

By: Senator(s) Robertson, Harden

To: Finance

SENATE BILL NO. 3037
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972,
2 WHICH CREATES THE EMERGING CROPS FUND, TO EXTEND THE PROGRAM THAT
3 AUTHORIZES THE MISSISSIPPI DEVELOPMENT AUTHORITY TO LOAN OR GRANT
4 FUNDS FROM THE EMERGING CROPS FUND TO CERTAIN ENTITIES FOR
5 REVOLVING LOAN FUNDS TO ASSIST IN PROVIDING FINANCING FOR MINORITY
6 ECONOMIC DEVELOPMENT; TO EXTEND THE REPEALER ON THE PROVISION OF
7 LAW PROVIDING CERTAIN FUNDS TO THE AGRIBUSINESS AND NATURAL
8 RESOURCE DEVELOPMENT CENTER THROUGH ALCORN STATE UNIVERSITY DURING
9 FISCAL YEAR 2001 AND FISCAL YEAR 2002; AND FOR RELATED PURPOSES.

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

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

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

28 (2) (a) The Mississippi Development Authority shall develop
29 a program which gives fair consideration to making loans for the
30 processing and manufacturing of goods and services by

31 agribusiness, greenhouse production horticulture, and small
32 business concerns. It is the policy of the State of Mississippi
33 that the Mississippi Development Authority shall give due
34 recognition to and shall aid, counsel, assist and protect, insofar
35 as is possible, the interests of agribusiness, greenhouse
36 production horticulture, and small business concerns. To ensure
37 that the purposes of this subsection are carried out, the
38 Mississippi Development Authority shall loan not more than One
39 Million Dollars (\$1,000,000.00) to finance any single
40 agribusiness, greenhouse production horticulture, or small
41 business concern. Loans made pursuant to this subsection shall be
42 made in accordance with the criteria established in Section
43 57-71-11.

44 (b) The Mississippi Development Authority may, out of
45 the total amount of bonds authorized to be issued under this
46 chapter, make available funds to any planning and development
47 district in accordance with the criteria established in Section
48 57-71-11. Planning and development districts which receive monies
49 pursuant to this provision shall use such monies to make loans to
50 private companies for purposes consistent with this subsection.

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

56 (3) (a) The Mississippi Development Authority shall, in
57 addition to the other programs described in this section, provide
58 for a program of loans to be made to agribusiness or greenhouse
59 production horticulture enterprises for the purpose of encouraging
60 thereby the extension of conventional financing and the issuance
61 of letters of credit to such agribusiness or greenhouse production
62 horticulture enterprises by private institutions. Monies to make
63 such loans by the Mississippi Development Authority shall be drawn

64 from the Emerging Crops Fund. The amount of a loan to any single
65 agribusiness or greenhouse production horticulture enterprise
66 under this paragraph (a) shall not exceed twenty percent (20%) of
67 the total cost of the project for which financing is sought or Two
68 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
69 interest shall be charged on such loans, and only the amount
70 actually loaned shall be required to be repaid. Repayments shall
71 be deposited into the Emerging Crops Fund.

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

94 (4) (a) Through June 30, 2006, the Mississippi Development
95 Authority may loan or grant to qualified planning and development
96 districts, and to small business investment corporations,

97 bank-based community development corporations, the Recruitment and
98 Training Program, Inc., the City of Jackson Business Development
99 Loan Fund, the Lorman Southwest Mississippi Development
100 Corporation, the West Jackson Community Development Corporation,
101 the East Mississippi Development Corporation, and other entities
102 meeting the criteria established by the Mississippi Development
103 Authority (all referred to hereinafter as "qualified entities"),
104 funds for the purpose of establishing loan revolving funds to
105 assist in providing financing for minority economic development.
106 The monies loaned or granted by the Mississippi Development
107 Authority shall be drawn from the Emerging Crops Fund and shall
108 not exceed Twenty-five Million Dollars (\$25,000,000.00) in the
109 aggregate. Planning and development districts or qualified
110 entities which receive monies pursuant to this provision shall use
111 such monies to make loans to minority business enterprises
112 consistent with criteria established by the Mississippi
113 Development Authority. Such criteria shall include, at a minimum,
114 the following:

115 (i) The business enterprise must be a private,
116 for-profit enterprise.

117 (ii) If the business enterprise is a
118 proprietorship, the borrower must be a resident citizen of the
119 State of Mississippi; if the business enterprise is a corporation
120 or partnership, at least fifty percent (50%) of the owners must be
121 resident citizens of the State of Mississippi.

122 (iii) The borrower must have at least five percent
123 (5%) equity interest in the business enterprise.

124 (iv) The borrower must demonstrate ability to
125 repay the loan.

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

128 (vi) Loan proceeds may be used for financing all
129 project costs associated with development or expansion of a new

130 small business, including fixed assets, working capital, start-up
131 costs, rental payments, interest expense during construction and
132 professional fees related to the project.

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

142 (viii) The maximum amount that may be loaned to
143 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
144 (\$250,000.00).

145 (ix) The Mississippi Development Authority shall
146 review each loan before it is made, and no loan shall be made to
147 any borrower until the loan has been reviewed and approved by the
148 Mississippi Development Authority.

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

163 the case of a corporation, sixty percent (60%) of the voting
164 stock, and control sixty percent (60%) of the management and daily
165 business operations of the business.

166 From and after July 1, 2006, monies not loaned or granted by
167 the Mississippi Development Authority to planning and development
168 districts or qualified entities under this subsection, and monies
169 not loaned by planning and development districts or qualified
170 entities, shall be deposited to the credit of the sinking fund
171 created and maintained in the State Treasury for the retirement of
172 bonds issued under Section 69-2-19.

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

196 each such occasion. The maximum aggregate amount of uncommitted
197 funds in a loan revolving fund that may be used for such purposes
198 during a calendar year shall not exceed seventy percent (70%) of
199 the uncommitted funds in the loan revolving fund on the date the
200 district first provides temporary funding during the calendar
201 year.

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

227 (e) If the Mississippi Development Authority
228 determines, after notifying a planning and development district or

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

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

262 term "minority business enterprise" has the meaning assigned such
263 term in subsection (4) of this section.

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

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

289 (8) From and after July 1, 1996, the Mississippi Development
290 Authority shall make available to the Mississippi Small Farm
291 Development Center One Million Dollars (\$1,000,000.00) to be used
292 by the center to assist small entrepreneurs as provided in Section
293 37-101-25, Mississippi Code of 1972. The monies made available by

294 the Mississippi Development Authority shall be drawn from the
295 Emerging Crops Fund.

296 (9) The Mississippi Development Authority shall make
297 available to the Agribusiness and Natural Resource Development
298 Center through Alcorn State University an amount not to exceed Two
299 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
300 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
301 year 2002 from the cash balance of the Emerging Crops Fund to
302 support the development of a cooperative program for agribusiness
303 development, marketing and natural resources development. This
304 subsection (9) shall stand repealed on June 30, 2006.

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

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

323 (12) The Mississippi Development Authority shall make
324 available to the Mississippi Department of Agriculture and
325 Commerce an amount not to exceed One Hundred Fifty Thousand
326 Dollars (\$150,000.00) to be drawn from the cash balance of the

327 Emerging Crops Fund to be used for the rehabilitation and
328 maintenance of the Mississippi Farmers Central Market in Jackson,
329 Mississippi.

330 (13) The Mississippi Development Authority shall make
331 available to the Mississippi Department of Agriculture and
332 Commerce an amount not to exceed Twenty-five Thousand Dollars
333 (\$25,000.00) to be drawn from the cash balance of the Emerging
334 Crops Fund to be used for advertising purposes related to the
335 Mississippi Farmers Central Market in Jackson, Mississippi.

336 **SECTION 2.** This act shall take effect and be in force from
337 and after June 30, 2004.