 30, 2004.

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

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

321 (12) The Mississippi Development Authority shall make
322 available to the Mississippi Department of Agriculture and
323 Commerce an amount not to exceed One Hundred Fifty Thousand
324 Dollars (\$150,000.00) to be drawn from the cash balance of the
325 Emerging Crops Fund to be used for the rehabilitation and
326 maintenance of the Mississippi Farmers Central Market in Jackson,
327 Mississippi.

328 (13) The Mississippi Development Authority shall make
329 available to the Mississippi Department of Agriculture and

330 Commerce an amount not to exceed Twenty-five Thousand Dollars
331 (\$25,000.00) to be drawn from the cash balance of the Emerging
332 Crops Fund to be used for advertising purposes related to the
333 Mississippi Farmers Central Market in Jackson, Mississippi.

334 **SECTION 2.** Section 69-2-19, Mississippi Code of 1972, is
335 amended as follows:

336 69-2-19. The Mississippi Development Authority is
337 authorized, at one time, or from time to time, to declare by
338 resolution the necessity for issuance of negotiable general
339 obligation bonds of the State of Mississippi to provide funds for
340 the Emerging Crops Fund established in Section 69-2-13. Upon the
341 adoption of a resolution by the board, declaring the necessity for
342 the issuance of any part or all of the general obligation bonds
343 authorized by Sections 69-2-19 through 69-2-39, the authority
344 shall deliver a certified copy of its resolution or resolutions to
345 the State Bond Commission. Upon receipt of same, the State Bond
346 Commission, in its discretion, shall act as the issuing agent,
347 prescribe the form of the bonds, advertise for and accept bids,
348 issue and sell the bonds so authorized to be sold, and do any and
349 all other things necessary and advisable in connection with the
350 issuance and sale of such bonds. The amount of bonds issued under
351 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Six
352 Million Dollars (\$106,000,000.00) in the aggregate; however, an
353 additional amount of bonds may be issued under Sections 69-2-19
354 through 69-2-39 in an amount not to exceed Thirty-five Million
355 Dollars (\$35,000,000.00), and the proceeds of any such additional
356 bonds shall be used solely for the purposes described in Section
357 69-2-13(3)(b). No bonds may be issued under Sections 69-2-19
358 through 69-2-39 after October 1, 2019.

359 **SECTION 3.** This act shall take effect and be in force from
360 and after its passage.