

By: Representative Arinder

To: Agriculture; Ways and Means

HOUSE BILL NO. 1233  
(As Passed the House)

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 currently have  
77 applications on file for loan requests with the Mississippi  
78 Development Authority for agribusiness assistance shall be given  
79 priority for loan disbursements, subject to having met the  
80 necessary requirements and approval of the Mississippi Development  
81 Authority. Persons who apply for poultry-production operation  
82 loans under this paragraph, whether such poultry production  
83 operation is in existence on July 1, 2007, or is established after  
84 such date, shall be required to obtain a written letter of  
85 agreement, establishing a commitment from a poultry company, which  
86 has met approval of the Mississippi Development Authority, with  
87 which such person contracts, that such poultry company has signed  
88 off and agrees to comply with the terms of the Ten Point Agreement  
89 made by the Governor's Special Poultry Committee as agreed on  
90 November 19, 1996, being more particularly described as follows:  
91 (i) All live birds will be weighed by a bonded  
92 weighmaster on certified scales. Provisions will be made for  
93 alternate certified scales in the event the primary scales are  
94 "red tagged" by the State Weights and Measures Department.  
95 Producers, their family or employees, with proper identification,

96 will be allowed to watch, without prior notice, live birds being  
97 weighed.

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

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

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

105 2. A loading ticket, at the time of catching,  
106 that gives truck number, trailer number, number of birds per coop  
107 and number of full coops.

108 3. Copy of weight tickets for live birds.

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

111 5. A sample computation of the payment  
112 formula, using the producer's actual figures. Growers will  
113 produce and provide several sample computation formulas.

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

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

128                   (vi) Producers and their immediate family who are  
129 employed by the companies in live production will not be ranked  
130 with other contract producers. Lady Forest will not be included  
131 in this item.

132                   (vii) Producers may joint or assist any  
133 organization or association of their choice. A producer's  
134 membership in any organization will not affect his settlement in  
135 any way.

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

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

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

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

161 in the aggregate. The amount of a loan to any single agribusiness  
162 enterprise or loan guaranty on behalf of such agribusiness  
163 enterprise, or both, under this paragraph (b) shall not exceed the  
164 total cost of the project for which financing is sought or  
165 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.  
166 The interest charged on a loan made under this paragraph (b) shall  
167 be at a rate determined by the Mississippi Development Authority.  
168 All repayments of any loan made under this paragraph (b) shall be  
169 deposited into the Emerging Crops Fund. Assistance received by an  
170 agribusiness enterprise under this paragraph (b) shall not  
171 disqualify the agribusiness enterprise from obtaining any other  
172 assistance under this chapter.

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

194 (i) The business enterprise must be a private,  
195 for-profit enterprise.

196 (ii) If the business enterprise is a  
197 proprietorship, the borrower must be a resident citizen of the  
198 State of Mississippi; if the business enterprise is a corporation  
199 or partnership, at least fifty percent (50%) of the owners must be  
200 resident citizens of the State of Mississippi.

201 (iii) The borrower must have at least five percent  
202 (5%) equity interest in the business enterprise.

203 (iv) The borrower must demonstrate ability to  
204 repay the loan.

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

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

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

221 (viii) The maximum amount that may be loaned to  
222 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
223 (\$250,000.00).

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

226 any borrower until the loan has been reviewed and approved by the  
227 Mississippi Development Authority.

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

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

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



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

285           (d) If the Mississippi Development Authority determines  
286 that a planning and development district or qualified entity has  
287 provided loans to minority businesses in a manner inconsistent  
288 with the provisions of this subsection, then the amount of such  
289 loans so provided shall be withheld by the Mississippi Development  
290 Authority from any additional grant funds to which the planning  
291 and development district or qualified entity becomes entitled

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

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

325 Authority, such planning and development district or qualified  
326 entity shall immediately cease providing loans under this  
327 subsection, shall refund to the Mississippi Development Authority  
328 for distribution to other planning and development districts or  
329 qualified entities all funds held in its revolving loan fund and,  
330 if required by the Mississippi Development Authority, shall convey  
331 to the Mississippi Development Authority all administrative and  
332 management control of loans provided by it under this subsection.

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

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

357           (7) Through June 30, 2006, the Mississippi Development  
358 Authority shall make available to the Mississippi Department of  
359 Agriculture and Commerce funds for the purpose of establishing  
360 loan revolving funds and other methods of financing for  
361 agribusiness programs administered under the Mississippi  
362 Agribusiness Council Act of 1993. The monies made available by  
363 the Mississippi Development Authority shall be drawn from the  
364 Emerging Crops Fund and shall not exceed One Million Two Hundred  
365 Thousand Dollars (\$1,200,000.00) in the aggregate. The  
366 Mississippi Department of Agriculture and Commerce shall establish  
367 control and auditing procedures for use of these funds. These  
368 funds will be used primarily for quick payment to farmers for  
369 vegetable and fruit crops processed and sold through vegetable  
370 processing plants associated with the Department of Agriculture  
371 and Commerce and the Mississippi State Extension Service.

372           (8) From and after July 1, 1996, the Mississippi Development  
373 Authority shall make available to the Mississippi Small Farm  
374 Development Center One Million Dollars (\$1,000,000.00) to be used  
375 by the center to assist small entrepreneurs as provided in Section  
376 37-101-25, Mississippi Code of 1972. The monies made available by  
377 the Mississippi Development Authority shall be drawn from the  
378 Emerging Crops Fund.

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

388           (10) The Mississippi Development Authority shall make  
389 available to the Small Farm Development Center at Alcorn State

390 University funds in an aggregate amount not to exceed Three  
391 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash  
392 balance of the Emerging Crops Fund. The Small Farm Development  
393 Center at Alcorn State University shall use such funds to make  
394 loans to producers of sweet potatoes and cooperatives anywhere in  
395 the State of Mississippi owned by sweet potato producers to assist  
396 in the planting of sweet potatoes and the purchase of sweet potato  
397 production and harvesting equipment. A report of the loans made  
398 under this subsection shall be furnished by January 15 of each  
399 year to the Chairman of the Senate Agriculture Committee and the  
400 Chairman of the House Agriculture Committee.

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

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

413 (13) The Mississippi Development Authority shall make  
414 available to the Mississippi Department of Agriculture and  
415 Commerce an amount not to exceed Twenty-five Thousand Dollars  
416 (\$25,000.00) to be drawn from the cash balance of the Emerging  
417 Crops Fund to be used for advertising purposes related to the  
418 Mississippi Farmers Central Market in Jackson, Mississippi.

419 (14) (a) The Mississippi Development Authority shall, in  
420 addition to the other programs described in this section, provide  
421 for a program of loan guaranties to be made on behalf of any  
422 nonprofit entity qualified under Section 501(c)(3) of the Internal

423 Revenue Code and certified by the United States Department of the  
424 Treasury as a community development financial institution for the  
425 purpose of encouraging the extension of financing to such an  
426 entity which financing the entity will use to make funds available  
427 to other entities for the purpose of making loans available in  
428 low-income communities in Mississippi. Monies to make such loan  
429 guaranties by the Mississippi Development Authority shall be drawn  
430 from the Emerging Crops Fund and shall not exceed Two Million  
431 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan  
432 guaranty on behalf of such an entity under this subsection (14)  
433 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance  
434 received by an entity under this subsection (14) shall not  
435 disqualify the entity from obtaining any other assistance under  
436 this chapter.

437           (b) An entity desiring assistance under this subsection  
438 (14) must submit an application to the Mississippi Development  
439 Authority. The application must include any information required  
440 by the Mississippi Development Authority.

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

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