

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 3149

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO  
 2 PLACE THE ADMINISTRATION OF ALL PROGRAMS IN THE EMERGING CROPS  
 3 FUND UNDER THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO AUTHORIZE THE  
 4 MISSISSIPPI DEVELOPMENT AUTHORITY TO DRAW AN ADDITIONAL  
 5 \$5,000,000.00 FROM THE EMERGING CROPS FUND FOR THE MINORITY LOAN  
 6 PROGRAM ESTABLISHED IN THE EMERGING CROPS FUND; TO REVISE THE  
 7 DEFINITION OF MINORITY BUSINESS UNDER THE MINORITY LOAN PROGRAM  
 8 WITHIN THE EMERGING CROPS FUND; TO AUTHORIZE THE MISSISSIPPI  
 9 DEVELOPMENT AUTHORITY TO DECLARE QUALIFIED ENTITIES ADMINISTERING  
 10 SUCH LOAN PROGRAM IN DEFAULT UNDER CERTAIN CIRCUMSTANCES AND TO  
 11 TAKE CERTAIN ACTIONS IN THE EVENT OF A DEFAULT; TO AUTHORIZE THE  
 12 MISSISSIPPI DEVELOPMENT AUTHORITY TO UTILIZE AN ADDITIONAL  
 13 \$1,000,000.00 FROM THE MINORITY LOAN PROGRAM FOR ITS MINORITY  
 14 BUSINESS ENTERPRISE SURETY BOND GUARANTEE PROGRAM; TO AMEND  
 15 SECTION 69-2-19, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
 16 AGGREGATE AMOUNT OF BONDS THAT MAY BE ISSUED FOR THE EMERGING  
 17 CROPS FUND; AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 69-2-13, Mississippi Code of 1972, is  
20 amended as follows:

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

34 issuance of bonds or notes under Sections 69-2-19 through 69-2-37  
35 and from repayment of interest loans made from the fund.

36 (2) (a) The Mississippi Development Authority shall develop  
37 a program which gives fair consideration to making loans for the  
38 processing and manufacturing of goods and services by  
39 agribusiness, greenhouse production horticulture, and small  
40 business concerns. It is the policy of the State of Mississippi  
41 that such authority shall give due recognition to and shall aid,  
42 counsel, assist and protect, insofar as is possible, the interests  
43 of agribusiness, greenhouse production horticulture, and small  
44 business concerns. To ensure that the purposes of this subsection  
45 are carried out, the Mississippi Development Authority shall loan  
46 not more than One Million Dollars (\$1,000,000.00) to finance any  
47 single agribusiness, greenhouse production horticulture, or small  
48 business concern. Loans made pursuant to this subsection shall be  
49 made in accordance with the criteria established in Section  
50 57-71-11.

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

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

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

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

79 (4) (a) Through June 30, 2004, the Mississippi Development  
80 Authority may loan or grant to qualified planning and development  
81 districts, and to small business investment corporations,  
82 bank-based community development corporations, the Recruitment and  
83 Training Program, Inc., the City of Jackson Business Development  
84 Loan Fund, the Lorman Southwest Mississippi Development  
85 Corporation, the West Jackson Community Development Corporation,  
86 the East Mississippi Development Corporation, and other entities  
87 meeting the criteria established by the Mississippi Development  
88 Authority (all referred to hereinafter as "qualified entities"),  
89 funds for the purpose of establishing loan revolving funds to  
90 assist in providing financing for minority economic development.  
91 The monies loaned or granted by the Mississippi Development  
92 Authority shall be drawn from the Emerging Crops Fund and shall  
93 not exceed Twenty-three Million Dollars (\$23,000,000.00) in the  
94 aggregate. Planning and development districts or qualified  
95 entities which receive monies pursuant to this provision shall use  
96 such monies to make loans to minority business enterprises  
97 consistent with criteria established by the Mississippi  
98 Development Authority. Such criteria shall include, at a minimum,  
99 the following:

100                   (i) The business enterprise must be a private,  
101 for-profit enterprise.

102                   (ii) If the business enterprise is a  
103 proprietorship, the borrower must be a resident citizen of the  
104 State of Mississippi; if the business enterprise is a corporation  
105 or partnership, at least fifty percent (50%) of the owners must be  
106 resident citizens of the State of Mississippi.

107                   (iii) The borrower must have at least five percent  
108 (5%) equity interest in the business enterprise.

109                   (iv) The borrower must demonstrate ability to  
110 repay the loan.

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

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

118                   (vii) Loan proceeds shall not be used to pay off  
119 existing debt for loan consolidation purposes; to finance the  
120 acquisition, construction, improvement or operation of real  
121 property which is to be held primarily for sale or investment; to  
122 provide for, or free funds, for speculation in any kind of  
123 property; or as a loan to owners, partners or stockholders of the  
124 applicant which do not change ownership interest by the applicant.  
125 However, this does not apply to ordinary compensation for services  
126 rendered in the course of business.

127                   (viii) The maximum amount that may be loaned to  
128 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
129 (\$250,000.00).

130                   (ix) The Mississippi Development Authority shall  
131 review each loan before it is made, and no loan shall be made to

132 any borrower until the loan has been reviewed and approved by the  
133 Mississippi Development Authority.

134       **(b)** For the purpose of this subsection, the term  
135 "minority business enterprise" means a socially and economically  
136 disadvantaged small business concern, organized for profit,  
137 performing a commercially useful function which is owned and  
138 controlled by one or more minorities or minority business  
139 enterprises certified by the Mississippi Development Authority, at  
140 least fifty percent (50%) of whom are resident citizens of the  
141 State of Mississippi. For purposes of this subsection, the term  
142 "socially and economically disadvantaged small business concern"  
143 shall have the meaning ascribed to such term under the Small  
144 Business Act (15 USCS, Section 637(a)), or women, and the term  
145 "owned and controlled" means a business in which one or more  
146 minorities or minority business enterprises certified by the  
147 Mississippi Development Authority own fifty-one percent (51%) or,  
148 in the case of a corporation, fifty-one percent (51%) of the  
149 voting stock, and control fifty-one percent (51%) of the  
150 management and daily business operations of the business.

151       From and after July 1, 2004, monies not loaned or granted by  
152 the Mississippi Development Authority to planning and development  
153 districts or qualified entities under this subsection, and monies  
154 not loaned by planning and development districts or qualified  
155 entities, shall be deposited to the credit of the sinking fund  
156 created and maintained in the State Treasury for the retirement of  
157 bonds issued under Section 69-2-19.

158       **(c)** If the Mississippi Development Authority determines  
159 that a qualified entity has provided loans to minority businesses  
160 in a manner inconsistent with the provisions of this subsection,  
161 then the amount of such loans so provided shall be withheld by the  
162 Mississippi Development Authority from any additional funds under  
163 this subsection. If the Mississippi Development Authority  
164 determines, after notifying such qualified entity twice in writing

165 and providing such qualified entity a reasonable opportunity to  
166 comply, that a qualified entity has consistently failed to comply  
167 with this subsection, the Mississippi Development Authority may  
168 declare such qualified entity in default under this subsection  
169 and, upon receipt of notice thereof from the Mississippi  
170 Development Authority, such qualified entity shall immediately  
171 cease providing loans under this subsection, shall refund to the  
172 Mississippi Development Authority for distribution to other  
173 qualified entities all funds held in its revolving loan fund and,  
174 if required by the Mississippi Development Authority, shall convey  
175 to the Mississippi Development Authority all administrative and  
176 management control of loans provided by it under this subsection.

177 (d) If the Mississippi Development Authority  
178 determines, after notifying a qualified entity twice in writing  
179 and providing such district or entity a reasonable opportunity to  
180 take corrective action, that a qualified entity administering a  
181 revolving loan fund under the provisions of this subsection is not  
182 actively engaged in lending as defined by the rules and  
183 regulations of the Mississippi Development Authority, the  
184 Mississippi Development Authority may declare such qualified  
185 entity in default under this section and, upon receipt of notice  
186 thereof from the Mississippi Development Authority, such qualified  
187 entity shall immediately cease providing loans under this  
188 subsection, shall refund to the Mississippi Development Authority  
189 for distribution to other qualified entities all funds held in its  
190 revolving loan fund and, if required by the Mississippi  
191 Development Authority, shall convey to the Mississippi Development  
192 Authority all administrative and management control of loans  
193 provided by it under this subsection.

194 (5) The Mississippi Development Authority shall develop a  
195 program which will assist minority business enterprises by  
196 guaranteeing bid, performance and payment bonds which such  
197 minority businesses are required to obtain in order to contract

198 with federal agencies, state agencies or political subdivisions of  
199 the state. Monies for such program shall be drawn from the monies  
200 allocated under subsection (4) of this section to assist the  
201 financing of minority economic development and shall not exceed  
202 Three Million Dollars (\$3,000,000.00) in the aggregate. The  
203 Mississippi Development Authority may promulgate rules and  
204 regulations for the operation of the program established pursuant  
205 to this subsection. For the purpose of this subsection (5) the  
206 term "minority business enterprise" has the meaning assigned such  
207 term in subsection (4) of this section.

208 (6) The Mississippi Development Authority may loan or grant  
209 to public entities and to nonprofit corporations funds to defray  
210 the expense of financing (or to match any funds available from  
211 other public or private sources for the expense of financing)  
212 projects in this state which are devoted to the study, teaching  
213 and/or promotion of regional crafts and which are deemed by the  
214 authority to be significant tourist attractions. The monies  
215 loaned or granted shall be drawn from the Emerging Crops Fund and  
216 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)  
217 in the aggregate.

218 (7) Through June 30, 1998, the Mississippi Development  
219 Authority shall make available to the Mississippi Department of  
220 Agriculture and Commerce funds for the purpose of establishing  
221 loan revolving funds and other methods of financing for  
222 agribusiness programs administered under the Mississippi  
223 Agribusiness Council Act of 1993. The monies made available by  
224 the Mississippi Development Authority shall be drawn from the  
225 Emerging Crops Fund and shall not exceed Seven Hundred Thousand  
226 Dollars (\$700,000.00) in the aggregate. The Mississippi  
227 Department of Agriculture and Commerce shall establish control and  
228 auditing procedures for use of these funds. These funds will be  
229 used primarily for quick payment to farmers for vegetable and  
230 fruit crops processed and sold through vegetable processing plants

231 associated with the Department of Agriculture and Commerce and the  
232 Mississippi State Extension Service.

233 (8) From and after July 1, 1996, the Mississippi Development  
234 Authority shall make available to the Mississippi Small Farm  
235 Development Center One Million Dollars (\$1,000,000.00) to be used  
236 by the center to assist small entrepreneurs as provided in Section  
237 37-101-25, Mississippi Code of 1972. The monies made available by  
238 the Mississippi Development Authority shall be drawn from the  
239 Emerging Crops Fund.

240 (9) The Mississippi Development Authority shall make  
241 available to the Agribusiness and Natural Resource Development  
242 Center through Alcorn State University an amount not to exceed Two  
243 Hundred Fifty Thousand Dollars (\$250,000.00) in Fiscal Year 2001  
244 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in Fiscal  
245 Year 2002 from the cash balance of the Emerging Crops Fund to  
246 support the development of a cooperative program for agribusiness  
247 development, marketing and natural resources development. This  
248 subsection (9) shall stand repealed on June 30, 2002.

249 (10) The Mississippi Development Authority shall make  
250 available to the Small Farm Development Center at Alcorn State  
251 University funds in an aggregate amount not to exceed Three  
252 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash  
253 balance of the Emerging Crops Fund. The Small Farm Development  
254 Center at Alcorn State University shall use such funds to make  
255 loans to producers of sweet potatoes and cooperatives anywhere in  
256 the State of Mississippi owned by sweet potato producers to assist  
257 in the planting of sweet potatoes and the purchase of sweet potato  
258 production and harvesting equipment. A report of the loans made  
259 under this subsection shall be furnished by January 15 of each  
260 year to the Chairman of the Senate Agriculture Committee and the  
261 Chairman of the House Agriculture Committee.

262 (11) The Mississippi Development Authority shall make  
263 available to the Mississippi Department of Agriculture and



264 Commerce "Make Mississippi Mine" program an amount not to exceed  
265 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from  
266 the cash balance of the Emerging Crops Fund.

267 SECTION 2. Section 69-2-19, Mississippi Code of 1972, is  
268 amended as follows:

269 69-2-19. The Mississippi Development Authority is  
270 authorized, at one time, or from time to time, to declare by  
271 resolution the necessity for issuance of negotiable general  
272 obligation bonds of the State of Mississippi to provide funds for  
273 the Emerging Crops Fund established in Section 69-2-13. Upon the  
274 adoption of a resolution by the board, declaring the necessity for  
275 the issuance of any part or all of the general obligation bonds  
276 authorized by Sections 69-2-19 through 69-2-39, the authority  
277 shall deliver a certified copy of its resolution or resolutions to  
278 the State Bond Commission. Upon receipt of same, the State Bond  
279 Commission, in its discretion, shall act as the issuing agent,  
280 prescribe the form of the bonds, advertise for and accept bids,  
281 issue and sell the bonds so authorized to be sold, and do any and  
282 all other things necessary and advisable in connection with the  
283 issuance and sale of such bonds. The amount of bonds issued under  
284 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Two  
285 Million Dollars (\$102,000,000.00) in the aggregate. No bonds may  
286 be issued under Sections 69-2-19 through 69-2-39 after October 1,  
287 2003.

288 SECTION 3. This act shall take effect and be in force from  
289 and after July 1, 2001.