

By: Representative Eaton

To: Ways and Means

## HOUSE BILL NO. 1392

1 AN ACT TO AMEND SECTION 69-46-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE MISSISSIPPI LAND, WATER AND TIMBER RESOURCES  
3 BOARD MAY PROVIDE LOAN GUARANTIES ON BEHALF OF PUBLIC AND PRIVATE  
4 ENTITIES IN ANY MANNER THE BOARD DETERMINES APPROPRIATE FOR THE  
5 PURPOSES OF CARRYING OUT THE PROVISIONS OF THE MISSISSIPPI LAND,  
6 WATER AND TIMBER RESOURCES ACT; TO AMEND SECTION 69-46-7,  
7 MISSISSIPPI CODE OF 1972, TO REQUIRE THE MISSISSIPPI LAND, WATER  
8 AND TIMBER RESOURCES BOARD TO SET ASIDE \$800,000.00 OF THE MONIES  
9 IN THE MISSISSIPPI LAND, WATER AND TIMBER RESOURCES FUND FOR THE  
10 PURPOSE OF PROVIDING LOANS, GRANTS, CONTRACTS, LOAN GUARANTIES OR  
11 OTHER FORMS OF ASSISTANCE TO ANY PRIVATE ENTITY ENGAGED IN THE  
12 MANUFACTURE OF ENVIRONMENTALLY RESPONSIBLE PRODUCTS; TO AMEND  
13 SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS  
14 "GREEN SEAL" AND "VOLATILE ORGANIC COMPOUNDS" FOR PURPOSES OF THE  
15 STATE PUBLIC PURCHASING LAWS; TO AMEND SECTION 31-7-15,  
16 MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF FINANCE AND  
17 ADMINISTRATION TO ADOPT BID AND PRODUCT SPECIFICATIONS REQUIRING  
18 ALL STATE AGENCIES TO PROCURE ENVIRONMENTALLY RESPONSIBLE INTERIOR  
19 ARCHITECTURAL PAINT PRODUCTS; TO PROVIDE A PREFERENCE FOR THE  
20 PURCHASE OF ENVIRONMENTALLY RESPONSIBLE INTERIOR ARCHITECTURAL  
21 PAINT PRODUCTS; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** Section 69-46-5, Mississippi Code of 1972, is  
24 amended as follows:

25 69-46-5. The board shall have the following powers and  
26 duties:

27 (a) To develop marketing plans and opportunities for  
28 independent farmers in Mississippi;

29 (b) To encourage the commercialization of new  
30 agricultural technology businesses;

31 (c) To initiate the development of processing  
32 facilities for Mississippi agricultural commodities;

33 (d) To initiate the development of Mississippi  
34 wholesale distribution businesses for agricultural inputs and  
35 products;

36 (e) To promote the development of institutional and  
37 specialty markets for Mississippi agriculture products;

38 (f) To encourage additional research for new  
39 agricultural product development;

40 (g) To develop a working relationship with the state  
41 offices of the United States Department of Agriculture as may be  
42 appropriate for the promotion and development of agriculture in  
43 Mississippi;

44 (h) To promote the rural quality of life in Mississippi  
45 through such programs as 4-H, Future Farmers of America and  
46 agricultural education;

47 (i) To encourage, promote and initiate the development  
48 of alternative energy strategies, applied research technologies  
49 and commercialization enterprises that focus on Mississippi  
50 natural resources, including, but not limited to, agriculture,  
51 timber and poultry products and byproducts;

52 (j) To file an annual report with the Governor,  
53 Secretary of the Senate and the Clerk of the House of  
54 Representatives not later than December 1 of each year, with  
55 recommendations for any legislation necessary to accomplish the  
56 purposes of the Mississippi Land, Water and Timber Resources Act;

57 (k) The board may promulgate and enforce rules and  
58 regulations, in accordance with the Mississippi Administrative  
59 Procedures Law, as may be necessary to carry out the provisions of  
60 the Mississippi Land, Water and Timber Resources Act;

61 (l) To expend funds out of the Mississippi Land, Water  
62 and Timber Resources Fund to carry out its powers and duties under  
63 the Mississippi Land, Water and Timber Resources Act;

64 (m) The board may provide funds to public entities and  
65 private entities through loans, grants, contracts and any other  
66 manner the board determines appropriate for the purposes of  
67 carrying out the provisions of the Mississippi Land, Water and  
68 Timber Resources Act. The board also may provide loan guaranties

69 on behalf of public entities and private entities in any manner  
70 the board determines appropriate for the purposes of carrying out  
71 the provisions of the Mississippi Land, Water and Timber Resources  
72 Act.

73 **SECTION 2.** Section 69-46-7, Mississippi Code of 1972, is  
74 amended as follows:

75 69-46-7. (1) (a) The Mississippi Land, Water and Timber  
76 Resources Board may accept and expend funds appropriated or  
77 otherwise made available by the Legislature and funds from any  
78 other source in order to carry out the provisions of the  
79 Mississippi Land, Water and Timber Resources Act. Such funds  
80 shall be deposited into a special fund hereby established in the  
81 State Treasury to be known as the "Mississippi Land, Water and  
82 Timber Resources Fund." Unexpended amounts derived from bond  
83 proceeds or private funds, or both, remaining in the fund at the  
84 end of a fiscal year shall not lapse into the State General Fund,  
85 and any investment earnings or interest earned on such amounts in  
86 the fund shall be deposited to the credit of the fund. All other  
87 unexpended amounts remaining in the fund at the end of a fiscal  
88 year shall lapse into the State General Fund. The board may  
89 provide to the Mississippi Department of Agriculture and Commerce  
90 not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), in  
91 the aggregate, of monies in the fund that are derived from  
92 proceeds of bonds issued under Sections 1 through 16 of Chapter  
93 538, Laws of 2001, and/or Sections 1 through 16 of Chapter 542,  
94 Laws of 2002, for the purpose of providing additional funds to  
95 defray costs incurred by the department in assisting the board in  
96 carrying out the provisions of the Mississippi Land, Water and  
97 Timber Resources Act. However, the Mississippi Department of  
98 Agriculture and Commerce may not use any portion of such funds for  
99 the purpose of hiring any person as an employee as defined in  
100 Section 25-3-91(c). The Mississippi Department of Agriculture may  
101 escalate its budget and expend such funds, when provided by the

102 board, in accordance with rules and regulations of the Department  
103 of Finance and Administration in a manner consistent with the  
104 escalation of federal funds. The board may provide to the  
105 Mississippi Development Authority not more than Two Hundred Fifty  
106 Thousand Dollars (\$250,000.00), in the aggregate, of monies in the  
107 fund that are derived from proceeds of bonds issued under Sections  
108 1 through 16 of Chapter 538, Laws of 2001, and/or Sections 1  
109 through 16 of Chapter 542, Laws of 2002, for the purpose of  
110 providing additional funds to defray costs incurred by the  
111 Mississippi Development Authority in assisting the board in  
112 carrying out the provisions of the Mississippi Land, Water and  
113 Timber Resources Act. However, the Mississippi Development  
114 Authority may not use any portion of such funds for the purpose of  
115 hiring any person as an employee as defined in Section 25-3-91(c).  
116 The Mississippi Development Authority may escalate its budget and  
117 expend such funds, when provided by the board, in accordance with  
118 rules and regulations of the Department of Finance and  
119 Administration in a manner consistent with the escalation of  
120 federal funds.

121 (b) (i) The Mississippi Land, Water and Timber  
122 Resources Board may provide to the Mississippi Department of  
123 Agriculture and Commerce not more than One Hundred Twenty-five  
124 Thousand Dollars (\$125,000.00), in the aggregate, of monies in the  
125 fund that are derived from proceeds of bonds issued under Sections  
126 1 through 16 of Chapter 505, Laws of 2003, and One Hundred  
127 Twenty-five Thousand Dollars (\$125,000.00), in the aggregate, of  
128 monies in the fund that are derived from proceeds of bonds issued  
129 under Sections 72 through 87 of Chapter 1, Laws of 2004 Third  
130 Extraordinary Session, for the purpose of providing additional  
131 funds to defray costs incurred by the department in assisting the  
132 board in carrying out the provisions of the Mississippi Land,  
133 Water and Timber Resources Act. However, the Mississippi  
134 Department of Agriculture and Commerce may not use any portion of

135 such funds for the purpose of hiring any person as an employee as  
136 defined in Section 25-3-91(c). The Mississippi Department of  
137 Agriculture and Commerce may escalate its budget and expend such  
138 funds, when provided by the board, in accordance with rules and  
139 regulations of the Department of Finance and Administration in a  
140 manner consistent with the escalation of federal funds.

141 (ii) The Mississippi Land, Water and Timber  
142 Resources Board may provide to the Mississippi Development  
143 Authority not more than One Hundred Twenty-five Thousand Dollars  
144 (\$125,000.00), in the aggregate, of monies in the fund that are  
145 derived from proceeds of bonds issued under Sections 1 through 16  
146 of Chapter 505, Laws of 2003, and One Hundred Twenty-five Thousand  
147 Dollars (\$125,000.00), in the aggregate, of monies in the fund  
148 that are derived from proceeds of bonds issued under Sections 72  
149 through 87 of Chapter 1, Laws of 2004 Third Extraordinary Session,  
150 for the purpose of providing additional funds to defray costs  
151 incurred by the Mississippi Development Authority in assisting the  
152 board in carrying out the provisions of the Mississippi Land,  
153 Water and Timber Resources Act. However, the Mississippi  
154 Development Authority may not use any portion of such funds for  
155 the purpose of hiring any person as an employee as defined in  
156 Section 25-3-91(c). The Mississippi Development Authority may  
157 escalate its budget and expend such funds, when provided by the  
158 board, in accordance with rules and regulations of the Department  
159 of Finance and Administration in a manner consistent with the  
160 escalation of federal funds.

161 (iii) The Mississippi Land, Water and Timber  
162 Resources Board may provide to the Department of Audit not more  
163 than Fifty Thousand Dollars (\$50,000.00), in the aggregate, of  
164 monies in the fund that are derived from proceeds of bonds issued  
165 under Sections 1 through 16 of Chapter 505, Laws of 2003, and  
166 Fifty Thousand Dollars (\$50,000.00), in the aggregate, of monies  
167 in the fund that are derived from proceeds of bonds issued under

168 Sections 72 through 87 of Chapter 1, Laws of 2004 Third  
169 Extraordinary Session, for the purpose of providing additional  
170 funds to defray costs incurred by the department in assisting the  
171 board in carrying out the provisions of the Mississippi Land,  
172 Water and Timber Resources Act. However, the Department of Audit  
173 may not use any portion of such funds for the purpose of hiring  
174 any person as an employee as defined in Section 25-3-91(c). The  
175 Department of Audit may escalate its budget and expend such funds,  
176 when provided by the board, in accordance with rules and  
177 regulations of the Department of Finance and Administration in a  
178 manner consistent with the escalation of federal funds.

179 (2) The Mississippi Land, Water and Timber Resources Board  
180 shall set aside One Million Dollars (\$1,000,000.00) of the monies  
181 in the Mississippi Land, Water and Timber Resources Fund that are  
182 derived from proceeds of bonds issued under Sections 1 through 16  
183 of Chapter 505, Laws of 2003, for the purpose of providing funds  
184 to the Mississippi Department of Agriculture and Commerce for use  
185 in making payments to ethanol producers under Section 69-51-5  
186 during the state fiscal year beginning July 1, 2003, and ending  
187 June 30, 2004. Any monies set aside which are not used for such  
188 purposes during the fiscal year shall no longer be set aside for  
189 such purposes after the end of the fiscal year. In addition, if  
190 the Commissioner of Agriculture and Commerce determines during  
191 such fiscal year that no ethanol producer will be eligible for  
192 such payments during the fiscal year, the commissioner shall  
193 inform the board of his determination and the monies set aside  
194 shall no longer be set aside for such purposes. The Mississippi  
195 Department of Agriculture and Commerce may escalate its budget and  
196 expend funds, when provided by the board under this subsection  
197 (2), in accordance with rules and regulations of the Department of  
198 Finance and Administration in a manner consistent with the  
199 escalation of federal funds.

200           (3) The Mississippi Land, Water and Timber Resources Board  
201 shall set aside Eight Hundred Thousand Dollars (\$800,000.00) of  
202 the monies in the Mississippi Land, Water and Timber Resources  
203 Fund for the purpose of providing any form of assistance described  
204 in Section 69-46-5(m) to any private entity engaged in the  
205 manufacturing of environmentally responsible products. For the  
206 purposes of this subsection (3), the term "environmentally  
207 responsible products" means products or services that have been  
208 verified by an independent third party to cause less toxic  
209 pollution and waste, to conserve resources and habitats, and to  
210 minimize global warming and ozone depletion.

211           (4) In anticipation of the issuance of bonds authorized for  
212 the purpose of providing funds for the Mississippi Land, Water and  
213 Timber Resources Fund, the State Bond Commission is authorized to  
214 negotiate and enter into any purchase, loan, credit or other  
215 agreement with any bank, trust company or other lending  
216 institution or to issue and sell interim notes for the purpose of  
217 carrying out the provisions of the Mississippi Land, Water and  
218 Timber Resources Act. All borrowings made under this subsection  
219 (4) shall be evidenced by notes of the State of Mississippi, which  
220 shall be issued from time to time, for such amounts, in such form  
221 and in such denomination and subject to such terms and conditions  
222 of sale and issuance, prepayment or redemption and maturity, rate  
223 or rates of interest not to exceed the maximum rate authorized for  
224 bonds in Section 75-17-101, and time of payment of interest as the  
225 State Bond Commission shall agree to in such agreement. Such  
226 notes shall constitute general obligations of the State of  
227 Mississippi, and shall be backed by the full faith and credit of  
228 the state. Such notes may also be issued for the purpose of  
229 refunding previously issued notes. No note shall mature more than  
230 three (3) years following the date of its issuance. The State  
231 Bond Commission is authorized to provide for the compensation of  
232 any purchaser of the notes by payment of a fixed fee or commission

233 and for all other costs and expenses of issuance and service,  
234 including paying agent costs. Such costs and expenses may be paid  
235 from the proceeds of the notes. Borrowings made under the  
236 provisions of this subsection (4) shall not exceed the aggregate  
237 sum of Five Million Dollars (\$5,000,000.00) outstanding at any one  
238 time.

239 **SECTION 3.** Section 31-7-1, Mississippi Code of 1972, is  
240 amended as follows:

241 31-7-1. The following terms are defined for the purposes of  
242 this chapter to have the following meanings:

243 (a) "Agency" shall mean any state board, commission,  
244 committee, council, university, department or unit thereof created  
245 by the Constitution or statutes if such board, commission,  
246 committee, council, university, department, unit or the head  
247 thereof is authorized to appoint subordinate staff by the  
248 Constitution or statute, except a legislative or judicial board,  
249 commission, committee, council, department or unit thereof.

250 (b) "Governing authority" shall mean boards of  
251 supervisors, governing boards of all school districts, all boards  
252 of directors of public water supply districts, boards of directors  
253 of master public water supply districts, municipal public utility  
254 commissions, governing authorities of all municipalities, port  
255 authorities, commissioners and boards of trustees of any public  
256 hospitals, boards of trustees of public library systems, district  
257 attorneys, school attendance officers and any political  
258 subdivision of the state supported wholly or in part by public  
259 funds of the state or political subdivisions thereof, including  
260 commissions, boards and agencies created or operated under the  
261 authority of any county or municipality of this state. The term  
262 "governing authority" shall not include economic development  
263 authorities supported in part by private funds, or commissions  
264 appointed to hold title to and oversee the development and  
265 management of lands and buildings which are donated by private

266 individuals to the public for the use and benefit of the community  
267 and which are supported in part by private funds.

268 (c) "Purchasing agent" shall mean any administrator,  
269 superintendent, purchase clerk or other chief officer so  
270 designated having general or special authority to negotiate for  
271 and make private contract for or purchase for any governing  
272 authority or agency.

273 (d) "Public funds" shall mean and include any  
274 appropriated funds, special funds, fees or any other emoluments  
275 received by an agency or governing authority.

276 (e) "Commodities" shall mean and include the various  
277 commodities, goods, merchandise, furniture, equipment, automotive  
278 equipment of every kind, and other personal property purchased by  
279 the agencies of the state and governing authorities, but not  
280 commodities purchased for resale or raw materials converted into  
281 products for resale.

282 (i) "Equipment" shall be construed to include:  
283 automobiles, trucks, tractors, office appliances and all other  
284 equipment of every kind and description.

285 (ii) "Furniture" shall be construed to include:  
286 desks, chairs, tables, seats, filing cabinets, bookcases and all  
287 other items of a similar nature as well as dormitory furniture,  
288 appliances, carpets and all other items of personal property  
289 generally referred to as home, office or school furniture.

290 (f) "Emergency" shall mean any circumstances caused by  
291 fire, flood, explosion, storm, earthquake, epidemic, riot,  
292 insurrection or caused by any inherent defect due to defective  
293 construction, or when the immediate preservation of order or of  
294 public health is necessary by reason of unforeseen emergency, or  
295 when the immediate restoration of a condition of usefulness of any  
296 public building, equipment, road or bridge appears advisable, or  
297 in the case of a public utility when there is a failure of any  
298 machine or other thing used and useful in the generation,

299 production or distribution of electricity, water or natural gas,  
300 or in the transportation or treatment of sewage; or when the delay  
301 incident to obtaining competitive bids could cause adverse impact  
302 upon the governing authorities or agency, its employees or its  
303 citizens; or in the case of a public airport, when the delay  
304 incident to publishing an advertisement for competitive bids would  
305 endanger public safety in a specific (not general) manner, result  
306 in or perpetuate a specific breach of airport security, or prevent  
307 the airport from providing specific air transportation services.

308 (g) "Construction" shall mean the process of building,  
309 altering, improving, renovating or demolishing a public structure,  
310 public building, or other public real property. It does not  
311 include routine operation, routine repair or regularly scheduled  
312 maintenance of existing public structures, public buildings or  
313 other public real property.

314 (h) "Purchase" shall mean buying, renting, leasing or  
315 otherwise acquiring.

316 (i) "Certified purchasing office" shall mean any  
317 purchasing office wherein fifty percent (50%) or more of the  
318 purchasing agents hold a certification from the Universal Public  
319 Purchasing Certification Council or other nationally recognized  
320 purchasing certification.

321 (j) "Green seal" means the independent organization  
322 that certifies that products are in fact environmentally  
323 responsible. Green Seal certification of products or services is  
324 a formal verification by an independent third party that those  
325 products or services cause less toxic pollution and waste,  
326 conserve resources and habitats, and minimize global warming and  
327 ozone depletion.

328 (k) "Volatile organic compounds" means any organic  
329 compound that can evaporate into the atmosphere and contribute to  
330 the formation of ozone or smog.

331           **SECTION 4.** Section 31-7-15, Mississippi Code of 1972, is  
332 amended as follows:

333           31-7-15. (1) Whenever two (2) or more competitive bids are  
334 received, one or more of which relates to commodities grown,  
335 processed or manufactured within this state, and whenever all  
336 things stated in such received bids are equal with respect to  
337 price, quality and service, the commodities grown, processed or  
338 manufactured within this state shall be given preference. A  
339 similar preference shall be given to commodities grown, processed  
340 or manufactured within this state whenever purchases are made  
341 without competitive bids, and when practical the Department of  
342 Finance and Administration may by regulation establish reasonable  
343 preferential policies for other commodities, giving preference to  
344 resident suppliers of this state.

345           (2) Any foreign manufacturing company with a factory in the  
346 state and with over fifty (50) employees working in the state  
347 shall have preference over any other foreign company where both  
348 price and quality are the same, regardless of where the product is  
349 manufactured.

350           (3) On or before January 1, 1991, the Department of Finance  
351 and Administration shall adopt bid and product specifications to  
352 be utilized by all state agencies that encourage the procurement  
353 of commodities made from recovered materials. On or before July  
354 1, 2005, the Department of Finance and Administration also shall  
355 adopt bid and product specifications requiring all state agencies  
356 to procure environmentally responsible interior architectural  
357 paint products that are Green Seal Certified containing less than  
358 five (5) grams per liter of volatile organic compounds and possess  
359 no other known hazardous materials. Preference in awarding  
360 contracts for commodities shall be given to commodities offered at  
361 a competitive price and of comparable quality.

362           (4) Each state agency is required to procure products made  
363 from recovered materials and environmentally responsible interior

364 architectural paint products when those products are available at  
365 a competitive price. For purposes of this subsection,  
366 "competitive price" means a price not greater than ten percent  
367 (10%) above the lowest and best bidder. A decision not to procure  
368 products made from recovered materials must be based on a  
369 determination that such procurement:

370 (a) Is not available within a reasonable period of  
371 time; or

372 (b) Fails to meet the performance standards set forth  
373 in the applicable specifications; or

374 (c) Is not available at a competitive price.

375 **SECTION 5.** This act shall take effect and be in force from  
376 and after its passage.