

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2685

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972,
2 WHICH CREATES THE EMERGING CROPS FUND, TO EXTEND THROUGH JUNE 30,
3 2010, THE PROGRAM THAT AUTHORIZES THE MISSISSIPPI DEVELOPMENT
4 AUTHORITY TO LOAN OR GRANT FUNDS FROM THE EMERGING CROPS FUND TO
5 CERTAIN ENTITIES FOR LOAN REVOLVING FUNDS TO ASSIST IN PROVIDING
6 FINANCING FOR MINORITY ECONOMIC DEVELOPMENT; AND FOR RELATED
7 PURPOSES.

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

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

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

26 (2) (a) The Mississippi Development Authority shall develop
27 a program which gives fair consideration to making loans for the
28 processing and manufacturing of goods and services by
29 agribusiness, greenhouse production horticulture, and small

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

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

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

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

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

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

92 (4) (a) Through June 30, 2010, the Mississippi Development
93 Authority may loan or grant to qualified planning and development
94 districts, and to small business investment corporations,
95 bank-based community development corporations, the Recruitment and

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

113 (i) The business enterprise must be a private,
114 for-profit enterprise.

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

120 (iii) The borrower must have at least five percent
121 (5%) equity interest in the business enterprise.

122 (iv) The borrower must demonstrate ability to
123 repay the loan.

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

126 (vi) Loan proceeds may be used for financing all
127 project costs associated with development or expansion of a new
128 small business, including fixed assets, working capital, start-up

129 costs, rental payments, interest expense during construction and
130 professional fees related to the project.

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

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

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

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

162 stock, and control sixty percent (60%) of the management and daily
163 business operations of the business.

164 From and after July 1, 2010, monies not loaned or granted by
165 the Mississippi Development Authority to planning and development
166 districts or qualified entities under this subsection, and monies
167 not loaned by planning and development districts or qualified
168 entities, shall be deposited to the credit of the sinking fund
169 created and maintained in the State Treasury for the retirement of
170 bonds issued under Section 69-2-19.

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

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

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

225 (e) If the Mississippi Development Authority
226 determines, after notifying a planning and development district or
227 qualified entity twice in writing and providing copies of such

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

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

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

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

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

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

292 the Mississippi Development Authority shall be drawn from the
293 Emerging Crops Fund.

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

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

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

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

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

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

334 (14) (a) The Mississippi Development Authority shall, in
335 addition to the other programs described in this section, provide
336 for a program of loan guaranties to be made on behalf of any
337 nonprofit entity qualified under Section 501(c)(3) of the Internal
338 Revenue Code and certified by the United States Department of the
339 Treasury as a community development financial institution for the
340 purpose of encouraging the extension of financing to such an
341 entity which financing the entity will use to make funds available
342 to other entities for the purpose of making loans available in
343 low-income communities in Mississippi. Monies to make such loan
344 guaranties by the Mississippi Development Authority shall be drawn
345 from the Emerging Crops Fund and shall not exceed Two Million
346 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
347 guaranty on behalf of such an entity under this subsection (14)
348 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
349 received by an entity under this subsection (14) shall not
350 disqualify the entity from obtaining any other assistance under
351 this chapter.

352 (b) An entity desiring assistance under this subsection
353 (14) must submit an application to the Mississippi Development
354 Authority. The application must include any information required
355 by the Mississippi Development Authority.

356 (c) The Mississippi Development Authority shall have
357 all powers necessary to implement and administer the program

358 established under this subsection (14), and the Mississippi
359 Development Authority shall promulgate rules and regulations, in
360 accordance with the Mississippi Administrative Procedures Law,
361 necessary for the implementation of this subsection (14).

362 **SECTION 2.** This act shall take effect and be in force from
363 and after its passage.