

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
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE LOANS TO
3 AGRIBUSINESS ENTERPRISES ENGAGED IN POULTRY OPERATION FOR THE
4 PURPOSE OF MAKING UPGRADED REPAIRS AND OTHER IMPROVEMENTS TO THEIR
5 EQUIPMENT, FACILITIES AND OPERATIONS; TO INCREASE FROM
6 \$26,000,000.00 TO \$27,000,000.00 THE AMOUNT THAT MAY BE DRAWN FROM
7 THE EMERGING CROPS FUND BY THE MISSISSIPPI DEVELOPMENT AUTHORITY
8 TO PROVIDE LOANS OR GRANTS TO ASSIST IN PROVIDING FINANCING FOR
9 MINORITY ECONOMIC DEVELOPMENT; TO AUTHORIZE THE MISSISSIPPI
10 DEVELOPMENT AUTHORITY TO SECURE LETTERS OF CREDIT TO GUARANTEE
11 BID, PERFORMANCE AND PAYMENT BONDS THAT MINORITY BUSINESS
12 ENTERPRISES ARE REQUIRED TO OBTAIN IN ORDER TO CONTRACT WITH
13 GOVERNMENTAL ENTITIES; TO AMEND SECTION 69-2-19, MISSISSIPPI CODE
14 OF 1972, TO INCREASE THE AMOUNT OF GENERAL OBLIGATION BONDS THAT
15 MAY BE ISSUED FOR THE EMERGING CROPS FUND FROM \$105,000,000.00 TO
16 \$106,000,000.00; AND FOR RELATED PURPOSES.

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

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

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

35 (2) (a) The Mississippi Development Authority shall develop
36 a program which gives fair consideration to making loans for the
37 processing and manufacturing of goods and services by
38 agribusiness, greenhouse production horticulture, and small
39 business concerns. It is the policy of the State of Mississippi
40 that the Mississippi Development Authority shall give due
41 recognition to and shall aid, counsel, assist and protect, insofar
42 as is possible, the interests of agribusiness, greenhouse
43 production horticulture, and small business concerns. To ensure
44 that the purposes of this subsection are carried out, the
45 Mississippi Development Authority shall loan not more than One
46 Million Dollars (\$1,000,000.00) to finance any single
47 agribusiness, greenhouse production horticulture, or small
48 business concern. Loans made pursuant to this subsection shall be
49 made in accordance with the criteria established in Section
50 57-71-11.

51 (b) The Mississippi Development Authority may, out of
52 the total amount of bonds authorized to be issued under this
53 chapter, make available funds to any planning and development
54 district in accordance with the criteria established in Section
55 57-71-11. Planning and development districts which receive monies
56 pursuant to this provision shall use such monies to make loans to
57 private companies for purposes consistent with this subsection.

58 (c) The Mississippi Development Authority is hereby
59 authorized to engage legal services, financial advisors,
60 appraisers and consultants if needed to review and close loans
61 made hereunder and to establish and assess reasonable fees,
62 including, but not limited to, liquidation expenses.

63 (3) (a) The Mississippi Development Authority shall, in
64 addition to the other programs described in this section, provide
65 for a program of loans to be made to agribusiness or greenhouse
66 production horticulture enterprises for the purpose of encouraging
67 thereby the extension of conventional financing and the issuance

68 of letters of credit to such agribusiness or greenhouse production
69 horticulture enterprises by private institutions. Monies to make
70 such loans by the Mississippi Development Authority shall be drawn
71 from the Emerging Crops Fund. The amount of a loan to any single
72 agribusiness or greenhouse production horticulture enterprise
73 under this paragraph (a) shall not exceed twenty percent (20%) of
74 the total cost of the project for which financing is sought or Two
75 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
76 interest shall be charged on such loans, and only the amount
77 actually loaned shall be required to be repaid. Repayments shall
78 be deposited into the Emerging Crops Fund. The Mississippi
79 Development Authority also may make loans under this paragraph (a)
80 to agribusinesses engaged in poultry production operations for the
81 purpose of assisting such agribusinesses to make upgrades,
82 renovations, repairs and other improvements to their equipment,
83 facilities and operations, which shall not exceed a total cost of
84 Two Hundred Thousand Dollars (\$200,000.00) of the ending cash
85 balance, and the amount of a loan to any single agribusiness for
86 the retrofitting of poultry houses shall not exceed thirty percent
87 (30%) of the total cost of the project for which financing is
88 sought. No interest shall be charged on such loans, and only the
89 amount actually loaned shall be required to be repaid.

90 (b) The Mississippi Development Authority shall, in
91 addition to the other programs described in this section, provide
92 for a program of loans or loan guaranties, or both, to be made to
93 or on behalf of any agribusiness enterprise engaged in beef
94 processing for the purpose of encouraging thereby the extension of
95 conventional financing and the issuance of letters of credit to
96 such agribusiness enterprises by private institutions. Monies to
97 make such loans or loan guaranties, or both, by the Mississippi
98 Development Authority shall be drawn from the Emerging Crops Fund
99 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
100 in the aggregate. The amount of a loan to any single agribusiness

101 enterprise or loan guaranty on behalf of such agribusiness
102 enterprise, or both, under this paragraph (b) shall not exceed the
103 total cost of the project for which financing is sought or
104 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
105 The interest charged on a loan made under this paragraph (b) shall
106 be at a rate determined by the Mississippi Development Authority.
107 All repayments of any loan made under this paragraph (b) shall be
108 deposited into the Emerging Crops Fund. Assistance received by an
109 agribusiness enterprise under this paragraph (b) shall not
110 disqualify the agribusiness enterprise from obtaining any other
111 assistance under this chapter.

112 (4) (a) Through June 30, 2010, the Mississippi Development
113 Authority may loan or grant to qualified planning and development
114 districts, and to small business investment corporations,
115 bank-based community development corporations, the Recruitment and
116 Training Program, Inc., the City of Jackson Business Development
117 Loan Fund, the Lorman Southwest Mississippi Development
118 Corporation, the West Jackson Community Development Corporation,
119 the East Mississippi Development Corporation, and other entities
120 meeting the criteria established by the Mississippi Development
121 Authority (all referred to hereinafter as "qualified entities"),
122 funds for the purpose of establishing loan revolving funds to
123 assist in providing financing for minority economic development.
124 The monies loaned or granted by the Mississippi Development
125 Authority shall be drawn from the Emerging Crops Fund and shall
126 not exceed Twenty-seven Million Dollars (\$27,000,000.00) in the
127 aggregate. Planning and development districts or qualified
128 entities which receive monies pursuant to this provision shall use
129 such monies to make loans to minority business enterprises
130 consistent with criteria established by the Mississippi
131 Development Authority. Such criteria shall include, at a minimum,
132 the following:

133 (i) The business enterprise must be a private,
134 for-profit enterprise.

135 (ii) If the business enterprise is a
136 proprietorship, the borrower must be a resident citizen of the
137 State of Mississippi; if the business enterprise is a corporation
138 or partnership, at least fifty percent (50%) of the owners must be
139 resident citizens of the State of Mississippi.

140 (iii) The borrower must have at least five percent
141 (5%) equity interest in the business enterprise.

142 (iv) The borrower must demonstrate ability to
143 repay the loan.

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

146 (vi) Loan proceeds may be used for financing all
147 project costs associated with development or expansion of a new
148 small business, including fixed assets, working capital, start-up
149 costs, rental payments, interest expense during construction and
150 professional fees related to the project.

151 (vii) Loan proceeds shall not be used to pay off
152 existing debt for loan consolidation purposes; to finance the
153 acquisition, construction, improvement or operation of real
154 property which is to be held primarily for sale or investment; to
155 provide for, or free funds, for speculation in any kind of
156 property; or as a loan to owners, partners or stockholders of the
157 applicant which do not change ownership interest by the applicant.
158 However, this does not apply to ordinary compensation for services
159 rendered in the course of business.

160 (viii) The maximum amount that may be loaned to
161 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
162 (\$250,000.00).

163 (ix) The Mississippi Development Authority shall
164 review each loan before it is made, and no loan shall be made to

165 any borrower until the loan has been reviewed and approved by the
166 Mississippi Development Authority.

167 (b) For the purpose of this subsection, the term
168 "minority business enterprise" means a socially and economically
169 disadvantaged small business concern, organized for profit,
170 performing a commercially useful function which is owned and
171 controlled by one or more minorities or minority business
172 enterprises certified by the Mississippi Development Authority, at
173 least fifty percent (50%) of whom are resident citizens of the
174 State of Mississippi. Except as otherwise provided, for purposes
175 of this subsection, the term "socially and economically
176 disadvantaged small business concern" shall have the meaning
177 ascribed to such term under the Small Business Act (15 USCS,
178 Section 637(a)), or women, and the term "owned and controlled"
179 means a business in which one or more minorities or minority
180 business enterprises certified by the Mississippi Development
181 Authority own sixty percent (60%) or, in the case of a
182 corporation, sixty percent (60%) of the voting stock, and control
183 sixty percent (60%) of the management and daily business
184 operations of the business. However, an individual whose personal
185 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)
186 shall not be considered to be an economically disadvantaged
187 individual.

188 From and after July 1, 2010, monies not loaned or granted by
189 the Mississippi Development Authority to planning and development
190 districts or qualified entities under this subsection, and monies
191 not loaned by planning and development districts or qualified
192 entities, shall be deposited to the credit of the sinking fund
193 created and maintained in the State Treasury for the retirement of
194 bonds issued under Section 69-2-19.

195 (c) Notwithstanding any other provision of this
196 subsection to the contrary, if federal funds are not available for
197 commitments made by a planning and development district to provide

198 assistance under any federal loan program administered by the
199 planning and development district in coordination with the
200 Appalachian Regional Commission or Economic Development
201 Administration, or both, a planning and development district may
202 use funds in its loan revolving fund, which have not been
203 committed otherwise to provide assistance, for the purpose of
204 providing temporary funding for such commitments. If a planning
205 and development district uses uncommitted funds in its loan
206 revolving fund to provide such temporary funding, the district
207 shall use funds repaid to the district under the temporarily
208 funded federal loan program to replenish the funds used to provide
209 the temporary funding. Funds used by a planning and development
210 district to provide temporary funding under this paragraph (c)
211 must be repaid to the district's loan revolving fund no later than
212 twelve (12) months after the date the district provides the
213 temporary funding. A planning and development district may not
214 use uncommitted funds in its loan revolving fund to provide
215 temporary funding under this paragraph (c) on more than two (2)
216 occasions during a calendar year. A planning and development
217 district may provide temporary funding for multiple commitments on
218 each such occasion. The maximum aggregate amount of uncommitted
219 funds in a loan revolving fund that may be used for such purposes
220 during a calendar year shall not exceed seventy percent (70%) of
221 the uncommitted funds in the loan revolving fund on the date the
222 district first provides temporary funding during the calendar
223 year.

224 (d) If the Mississippi Development Authority determines
225 that a planning and development district or qualified entity has
226 provided loans to minority businesses in a manner inconsistent
227 with the provisions of this subsection, then the amount of such
228 loans so provided shall be withheld by the Mississippi Development
229 Authority from any additional grant funds to which the planning
230 and development district or qualified entity becomes entitled

231 under this subsection. If the Mississippi Development Authority
232 determines, after notifying such planning and development district
233 or qualified entity twice in writing and providing such planning
234 and development district or qualified entity a reasonable
235 opportunity to comply, that a planning and development district or
236 qualified entity has consistently failed to comply with this
237 subsection, the Mississippi Development Authority may declare such
238 planning and development district or qualified entity in default
239 under this subsection and, upon receipt of notice thereof from the
240 Mississippi Development Authority, such planning and development
241 district or qualified entity shall immediately cease providing
242 loans under this subsection, shall refund to the Mississippi
243 Development Authority for distribution to other planning and
244 development districts or qualified entities all funds held in its
245 revolving loan fund and, if required by the Mississippi
246 Development Authority, shall convey to the Mississippi Development
247 Authority all administrative and management control of loans
248 provided by it under this subsection.

249 (e) If the Mississippi Development Authority
250 determines, after notifying a planning and development district or
251 qualified entity twice in writing and providing copies of such
252 notification to each member of the Legislature in whose district
253 or in a part of whose district such planning and development
254 district or qualified entity is located and providing such
255 planning and development district or qualified entity a reasonable
256 opportunity to take corrective action, that a planning and
257 development district or qualified entity administering a revolving
258 loan fund under the provisions of this subsection is not actively
259 engaged in lending as defined by the rules and regulations of the
260 Mississippi Development Authority, the Mississippi Development
261 Authority may declare such planning and development district or
262 qualified entity in default under this subsection and, upon
263 receipt of notice thereof from the Mississippi Development

264 Authority, such planning and development district or qualified
265 entity shall immediately cease providing loans under this
266 subsection, shall refund to the Mississippi Development Authority
267 for distribution to other planning and development districts or
268 qualified entities all funds held in its revolving loan fund and,
269 if required by the Mississippi Development Authority, shall convey
270 to the Mississippi Development Authority all administrative and
271 management control of loans provided by it under this subsection.

272 (5) The Mississippi Development Authority shall develop a
273 program which will assist minority business enterprises by
274 guaranteeing bid, performance and payment bonds which such
275 minority businesses are required to obtain in order to contract
276 with federal agencies, state agencies or political subdivisions of
277 the state. The Mississippi Development Authority may secure
278 letters of credit, as determined necessary by the authority, to
279 guarantee bid, performance and payment bonds pursuant to this
280 subsection. Monies for such program shall be drawn from the
281 monies allocated under subsection (4) of this section to assist
282 the financing of minority economic development and shall not
283 exceed Three Million Dollars (\$3,000,000.00) in the aggregate.
284 The Mississippi Development Authority may promulgate rules and
285 regulations for the operation of the program established pursuant
286 to this subsection. For the purpose of this subsection (5) the
287 term "minority business enterprise" has the meaning assigned such
288 term in subsection (4) of this section.

289 (6) The Mississippi Development Authority may loan or grant
290 to public entities and to nonprofit corporations funds to defray
291 the expense of financing (or to match any funds available from
292 other public or private sources for the expense of financing)
293 projects in this state which are devoted to the study, teaching
294 and/or promotion of regional crafts and which are deemed by the
295 authority to be significant tourist attractions. The monies
296 loaned or granted shall be drawn from the Emerging Crops Fund and

297 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
298 in the aggregate.

299 (7) Through June 30, 2006, the Mississippi Development
300 Authority shall make available to the Mississippi Department of
301 Agriculture and Commerce funds for the purpose of establishing
302 loan revolving funds and other methods of financing for
303 agribusiness programs administered under the Mississippi
304 Agribusiness Council Act of 1993. The monies made available by
305 the Mississippi Development Authority shall be drawn from the
306 Emerging Crops Fund and shall not exceed One Million Two Hundred
307 Thousand Dollars (\$1,200,000.00) in the aggregate. The
308 Mississippi Department of Agriculture and Commerce shall establish
309 control and auditing procedures for use of these funds. These
310 funds will be used primarily for quick payment to farmers for
311 vegetable and fruit crops processed and sold through vegetable
312 processing plants associated with the Department of Agriculture
313 and Commerce and the Mississippi State Extension Service.

314 (8) From and after July 1, 1996, the Mississippi Development
315 Authority shall make available to the Mississippi Small Farm
316 Development Center One Million Dollars (\$1,000,000.00) to be used
317 by the center to assist small entrepreneurs as provided in Section
318 37-101-25, Mississippi Code of 1972. The monies made available by
319 the Mississippi Development Authority shall be drawn from the
320 Emerging Crops Fund.

321 (9) The Mississippi Development Authority shall make
322 available to the Agribusiness and Natural Resource Development
323 Center through Alcorn State University an amount not to exceed Two
324 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
325 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
326 year 2002 from the cash balance of the Emerging Crops Fund to
327 support the development of a cooperative program for agribusiness
328 development, marketing and natural resources development. This
329 subsection (9) shall stand repealed on June 30, 2006.

330 (10) The Mississippi Development Authority shall make
331 available to the Small Farm Development Center at Alcorn State
332 University funds in an aggregate amount not to exceed Three
333 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
334 balance of the Emerging Crops Fund. The Small Farm Development
335 Center at Alcorn State University shall use such funds to make
336 loans to producers of sweet potatoes and cooperatives anywhere in
337 the State of Mississippi owned by sweet potato producers to assist
338 in the planting of sweet potatoes and the purchase of sweet potato
339 production and harvesting equipment. A report of the loans made
340 under this subsection shall be furnished by January 15 of each
341 year to the Chairman of the Senate Agriculture Committee and the
342 Chairman of the House Agriculture Committee.

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

348 (12) The Mississippi Development Authority shall make
349 available to the Mississippi Department of Agriculture and
350 Commerce an amount not to exceed One Hundred Fifty Thousand
351 Dollars (\$150,000.00) to be drawn from the cash balance of the
352 Emerging Crops Fund to be used for the rehabilitation and
353 maintenance of the Mississippi Farmers Central Market in Jackson,
354 Mississippi.

355 (13) The Mississippi Development Authority shall make
356 available to the Mississippi Department of Agriculture and
357 Commerce an amount not to exceed Twenty-five Thousand Dollars
358 (\$25,000.00) to be drawn from the cash balance of the Emerging
359 Crops Fund to be used for advertising purposes related to the
360 Mississippi Farmers Central Market in Jackson, Mississippi.

361 (14) (a) The Mississippi Development Authority shall, in
362 addition to the other programs described in this section, provide

363 for a program of loan guaranties to be made on behalf of any
364 nonprofit entity qualified under Section 501(c)(3) of the Internal
365 Revenue Code and certified by the United States Department of the
366 Treasury as a community development financial institution for the
367 purpose of encouraging the extension of financing to such an
368 entity which financing the entity will use to make funds available
369 to other entities for the purpose of making loans available in
370 low-income communities in Mississippi. Monies to make such loan
371 guaranties by the Mississippi Development Authority shall be drawn
372 from the Emerging Crops Fund and shall not exceed Two Million
373 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
374 guaranty on behalf of such an entity under this subsection (14)
375 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
376 received by an entity under this subsection (14) shall not
377 disqualify the entity from obtaining any other assistance under
378 this chapter.

379 (b) An entity desiring assistance under this subsection
380 (14) must submit an application to the Mississippi Development
381 Authority. The application must include any information required
382 by the Mississippi Development Authority.

383 (c) The Mississippi Development Authority shall have
384 all powers necessary to implement and administer the program
385 established under this subsection (14), and the Mississippi
386 Development Authority shall promulgate rules and regulations, in
387 accordance with the Mississippi Administrative Procedures Law,
388 necessary for the implementation of this subsection (14).

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

391 69-2-19. (1) The Mississippi Development Authority is
392 authorized, at one time, or from time to time, to declare by
393 resolution the necessity for issuance of negotiable general
394 obligation bonds of the State of Mississippi to provide funds for
395 the Emerging Crops Fund established in Section 69-2-13. Upon the

396 adoption of a resolution by the board, declaring the necessity for
397 the issuance of any part or all of the general obligation bonds
398 authorized by Sections 69-2-19 through 69-2-39, the authority
399 shall deliver a certified copy of its resolution or resolutions to
400 the State Bond Commission. Upon receipt of same, the State Bond
401 Commission, in its discretion, shall act as the issuing agent,
402 prescribe the form of the bonds, advertise for and accept bids,
403 issue and sell the bonds so authorized to be sold, and do any and
404 all other things necessary and advisable in connection with the
405 issuance and sale of such bonds. The amount of bonds issued under
406 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Six
407 Million Dollars (\$106,000,000.00) in the aggregate; however:

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

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

418 (2) No bonds may be issued under Sections 69-2-19 through
419 69-2-39 after October 1, 2019.

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