

By: Senator(s) Robertson, Albritton, Butler, Clarke, Dawkins, Frazier, Gollott, Harden, Horhn, Hyde-Smith, Jackson (11th), Jackson (32nd), Jordan, Mettetal, Posey, Simmons, Thomas, Walls, White, Wilemon To: Finance

## SENATE BILL NO. 3172

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO  
2 INCREASE FROM \$26,000,000.00 TO \$27,000,000.00 THE AMOUNT THAT MAY  
3 BE DRAWN FROM THE EMERGING CROPS FUND BY THE MISSISSIPPI  
4 DEVELOPMENT AUTHORITY TO PROVIDE LOANS OR GRANTS TO ASSIST IN  
5 PROVIDING FINANCING FOR MINORITY ECONOMIC DEVELOPMENT; TO AMEND  
6 SECTION 69-2-19, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT  
7 OF GENERAL OBLIGATION BONDS THAT MAY BE ISSUED FOR THE EMERGING  
8 CROPS FUND FROM \$105,000,000.00 TO \$106,000,000.00; AND FOR  
9 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, 2010, 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-seven Million Dollars (\$27,000,000.00) 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. Except as otherwise provided, for purposes  
157 of this subsection, the term "socially and economically  
158 disadvantaged small business concern" shall have the meaning  
159 ascribed to such term under the Small Business Act (15 USCS,  
160 Section 637(a)), or women, and the term "owned and controlled"  
161 means a business in which one or more minorities or minority  
162 business enterprises certified by the Mississippi Development

163 Authority own sixty percent (60%) or, in the case of a  
164 corporation, sixty percent (60%) of the voting stock, and control  
165 sixty percent (60%) of the management and daily business  
166 operations of the business. However, an individual whose personal  
167 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)  
168 shall not be considered to be an economically disadvantaged  
169 individual.

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

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

196 use uncommitted funds in its loan revolving fund to provide  
197 temporary funding under this paragraph (c) on more than two (2)  
198 occasions during a calendar year. A planning and development  
199 district may provide temporary funding for multiple commitments on  
200 each such occasion. The maximum aggregate amount of uncommitted  
201 funds in a loan revolving fund that may be used for such purposes  
202 during a calendar year shall not exceed seventy percent (70%) of  
203 the uncommitted funds in the loan revolving fund on the date the  
204 district first provides temporary funding during the calendar  
205 year.

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

229 Authority all administrative and management control of loans  
230 provided by it under this subsection.

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

254 (5) The Mississippi Development Authority shall develop a  
255 program which will assist minority business enterprises by  
256 guaranteeing bid, performance and payment bonds which such  
257 minority businesses are required to obtain in order to contract  
258 with federal agencies, state agencies or political subdivisions of  
259 the state. Monies for such program shall be drawn from the monies  
260 allocated under subsection (4) of this section to assist the  
261 financing of minority economic development and shall not exceed



262 Three Million Dollars (\$3,000,000.00) in the aggregate. The  
263 Mississippi Development Authority may promulgate rules and  
264 regulations for the operation of the program established pursuant  
265 to this subsection. For the purpose of this subsection (5) the  
266 term "minority business enterprise" has the meaning assigned such  
267 term in subsection (4) of this section.

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

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

293 (8) From and after July 1, 1996, the Mississippi Development  
294 Authority shall make available to the Mississippi Small Farm

295 Development Center One Million Dollars (\$1,000,000.00) to be used  
296 by the center to assist small entrepreneurs as provided in Section  
297 37-101-25, Mississippi Code of 1972. The monies made available by  
298 the Mississippi Development Authority shall be drawn from the  
299 Emerging Crops Fund.

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

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

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

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

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

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

358           (b) An entity desiring assistance under this subsection  
359 (14) must submit an application to the Mississippi Development

360 Authority. The application must include any information required  
361 by the Mississippi Development Authority.

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

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

370 69-2-19. (1) The Mississippi Development Authority is  
371 authorized, at one time, or from time to time, to declare by  
372 resolution the necessity for issuance of negotiable general  
373 obligation bonds of the State of Mississippi to provide funds for  
374 the Emerging Crops Fund established in Section 69-2-13. Upon the  
375 adoption of a resolution by the board, declaring the necessity for  
376 the issuance of any part or all of the general obligation bonds  
377 authorized by Sections 69-2-19 through 69-2-39, the authority  
378 shall deliver a certified copy of its resolution or resolutions to  
379 the State Bond Commission. Upon receipt of same, the State Bond  
380 Commission, in its discretion, shall act as the issuing agent,  
381 prescribe the form of the bonds, advertise for and accept bids,  
382 issue and sell the bonds so authorized to be sold, and do any and  
383 all other things necessary and advisable in connection with the  
384 issuance and sale of such bonds. The amount of bonds issued under  
385 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Six  
386 Million Dollars (\$106,000,000.00) in the aggregate; however:

387 (a) An additional amount of bonds may be issued under  
388 Sections 69-2-19 through 69-2-39 in an amount not to exceed  
389 Thirty-five Million Dollars (\$35,000,000.00), and the proceeds of  
390 any such additional bonds shall be used solely for the purposes  
391 described in Section 69-2-13(3)(b); and

392           (b) An additional amount of bonds may be issued under  
393 Sections 69-2-19 through 69-2-39 in an amount not to exceed Two  
394 Million Dollars (\$2,000,000.00), and the proceeds of any such  
395 additional bonds shall be used solely for the purposes described  
396 in Section 69-2-13(14).

397           (2) No bonds may be issued under Sections 69-2-19 through  
398 69-2-39 after October 1, 2019.

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