

By: Senator(s) Robertson, Albritton, Butler, Dawkins, Dearing, Frazier, Horhn, Hyde-Smith, Jackson (32nd), Jordan, Simmons, Thomas, Walls To: Finance

SENATE BILL NO. 2526

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO SECURE LETTERS
3 OF CREDIT TO GUARANTEE BID, PERFORMANCE AND PAYMENT BONDS THAT
4 MINORITY BUSINESS ENTERPRISES ARE REQUIRED TO OBTAIN IN ORDER TO
5 CONTRACT WITH GOVERNMENTAL ENTITIES; AND FOR 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) (a) The Mississippi Development Authority shall, in
53 addition to the other programs described in this section, provide
54 for a 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 under this paragraph (a) shall not exceed twenty percent (20%) of
63 the total cost of the project for which financing is sought or Two
64 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
65 interest shall be charged on such loans, and only the amount
66 actually loaned shall be required to be repaid. Repayments shall
67 be deposited into the Emerging Crops Fund.

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

90 (4) (a) Through June 30, 2010, the Mississippi Development
91 Authority may loan or grant to qualified planning and development
92 districts, and to small business investment corporations,
93 bank-based community development corporations, the Recruitment and
94 Training Program, Inc., the City of Jackson Business Development

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

111 (i) The business enterprise must be a private,
112 for-profit enterprise.

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

118 (iii) The borrower must have at least five percent
119 (5%) equity interest in the business enterprise.

120 (iv) The borrower must demonstrate ability to
121 repay the loan.

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

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

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

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

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

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

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

160 corporation, sixty percent (60%) of the voting stock, and control
161 sixty percent (60%) of the management and daily business
162 operations of the business. However, an individual whose personal
163 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)
164 shall not be considered to be an economically disadvantaged
165 individual.

166 From and after July 1, 2010, 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. The Mississippi Development Authority may secure
256 letters of credit, as determined necessary by the authority, to
257 guarantee bid, performance and payment bonds pursuant to this

258 subsection. Monies for such program shall be drawn from the
259 monies allocated under subsection (4) of this section to assist
260 the financing of minority economic development and shall not
261 exceed Three Million Dollars (\$3,000,000.00) in the aggregate.
262 The Mississippi Development Authority may promulgate rules and
263 regulations for the operation of the program established pursuant
264 to this subsection. For the purpose of this subsection (5) the
265 term "minority business enterprise" has the meaning assigned such
266 term in subsection (4) of this section.

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

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

290 processing plants associated with the Department of Agriculture
291 and Commerce and the Mississippi State Extension Service.

292 (8) From and after July 1, 1996, the Mississippi Development
293 Authority shall make available to the Mississippi Small Farm
294 Development Center One Million Dollars (\$1,000,000.00) to be used
295 by the center to assist small entrepreneurs as provided in Section
296 37-101-25, Mississippi Code of 1972. The monies made available by
297 the Mississippi Development Authority shall be drawn from the
298 Emerging Crops Fund.

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

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

321 (11) The Mississippi Development Authority shall make
322 available to the Mississippi Department of Agriculture and

323 Commerce "Make Mine Mississippi" program an amount not to exceed
324 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
325 the cash balance of the Emerging Crops Fund.

326 (12) The Mississippi Development Authority shall make
327 available to the Mississippi Department of Agriculture and
328 Commerce an amount not to exceed One Hundred Fifty Thousand
329 Dollars (\$150,000.00) to be drawn from the cash balance of the
330 Emerging Crops Fund to be used for the rehabilitation and
331 maintenance of the Mississippi Farmers Central Market in Jackson,
332 Mississippi.

333 (13) The Mississippi Development Authority shall make
334 available to the Mississippi Department of Agriculture and
335 Commerce an amount not to exceed Twenty-five Thousand Dollars
336 (\$25,000.00) to be drawn from the cash balance of the Emerging
337 Crops Fund to be used for advertising purposes related to the
338 Mississippi Farmers Central Market in Jackson, Mississippi.

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

355 disqualify the entity from obtaining any other assistance under
356 this chapter.

357 (b) An entity desiring assistance under this subsection
358 (14) must submit an application to the Mississippi Development
359 Authority. The application must include any information required
360 by the Mississippi Development Authority.

361 (c) The Mississippi Development Authority shall have
362 all powers necessary to implement and administer the program
363 established under this subsection (14), and the Mississippi
364 Development Authority shall promulgate rules and regulations, in
365 accordance with the Mississippi Administrative Procedures Law,
366 necessary for the implementation of this subsection (14).

367 **SECTION 2.** This act shall take effect and be in force from
368 and after July 1, 2007.