

By: Representative Eaton

To: Agriculture

## HOUSE BILL NO. 1355

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY SHALL PROVIDE  
3 FOR A PROGRAM OF LOANS TO AGRIBUSINESSES ENGAGED IN POULTRY  
4 PRODUCTION OPERATIONS FOR THE PURPOSE OF ASSISTING SUCH  
5 AGRIBUSINESSES IN MAKING UPGRADES, RENOVATIONS, REPAIRS AND OTHER  
6 IMPROVEMENTS TO THEIR EQUIPMENT, FACILITIES AND OPERATIONS IN  
7 ORDER TO MAKE THEM MORE ENERGY EFFICIENT; TO PROVIDE THAT MONIES  
8 TO MAKE THE LOANS UNDER THE PROGRAM SHALL BE DRAWN FROM THE ENDING  
9 CASH BALANCE OF THE EMERGING CROPS FUND; 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, which shall not exceed a total cost of  
77 Two Hundred Thousand Dollars (\$200,000.00) of the ending cash  
78 balance, and the amount of a loan to any single agribusiness for  
79 the retrofitting of poultry houses shall not exceed thirty percent  
80 (30%) of the total cost of the project for which financing is  
81 sought. No interest shall be charged on such loans, and only the  
82 amount actually loaned shall be required to be repaid.

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



97 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.  
98 The interest charged on a loan made under this paragraph (b) shall  
99 be at a rate determined by the Mississippi Development Authority.  
100 All repayments of any loan made under this paragraph (b) shall be  
101 deposited into the Emerging Crops Fund. Assistance received by an  
102 agribusiness enterprise under this paragraph (b) shall not  
103 disqualify the agribusiness enterprise from obtaining any other  
104 assistance under this chapter.

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

126 (i) The business enterprise must be a private,  
127 for-profit enterprise.

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



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

133 (iii) The borrower must have at least five percent  
134 (5%) equity interest in the business enterprise.

135 (iv) The borrower must demonstrate ability to  
136 repay the loan.

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

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

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

153 (viii) The maximum amount that may be loaned to  
154 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
155 (\$250,000.00).

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

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



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

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

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



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

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



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

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



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

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

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

292 (7) Through June 30, 2006, the Mississippi Development  
293 Authority shall make available to the Mississippi Department of  
294 Agriculture and Commerce funds for the purpose of establishing



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

307 (8) From and after July 1, 1996, the Mississippi Development  
308 Authority shall make available to the Mississippi Small Farm  
309 Development Center One Million Dollars (\$1,000,000.00) to be used  
310 by the center to assist small entrepreneurs as provided in Section  
311 37-101-25, Mississippi Code of 1972. The monies made available by  
312 the Mississippi Development Authority shall be drawn from the  
313 Emerging Crops Fund.

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

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



328 Center at Alcorn State University shall use such funds to make  
329 loans to producers of sweet potatoes and cooperatives anywhere in  
330 the State of Mississippi owned by sweet potato producers to assist  
331 in the planting of sweet potatoes and the purchase of sweet potato  
332 production and harvesting equipment. A report of the loans made  
333 under this subsection shall be furnished by January 15 of each  
334 year to the Chairman of the Senate Agriculture Committee and the  
335 Chairman of the House Agriculture Committee.

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

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

348 (13) The Mississippi Development Authority shall make  
349 available to the Mississippi Department of Agriculture and  
350 Commerce an amount not to exceed Twenty-five Thousand Dollars  
351 (\$25,000.00) to be drawn from the cash balance of the Emerging  
352 Crops Fund to be used for advertising purposes related to the  
353 Mississippi Farmers Central Market in Jackson, Mississippi.

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



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

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

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

382 (15) The Mississippi Development Authority, in addition to  
383 the other programs described in this section, shall provide for a  
384 program of loans to agribusinesses engaged in poultry production  
385 operations for the purpose of assisting such agribusinesses in  
386 making upgrades, renovations, repairs and other improvements to  
387 their equipment, facilities and operations in order to make the  
388 equipment, facilities and operations more energy efficient. The  
389 proceeds of a loan under this program may be used for making such  
390 upgrades, renovations, repairs and other improvements and for  
391 refinancing or paying off existing debt incurred for such  
392 purposes. Monies to make the loans under this program shall be  
393 drawn from the ending cash balance of the Emerging Crops Fund.



394 The amount of a loan to any single agribusiness under this  
395 subsection shall not exceed thirty percent (30%) of the total cost  
396 of the project for which financing is sought or Two Hundred  
397 Thousand Dollars (\$200,000.00), whichever is less. No interest  
398 shall be charged on such loans, and only the amount actually  
399 loaned shall be required to be repaid. Repayments shall be  
400 deposited into the Emerging Crops Fund. Assistance received by an  
401 agribusiness under this subsection (15) shall not disqualify the  
402 agribusiness from obtaining any other assistance under this  
403 chapter.

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

