

By: Representative Arinder

To: Agriculture

## HOUSE BILL NO. 643

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO  
2 REMOVE CERTAIN RESTRICTIONS ON THE MAXIMUM LOAN AMOUNT FOR LOANS  
3 THAT MAY BE MADE BY THE MISSISSIPPI DEVELOPMENT AUTHORITY FROM THE  
4 EMERGING CROPS FUND TO AGRIBUSINESSES ENGAGED IN POULTRY  
5 PRODUCTION OPERATIONS FOR THE PURPOSE OF ASSISTING SUCH  
6 AGRIBUSINESSES TO MAKE UPGRADES, RENOVATIONS, REPAIRS AND OTHER  
7 IMPROVEMENTS TO THEIR EQUIPMENT, FACILITIES AND OPERATIONS; AND  
8 FOR RELATED PURPOSES.

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

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

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

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



30 agribusiness, greenhouse production horticulture, and small  
31 business concerns. It is the policy of the State of Mississippi  
32 that the Mississippi Development Authority shall give due  
33 recognition to and shall aid, counsel, assist and protect, insofar  
34 as is possible, the interests of agribusiness, greenhouse  
35 production horticulture, and small business concerns. To ensure  
36 that the purposes of this subsection are carried out, the  
37 Mississippi Development Authority shall loan not more than One  
38 Million Dollars (\$1,000,000.00) to finance any single  
39 agribusiness, greenhouse production horticulture, or small  
40 business concern. Loans made pursuant to this subsection shall be  
41 made in accordance with the criteria established in Section  
42 57-71-11.

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

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

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



63 from the Emerging Crops Fund. The amount of a loan to any single  
64 agribusiness or greenhouse production horticulture enterprise  
65 under this paragraph (a) shall not exceed twenty percent (20%) of  
66 the total cost of the project for which financing is sought or Two  
67 Hundred Thousand Dollars (\$200,000.00), whichever is less. No  
68 interest shall be charged on such loans, and only the amount  
69 actually loaned shall be required to be repaid. Repayments shall  
70 be deposited into the Emerging Crops Fund. The Mississippi  
71 Development Authority also may make loans under this paragraph (a)  
72 to agribusinesses engaged in poultry production operations for the  
73 purpose of assisting such agribusinesses to make upgrades,  
74 renovations, repairs and other improvements to their equipment,  
75 facilities and operations; however, the amount of a loan to any  
76 single agribusiness \* \* \* shall not exceed thirty percent (30%) of  
77 the total cost of the project for which financing is sought. No  
78 interest shall be charged on such loans, and only the amount  
79 actually loaned shall be required to be repaid.

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



96 be at a rate determined by the Mississippi Development Authority.  
97 All repayments of any loan made under this paragraph (b) shall be  
98 deposited into the Emerging Crops Fund. Assistance received by an  
99 agribusiness enterprise under this paragraph (b) shall not  
100 disqualify the agribusiness enterprise from obtaining any other  
101 assistance under this chapter.

102 (4) (a) Through June 30, 2010, the Mississippi Development  
103 Authority may loan or grant to qualified planning and development  
104 districts, and to small business investment corporations,  
105 bank-based community development corporations, the Recruitment and  
106 Training Program, Inc., the City of Jackson Business Development  
107 Loan Fund, the Lorman Southwest Mississippi Development  
108 Corporation, the West Jackson Community Development Corporation,  
109 the East Mississippi Development Corporation, and other entities  
110 meeting the criteria established by the Mississippi Development  
111 Authority (all referred to hereinafter as "qualified entities"),  
112 funds for the purpose of establishing loan revolving funds to  
113 assist in providing financing for minority economic development.  
114 The monies loaned or granted by the Mississippi Development  
115 Authority shall be drawn from the Emerging Crops Fund and shall  
116 not exceed Twenty-seven Million Dollars (\$27,000,000.00) in the  
117 aggregate. Planning and development districts or qualified  
118 entities which receive monies pursuant to this provision shall use  
119 such monies to make loans to minority business enterprises  
120 consistent with criteria established by the Mississippi  
121 Development Authority. Such criteria shall include, at a minimum,  
122 the following:

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

125 (ii) If the business enterprise is a  
126 proprietorship, the borrower must be a resident citizen of the  
127 State of Mississippi; if the business enterprise is a corporation



128 or partnership, at least fifty percent (50%) of the owners must be  
129 resident citizens of the State of Mississippi.

130 (iii) The borrower must have at least five percent  
131 (5%) equity interest in the business enterprise.

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

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

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

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

150 (viii) The maximum amount that may be loaned to  
151 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
152 (\$250,000.00).

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

157 (b) For the purpose of this subsection, the term  
158 "minority business enterprise" means a socially and economically  
159 disadvantaged small business concern, organized for profit,  
160 performing a commercially useful function which is owned and



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

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

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



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

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



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

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



260 to the Mississippi Development Authority all administrative and  
261 management control of loans provided by it under this subsection.

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

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

289 (7) Through June 30, 2006, the Mississippi Development  
290 Authority shall make available to the Mississippi Department of  
291 Agriculture and Commerce funds for the purpose of establishing  
292 loan revolving funds and other methods of financing for



293 agribusiness programs administered under the Mississippi  
294 Agribusiness Council Act of 1993. The monies made available by  
295 the Mississippi Development Authority shall be drawn from the  
296 Emerging Crops Fund and shall not exceed One Million Two Hundred  
297 Thousand Dollars (\$1,200,000.00) in the aggregate. The  
298 Mississippi Department of Agriculture and Commerce shall establish  
299 control and auditing procedures for use of these funds. These  
300 funds will be used primarily for quick payment to farmers for  
301 vegetable and fruit crops processed and sold through vegetable  
302 processing plants associated with the Department of Agriculture  
303 and Commerce and the Mississippi State Extension Service.

304 (8) From and after July 1, 1996, the Mississippi Development  
305 Authority shall make available to the Mississippi Small Farm  
306 Development Center One Million Dollars (\$1,000,000.00) to be used  
307 by the center to assist small entrepreneurs as provided in Section  
308 37-101-25, Mississippi Code of 1972. The monies made available by  
309 the Mississippi Development Authority shall be drawn from the  
310 Emerging Crops Fund.

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

320 (10) The Mississippi Development Authority shall make  
321 available to the Small Farm Development Center at Alcorn State  
322 University funds in an aggregate amount not to exceed Three  
323 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash  
324 balance of the Emerging Crops Fund. The Small Farm Development  
325 Center at Alcorn State University shall use such funds to make



326 loans to producers of sweet potatoes and cooperatives anywhere in  
327 the State of Mississippi owned by sweet potato producers to assist  
328 in the planting of sweet potatoes and the purchase of sweet potato  
329 production and harvesting equipment. A report of the loans made  
330 under this subsection shall be furnished by January 15 of each  
331 year to the Chairman of the Senate Agriculture Committee and the  
332 Chairman of the House Agriculture Committee.

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

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

345 (13) The Mississippi Development Authority shall make  
346 available to the Mississippi Department of Agriculture and  
347 Commerce an amount not to exceed Twenty-five Thousand Dollars  
348 (\$25,000.00) to be drawn from the cash balance of the Emerging  
349 Crops Fund to be used for advertising purposes related to the  
350 Mississippi Farmers Central Market in Jackson, Mississippi.

351 (14) (a) The Mississippi Development Authority shall, in  
352 addition to the other programs described in this section, provide  
353 for a program of loan guaranties to be made on behalf of any  
354 nonprofit entity qualified under Section 501(c)(3) of the Internal  
355 Revenue Code and certified by the United States Department of the  
356 Treasury as a community development financial institution for the  
357 purpose of encouraging the extension of financing to such an  
358 entity which financing the entity will use to make funds available



359 to other entities for the purpose of making loans available in  
360 low-income communities in Mississippi. Monies to make such loan  
361 guaranties by the Mississippi Development Authority shall be drawn  
362 from the Emerging Crops Fund and shall not exceed Two Million  
363 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan  
364 guaranty on behalf of such an entity under this subsection (14)  
365 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance  
366 received by an entity under this subsection (14) shall not  
367 disqualify the entity from obtaining any other assistance under  
368 this chapter.

369 (b) An entity desiring assistance under this subsection  
370 (14) must submit an application to the Mississippi Development  
371 Authority. The application must include any information required  
372 by the Mississippi Development Authority.

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

379 **SECTION 2.** This act shall take effect and be in force from  
380 and after July 1, 2008.

