

By: Representative Eaton

To: Agriculture

## HOUSE BILL NO. 1354

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT IN ORDER FOR AN AGRIBUSINESS ENGAGED IN POULTRY  
3 PRODUCTION OPERATIONS TO BE ELIGIBLE FOR CERTAIN LOANS MADE BY THE  
4 MISSISSIPPI DEVELOPMENT AUTHORITY FROM THE EMERGING CROPS FUND,  
5 THE AGRIBUSINESS MUST OBTAIN A WRITTEN LETTER OF AGREEMENT  
6 ESTABLISHING A COMMITMENT FROM A POULTRY COMPANY WITH WHICH SUCH  
7 AGRIBUSINESS CONTRACTS THAT SUCH POULTRY COMPANY HAS SIGNED AND  
8 AGREES TO COMPLY WITH THE TERMS OF THE TEN POINT AGREEMENT MADE BY  
9 THE GOVERNOR'S SPECIAL POULTRY COMMITTEE AS AGREED ON NOVEMBER 19,  
10 1996; AND FOR RELATED PURPOSES.

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

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

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

29 (2) (a) The Mississippi Development Authority shall develop  
30 a program which gives fair consideration to making loans for the



31 processing and manufacturing of goods and services by  
32 agribusiness, greenhouse production horticulture, and small  
33 business concerns. It is the policy of the State of Mississippi  
34 that the Mississippi Development Authority shall give due  
35 recognition to and shall aid, counsel, assist and protect, insofar  
36 as is possible, the interests of agribusiness, greenhouse  
37 production horticulture, and small business concerns. To ensure  
38 that the purposes of this subsection are carried out, the  
39 Mississippi Development Authority shall loan not more than One  
40 Million Dollars (\$1,000,000.00) to finance any single  
41 agribusiness, greenhouse production horticulture, or small  
42 business concern. Loans made pursuant to this subsection shall be  
43 made in accordance with the criteria established in Section  
44 57-71-11.

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

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

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



64 such loans by the Mississippi Development Authority shall be drawn  
65 from the Emerging Crops Fund. The amount of a loan to any single  
66 agribusiness or greenhouse production horticulture enterprise  
67 under this paragraph (a) shall not exceed twenty percent (20%) of  
68 the total cost of the project for which financing is sought or Two  
69 Hundred Thousand Dollars (\$200,000.00), whichever is less. No  
70 interest shall be charged on such loans, and only the amount  
71 actually loaned shall be required to be repaid. Repayments shall  
72 be deposited into the Emerging Crops Fund. The Mississippi  
73 Development Authority also may make loans under this paragraph (a)  
74 to agribusinesses engaged in poultry production operations for the  
75 purpose of assisting such agribusinesses to make upgrades,  
76 renovations, repairs and other improvements to their equipment,  
77 facilities and operations, which shall not exceed a total cost of  
78 Two Hundred Thousand Dollars (\$200,000.00) of the ending cash  
79 balance, and the amount of a loan to any single agribusiness for  
80 the retrofitting of poultry houses shall not exceed thirty percent  
81 (30%) of the total cost of the project for which financing is  
82 sought. No interest shall be charged on such loans, and only the  
83 amount actually loaned shall be required to be repaid. In order  
84 for an agribusiness engaged in poultry production operations to be  
85 eligible for such a loan made on or after July 1, 2008, the  
86 agribusiness must obtain a written letter of agreement  
87 establishing a commitment from a poultry company, which has met  
88 approval of the Mississippi Development Authority, with which such  
89 agribusiness contracts that such poultry company has signed and  
90 agrees to comply with the terms of the Ten Point Agreement made by  
91 the Governor's Special Poultry Committee as agreed on November 19,  
92 1996.

93 (b) The Mississippi Development Authority shall, in  
94 addition to the other programs described in this section, provide  
95 for a program of loans or loan guaranties, or both, to be made to  
96 or on behalf of any agribusiness enterprise engaged in beef



97 processing for the purpose of encouraging thereby the extension of  
98 conventional financing and the issuance of letters of credit to  
99 such agribusiness enterprises by private institutions. Monies to  
100 make such loans or loan guaranties, or both, by the Mississippi  
101 Development Authority shall be drawn from the Emerging Crops Fund  
102 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)  
103 in the aggregate. The amount of a loan to any single agribusiness  
104 enterprise or loan guaranty on behalf of such agribusiness  
105 enterprise, or both, under this paragraph (b) shall not exceed the  
106 total cost of the project for which financing is sought or  
107 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.  
108 The interest charged on a loan made under this paragraph (b) shall  
109 be at a rate determined by the Mississippi Development Authority.  
110 All repayments of any loan made under this paragraph (b) shall be  
111 deposited into the Emerging Crops Fund. Assistance received by an  
112 agribusiness enterprise under this paragraph (b) shall not  
113 disqualify the agribusiness enterprise from obtaining any other  
114 assistance under this chapter.

115 (4) (a) Through June 30, 2010, the Mississippi Development  
116 Authority may loan or grant to qualified planning and development  
117 districts, and to small business investment corporations,  
118 bank-based community development corporations, the Recruitment and  
119 Training Program, Inc., the City of Jackson Business Development  
120 Loan Fund, the Lorman Southwest Mississippi Development  
121 Corporation, the West Jackson Community Development Corporation,  
122 the East Mississippi Development Corporation, and other entities  
123 meeting the criteria established by the Mississippi Development  
124 Authority (all referred to hereinafter as "qualified entities"),  
125 funds for the purpose of establishing loan revolving funds to  
126 assist in providing financing for minority economic development.  
127 The monies loaned or granted by the Mississippi Development  
128 Authority shall be drawn from the Emerging Crops Fund and shall  
129 not exceed Twenty-seven Million Dollars (\$27,000,000.00) in the



130 aggregate. Planning and development districts or qualified  
131 entities which receive monies pursuant to this provision shall use  
132 such monies to make loans to minority business enterprises  
133 consistent with criteria established by the Mississippi  
134 Development Authority. Such criteria shall include, at a minimum,  
135 the following:

136 (i) The business enterprise must be a private,  
137 for-profit enterprise.

138 (ii) If the business enterprise is a  
139 proprietorship, the borrower must be a resident citizen of the  
140 State of Mississippi; if the business enterprise is a corporation  
141 or partnership, at least fifty percent (50%) of the owners must be  
142 resident citizens of the State of Mississippi.

143 (iii) The borrower must have at least five percent  
144 (5%) equity interest in the business enterprise.

145 (iv) The borrower must demonstrate ability to  
146 repay the loan.

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

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

154 (vii) Loan proceeds shall not be used to pay off  
155 existing debt for loan consolidation purposes; to finance the  
156 acquisition, construction, improvement or operation of real  
157 property which is to be held primarily for sale or investment; to  
158 provide for, or free funds, for speculation in any kind of  
159 property; or as a loan to owners, partners or stockholders of the  
160 applicant which do not change ownership interest by the applicant.  
161 However, this does not apply to ordinary compensation for services  
162 rendered in the course of business.



163 (viii) The maximum amount that may be loaned to  
164 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
165 (\$250,000.00).

166 (ix) The Mississippi Development Authority shall  
167 review each loan before it is made, and no loan shall be made to  
168 any borrower until the loan has been reviewed and approved by the  
169 Mississippi Development Authority.

170 (b) For the purpose of this subsection, the term  
171 "minority business enterprise" means a socially and economically  
172 disadvantaged small business concern, organized for profit,  
173 performing a commercially useful function which is owned and  
174 controlled by one or more minorities or minority business  
175 enterprises certified by the Mississippi Development Authority, at  
176 least fifty percent (50%) of whom are resident citizens of the  
177 State of Mississippi. Except as otherwise provided, for purposes  
178 of this subsection, the term "socially and economically  
179 disadvantaged small business concern" shall have the meaning  
180 ascribed to such term under the Small Business Act (15 USCS,  
181 Section 637(a)), or women, and the term "owned and controlled"  
182 means a business in which one or more minorities or minority  
183 business enterprises certified by the Mississippi Development  
184 Authority own sixty percent (60%) or, in the case of a  
185 corporation, sixty percent (60%) of the voting stock, and control  
186 sixty percent (60%) of the management and daily business  
187 operations of the business. However, an individual whose personal  
188 net worth exceeds Five Hundred Thousand Dollars (\$500,000.00)  
189 shall not be considered to be an economically disadvantaged  
190 individual.

191 From and after July 1, 2010, monies not loaned or granted by  
192 the Mississippi Development Authority to planning and development  
193 districts or qualified entities under this subsection, and monies  
194 not loaned by planning and development districts or qualified  
195 entities, shall be deposited to the credit of the sinking fund



196 created and maintained in the State Treasury for the retirement of  
197 bonds issued under Section 69-2-19.

198 (c) Notwithstanding any other provision of this  
199 subsection to the contrary, if federal funds are not available for  
200 commitments made by a planning and development district to provide  
201 assistance under any federal loan program administered by the  
202 planning and development district in coordination with the  
203 Appalachian Regional Commission or Economic Development  
204 Administration, or both, a planning and development district may  
205 use funds in its loan revolving fund, which have not been  
206 committed otherwise to provide assistance, for the purpose of  
207 providing temporary funding for such commitments. If a planning  
208 and development district uses uncommitted funds in its loan  
209 revolving fund to provide such temporary funding, the district  
210 shall use funds repaid to the district under the temporarily  
211 funded federal loan program to replenish the funds used to provide  
212 the temporary funding. Funds used by a planning and development  
213 district to provide temporary funding under this paragraph (c)  
214 must be repaid to the district's loan revolving fund no later than  
215 twelve (12) months after the date the district provides the  
216 temporary funding. A planning and development district may not  
217 use uncommitted funds in its loan revolving fund to provide  
218 temporary funding under this paragraph (c) on more than two (2)  
219 occasions during a calendar year. A planning and development  
220 district may provide temporary funding for multiple commitments on  
221 each such occasion. The maximum aggregate amount of uncommitted  
222 funds in a loan revolving fund that may be used for such purposes  
223 during a calendar year shall not exceed seventy percent (70%) of  
224 the uncommitted funds in the loan revolving fund on the date the  
225 district first provides temporary funding during the calendar  
226 year.

227 (d) If the Mississippi Development Authority determines  
228 that a planning and development district or qualified entity has



229 provided loans to minority businesses in a manner inconsistent  
230 with the provisions of this subsection, then the amount of such  
231 loans so provided shall be withheld by the Mississippi Development  
232 Authority from any additional grant funds to which the planning  
233 and development district or qualified entity becomes entitled  
234 under this subsection. If the Mississippi Development Authority  
235 determines, after notifying such planning and development district  
236 or qualified entity twice in writing and providing such planning  
237 and development district or qualified entity a reasonable  
238 opportunity to comply, that a planning and development district or  
239 qualified entity has consistently failed to comply with this  
240 subsection, the Mississippi Development Authority may declare such  
241 planning and development district or qualified entity in default  
242 under this subsection and, upon receipt of notice thereof from the  
243 Mississippi Development Authority, such planning and development  
244 district or qualified entity shall immediately cease providing  
245 loans under this subsection, shall refund to the Mississippi  
246 Development Authority for distribution to other planning and  
247 development districts or qualified entities all funds held in its  
248 revolving loan fund and, if required by the Mississippi  
249 Development Authority, shall convey to the Mississippi Development  
250 Authority all administrative and management control of loans  
251 provided by it under this subsection.

252 (e) If the Mississippi Development Authority  
253 determines, after notifying a planning and development district or  
254 qualified entity twice in writing and providing copies of such  
255 notification to each member of the Legislature in whose district  
256 or in a part of whose district such planning and development  
257 district or qualified entity is located and providing such  
258 planning and development district or qualified entity a reasonable  
259 opportunity to take corrective action, that a planning and  
260 development district or qualified entity administering a revolving  
261 loan fund under the provisions of this subsection is not actively



262 engaged in lending as defined by the rules and regulations of the  
263 Mississippi Development Authority, the Mississippi Development  
264 Authority may declare such planning and development district or  
265 qualified entity in default under this subsection and, upon  
266 receipt of notice thereof from the Mississippi Development  
267 Authority, such planning and development district or qualified  
268 entity shall immediately cease providing loans under this  
269 subsection, shall refund to the Mississippi Development Authority  
270 for distribution to other planning and development districts or  
271 qualified entities all funds held in its revolving loan fund and,  
272 if required by the Mississippi Development Authority, shall convey  
273 to the Mississippi Development Authority all administrative and  
274 management control of loans provided by it under this subsection.

275 (5) The Mississippi Development Authority shall develop a  
276 program which will assist minority business enterprises by  
277 guaranteeing bid, performance and payment bonds which such  
278 minority businesses are required to obtain in order to contract  
279 with federal agencies, state agencies or political subdivisions of  
280 the state. The Mississippi Development Authority may secure  
281 letters of credit, as determined necessary by the authority, to  
282 guarantee bid, performance and payment bonds pursuant to this  
283 subsection. Monies for such program shall be drawn from the  
284 monies allocated under subsection (4) of this section to assist  
285 the financing of minority economic development and shall not  
286 exceed Three Million Dollars (\$3,000,000.00) in the aggregate.  
287 The Mississippi Development Authority may promulgate rules and  
288 regulations for the operation of the program established pursuant  
289 to this subsection. For the purpose of this subsection (5), the  
290 term "minority business enterprise" has the meaning assigned such  
291 term in subsection (4) of this section.

292 (6) The Mississippi Development Authority may loan or grant  
293 to public entities and to nonprofit corporations funds to defray  
294 the expense of financing (or to match any funds available from



295 other public or private sources for the expense of financing)  
296 projects in this state which are devoted to the study, teaching  
297 and/or promotion of regional crafts and which are deemed by the  
298 authority to be significant tourist attractions. The monies  
299 loaned or granted shall be drawn from the Emerging Crops Fund and  
300 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)  
301 in the aggregate.

302 (7) Through June 30, 2006, the Mississippi Development  
303 Authority shall make available to the Mississippi Department of  
304 Agriculture and Commerce funds for the purpose of establishing  
305 loan revolving funds and other methods of financing for  
306 agribusiness programs administered under the Mississippi  
307 Agribusiness Council Act of 1993. The monies made available by  
308 the Mississippi Development Authority shall be drawn from the  
309 Emerging Crops Fund and shall not exceed One Million Two Hundred  
310 Thousand Dollars (\$1,200,000.00) in the aggregate. The  
311 Mississippi Department of Agriculture and Commerce shall establish  
312 control and auditing procedures for use of these funds. These  
313 funds will be used primarily for quick payment to farmers for  
314 vegetable and fruit crops processed and sold through vegetable  
315 processing plants associated with the Department of Agriculture  
316 and Commerce and the Mississippi State Extension Service.

317 (8) From and after July 1, 1996, the Mississippi Development  
318 Authority shall make available to the Mississippi Small Farm  
319 Development Center One Million Dollars (\$1,000,000.00) to be used  
320 by the center to assist small entrepreneurs as provided in Section  
321 37-101-25, Mississippi Code of 1972. The monies made available by  
322 the Mississippi Development Authority shall be drawn from the  
323 Emerging Crops Fund.

324 (9) The Mississippi Development Authority shall make  
325 available to the Agribusiness and Natural Resource Development  
326 Center through Alcorn State University an amount not to exceed Two  
327 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001



328 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal  
329 year 2002 from the cash balance of the Emerging Crops Fund to  
330 support the development of a cooperative program for agribusiness  
331 development, marketing and natural resources development. This  
332 subsection (9) shall stand repealed on June 30, 2006.

333 (10) The Mississippi Development Authority shall make  
334 available to the Small Farm Development Center at Alcorn State  
335 University funds in an aggregate amount not to exceed Three  
336 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash  
337 balance of the Emerging Crops Fund. The Small Farm Development  
338 Center at Alcorn State University shall use such funds to make  
339 loans to producers of sweet potatoes and cooperatives anywhere in  
340 the State of Mississippi owned by sweet potato producers to assist  
341 in the planting of sweet potatoes and the purchase of sweet potato  
342 production and harvesting equipment. A report of the loans made  
343 under this subsection shall be furnished by January 15 of each  
344 year to the Chairman of the Senate Agriculture Committee and the  
345 Chairman of the House Agriculture Committee.

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

351 (12) The Mississippi Development Authority shall make  
352 available to the Mississippi Department of Agriculture and  
353 Commerce an amount not to exceed One Hundred Fifty Thousand  
354 Dollars (\$150,000.00) to be drawn from the cash balance of the  
355 Emerging Crops Fund to be used for the rehabilitation and  
356 maintenance of the Mississippi Farmers Central Market in Jackson,  
357 Mississippi.

358 (13) The Mississippi Development Authority shall make  
359 available to the Mississippi Department of Agriculture and  
360 Commerce an amount not to exceed Twenty-five Thousand Dollars



361 (\$25,000.00) to be drawn from the cash balance of the Emerging  
362 Crops Fund to be used for advertising purposes related to the  
363 Mississippi Farmers Central Market in Jackson, Mississippi.

364 (14) (a) The Mississippi Development Authority shall, in  
365 addition to the other programs described in this section, provide  
366 for a program of loan guaranties to be made on behalf of any  
367 nonprofit entity qualified under Section 501(c)(3) of the Internal  
368 Revenue Code and certified by the United States Department of the  
369 Treasury as a community development financial institution for the  
370 purpose of encouraging the extension of financing to such an  
371 entity which financing the entity will use to make funds available  
372 to other entities for the purpose of making loans available in  
373 low-income communities in Mississippi. Monies to make such loan  
374 guaranties by the Mississippi Development Authority shall be drawn  
375 from the Emerging Crops Fund and shall not exceed Two Million  
376 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan  
377 guaranty on behalf of such an entity under this subsection (14)  
378 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance  
379 received by an entity under this subsection (14) shall not  
380 disqualify the entity from obtaining any other assistance under  
381 this chapter.

382 (b) An entity desiring assistance under this subsection  
383 (14) must submit an application to the Mississippi Development  
384 Authority. The application must include any information required  
385 by the Mississippi Development Authority.

386 (c) The Mississippi Development Authority shall have  
387 all powers necessary to implement and administer the program  
388 established under this subsection (14), and the Mississippi  
389 Development Authority shall promulgate rules and regulations, in  
390 accordance with the Mississippi Administrative Procedures Law,  
391 necessary for the implementation of this subsection (14).

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

