

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2685  
(As Sent to Governor)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

227 Authority all administrative and management control of loans  
228 provided by it under this subsection.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

358 Authority. The application must include any information required  
359 by the Mississippi Development Authority.

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

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