

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1721

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 INCREASE FROM \$26,000,000.00 TO \$27,000,000.00 THE AMOUNT THAT MAY
3 BE DRAWN FROM THE EMERGING CROPS FUND BY THE MISSISSIPPI
4 DEVELOPMENT AUTHORITY TO PROVIDE LOANS OR GRANTS TO ASSIST IN
5 PROVIDING FINANCING FOR MINORITY ECONOMIC DEVELOPMENT; TO AMEND
6 SECTION 69-2-19, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT
7 OF GENERAL OBLIGATION BONDS THAT MAY BE ISSUED FOR THE EMERGING
8 CROPS FUND FROM \$105,000,000.00 TO \$106,000,000.00; AND FOR
9 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, 2010, 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-seven Million Dollars (\$27,000,000.00) 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. Except as otherwise provided, for purposes
157 of this subsection, the term "socially and economically
158 disadvantaged small business concern" shall have the meaning
159 ascribed to such term under the Small Business Act (15 USCS,
160 Section 637(a)), or women, and the term "owned and controlled"
161 means a business in which one or more minorities or minority
162 business enterprises certified by the Mississippi Development

163 Authority own sixty percent (60%) or, in the case of a
164 corporation, sixty percent (60%) of the voting stock, and control
165 sixty percent (60%) of the management and daily business
166 operations of the business. However, an individual whose personal
167 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)
168 shall not be considered to be an economically disadvantaged
169 individual.

170 From and after July 1, 2010, monies not loaned or granted by
171 the Mississippi Development Authority to planning and development
172 districts or qualified entities under this subsection, and monies
173 not loaned by planning and development districts or qualified
174 entities, shall be deposited to the credit of the sinking fund
175 created and maintained in the State Treasury for the retirement of
176 bonds issued under Section 69-2-19.

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

196 use uncommitted funds in its loan revolving fund to provide
197 temporary funding under this paragraph (c) on more than two (2)
198 occasions during a calendar year. A planning and development
199 district may provide temporary funding for multiple commitments on
200 each such occasion. The maximum aggregate amount of uncommitted
201 funds in a loan revolving fund that may be used for such purposes
202 during a calendar year shall not exceed seventy percent (70%) of
203 the uncommitted funds in the loan revolving fund on the date the
204 district first provides temporary funding during the calendar
205 year.

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

229 Authority all administrative and management control of loans
230 provided by it under this subsection.

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

254 (5) The Mississippi Development Authority shall develop a
255 program which will assist minority business enterprises by
256 guaranteeing bid, performance and payment bonds which such
257 minority businesses are required to obtain in order to contract
258 with federal agencies, state agencies or political subdivisions of
259 the state. Monies for such program shall be drawn from the monies
260 allocated under subsection (4) of this section to assist the
261 financing of minority economic development and shall not exceed

262 Three Million Dollars (\$3,000,000.00) in the aggregate. The
263 Mississippi Development Authority may promulgate rules and
264 regulations for the operation of the program established pursuant
265 to this subsection. For the purpose of this subsection (5) the
266 term "minority business enterprise" has the meaning assigned such
267 term in subsection (4) of this section.

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

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

293 (8) From and after July 1, 1996, the Mississippi Development
294 Authority shall make available to the Mississippi Small Farm

295 Development Center One Million Dollars (\$1,000,000.00) to be used
296 by the center to assist small entrepreneurs as provided in Section
297 37-101-25, Mississippi Code of 1972. The monies made available by
298 the Mississippi Development Authority shall be drawn from the
299 Emerging Crops Fund.

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

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

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

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

334 (13) The Mississippi Development Authority shall make
335 available to the Mississippi Department of Agriculture and
336 Commerce an amount not to exceed Twenty-five Thousand Dollars
337 (\$25,000.00) to be drawn from the cash balance of the Emerging
338 Crops Fund to be used for advertising purposes related to the
339 Mississippi Farmers Central Market in Jackson, Mississippi.

340 (14) (a) The Mississippi Development Authority shall, in
341 addition to the other programs described in this section, provide
342 for a program of loan guaranties to be made on behalf of any
343 nonprofit entity qualified under Section 501(c)(3) of the Internal
344 Revenue Code and certified by the United States Department of the
345 Treasury as a community development financial institution for the
346 purpose of encouraging the extension of financing to such an
347 entity which financing the entity will use to make funds available
348 to other entities for the purpose of making loans available in
349 low-income communities in Mississippi. Monies to make such loan
350 guaranties by the Mississippi Development Authority shall be drawn
351 from the Emerging Crops Fund and shall not exceed Two Million
352 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
353 guaranty on behalf of such an entity under this subsection (14)
354 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
355 received by an entity under this subsection (14) shall not
356 disqualify the entity from obtaining any other assistance under
357 this chapter.

358 (b) An entity desiring assistance under this subsection
359 (14) must submit an application to the Mississippi Development

360 Authority. The application must include any information required
361 by the Mississippi Development Authority.

362 (c) The Mississippi Development Authority shall have
363 all powers necessary to implement and administer the program
364 established under this subsection (14), and the Mississippi
365 Development Authority shall promulgate rules and regulations, in
366 accordance with the Mississippi Administrative Procedures Law,
367 necessary for the implementation of this subsection (14).

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

370 69-2-19. (1) The Mississippi Development Authority is
371 authorized, at one time, or from time to time, to declare by
372 resolution the necessity for issuance of negotiable general
373 obligation bonds of the State of Mississippi to provide funds for
374 the Emerging Crops Fund established in Section 69-2-13. Upon the
375 adoption of a resolution by the board, declaring the necessity for
376 the issuance of any part or all of the general obligation bonds
377 authorized by Sections 69-2-19 through 69-2-39, the authority
378 shall deliver a certified copy of its resolution or resolutions to
379 the State Bond Commission. Upon receipt of same, the State Bond
380 Commission, in its discretion, shall act as the issuing agent,
381 prescribe the form of the bonds, advertise for and accept bids,
382 issue and sell the bonds so authorized to be sold, and do any and
383 all other things necessary and advisable in connection with the
384 issuance and sale of such bonds. The amount of bonds issued under
385 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Six
386 Million Dollars (\$106,000,000.00) in the aggregate; however:

387 (a) An additional amount of bonds may be issued under
388 Sections 69-2-19 through 69-2-39 in an amount not to exceed
389 Thirty-five Million Dollars (\$35,000,000.00), and the proceeds of
390 any such additional bonds shall be used solely for the purposes
391 described in Section 69-2-13(3)(b); and

392 (b) An additional amount of bonds may be issued under
393 Sections 69-2-19 through 69-2-39 in an amount not to exceed Two
394 Million Dollars (\$2,000,000.00), and the proceeds of any such
395 additional bonds shall be used solely for the purposes described
396 in Section 69-2-13(14).

397 (2) No bonds may be issued under Sections 69-2-19 through
398 69-2-39 after October 1, 2019.

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