

By: Senator(s) Robertson, Harden

To: Finance

SENATE BILL NO. 3037

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972,  
2 WHICH CREATES THE EMERGING CROPS FUND, TO EXTEND THE REPEALER ON  
3 THE PROVISION OF LAW PROVIDING CERTAIN FUNDS TO THE AGRIBUSINESS  
4 AND NATURAL RESOURCE DEVELOPMENT CENTER THROUGH ALCORN STATE  
5 UNIVERSITY DURING FISCAL YEAR 2001 AND FISCAL YEAR 2002; AND FOR  
6 RELATED PURPOSES.

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

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

10 69-2-13. (1) There is hereby established in the State  
11 Treasury a fund to be known as the "Emerging Crops Fund," which  
12 shall be used to pay the interest on loans made to farmers for  
13 nonland capital costs of establishing production of emerging crops  
14 on land in Mississippi, and to make loans and grants which are  
15 authorized under this section to be made from the fund. The fund  
16 shall be administered by the Mississippi Development Authority. A  
17 board comprised of the directors of the authority, the Mississippi  
18 Cooperative Extension Service, the Mississippi Small Farm  
19 Development Center and the Mississippi Agricultural and Forestry  
20 Experiment Station, or their designees, shall develop definitions,  
21 guidelines and procedures for the implementation of this chapter.  
22 Funds for the Emerging Crops Fund shall be provided from the  
23 issuance of bonds or notes under Sections 69-2-19 through 69-2-37  
24 and from repayment of interest loans made from the fund.

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

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

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

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

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

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

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

91 (4) (a) Through June 30, 2004, the Mississippi Development  
92 Authority may loan or grant to qualified planning and development  
93 districts, and to small business investment corporations,  
94 bank-based community development corporations, the Recruitment and  
95 Training Program, Inc., the City of Jackson Business Development

96 Loan Fund, the Lorman Southwest Mississippi Development  
97 Corporation, the West Jackson Community Development Corporation,  
98 the East Mississippi Development Corporation, and other entities  
99 meeting the criteria established by the Mississippi Development  
100 Authority (all referred to hereinafter as "qualified entities"),  
101 funds for the purpose of establishing loan revolving funds to  
102 assist in providing financing for minority economic development.  
103 The monies loaned or granted by the Mississippi Development  
104 Authority shall be drawn from the Emerging Crops Fund and shall  
105 not exceed Twenty-five Million Dollars (\$25,000,000.00) in the  
106 aggregate. Planning and development districts or qualified  
107 entities which receive monies pursuant to this provision shall use  
108 such monies to make loans to minority business enterprises  
109 consistent with criteria established by the Mississippi  
110 Development Authority. Such criteria shall include, at a minimum,  
111 the following:

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

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

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

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

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

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

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

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

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

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

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

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

163 From and after July 1, 2004, monies not loaned or granted by  
164 the Mississippi Development Authority to planning and development  
165 districts or qualified entities under this subsection, and monies  
166 not loaned by planning and development districts or qualified  
167 entities, shall be deposited to the credit of the sinking fund  
168 created and maintained in the State Treasury for the retirement of  
169 bonds issued under Section 69-2-19.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

333 **SECTION 2.** This act shall take effect and be in force from  
334 and after June 30, 2004.