

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2938

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF THE TERM "SOCIALY AND ECONOMICALLY  
3 DISADVANTAGED SMALL BUSINESS CONCERN" AS IT RELATES TO THE  
4 MINORITY BUSINESS LOAN PROGRAM IN THE EMERGING CROPS FUND; AND FOR  
5 RELATED PURPOSES.

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

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

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

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



29 that the Mississippi Development Authority shall give due  
30 recognition to and shall aid, counsel, assist and protect, insofar  
31 as is possible, the interests of agribusiness, greenhouse  
32 production horticulture, and small business concerns. To ensure  
33 that the purposes of this subsection are carried out, the  
34 Mississippi Development Authority shall loan not more than One  
35 Million Dollars (\$1,000,000.00) to finance any single  
36 agribusiness, greenhouse production horticulture, or small  
37 business concern. Loans made pursuant to this subsection shall be  
38 made in accordance with the criteria established in Section  
39 57-71-11.

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

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

52 (3) The Mississippi Development Authority shall, in addition  
53 to the other programs described in this section, provide for a  
54 program of loans to be made to agribusiness or greenhouse  
55 production horticulture enterprises for the purpose of encouraging  
56 thereby the extension of conventional financing and the issuance  
57 of letters of credit to such agribusiness or greenhouse production  
58 horticulture enterprises by private institutions. Monies to make  
59 such loans by the Mississippi Development Authority shall be drawn  
60 from the Emerging Crops Fund. The amount of a loan to any single  
61 agribusiness or greenhouse production horticulture enterprise



62 shall not exceed twenty percent (20%) of the total cost of the  
63 project for which financing is sought or Two Hundred Thousand  
64 Dollars (\$200,000.00), whichever is less. No interest shall be  
65 charged on such loans, and only the amount actually loaned shall  
66 be required to be repaid. Repayments shall be deposited into the  
67 Emerging Crops Fund.

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

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

91 (ii) If the business enterprise is a  
92 proprietorship, the borrower must be a resident citizen of the  
93 State of Mississippi; if the business enterprise is a corporation



94 or partnership, at least fifty percent (50%) of the owners must be  
95 resident citizens of the State of Mississippi.

96 (iii) The borrower must have at least five percent  
97 (5%) equity interest in the business enterprise.

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

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

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

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

116 (viii) The maximum amount that may be loaned to  
117 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
118 (\$250,000.00).

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

123 (b) For the purpose of this subsection, the term  
124 "minority business enterprise" means a socially and economically  
125 disadvantaged small business concern, organized for profit,  
126 performing a commercially useful function which is owned and



127 controlled by one or more minorities or minority business  
128 enterprises certified by the Mississippi Development Authority, at  
129 least fifty percent (50%) of whom are resident citizens of the  
130 State of Mississippi. For purposes of this subsection, the term  
131 "socially and economically disadvantaged small business concern"  
132 shall have the meaning ascribed to such term under the Small  
133 Business Act (15 USCS, Section 637(a)), or women, and the term  
134 "owned and controlled" means a business in which one or more  
135 minorities or minority business enterprises certified by the  
136 Mississippi Development Authority own fifty-one percent (51%) or,  
137 in the case of a corporation, fifty-one percent (51%) of the  
138 voting stock, and control fifty-one percent (51%) of the  
139 management and daily business operations of the business.

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

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



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

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



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

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

224 (5) The Mississippi Development Authority shall develop a  
225 program which will assist minority business enterprises by



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

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

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





259 used primarily for quick payment to farmers for vegetable and  
260 fruit crops processed and sold through vegetable processing plants  
261 associated with the Department of Agriculture and Commerce and the  
262 Mississippi State Extension Service.

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

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

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



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

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

