

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2858

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE REPEALER ON MONIES MADE AVAILABLE TO THE AGRIBUSINESS
3 AND NATURAL RESOURCE DEVELOPMENT CENTER AT ALCORN STATE UNIVERSITY
4 FROM THE EMERGING CROPS FUND; 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) The Mississippi Development Authority shall, in addition
52 to the other programs described in this section, provide for a
53 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 shall not exceed twenty percent (20%) of the total cost of the



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

67 (4) (a) Through June 30, 2003, the Mississippi Development
68 Authority may loan or grant to qualified planning and development
69 districts, and to small business investment corporations,
70 bank-based community development corporations, the Recruitment and
71 Training Program, Inc., the City of Jackson Business Development
72 Loan Fund, the Lorman Southwest Mississippi Development
73 Corporation, the West Jackson Community Development Corporation,
74 the East Mississippi Development Corporation, and other entities
75 meeting the criteria established by the Mississippi Development
76 Authority (all referred to hereinafter as "qualified entities"),
77 funds for the purpose of establishing loan revolving funds to
78 assist in providing financing for minority economic development.
79 The monies loaned or granted by the Mississippi Development
80 Authority shall be drawn from the Emerging Crops Fund and shall
81 not exceed Twenty-three Million Dollars (\$23,000,000.00) in the
82 aggregate. Planning and development districts or qualified
83 entities which receive monies pursuant to this provision shall use
84 such monies to make loans to minority business enterprises
85 consistent with criteria established by the Mississippi
86 Development Authority. Such criteria shall include, at a minimum,
87 the following:

88 (i) The business enterprise must be a private,
89 for-profit enterprise.

90 (ii) If the business enterprise is a
91 proprietorship, the borrower must be a resident citizen of the
92 State of Mississippi; if the business enterprise is a corporation
93 or partnership, at least fifty percent (50%) of the owners must be
94 resident citizens of the State of Mississippi.



95 (iii) The borrower must have at least five percent
96 (5%) equity interest in the business enterprise.

97 (iv) The borrower must demonstrate ability to
98 repay the loan.

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

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

106 (vii) Loan proceeds shall not be used to pay off
107 existing debt for loan consolidation purposes; to finance the
108 acquisition, construction, improvement or operation of real
109 property which is to be held primarily for sale or investment; to
110 provide for, or free funds, for speculation in any kind of
111 property; or as a loan to owners, partners or stockholders of the
112 applicant which do not change ownership interest by the applicant.
113 However, this does not apply to ordinary compensation for services
114 rendered in the course of business.

115 (viii) The maximum amount that may be loaned to
116 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
117 (\$250,000.00).

118 (ix) The Mississippi Development Authority shall
119 review each loan before it is made, and no loan shall be made to
120 any borrower until the loan has been reviewed and approved by the
121 Mississippi Development Authority.

122 (b) For the purpose of this subsection, the term
123 "minority business enterprise" means a socially and economically
124 disadvantaged small business concern, organized for profit,
125 performing a commercially useful function which is owned and
126 controlled by one or more minorities or minority business
127 enterprises certified by the Mississippi Development Authority, at



128 least fifty percent (50%) of whom are resident citizens of the
129 State of Mississippi. For purposes of this subsection, the term
130 "socially and economically disadvantaged small business concern"
131 shall have the meaning ascribed to such term under the Small
132 Business Act (15 USCS, Section 637(a)), or women, and the term
133 "owned and controlled" means a business in which one or more
134 minorities or minority business enterprises certified by the
135 Mississippi Development Authority own sixty percent (60%) or, in
136 the case of a corporation, sixty percent (60%) of the voting
137 stock, and control sixty percent (60%) of the management and daily
138 business operations of the business.

139 From and after July 1, 2003, monies not loaned or granted by
140 the Mississippi Development Authority to planning and development
141 districts or qualified entities under this subsection, and monies
142 not loaned by planning and development districts or qualified
143 entities, shall be deposited to the credit of the sinking fund
144 created and maintained in the State Treasury for the retirement of
145 bonds issued under Section 69-2-19.

146 (c) Notwithstanding any other provision of this
147 subsection to the contrary, if federal funds are not available for
148 commitments made by a planning and development district to provide
149 assistance under any federal loan program administered by the
150 planning and development district in coordination with the
151 Appalachian Regional Commission or Economic Development
152 Administration, or both, a planning and development district may
153 use funds in its loan revolving fund, which have not been
154 committed otherwise to provide assistance, for the purpose of
155 providing temporary funding for such commitments. If a planning
156 and development district uses uncommitted funds in its loan
157 revolving fund to provide such temporary funding, the district
158 shall use funds repaid to the district under the temporarily
159 funded federal loan program to replenish the funds used to provide
160 the temporary funding. Funds used by a planning and development



161 district to provide temporary funding under this paragraph (c)
162 must be repaid to the district's loan revolving fund no later than
163 twelve (12) months after the date the district provides the
164 temporary funding. A planning and development district may not
165 use uncommitted funds in its loan revolving fund to provide
166 temporary funding under this paragraph (c) on more than two (2)
167 occasions during a calendar year. A planning and development
168 district may provide temporary funding for multiple commitments on
169 each such occasion. The maximum aggregate amount of uncommitted
170 funds in a loan revolving fund that may be used for such purposes
171 during a calendar year shall not exceed seventy percent (70%) of
172 the uncommitted funds in the loan revolving fund on the date the
173 district first provides temporary funding during the calendar
174 year.

175 (d) If the Mississippi Development Authority determines
176 that a planning and development district or qualified entity has
177 provided loans to minority businesses in a manner inconsistent
178 with the provisions of this subsection, then the amount of such
179 loans so provided shall be withheld by the Mississippi Development
180 Authority from any additional grant funds to which the planning
181 and development district or qualified entity becomes entitled
182 under this subsection. If the Mississippi Development Authority
183 determines, after notifying such planning and development district
184 or qualified entity twice in writing and providing such planning
185 and development district or qualified entity a reasonable
186 opportunity to comply, that a planning and development district or
187 qualified entity has consistently failed to comply with this
188 subsection, the Mississippi Development Authority may declare such
189 planning and development district or qualified entity in default
190 under this subsection and, upon receipt of notice thereof from the
191 Mississippi Development Authority, such planning and development
192 district or qualified entity shall immediately cease providing
193 loans under this subsection, shall refund to the Mississippi



194 Development Authority for distribution to other planning and
195 development districts or qualified entities all funds held in its
196 revolving loan fund and, if required by the Mississippi
197 Development Authority, shall convey to the Mississippi Development
198 Authority, all administrative and management control of loans
199 provided by it under this subsection.

200 (e) If the Mississippi Development Authority
201 determines, after notifying a planning and development district or
202 qualified entity twice in writing and providing copies of such
203 notification to each member of the Legislature in whose district
204 or in a part of whose district such planning and development
205 district or qualified entity is located and providing such
206 planning and development district or qualified entity a reasonable
207 opportunity to take corrective action, that a planning and
208 development district or qualified entity administering a revolving
209 loan fund under the provisions of this subsection is not actively
210 engaged in lending as defined by the rules and regulations of the
211 Mississippi Development Authority, the Mississippi Development
212 Authority may declare such planning and development district or
213 qualified entity in default under this subsection and, upon
214 receipt of notice thereof from the Mississippi Development
215 Authority, such planning and development district or qualified
216 entity shall immediately cease providing loans under this
217 subsection, shall refund to the Mississippi Development Authority
218 for distribution to other planning and development districts or
219 qualified entities all funds held in its revolving loan fund and,
220 if required by the Mississippi Development Authority, shall convey
221 to the Mississippi Development Authority all administrative and
222 management control of loans provided by it under this subsection.

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



227 with federal agencies, state agencies or political subdivisions of
228 the state. Monies for such program shall be drawn from the monies
229 allocated under subsection (4) of this section to assist the
230 financing of minority economic development and shall not exceed
231 Three Million Dollars (\$3,000,000.00) in the aggregate. The
232 Mississippi Development Authority may promulgate rules and
233 regulations for the operation of the program established pursuant
234 to this subsection. For the purpose of this subsection (5) the
235 term "minority business enterprise" has the meaning assigned such
236 term in subsection (4) of this section.

237 (6) The Mississippi Development Authority may loan or grant
238 to public entities and to nonprofit corporations funds to defray
239 the expense of financing (or to match any funds available from
240 other public or private sources for the expense of financing)
241 projects in this state which are devoted to the study, teaching
242 and/or promotion of regional crafts and which are deemed by the
243 authority to be significant tourist attractions. The monies
244 loaned or granted shall be drawn from the Emerging Crops Fund and
245 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
246 in the aggregate.

247 (7) Through June 30, 1998, the Mississippi Development
248 Authority shall make available to the Mississippi Department of
249 Agriculture and Commerce funds for the purpose of establishing
250 loan revolving funds and other methods of financing for
251 agribusiness programs administered under the Mississippi
252 Agribusiness Council Act of 1993. The monies made available by
253 the Mississippi Development Authority shall be drawn from the
254 Emerging Crops Fund and shall not exceed Seven Hundred Thousand
255 Dollars (\$700,000.00) in the aggregate. The Mississippi
256 Department of Agriculture and Commerce shall establish control and
257 auditing procedures for use of these funds. These funds will be
258 used primarily for quick payment to farmers for vegetable and
259 fruit crops processed and sold through vegetable processing plants



260 associated with the Department of Agriculture and Commerce and the
261 Mississippi State Extension Service.

262 (8) From and after July 1, 1996, the Mississippi Development
263 Authority shall make available to the Mississippi Small Farm
264 Development Center One Million Dollars (\$1,000,000.00) to be used
265 by the center to assist small entrepreneurs as provided in Section
266 37-101-25, Mississippi Code of 1972. The monies made available by
267 the Mississippi Development Authority shall be drawn from the
268 Emerging Crops Fund.

269 (9) The Mississippi Development Authority shall make
270 available to the Agribusiness and Natural Resource Development
271 Center through Alcorn State University an amount not to exceed Two
272 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
273 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
274 year 2002 from the cash balance of the Emerging Crops Fund to
275 support the development of a cooperative program for agribusiness
276 development, marketing and natural resources development. This
277 subsection (9) shall stand repealed on June 30, 2003.

278 (10) The Mississippi Development Authority shall make
279 available to the Small Farm Development Center at Alcorn State
280 University funds in an aggregate amount not to exceed Three
281 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
282 balance of the Emerging Crops Fund. The Small Farm Development
283 Center at Alcorn State University shall use such funds to make
284 loans to producers of sweet potatoes and cooperatives anywhere in
285 the State of Mississippi owned by sweet potato producers to assist
286 in the planting of sweet potatoes and the purchase of sweet potato
287 production and harvesting equipment. A report of the loans made
288 under this subsection shall be furnished by January 15 of each
289 year to the Chairman of the Senate Agriculture Committee and the
290 Chairman of the House Agriculture Committee.

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



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

296 **SECTION 2.** This act shall take effect and be in force from
297 and after July 1, 2002.

