

By: Representative Arinder

To: Agriculture; Ways and
MeansCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1233

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY MAKE LOANS
3 FROM THE EMERGING CROPS FUND TO AGRIBUSINESSES ENGAGED IN POULTRY
4 PRODUCTION OPERATIONS FOR THE PURPOSE OF ASSISTING SUCH
5 AGRIBUSINESSES TO MAKE UPGRADES, RENOVATIONS, REPAIRS AND OTHER
6 IMPROVEMENTS TO THEIR EQUIPMENT, FACILITIES AND OPERATIONS; TO
7 REQUIRE PERSONS APPLYING FOR LOANS TO HAVE A WRITTEN LETTER OF
8 AGREEMENT FROM A CONTRACTING POULTRY COMPANY TO COMPLY WITH TERMS
9 OF THE TEN POINT AGREEMENT; AND FOR 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. The Mississippi
72 Development Authority also may make loans under this paragraph (a)
73 to agribusinesses engaged in poultry production operations for the
74 purpose of assisting such agribusinesses to make upgrades,
75 renovations, repairs and other improvements to their equipment,
76 facilities and operations. Persons who apply for
77 poultry-production operation loans under this paragraph, whether
78 such poultry production operation is in existence on July 1, 2007,
79 or is established after such date, shall be required to obtain a
80 written letter of agreement, establishing a commitment from a
81 poultry company, which has met approval of the Mississippi
82 Development Authority, with which such person contracts, that such
83 poultry company has signed off and agrees to comply with the terms
84 of the Ten Point Agreement made by the Governor's Special Poultry
85 Committee as agreed on November 19, 1996, being more particularly
86 described as follows:

87 (i) All live birds will be weighed by a bonded
88 weighmaster on certified scales. Provisions will be made for
89 alternate certified scales in the event the primary scales are
90 "red tagged" by the State Weights and Measures Department.
91 Producers, their family or employees, with proper identification,
92 will be allowed to watch, without prior notice, live birds being
93 weighed.

94 (ii) All feed will be weighed under the same
95 agreement, including the observation of the weighing.

96 (iii) Processors will provide producers all
97 documentation that impacts a producer's settlement check, in a
98 legible manner, including, but not limited to:

99 1. Producer's copy of USDA Form 9061-2
100 (Sanderson will provide upon request).

101 2. A loading ticket, at the time of catching,
102 that gives truck number, trailer number, number of birds per coop
103 and number of full coops.

104 3. Copy of weight tickets for live birds.

105 4. A copy of medication charges, either at
106 the time of delivery or with settlement check.

107 5. A sample computation of the payment
108 formula, using the producer's actual figures. Growers will
109 produce and provide several sample computation formulas.

110 (iv) Processors will use all available means to
111 insure proper handling of birds from farm to plant. Damage by
112 catching crew of producer's equipment or facilities will be
113 reimbursed by his processor. Equipment stolen from poultry farms,
114 upon verification, will be replaced by the company.

115 (v) Equipment changes, on equipment in good
116 working order, will not be the sole basis for density cuts or
117 termination of a contract unless health or safety are the basis
118 for change. Placements will take into account seasonal
119 differences and product mix. Equipment changes on integrator
120 approved equipment will not be required on equipment in good
121 working order without integrator incentives. Integrators will
122 test, upon request of growers, new equipment that growers wish to
123 be added to the integrator's approved equipment list.

124 (vi) Producers and their immediate family who are
125 employed by the companies in live production will not be ranked
126 with other contract producers. Lady Forest will not be included
127 in this item.

128 (vii) Producers may join or assist any
129 organization or association of their choice. A producer's
130 membership in any organization will not affect his settlement in
131 any way.

132 (viii) Where requested and available, the
133 processor will furnish the producer a copy of veterinary reports
134 within forty-eight (48) hours of the time the report is received
135 by the processor. The processor will share with the producer all
136 known information and causes dealing with problematic situations
137 that affect farm management, including parent stock and age.

138 (ix) Processors will provide producers with
139 information on feed delivery procedures. When requested, feed
140 delivery trucks will be sealed at the plant with corresponding,
141 numbered seals that will be listed on the feed delivery ticket.
142 The seal will not be broken unless the grower is not available at
143 the time of actual delivery. The grower may request that he be
144 notified by telephone before the truck leaves the feed mill.

145 (x) Processors will provide producers applicable
146 management guidelines for broiler, pullet or breeder management.

147 (b) The Mississippi Development Authority shall, in
148 addition to the other programs described in this section, provide
149 for a program of loans or loan guaranties, or both, to be made to
150 or on behalf of any agribusiness enterprise engaged in beef
151 processing for the purpose of encouraging thereby the extension of
152 conventional financing and the issuance of letters of credit to
153 such agribusiness enterprises by private institutions. Monies to
154 make such loans or loan guaranties, or both, by the Mississippi
155 Development Authority shall be drawn from the Emerging Crops Fund
156 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
157 in the aggregate. The amount of a loan to any single agribusiness
158 enterprise or loan guaranty on behalf of such agribusiness
159 enterprise, or both, under this paragraph (b) shall not exceed the
160 total cost of the project for which financing is sought or

161 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
162 The interest charged on a loan made under this paragraph (b) shall
163 be at a rate determined by the Mississippi Development Authority.
164 All repayments of any loan made under this paragraph (b) shall be
165 deposited into the Emerging Crops Fund. Assistance received by an
166 agribusiness enterprise under this paragraph (b) shall not
167 disqualify the agribusiness enterprise from obtaining any other
168 assistance under this chapter.

169 (4) (a) Through June 30, 2010, the Mississippi Development
170 Authority may loan or grant to qualified planning and development
171 districts, and to small business investment corporations,
172 bank-based community development corporations, the Recruitment and
173 Training Program, Inc., the City of Jackson Business Development
174 Loan Fund, the Lorman Southwest Mississippi Development
175 Corporation, the West Jackson Community Development Corporation,
176 the East Mississippi Development Corporation, and other entities
177 meeting the criteria established by the Mississippi Development
178 Authority (all referred to hereinafter as "qualified entities"),
179 funds for the purpose of establishing loan revolving funds to
180 assist in providing financing for minority economic development.
181 The monies loaned or granted by the Mississippi Development
182 Authority shall be drawn from the Emerging Crops Fund and shall
183 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the
184 aggregate. Planning and development districts or qualified
185 entities which receive monies pursuant to this provision shall use
186 such monies to make loans to minority business enterprises
187 consistent with criteria established by the Mississippi
188 Development Authority. Such criteria shall include, at a minimum,
189 the following:

190 (i) The business enterprise must be a private,
191 for-profit enterprise.

192 (ii) If the business enterprise is a
193 proprietorship, the borrower must be a resident citizen of the

194 State of Mississippi; if the business enterprise is a corporation
195 or partnership, at least fifty percent (50%) of the owners must be
196 resident citizens of the State of Mississippi.

197 (iii) The borrower must have at least five percent
198 (5%) equity interest in the business enterprise.

199 (iv) The borrower must demonstrate ability to
200 repay the loan.

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

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

208 (vii) Loan proceeds shall not be used to pay off
209 existing debt for loan consolidation purposes; to finance the
210 acquisition, construction, improvement or operation of real
211 property which is to be held primarily for sale or investment; to
212 provide for, or free funds, for speculation in any kind of
213 property; or as a loan to owners, partners or stockholders of the
214 applicant which do not change ownership interest by the applicant.
215 However, this does not apply to ordinary compensation for services
216 rendered in the course of business.

217 (viii) The maximum amount that may be loaned to
218 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
219 (\$250,000.00).

220 (ix) The Mississippi Development Authority shall
221 review each loan before it is made, and no loan shall be made to
222 any borrower until the loan has been reviewed and approved by the
223 Mississippi Development Authority.

224 (b) For the purpose of this subsection, the term
225 "minority business enterprise" means a socially and economically
226 disadvantaged small business concern, organized for profit,

227 performing a commercially useful function which is owned and
228 controlled by one or more minorities or minority business
229 enterprises certified by the Mississippi Development Authority, at
230 least fifty percent (50%) of whom are resident citizens of the
231 State of Mississippi. Except as otherwise provided, for purposes
232 of this subsection, the term "socially and economically
233 disadvantaged small business concern" shall have the meaning
234 ascribed to such term under the Small Business Act (15 USCS,
235 Section 637(a)), or women, and the term "owned and controlled"
236 means a business in which one or more minorities or minority
237 business enterprises certified by the Mississippi Development
238 Authority own sixty percent (60%) or, in the case of a
239 corporation, sixty percent (60%) of the voting stock, and control
240 sixty percent (60%) of the management and daily business
241 operations of the business. However, an individual whose personal
242 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)
243 shall not be considered to be an economically disadvantaged
244 individual.

245 From and after July 1, 2010, monies not loaned or granted by
246 the Mississippi Development Authority to planning and development
247 districts or qualified entities under this subsection, and monies
248 not loaned by planning and development districts or qualified
249 entities, shall be deposited to the credit of the sinking fund
250 created and maintained in the State Treasury for the retirement of
251 bonds issued under Section 69-2-19.

252 (c) Notwithstanding any other provision of this
253 subsection to the contrary, if federal funds are not available for
254 commitments made by a planning and development district to provide
255 assistance under any federal loan program administered by the
256 planning and development district in coordination with the
257 Appalachian Regional Commission or Economic Development
258 Administration, or both, a planning and development district may
259 use funds in its loan revolving fund, which have not been

260 committed otherwise to provide assistance, for the purpose of
261 providing temporary funding for such commitments. If a planning
262 and development district uses uncommitted funds in its loan
263 revolving fund to provide such temporary funding, the district
264 shall use funds repaid to the district under the temporarily
265 funded federal loan program to replenish the funds used to provide
266 the temporary funding. Funds used by a planning and development
267 district to provide temporary funding under this paragraph (c)
268 must be repaid to the district's loan revolving fund no later than
269 twelve (12) months after the date the district provides the
270 temporary funding. A planning and development district may not
271 use uncommitted funds in its loan revolving fund to provide
272 temporary funding under this paragraph (c) on more than two (2)
273 occasions during a calendar year. A planning and development
274 district may provide temporary funding for multiple commitments on
275 each such occasion. The maximum aggregate amount of uncommitted
276 funds in a loan revolving fund that may be used for such purposes
277 during a calendar year shall not exceed seventy percent (70%) of
278 the uncommitted funds in the loan revolving fund on the date the
279 district first provides temporary funding during the calendar
280 year.

281 (d) If the Mississippi Development Authority determines
282 that a planning and development district or qualified entity has
283 provided loans to minority businesses in a manner inconsistent
284 with the provisions of this subsection, then the amount of such
285 loans so provided shall be withheld by the Mississippi Development
286 Authority from any additional grant funds to which the planning
287 and development district or qualified entity becomes entitled
288 under this subsection. If the Mississippi Development Authority
289 determines, after notifying such planning and development district
290 or qualified entity twice in writing and providing such planning
291 and development district or qualified entity a reasonable
292 opportunity to comply, that a planning and development district or

293 qualified entity has consistently failed to comply with this
294 subsection, the Mississippi Development Authority may declare such
295 planning and development district or qualified entity in default
296 under this subsection and, upon receipt of notice thereof from the
297 Mississippi Development Authority, such planning and development
298 district or qualified entity shall immediately cease providing
299 loans under this subsection, shall refund to the Mississippi
300 Development Authority for distribution to other planning and
301 development districts or qualified entities all funds held in its
302 revolving loan fund and, if required by the Mississippi
303 Development Authority, shall convey to the Mississippi Development
304 Authority all administrative and management control of loans
305 provided by it under this subsection.

306 (e) If the Mississippi Development Authority
307 determines, after notifying a planning and development district or
308 qualified entity twice in writing and providing copies of such
309 notification to each member of the Legislature in whose district
310 or in a part of whose district such planning and development
311 district or qualified entity is located and providing such
312 planning and development district or qualified entity a reasonable
313 opportunity to take corrective action, that a planning and
314 development district or qualified entity administering a revolving
315 loan fund under the provisions of this subsection is not actively
316 engaged in lending as defined by the rules and regulations of the
317 Mississippi Development Authority, the Mississippi Development
318 Authority may declare such planning and development district or
319 qualified entity in default under this subsection and, upon
320 receipt of notice thereof from the Mississippi Development
321 Authority, such planning and development district or qualified
322 entity shall immediately cease providing loans under this
323 subsection, shall refund to the Mississippi Development Authority
324 for distribution to other planning and development districts or
325 qualified entities all funds held in its revolving loan fund and,

326 if required by the Mississippi Development Authority, shall convey
327 to the Mississippi Development Authority all administrative and
328 management control of loans provided by it under this subsection.

329 (5) The Mississippi Development Authority shall develop a
330 program which will assist minority business enterprises by
331 guaranteeing bid, performance and payment bonds which such
332 minority businesses are required to obtain in order to contract
333 with federal agencies, state agencies or political subdivisions of
334 the state. Monies for such program shall be drawn from the monies
335 allocated under subsection (4) of this section to assist the
336 financing of minority economic development and shall not exceed
337 Three Million Dollars (\$3,000,000.00) in the aggregate. The
338 Mississippi Development Authority may promulgate rules and
339 regulations for the operation of the program established pursuant
340 to this subsection. For the purpose of this subsection (5) the
341 term "minority business enterprise" has the meaning assigned such
342 term in subsection (4) of this section.

343 (6) The Mississippi Development Authority may loan or grant
344 to public entities and to nonprofit corporations funds to defray
345 the expense of financing (or to match any funds available from
346 other public or private sources for the expense of financing)
347 projects in this state which are devoted to the study, teaching
348 and/or promotion of regional crafts and which are deemed by the
349 authority to be significant tourist attractions. The monies
350 loaned or granted shall be drawn from the Emerging Crops Fund and
351 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
352 in the aggregate.

353 (7) Through June 30, 2006, the Mississippi Development
354 Authority shall make available to the Mississippi Department of
355 Agriculture and Commerce funds for the purpose of establishing
356 loan revolving funds and other methods of financing for
357 agribusiness programs administered under the Mississippi
358 Agribusiness Council Act of 1993. The monies made available by

359 the Mississippi Development Authority shall be drawn from the
360 Emerging Crops Fund and shall not exceed One Million Two Hundred
361 Thousand Dollars (\$1,200,000.00) in the aggregate. The
362 Mississippi Department of Agriculture and Commerce shall establish
363 control and auditing procedures for use of these funds. These
364 funds will be used primarily for quick payment to farmers for
365 vegetable and fruit crops processed and sold through vegetable
366 processing plants associated with the Department of Agriculture
367 and Commerce and the Mississippi State Extension Service.

368 (8) From and after July 1, 1996, the Mississippi Development
369 Authority shall make available to the Mississippi Small Farm
370 Development Center One Million Dollars (\$1,000,000.00) to be used
371 by the center to assist small entrepreneurs as provided in Section
372 37-101-25, Mississippi Code of 1972. The monies made available by
373 the Mississippi Development Authority shall be drawn from the
374 Emerging Crops Fund.

375 (9) The Mississippi Development Authority shall make
376 available to the Agribusiness and Natural Resource Development
377 Center through Alcorn State University an amount not to exceed Two
378 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
379 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
380 year 2002 from the cash balance of the Emerging Crops Fund to
381 support the development of a cooperative program for agribusiness
382 development, marketing and natural resources development. This
383 subsection (9) shall stand repealed on June 30, 2006.

384 (10) The Mississippi Development Authority shall make
385 available to the Small Farm Development Center at Alcorn State
386 University funds in an aggregate amount not to exceed Three
387 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
388 balance of the Emerging Crops Fund. The Small Farm Development
389 Center at Alcorn State University shall use such funds to make
390 loans to producers of sweet potatoes and cooperatives anywhere in
391 the State of Mississippi owned by sweet potato producers to assist

392 in the planting of sweet potatoes and the purchase of sweet potato
393 production and harvesting equipment. A report of the loans made
394 under this subsection shall be furnished by January 15 of each
395 year to the Chairman of the Senate Agriculture Committee and the
396 Chairman of the House Agriculture Committee.

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

402 (12) The Mississippi Development Authority shall make
403 available to the Mississippi Department of Agriculture and
404 Commerce an amount not to exceed One Hundred Fifty Thousand
405 Dollars (\$150,000.00) to be drawn from the cash balance of the
406 Emerging Crops Fund to be used for the rehabilitation and
407 maintenance of the Mississippi Farmers Central Market in Jackson,
408 Mississippi.

409 (13) The Mississippi Development Authority shall make
410 available to the Mississippi Department of Agriculture and
411 Commerce an amount not to exceed Twenty-five Thousand Dollars
412 (\$25,000.00) to be drawn from the cash balance of the Emerging
413 Crops Fund to be used for advertising purposes related to the
414 Mississippi Farmers Central Market in Jackson, Mississippi.

415 (14) (a) The Mississippi Development Authority shall, in
416 addition to the other programs described in this section, provide
417 for a program of loan guaranties to be made on behalf of any
418 nonprofit entity qualified under Section 501(c)(3) of the Internal
419 Revenue Code and certified by the United States Department of the
420 Treasury as a community development financial institution for the
421 purpose of encouraging the extension of financing to such an
422 entity which financing the entity will use to make funds available
423 to other entities for the purpose of making loans available in
424 low-income communities in Mississippi. Monies to make such loan

425 guaranties by the Mississippi Development Authority shall be drawn
426 from the Emerging Crops Fund and shall not exceed Two Million
427 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
428 guaranty on behalf of such an entity under this subsection (14)
429 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
430 received by an entity under this subsection (14) shall not
431 disqualify the entity from obtaining any other assistance under
432 this chapter.

433 (b) An entity desiring assistance under this subsection
434 (14) must submit an application to the Mississippi Development
435 Authority. The application must include any information required
436 by the Mississippi Development Authority.

437 (c) The Mississippi Development Authority shall have
438 all powers necessary to implement and administer the program
439 established under this subsection (14), and the Mississippi
440 Development Authority shall promulgate rules and regulations, in
441 accordance with the Mississippi Administrative Procedures Law,
442 necessary for the implementation of this subsection (14).

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