

By: Representative Arinder

To: Agriculture; Ways and
Means

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 MAKE UPGRADES, RENOVATIONS, REPAIRS AND OTHER
6 IMPROVEMENTS TO THEIR EQUIPMENT, FACILITIES AND OPERATIONS; TO
7 PROVIDE THAT THE AMOUNT OF SUCH A LOAN SHALL NOT EXCEED THIRTY
8 PERCENT OF THE TOTAL COST OF THE PROJECT FOR WHICH FINANCING IS
9 SOUGHT; 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; however, the amount of a loan to any
77 single agribusiness shall not exceed thirty percent (30%) of the
78 total cost of the project for which financing is sought.

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

97 deposited into the Emerging Crops Fund. Assistance received by an
98 agribusiness enterprise under this paragraph (b) shall not
99 disqualify the agribusiness enterprise from obtaining any other
100 assistance under this chapter.

101 (4) (a) Through June 30, 2010, the Mississippi Development
102 Authority may loan or grant to qualified planning and development
103 districts, and to small business investment corporations,
104 bank-based community development corporations, the Recruitment and
105 Training Program, Inc., the City of Jackson Business Development
106 Loan Fund, the Lorman Southwest Mississippi Development
107 Corporation, the West Jackson Community Development Corporation,
108 the East Mississippi Development Corporation, and other entities
109 meeting the criteria established by the Mississippi Development
110 Authority (all referred to hereinafter as "qualified entities"),
111 funds for the purpose of establishing loan revolving funds to
112 assist in providing financing for minority economic development.
113 The monies loaned or granted by the Mississippi Development
114 Authority shall be drawn from the Emerging Crops Fund and shall
115 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the
116 aggregate. Planning and development districts or qualified
117 entities which receive monies pursuant to this provision shall use
118 such monies to make loans to minority business enterprises
119 consistent with criteria established by the Mississippi
120 Development Authority. Such criteria shall include, at a minimum,
121 the following:

122 (i) The business enterprise must be a private,
123 for-profit enterprise.

124 (ii) If the business enterprise is a
125 proprietorship, the borrower must be a resident citizen of the
126 State of Mississippi; if the business enterprise is a corporation
127 or partnership, at least fifty percent (50%) of the owners must be
128 resident citizens of the State of Mississippi.

129 (iii) The borrower must have at least five percent
130 (5%) equity interest in the business enterprise.

131 (iv) The borrower must demonstrate ability to
132 repay the loan.

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

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

140 (vii) Loan proceeds shall not be used to pay off
141 existing debt for loan consolidation purposes; to finance the
142 acquisition, construction, improvement or operation of real
143 property which is to be held primarily for sale or investment; to
144 provide for, or free funds, for speculation in any kind of
145 property; or as a loan to owners, partners or stockholders of the
146 applicant which do not change ownership interest by the applicant.
147 However, this does not apply to ordinary compensation for services
148 rendered in the course of business.

149 (viii) The maximum amount that may be loaned to
150 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
151 (\$250,000.00).

152 (ix) The Mississippi Development Authority shall
153 review each loan before it is made, and no loan shall be made to
154 any borrower until the loan has been reviewed and approved by the
155 Mississippi Development Authority.

156 (b) For the purpose of this subsection, the term
157 "minority business enterprise" means a socially and economically
158 disadvantaged small business concern, organized for profit,
159 performing a commercially useful function which is owned and
160 controlled by one or more minorities or minority business
161 enterprises certified by the Mississippi Development Authority, at

162 least fifty percent (50%) of whom are resident citizens of the
163 State of Mississippi. Except as otherwise provided, for purposes
164 of this subsection, the term "socially and economically
165 disadvantaged small business concern" shall have the meaning
166 ascribed to such term under the Small Business Act (15 USCS,
167 Section 637(a)), or women, and the term "owned and controlled"
168 means a business in which one or more minorities or minority
169 business enterprises certified by the Mississippi Development
170 Authority own sixty percent (60%) or, in the case of a
171 corporation, sixty percent (60%) of the voting stock, and control
172 sixty percent (60%) of the management and daily business
173 operations of the business. However, an individual whose personal
174 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)
175 shall not be considered to be an economically disadvantaged
176 individual.

177 From and after July 1, 2010, monies not loaned or granted by
178 the Mississippi Development Authority to planning and development
179 districts or qualified entities under this subsection, and monies
180 not loaned by planning and development districts or qualified
181 entities, shall be deposited to the credit of the sinking fund
182 created and maintained in the State Treasury for the retirement of
183 bonds issued under Section 69-2-19.

184 (c) Notwithstanding any other provision of this
185 subsection to the contrary, if federal funds are not available for
186 commitments made by a planning and development district to provide
187 assistance under any federal loan program administered by the
188 planning and development district in coordination with the
189 Appalachian Regional Commission or Economic Development
190 Administration, or both, a planning and development district may
191 use funds in its loan revolving fund, which have not been
192 committed otherwise to provide assistance, for the purpose of
193 providing temporary funding for such commitments. If a planning
194 and development district uses uncommitted funds in its loan

195 revolving fund to provide such temporary funding, the district
196 shall use funds repaid to the district under the temporarily
197 funded federal loan program to replenish the funds used to provide
198 the temporary funding. Funds used by a planning and development
199 district to provide temporary funding under this paragraph (c)
200 must be repaid to the district's loan revolving fund no later than
201 twelve (12) months after the date the district provides the
202 temporary funding. A planning and development district may not
203 use uncommitted funds in its loan revolving fund to provide
204 temporary funding under this paragraph (c) on more than two (2)
205 occasions during a calendar year. A planning and development
206 district may provide temporary funding for multiple commitments on
207 each such occasion. The maximum aggregate amount of uncommitted
208 funds in a loan revolving fund that may be used for such purposes
209 during a calendar year shall not exceed seventy percent (70%) of
210 the uncommitted funds in the loan revolving fund on the date the
211 district first provides temporary funding during the calendar
212 year.

213 (d) If the Mississippi Development Authority determines
214 that a planning and development district or qualified entity has
215 provided loans to minority businesses in a manner inconsistent
216 with the provisions of this subsection, then the amount of such
217 loans so provided shall be withheld by the Mississippi Development
218 Authority from any additional grant funds to which the planning
219 and development district or qualified entity becomes entitled
220 under this subsection. If the Mississippi Development Authority
221 determines, after notifying such planning and development district
222 or qualified entity twice in writing and providing such planning
223 and development district or qualified entity a reasonable
224 opportunity to comply, that a planning and development district or
225 qualified entity has consistently failed to comply with this
226 subsection, the Mississippi Development Authority may declare such
227 planning and development district or qualified entity in default

228 under this subsection and, upon receipt of notice thereof from the
229 Mississippi Development Authority, such planning and development
230 district or qualified entity shall immediately cease providing
231 loans under this subsection, shall refund to the Mississippi
232 Development Authority for distribution to other planning and
233 development districts or qualified entities all funds held in its
234 revolving loan fund and, if required by the Mississippi
235 Development Authority, shall convey to the Mississippi Development
236 Authority all administrative and management control of loans
237 provided by it under this subsection.

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

261 (5) The Mississippi Development Authority shall develop a
262 program which will assist minority business enterprises by
263 guaranteeing bid, performance and payment bonds which such
264 minority businesses are required to obtain in order to contract
265 with federal agencies, state agencies or political subdivisions of
266 the state. Monies for such program shall be drawn from the monies
267 allocated under subsection (4) of this section to assist the
268 financing of minority economic development and shall not exceed
269 Three Million Dollars (\$3,000,000.00) in the aggregate. The
270 Mississippi Development Authority may promulgate rules and
271 regulations for the operation of the program established pursuant
272 to this subsection. For the purpose of this subsection (5) the
273 term "minority business enterprise" has the meaning assigned such
274 term in subsection (4) of this section.

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

285 (7) Through June 30, 2006, the Mississippi Development
286 Authority shall make available to the Mississippi Department of
287 Agriculture and Commerce funds for the purpose of establishing
288 loan revolving funds and other methods of financing for
289 agribusiness programs administered under the Mississippi
290 Agribusiness Council Act of 1993. The monies made available by
291 the Mississippi Development Authority shall be drawn from the
292 Emerging Crops Fund and shall not exceed One Million Two Hundred
293 Thousand Dollars (\$1,200,000.00) in the aggregate. The

294 Mississippi Department of Agriculture and Commerce shall establish
295 control and auditing procedures for use of these funds. These
296 funds will be used primarily for quick payment to farmers for
297 vegetable and fruit crops processed and sold through vegetable
298 processing plants associated with the Department of Agriculture
299 and Commerce and the Mississippi State Extension Service.

300 (8) From and after July 1, 1996, the Mississippi Development
301 Authority shall make available to the Mississippi Small Farm
302 Development Center One Million Dollars (\$1,000,000.00) to be used
303 by the center to assist small entrepreneurs as provided in Section
304 37-101-25, Mississippi Code of 1972. The monies made available by
305 the Mississippi Development Authority shall be drawn from the
306 Emerging Crops Fund.

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

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

327 year to the Chairman of the Senate Agriculture Committee and the
328 Chairman of the House Agriculture Committee.

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

334 (12) The Mississippi Development Authority shall make
335 available to the Mississippi Department of Agriculture and
336 Commerce an amount not to exceed One Hundred Fifty Thousand
337 Dollars (\$150,000.00) to be drawn from the cash balance of the
338 Emerging Crops Fund to be used for the rehabilitation and
339 maintenance of the Mississippi Farmers Central Market in Jackson,
340 Mississippi.

341 (13) The Mississippi Development Authority shall make
342 available to the Mississippi Department of Agriculture and
343 Commerce an amount not to exceed Twenty-five Thousand Dollars
344 (\$25,000.00) to be drawn from the cash balance of the Emerging
345 Crops Fund to be used for advertising purposes related to the
346 Mississippi Farmers Central Market in Jackson, Mississippi.

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

360 guaranty on behalf of such an entity under this subsection (14)
361 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
362 received by an entity under this subsection (14) shall not
363 disqualify the entity from obtaining any other assistance under
364 this chapter.

365 (b) An entity desiring assistance under this subsection
366 (14) must submit an application to the Mississippi Development
367 Authority. The application must include any information required
368 by the Mississippi Development Authority.

369 (c) The Mississippi Development Authority shall have
370 all powers necessary to implement and administer the program
371 established under this subsection (14), and the Mississippi
372 Development Authority shall promulgate rules and regulations, in
373 accordance with the Mississippi Administrative Procedures Law,
374 necessary for the implementation of this subsection (14).

375 **SECTION 2.** This act shall take effect and be in force from
376 and after July 1, 2007.