

By: Representative Flaggs

To: Ways and Means

## HOUSE BILL NO. 349

1 AN ACT TO AMEND SECTIONS 69-2-13 AND 69-2-19, MISSISSIPPI  
2 CODE OF 1972, TO INCREASE THE AMOUNT OF BONDS THAT MAY BE ISSUED  
3 TO PROVIDE FOR MONIES TO ASSIST IN THE FINANCING OF MINORITY  
4 BUSINESS ENTERPRISES; AND FOR RELATED PURPOSES.

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

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

8 69-2-13. (1) There is hereby established in the State  
9 Treasury a fund to be known as the "Emerging Crops Fund," which  
10 shall be used to pay the interest on loans made to farmers for  
11 nonland capital costs of establishing production of emerging crops  
12 on land in Mississippi, and to make loans and grants which are  
13 authorized under this section to be made from the fund. The fund  
14 shall be administered by the Mississippi Development Authority. A  
15 board comprised of the directors of the authority, the Mississippi  
16 Cooperative Extension Service, the Mississippi Small Farm  
17 Development Center and the Mississippi Agricultural and Forestry  
18 Experiment Station, or their designees, shall develop definitions,  
19 guidelines and procedures for the implementation of this chapter.  
20 Funds for the Emerging Crops Fund shall be provided from the  
21 issuance of bonds or notes under Sections 69-2-19 through 69-2-37  
22 and from repayment of interest loans made from the fund.

23 (2) (a) The Mississippi Development Authority shall develop  
24 a program which gives fair consideration to making loans for the  
25 processing and manufacturing of goods and services by  
26 agribusiness, greenhouse production horticulture, and small  
27 business concerns. It is the policy of the State of Mississippi  
28 that the Mississippi Development Authority shall give due

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

39 (b) The Mississippi Development Authority may, out of  
40 the total amount of bonds authorized to be issued under this  
41 chapter, make available funds to any planning and development  
42 district in accordance with the criteria established in Section  
43 57-71-11. Planning and development districts which receive monies  
44 pursuant to this provision shall use such monies to make loans to  
45 private companies for purposes consistent with this subsection.

46 (c) The Mississippi Development Authority is hereby  
47 authorized to engage legal services, financial advisors,  
48 appraisers and consultants if needed to review and close loans  
49 made hereunder and to establish and assess reasonable fees,  
50 including, but not limited to, liquidation expenses.

51 (3) (a) The Mississippi Development Authority shall, in  
52 addition to the other programs described in this section, provide  
53 for a program of loans to be made to agribusiness or greenhouse  
54 production horticulture enterprises for the purpose of encouraging  
55 thereby the extension of conventional financing and the issuance  
56 of letters of credit to such agribusiness or greenhouse production  
57 horticulture enterprises by private institutions. Monies to make  
58 such loans by the Mississippi Development Authority shall be drawn  
59 from the Emerging Crops Fund. The amount of a loan to any single  
60 agribusiness or greenhouse production horticulture enterprise  
61 under this paragraph (a) shall not exceed twenty percent (20%) of

62 the total cost of the project for which financing is sought or Two  
63 Hundred Thousand Dollars (\$200,000.00), whichever is less. No  
64 interest shall be charged on such loans, and only the amount  
65 actually loaned shall be required to be repaid. Repayments shall  
66 be deposited into the Emerging Crops Fund.

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

89 (4) (a) Through June 30, 2005, the Mississippi Development  
90 Authority may loan or grant to qualified planning and development  
91 districts, and to small business investment corporations,  
92 bank-based community development corporations, the Recruitment and  
93 Training Program, Inc., the City of Jackson Business Development  
94 Loan Fund, the Lorman Southwest Mississippi Development

95 Corporation, the West Jackson Community Development Corporation,  
96 the East Mississippi Development Corporation, and other entities  
97 meeting the criteria established by the Mississippi Development  
98 Authority (all referred to hereinafter as "qualified entities"),  
99 funds for the purpose of establishing loan revolving funds to  
100 assist in providing financing for minority economic development.  
101 The monies loaned or granted by the Mississippi Development  
102 Authority shall be drawn from the Emerging Crops Fund and shall  
103 not exceed One Hundred Seventy-five Million Dollars  
104 (\$175,000,000.00) in the aggregate. Planning and development  
105 districts or qualified entities which receive monies pursuant to  
106 this provision shall use such monies to make loans to minority  
107 business enterprises consistent with criteria established by the  
108 Mississippi Development Authority. Such criteria shall include,  
109 at a minimum, the following:

110 (i) The business enterprise must be a private,  
111 for-profit enterprise.

112 (ii) If the business enterprise is a  
113 proprietorship, the borrower must be a resident citizen of the  
114 State of Mississippi; if the business enterprise is a corporation  
115 or partnership, at least fifty percent (50%) of the owners must be  
116 resident citizens of the State of Mississippi.

117 (iii) The borrower must have at least five percent  
118 (5%) equity interest in the business enterprise.

119 (iv) The borrower must demonstrate ability to  
120 repay the loan.

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

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

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

137                   (viii) The maximum amount that may be loaned to  
138 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
139 (\$250,000.00).

140                   (ix) The Mississippi Development Authority shall  
141 review each loan before it is made, and no loan shall be made to  
142 any borrower until the loan has been reviewed and approved by the  
143 Mississippi Development Authority.

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

161 From and after July 1, 2005, monies not loaned or granted by  
162 the Mississippi Development Authority to planning and development  
163 districts or qualified entities under this subsection, and monies  
164 not loaned by planning and development districts or qualified  
165 entities, shall be deposited to the credit of the sinking fund  
166 created and maintained in the State Treasury for the retirement of  
167 bonds issued under Section 69-2-19.

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

194 the uncommitted funds in the loan revolving fund on the date the  
195 district first provides temporary funding during the calendar  
196 year.

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

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

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

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



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

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

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

291           (9) The Mississippi Development Authority shall make  
292 available to the Agribusiness and Natural Resource Development  
293 Center through Alcorn State University an amount not to exceed Two  
294 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001  
295 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal  
296 year 2002 from the cash balance of the Emerging Crops Fund to  
297 support the development of a cooperative program for agribusiness  
298 development, marketing and natural resources development. This  
299 subsection (9) shall stand repealed on June 30, 2004.

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

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

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

323 maintenance of the Mississippi Farmers Central Market in Jackson,  
324 Mississippi.

325 (13) The Mississippi Development Authority shall make  
326 available to the Mississippi Department of Agriculture and  
327 Commerce an amount not to exceed Twenty-five Thousand Dollars  
328 (\$25,000.00) to be drawn from the cash balance of the Emerging  
329 Crops Fund to be used for advertising purposes related to the  
330 Mississippi Farmers Central Market in Jackson, Mississippi.

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

333 69-2-19. The Mississippi Development Authority is  
334 authorized, at one time or from time to time, to declare by  
335 resolution the necessity for issuance of negotiable general  
336 obligation bonds of the State of Mississippi to provide funds for  
337 the Emerging Crops Fund established in Section 69-2-13. Upon the  
338 adoption of a resolution by the board, declaring the necessity for  
339 the issuance of any part or all of the general obligation bonds  
340 authorized by Sections 69-2-19 through 69-2-39, the authority  
341 shall deliver a certified copy of its resolution or resolutions to  
342 the State Bond Commission. Upon receipt of same, the State Bond  
343 Commission, in its discretion, shall act as the issuing agent,  
344 prescribe the form of the bonds, advertise for and accept bids,  
345 issue and sell the bonds so authorized to be sold, and do any and  
346 all other things necessary and advisable in connection with the  
347 issuance and sale of such bonds. The amount of bonds issued under  
348 Sections 69-2-19 through 69-2-39 shall not exceed Two Hundred  
349 Fifty-four Million Dollars (\$254,000,000.00) in the aggregate;  
350 however, an additional amount of bonds may be issued under  
351 Sections 69-2-19 through 69-2-39 in an amount not to exceed  
352 Thirty-five Million Dollars (\$35,000,000.00), and the proceeds of  
353 any such additional bonds shall be used solely for the purposes  
354 described in Section 69-2-13(3)(b). No bonds may be issued under  
355 Sections 69-2-19 through 69-2-39 after October 1, 2019.

356                   **SECTION 3.** This act shall take effect and be in force  
357 from and after July 1, 2004.