

By: Representatives McCoy, Morris, Smith
(39th)

To: Ways and Means

HOUSE BILL NO. 1493
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 INCREASE FROM \$21,000,000.00 TO \$35,000,000.00, THE AMOUNT THAT
3 THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY DRAW FROM THE EMERGING
4 CROPS FUND TO PROVIDE LOANS AND LOAN GUARANTIES TO OR ON BEHALF OF
5 ANY AGRIBUSINESS ENTERPRISE ENGAGED IN BEEF PROCESSING FOR THE
6 PURPOSE OF ENCOURAGING THE EXTENSION OF CONVENTIONAL FINANCING AND
7 THE ISSUANCE OF LETTERS OF CREDIT TO SUCH AGRIBUSINESS ENTERPRISES
8 BY PRIVATE INSTITUTIONS; TO EXTEND THE PROGRAM THAT AUTHORIZES THE
9 MISSISSIPPI DEVELOPMENT AUTHORITY TO LOAN OR GRANT FUNDS FROM THE
10 EMERGING CROPS FUND TO CERTAIN ENTITIES FOR LOAN REVOLVING FUNDS
11 TO ASSIST IN PROVIDING FINANCING FOR MINORITY ECONOMIC DEVELOPMENT
12 AND TO INCREASE THE AMOUNT THAT MAY BE DRAWN FOR SUCH PURPOSE FROM
13 THE EMERGING CROPS FUND FROM \$23,000,000.00 TO \$25,000,000.00; TO
14 INCREASE FROM \$700,000.00 TO \$1,200,000.00, THE AMOUNT THAT THE
15 MISSISSIPPI DEVELOPMENT AUTHORITY SHALL PROVIDE FROM THE EMERGING
16 CROPS FUND TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND
17 COMMERCE FOR THE PURPOSE OF CERTAIN LOAN PROGRAMS AND OTHER
18 METHODS OF FINANCING FOR CERTAIN AGRIBUSINESS PROGRAMS; TO EXTEND
19 THE REPEALER ON MONIES MADE AVAILABLE TO THE AGRIBUSINESS AND
20 NATURAL RESOURCE DEVELOPMENT CENTER AT ALCORN STATE UNIVERSITY
21 FROM THE EMERGING CROPS FUND; TO REQUIRE THE MISSISSIPPI
22 DEVELOPMENT AUTHORITY TO PROVIDE FUNDS FROM THE EMERGING CROPS
23 FUND TO THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE TO
24 BE USED FOR REHABILITATION, MAINTENANCE AND ADVERTISING OF THE
25 MISSISSIPPI FARMERS CENTRAL MARKET; TO AMEND SECTION 69-2-19,
26 MISSISSIPPI CODE OF 1972, TO INCREASE THE AGGREGATE AMOUNT OF
27 BONDS THAT MAY BE ISSUED FOR THE EMERGING CROPS FUND; AND FOR
28 RELATED PURPOSES.

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

30 **SECTION 1.** Section 69-2-13, Mississippi Code of 1972, as
31 amended by House Bill No. 849, 2003 Regular Session, is amended as
32 follows:

33 69-2-13. (1) There is hereby established in the State
34 Treasury a fund to be known as the "Emerging Crops Fund," which
35 shall be used to pay the interest on loans made to farmers for
36 nonland capital costs of establishing production of emerging crops
37 on land in Mississippi, and to make loans and grants which are
38 authorized under this section to be made from the fund. The fund
39 shall be administered by the Mississippi Development Authority. A
40 board comprised of the directors of the authority, the Mississippi



41 Cooperative Extension Service, the Mississippi Small Farm
42 Development Center and the Mississippi Agricultural and Forestry
43 Experiment Station, or their designees, shall develop definitions,
44 guidelines and procedures for the implementation of this chapter.
45 Funds for the Emerging Crops Fund shall be provided from the
46 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
47 and from repayment of interest loans made from the fund.

48 (2) (a) The Mississippi Development Authority shall develop
49 a program which gives fair consideration to making loans for the
50 processing and manufacturing of goods and services by
51 agribusiness, greenhouse production horticulture, and small
52 business concerns. It is the policy of the State of Mississippi
53 that the Mississippi Development Authority shall give due
54 recognition to and shall aid, counsel, assist and protect, insofar
55 as is possible, the interests of agribusiness, greenhouse
56 production horticulture, and small business concerns. To ensure
57 that the purposes of this subsection are carried out, the
58 Mississippi Development Authority shall loan not more than One
59 Million Dollars (\$1,000,000.00) to finance any single
60 agribusiness, greenhouse production horticulture, or small
61 business concern. Loans made pursuant to this subsection shall be
62 made in accordance with the criteria established in Section
63 57-71-11.

64 (b) The Mississippi Development Authority may, out of
65 the total amount of bonds authorized to be issued under this
66 chapter, make available funds to any planning and development
67 district in accordance with the criteria established in Section
68 57-71-11. Planning and development districts which receive monies
69 pursuant to this provision shall use such monies to make loans to
70 private companies for purposes consistent with this subsection.

71 (c) The Mississippi Development Authority is hereby
72 authorized to engage legal services, financial advisors,



73 appraisers and consultants if needed to review and close loans
74 made hereunder and to establish and assess reasonable fees,
75 including, but not limited to, liquidation expenses.

76 (3) (a) The Mississippi Development Authority shall, in
77 addition to the other programs described in this section, provide
78 for a program of loans to be made to agribusiness or greenhouse
79 production horticulture enterprises for the purpose of encouraging
80 thereby the extension of conventional financing and the issuance
81 of letters of credit to such agribusiness or greenhouse production
82 horticulture enterprises by private institutions. Monies to make
83 such loans by the Mississippi Development Authority shall be drawn
84 from the Emerging Crops Fund. The amount of a loan to any single
85 agribusiness or greenhouse production horticulture enterprise
86 under this paragraph (a) shall not exceed twenty percent (20%) of
87 the total cost of the project for which financing is sought or Two
88 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
89 interest shall be charged on such loans, and only the amount
90 actually loaned shall be required to be repaid. Repayments shall
91 be deposited into the Emerging Crops Fund.

92 (b) The Mississippi Development Authority shall, in
93 addition to the other programs described in this section, provide
94 for a program of loans or loan guaranties, or both, to be made to
95 or on behalf of any agribusiness enterprise engaged in beef
96 processing for the purpose of encouraging thereby the extension of
97 conventional financing and the issuance of letters of credit to
98 such agribusiness enterprises by private institutions. Monies to
99 make such loans or loan guaranties, or both, by the Mississippi
100 Development Authority shall be drawn from the Emerging Crops Fund
101 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
102 in the aggregate. The amount of a loan to any single agribusiness
103 enterprise or loan guaranty on behalf of such agribusiness
104 enterprise, or both, under this paragraph (b) shall not exceed the
105 total cost of the project for which financing is sought or



106 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
107 The interest charged on a loan made under this paragraph (b) shall
108 be at a rate determined by the Mississippi Development Authority.
109 All repayments of any loan made under this paragraph (b) shall be
110 deposited into the Emerging Crops Fund. Assistance received by an
111 agribusiness enterprise under this paragraph (b) shall not
112 disqualify the agribusiness enterprise from obtaining any other
113 assistance under this chapter.

114 (4) (a) Through June 30, 2004, the Mississippi Development
115 Authority may loan or grant to qualified planning and development
116 districts, and to small business investment corporations,
117 bank-based community development corporations, the Recruitment and
118 Training Program, Inc., the City of Jackson Business Development
119 Loan Fund, the Lorman Southwest Mississippi Development
120 Corporation, the West Jackson Community Development Corporation,
121 the East Mississippi Development Corporation, and other entities
122 meeting the criteria established by the Mississippi Development
123 Authority (all referred to hereinafter as "qualified entities"),
124 funds for the purpose of establishing loan revolving funds to
125 assist in providing financing for minority economic development.
126 The monies loaned or granted by the Mississippi Development
127 Authority shall be drawn from the Emerging Crops Fund and shall
128 not exceed Twenty-five Million Dollars (\$25,000,000.00) in the
129 aggregate. Planning and development districts or qualified
130 entities which receive monies pursuant to this provision shall use
131 such monies to make loans to minority business enterprises
132 consistent with criteria established by the Mississippi
133 Development Authority. Such criteria shall include, at a minimum,
134 the following:

135 (i) The business enterprise must be a private,
136 for-profit enterprise.

137 (ii) If the business enterprise is a
138 proprietorship, the borrower must be a resident citizen of the



139 State of Mississippi; if the business enterprise is a corporation
140 or partnership, at least fifty percent (50%) of the owners must be
141 resident citizens of the State of Mississippi.

142 (iii) The borrower must have at least five percent
143 (5%) equity interest in the business enterprise.

144 (iv) The borrower must demonstrate ability to
145 repay the loan.

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

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

153 (vii) Loan proceeds shall not be used to pay off
154 existing debt for loan consolidation purposes; to finance the
155 acquisition, construction, improvement or operation of real
156 property which is to be held primarily for sale or investment; to
157 provide for, or free funds, for speculation in any kind of
158 property; or as a loan to owners, partners or stockholders of the
159 applicant which do not change ownership interest by the applicant.
160 However, this does not apply to ordinary compensation for services
161 rendered in the course of business.

162 (viii) The maximum amount that may be loaned to
163 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
164 (\$250,000.00).

165 (ix) The Mississippi Development Authority shall
166 review each loan before it is made, and no loan shall be made to
167 any borrower until the loan has been reviewed and approved by the
168 Mississippi Development Authority.

169 (b) For the purpose of this subsection, the term
170 "minority business enterprise" means a socially and economically
171 disadvantaged small business concern, organized for profit,



172 performing a commercially useful function which is owned and
173 controlled by one or more minorities or minority business
174 enterprises certified by the Mississippi Development Authority, at
175 least fifty percent (50%) of whom are resident citizens of the
176 State of Mississippi. For purposes of this subsection, the term
177 "socially and economically disadvantaged small business concern"
178 shall have the meaning ascribed to such term under the Small
179 Business Act (15 USCS, Section 637(a)), or women, and the term
180 "owned and controlled" means a business in which one or more
181 minorities or minority business enterprises certified by the
182 Mississippi Development Authority own sixty percent (60%) or, in
183 the case of a corporation, sixty percent (60%) of the voting
184 stock, and control sixty percent (60%) of the management and daily
185 business operations of the business.

186 From and after July 1, 2004, monies not loaned or granted by
187 the Mississippi Development Authority to planning and development
188 districts or qualified entities under this subsection, and monies
189 not loaned by planning and development districts or qualified
190 entities, shall be deposited to the credit of the sinking fund
191 created and maintained in the State Treasury for the retirement of
192 bonds issued under Section 69-2-19.

193 (c) Notwithstanding any other provision of this
194 subsection to the contrary, if federal funds are not available for
195 commitments made by a planning and development district to provide
196 assistance under any federal loan program administered by the
197 planning and development district in coordination with the
198 Appalachian Regional Commission or Economic Development
199 Administration, or both, a planning and development district may
200 use funds in its loan revolving fund, which have not been
201 committed otherwise to provide assistance, for the purpose of
202 providing temporary funding for such commitments. If a planning
203 and development district uses uncommitted funds in its loan
204 revolving fund to provide such temporary funding, the district



205 shall use funds repaid to the district under the temporarily
206 funded federal loan program to replenish the funds used to provide
207 the temporary funding. Funds used by a planning and development
208 district to provide temporary funding under this paragraph (c)
209 must be repaid to the district's loan revolving fund no later than
210 twelve (12) months after the date the district provides the
211 temporary funding. A planning and development district may not
212 use uncommitted funds in its loan revolving fund to provide
213 temporary funding under this paragraph (c) on more than two (2)
214 occasions during a calendar year. A planning and development
215 district may provide temporary funding for multiple commitments on
216 each such occasion. The maximum aggregate amount of uncommitted
217 funds in a loan revolving fund that may be used for such purposes
218 during a calendar year shall not exceed seventy percent (70%) of
219 the uncommitted funds in the loan revolving fund on the date the
220 district first provides temporary funding during the calendar
221 year.

222 (d) If the Mississippi Development Authority determines
223 that a planning and development district or qualified entity has
224 provided loans to minority businesses in a manner inconsistent
225 with the provisions of this subsection, then the amount of such
226 loans so provided shall be withheld by the Mississippi Development
227 Authority from any additional grant funds to which the planning
228 and development district or qualified entity becomes entitled
229 under this subsection. If the Mississippi Development Authority
230 determines, after notifying such planning and development district
231 or qualified entity twice in writing and providing such planning
232 and development district or qualified entity a reasonable
233 opportunity to comply, that a planning and development district or
234 qualified entity has consistently failed to comply with this
235 subsection, the Mississippi Development Authority may declare such
236 planning and development district or qualified entity in default
237 under this subsection and, upon receipt of notice thereof from the



238 Mississippi Development Authority, such planning and development
239 district or qualified entity shall immediately cease providing
240 loans under this subsection, shall refund to the Mississippi
241 Development Authority for distribution to other planning and
242 development districts or qualified entities all funds held in its
243 revolving loan fund and, if required by the Mississippi
244 Development Authority, shall convey to the Mississippi Development
245 Authority, all administrative and management control of loans
246 provided by it under this subsection.

247 (e) If the Mississippi Development Authority
248 determines, after notifying a planning and development district or
249 qualified entity twice in writing and providing copies of such
250 notification to each member of the Legislature in whose district
251 or in a part of whose district such planning and development
252 district or qualified entity is located and providing such
253 planning and development district or qualified entity a reasonable
254 opportunity to take corrective action, that a planning and
255 development district or qualified entity administering a revolving
256 loan fund under the provisions of this subsection is not actively
257 engaged in lending as defined by the rules and regulations of the
258 Mississippi Development Authority, the Mississippi Development
259 Authority may declare such planning and development district or
260 qualified entity in default under this subsection and, upon
261 receipt of notice thereof from the Mississippi Development
262 Authority, such planning and development district or qualified
263 entity shall immediately cease providing loans under this
264 subsection, shall refund to the Mississippi Development Authority
265 for distribution to other planning and development districts or
266 qualified entities all funds held in its revolving loan fund and,
267 if required by the Mississippi Development Authority, shall convey
268 to the Mississippi Development Authority all administrative and
269 management control of loans provided by it under this subsection.



270 (5) The Mississippi Development Authority shall develop a
271 program which will assist minority business enterprises by
272 guaranteeing bid, performance and payment bonds which such
273 minority businesses are required to obtain in order to contract
274 with federal agencies, state agencies or political subdivisions of
275 the state. Monies for such program shall be drawn from the monies
276 allocated under subsection (4) of this section to assist the
277 financing of minority economic development and shall not exceed
278 Three Million Dollars (\$3,000,000.00) in the aggregate. The
279 Mississippi Development Authority may promulgate rules and
280 regulations for the operation of the program established pursuant
281 to this subsection. For the purpose of this subsection (5) the
282 term "minority business enterprise" has the meaning assigned such
283 term in subsection (4) of this section.

284 (6) The Mississippi Development Authority may loan or grant
285 to public entities and to nonprofit corporations funds to defray
286 the expense of financing (or to match any funds available from
287 other public or private sources for the expense of financing)
288 projects in this state which are devoted to the study, teaching
289 and/or promotion of regional crafts and which are deemed by the
290 authority to be significant tourist attractions. The monies
291 loaned or granted shall be drawn from the Emerging Crops Fund and
292 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
293 in the aggregate.

294 (7) Through June 30, 2006, the Mississippi Development
295 Authority shall make available to the Mississippi Department of
296 Agriculture and Commerce funds for the purpose of establishing
297 loan revolving funds and other methods of financing for
298 agribusiness programs administered under the Mississippi
299 Agribusiness Council Act of 1993. The monies made available by
300 the Mississippi Development Authority shall be drawn from the
301 Emerging Crops Fund and shall not exceed One Million Two Hundred
302 Thousand Dollars (\$1,200,000.00) in the aggregate. The



303 Mississippi Department of Agriculture and Commerce shall establish
304 control and auditing procedures for use of these funds. These
305 funds will be used primarily for quick payment to farmers for
306 vegetable and fruit crops processed and sold through vegetable
307 processing plants associated with the Department of Agriculture
308 and Commerce and the Mississippi State Extension Service.

309 (8) From and after July 1, 1996, the Mississippi Development
310 Authority shall make available to the Mississippi Small Farm
311 Development Center One Million Dollars (\$1,000,000.00) to be used
312 by the center to assist small entrepreneurs as provided in Section
313 37-101-25, Mississippi Code of 1972. The monies made available by
314 the Mississippi Development Authority shall be drawn from the
315 Emerging Crops Fund.

316 (9) The Mississippi Development Authority shall make
317 available to the Agribusiness and Natural Resource Development
318 Center through Alcorn State University an amount not to exceed Two
319 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
320 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
321 year 2002 from the cash balance of the Emerging Crops Fund to
322 support the development of a cooperative program for agribusiness
323 development, marketing and natural resources development. This
324 subsection (9) shall stand repealed on June 30, 2004.

325 (10) The Mississippi Development Authority shall make
326 available to the Small Farm Development Center at Alcorn State
327 University funds in an aggregate amount not to exceed Three
328 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
329 balance of the Emerging Crops Fund. The Small Farm Development
330 Center at Alcorn State University shall use such funds to make
331 loans to producers of sweet potatoes and cooperatives anywhere in
332 the State of Mississippi owned by sweet potato producers to assist
333 in the planting of sweet potatoes and the purchase of sweet potato
334 production and harvesting equipment. A report of the loans made
335 under this subsection shall be furnished by January 15 of each



336 year to the Chairman of the Senate Agriculture Committee and the
337 Chairman of the House Agriculture Committee.

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

343 (12) The Mississippi Development Authority shall make
344 available to the Mississippi Department of Agriculture and
345 Commerce an amount not to exceed One Hundred Fifty Thousand
346 Dollars (\$150,000.00) to be drawn from the cash balance of the
347 Emerging Crops Fund to be used for the rehabilitation and
348 maintenance of the Mississippi Farmers Central Market in Jackson,
349 Mississippi.

350 (13) The Mississippi Development Authority shall make
351 available to the Mississippi Department of Agriculture and
352 Commerce an amount not to exceed Twenty-five Thousand Dollars
353 (\$25,000.00) to be drawn from the cash balance of the Emerging
354 Crops Fund to be used for advertising purposes related to the
355 Mississippi Farmers Central Market in Jackson, Mississippi.

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

358 69-2-19. The Mississippi Development Authority is
359 authorized, at one time or from time to time, to declare by
360 resolution the necessity for issuance of negotiable general
361 obligation bonds of the State of Mississippi to provide funds for
362 the Emerging Crops Fund established in Section 69-2-13. Upon the
363 adoption of a resolution by the board, declaring the necessity for
364 the issuance of any part or all of the general obligation bonds
365 authorized by Sections 69-2-19 through 69-2-39, the authority
366 shall deliver a certified copy of its resolution or resolutions to
367 the State Bond Commission. Upon receipt of same, the State Bond
368 Commission, in its discretion, shall act as the issuing agent,



369 prescribe the form of the bonds, advertise for and accept bids,
370 issue and sell the bonds so authorized to be sold, and do any and
371 all other things necessary and advisable in connection with the
372 issuance and sale of such bonds. The amount of bonds issued under
373 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Four
374 Million Dollars (\$104,000,000.00) in the aggregate; however, an
375 additional amount of bonds may be issued under Sections 69-2-19
376 through 69-2-39 in an amount not to exceed Thirty-five Million
377 Dollars (\$35,000,000.00), and the proceeds of any such additional
378 bonds shall be used solely for the purposes described in Section
379 69-2-13(3)(b). No bonds may be issued under Sections 69-2-19
380 through 69-2-39 after October 1, 2019.

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

