

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.

