

By: Senator(s) Robertson, Albritton, Browning, Butler, Dearing, Frazier, Gordon, Harden, Horhn, Jackson (11th), Jackson (32nd), Jordan, Morgan, Simmons, Thames, Thomas, Walls

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3087

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE JUNE 30, 2004, REPEAL DATE ON THE PROGRAM THAT
3 AUTHORIZES THE MISSISSIPPI DEVELOPMENT AUTHORITY TO LOAN OR GRANT
4 FUNDS FROM THE EMERGING CROPS FUND TO ASSIST IN PROVIDING
5 FINANCING FOR MINORITY ECONOMIC DEVELOPMENT AND TO INCREASE THE
6 AMOUNT THAT MAY BE DRAWN FOR SUCH PURPOSE FROM \$25,000,000.00 TO
7 \$26,000,000.00; TO AMEND SECTION 69-2-19, MISSISSIPPI CODE OF
8 1972, TO INCREASE THE AGGREGATE AMOUNT OF STATE GENERAL OBLIGATION
9 BONDS THAT MAY BE ISSUED FOR THE EMERGING CROPS FUND FROM
10 \$104,000,000.00 TO \$105,000,000.00; AND FOR RELATED PURPOSES.

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

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

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

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

32 agribusiness, greenhouse production horticulture, and small
33 business concerns. It is the policy of the State of Mississippi
34 that the Mississippi Development Authority shall give due
35 recognition to and shall aid, counsel, assist and protect, insofar
36 as is possible, the interests of agribusiness, greenhouse
37 production horticulture, and small business concerns. To ensure
38 that the purposes of this subsection are carried out, the
39 Mississippi Development Authority shall loan not more than One
40 Million Dollars (\$1,000,000.00) to finance any single
41 agribusiness, greenhouse production horticulture, or small
42 business concern. Loans made pursuant to this subsection shall be
43 made in accordance with the criteria established in Section
44 57-71-11.

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

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

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

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

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

95 (4) (a) * * * The Mississippi Development Authority may
96 loan or grant to qualified planning and development districts, and
97 to small business investment corporations, bank-based community

98 development corporations, the Recruitment and Training Program,
99 Inc., the City of Jackson Business Development Loan Fund, the
100 Lorman Southwest Mississippi Development Corporation, the West
101 Jackson Community Development Corporation, the East Mississippi
102 Development Corporation, and other entities meeting the criteria
103 established by the Mississippi Development Authority (all referred
104 to hereinafter as "qualified entities"), funds for the purpose of
105 establishing loan revolving funds to assist in providing financing
106 for minority economic development. The monies loaned or granted
107 by the Mississippi Development Authority shall be drawn from the
108 Emerging Crops Fund and shall not exceed Twenty-six Million
109 Dollars (\$26,000,000.00) in the aggregate. Planning and
110 development districts or qualified entities which receive monies
111 pursuant to this provision shall use such monies to make loans to
112 minority business enterprises consistent with criteria established
113 by the Mississippi Development Authority. Such criteria shall
114 include, at a minimum, 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 * * *

167 (c) Notwithstanding any other provision of this
168 subsection to the contrary, if federal funds are not available for
169 commitments made by a planning and development district to provide
170 assistance under any federal loan program administered by the
171 planning and development district in coordination with the
172 Appalachian Regional Commission or Economic Development
173 Administration, or both, a planning and development district may
174 use funds in its loan revolving fund, which have not been
175 committed otherwise to provide assistance, for the purpose of
176 providing temporary funding for such commitments. If a planning
177 and development district uses uncommitted funds in its loan
178 revolving fund to provide such temporary funding, the district
179 shall use funds repaid to the district under the temporarily
180 funded federal loan program to replenish the funds used to provide
181 the temporary funding. Funds used by a planning and development
182 district to provide temporary funding under this paragraph (c)
183 must be repaid to the district's loan revolving fund no later than
184 twelve (12) months after the date the district provides the
185 temporary funding. A planning and development district may not
186 use uncommitted funds in its loan revolving fund to provide
187 temporary funding under this paragraph (c) on more than two (2)
188 occasions during a calendar year. A planning and development
189 district may provide temporary funding for multiple commitments on
190 each such occasion. The maximum aggregate amount of uncommitted
191 funds in a loan revolving fund that may be used for such purposes
192 during a calendar year shall not exceed seventy percent (70%) of
193 the uncommitted funds in the loan revolving fund on the date the
194 district first provides temporary funding during the calendar
195 year.

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

221 (e) If the Mississippi Development Authority
222 determines, after notifying a planning and development district or
223 qualified entity twice in writing and providing copies of such
224 notification to each member of the Legislature in whose district
225 or in a part of whose district such planning and development
226 district or qualified entity is located and providing such
227 planning and development district or qualified entity a reasonable
228 opportunity to take corrective action, that a planning and

229 development district or qualified entity administering a revolving
230 loan fund under the provisions of this subsection is not actively
231 engaged in lending as defined by the rules and regulations of the
232 Mississippi Development Authority, the Mississippi Development
233 Authority may declare such planning and development district or
234 qualified entity in default under this subsection and, upon
235 receipt of notice thereof from the Mississippi Development
236 Authority, such planning and development district or qualified
237 entity shall immediately cease providing loans under this
238 subsection, shall refund to the Mississippi Development Authority
239 for distribution to other planning and development districts or
240 qualified entities all funds held in its revolving loan fund and,
241 if required by the Mississippi Development Authority, shall convey
242 to the Mississippi Development Authority all administrative and
243 management control of loans provided by it under this subsection.

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

258 (6) The Mississippi Development Authority may loan or grant
259 to public entities and to nonprofit corporations funds to defray
260 the expense of financing (or to match any funds available from
261 other public or private sources for the expense of financing)

262 projects in this state which are devoted to the study, teaching
263 and/or promotion of regional crafts and which are deemed by the
264 authority to be significant tourist attractions. The monies
265 loaned or granted shall be drawn from the Emerging Crops Fund and
266 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
267 in the aggregate.

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

283 (8) From and after July 1, 1996, the Mississippi Development
284 Authority shall make available to the Mississippi Small Farm
285 Development Center One Million Dollars (\$1,000,000.00) to be used
286 by the center to assist small entrepreneurs as provided in Section
287 37-101-25, Mississippi Code of 1972. The monies made available by
288 the Mississippi Development Authority shall be drawn from the
289 Emerging Crops Fund.

290 (9) The Mississippi Development Authority shall make
291 available to the Agribusiness and Natural Resource Development
292 Center through Alcorn State University an amount not to exceed Two
293 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
294 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal

295 year 2002 from the cash balance of the Emerging Crops Fund to
296 support the development of a cooperative program for agribusiness
297 development, marketing and natural resources development. This
298 subsection (9) shall stand repealed on June 30, 2004.

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

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

317 (12) The Mississippi Development Authority shall make
318 available to the Mississippi Department of Agriculture and
319 Commerce an amount not to exceed One Hundred Fifty Thousand
320 Dollars (\$150,000.00) to be drawn from the cash balance of the
321 Emerging Crops Fund to be used for the rehabilitation and
322 maintenance of the Mississippi Farmers Central Market in Jackson,
323 Mississippi.

324 (13) The Mississippi Development Authority shall make
325 available to the Mississippi Department of Agriculture and
326 Commerce an amount not to exceed Twenty-five Thousand Dollars
327 (\$25,000.00) to be drawn from the cash balance of the Emerging

328 Crops Fund to be used for advertising purposes related to the
329 Mississippi Farmers Central Market in Jackson, Mississippi.

330 **SECTION 2.** Section 69-2-19, Mississippi Code of 1972, is
331 amended as follows:

332 69-2-19. The Mississippi Development Authority is
333 authorized, at one time, or from time to time, to declare by
334 resolution the necessity for issuance of negotiable general
335 obligation bonds of the State of Mississippi to provide funds for
336 the Emerging Crops Fund established in Section 69-2-13. Upon the
337 adoption of a resolution by the board, declaring the necessity for
338 the issuance of any part or all of the general obligation bonds
339 authorized by Sections 69-2-19 through 69-2-39, the authority
340 shall deliver a certified copy of its resolution or resolutions to
341 the State Bond Commission. Upon receipt of same, the State Bond
342 Commission, in its discretion, shall act as the issuing agent,
343 prescribe the form of the bonds, advertise for and accept bids,
344 issue and sell the bonds so authorized to be sold, and do any and
345 all other things necessary and advisable in connection with the
346 issuance and sale of such bonds. The amount of bonds issued under
347 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Five
348 Million Dollars (\$105,000,000.00) in the aggregate; however, an
349 additional amount of bonds may be issued under Sections 69-2-19
350 through 69-2-39 in an amount not to exceed Thirty-five Million
351 Dollars (\$35,000,000.00), and the proceeds of any such additional
352 bonds shall be used solely for the purposes described in Section
353 69-2-13(3)(b). No bonds may be issued under Sections 69-2-19
354 through 69-2-39 after October 1, 2019.

355 **SECTION 3.** This act shall take effect and be in force from
356 and after its passage.