

By: Representative Ward

To: Agriculture

HOUSE BILL NO. 1368

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, 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. Persons
83 who currently have applications on file for loan requests with the
84 Mississippi Development Authority for agribusiness assistance
85 shall be given priority for loan disbursements, subject to having
86 met the necessary requirements and approval of the Mississippi
87 Development Authority. Persons who apply for poultry-production
88 operation loans under this paragraph, whether such poultry
89 production operation is in existence on July 1, 2008, or is
90 established after such date, shall be required to obtain a written
91 letter of agreement, establishing a commitment from a poultry
92 company, which has met approval of the Mississippi Development
93 Authority, with which such person contracts, that such poultry
94 company has signed off and agrees to comply with the terms of the
95 Ten Point Agreement made by the Governor's Special Poultry



96 Committee as agreed on November 19, 1996, being more particularly
97 described as follows:

98 (i) All live birds will be weighed by a bonded
99 weigh master on certified scales. Provisions will be made for
100 alternate certified scales in the event the primary scales are
101 "red tagged" by the State Weights and Measures Department.
102 Producers, their family or employees, with proper identification,
103 will be allowed to watch, without prior notice, live birds being
104 weighed.

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

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

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

112 2. A loading ticket, at the time of catching,
113 that gives truck number, trailer number, number of birds per coop
114 and number of full coops.

115 3. Copy of weight tickets for live birds.

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

118 5. A sample computation of the payment
119 formula, using the producer's actual figures. Growers will
120 produce and provide several sample computation formulas.

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

126 (v) Equipment changes, on equipment in good
127 working order, will not be the sole basis for density cuts or
128 termination of a contract unless health or safety are the basis



129 for change. Placements will take into account seasonal
130 differences and product mix. Equipment changes on integrator
131 approved equipment will not be required on equipment in good
132 working order without integrator incentives. Integrators will
133 test, upon request of growers, new equipment that growers wish to
134 be added to the integrator's approved equipment list.

135 (vi) Producers and their immediate family who are
136 employed by the companies in live production will not be ranked
137 with other contract producers. Lady Forest will not be included
138 in this item.

139 (vii) Producers may join or assist any
140 organization or association of their choice. A producer's
141 membership in any organization will not affect his settlement in
142 any way.

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

149 (ix) Processors will provide producers with
150 information on feed delivery procedures. When requested, feed
151 delivery trucks will be sealed at the plant with corresponding,
152 numbered seals that will be listed on the feed delivery ticket.
153 The seal will not be broken unless the grower is not available at
154 the time of actual delivery. The grower may request that he be
155 notified by telephone before the truck leaves the feed mill.

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

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



162 processing for the purpose of encouraging thereby the extension of
163 conventional financing and the issuance of letters of credit to
164 such agribusiness enterprises by private institutions. Monies to
165 make such loans or loan guaranties, or both, by the Mississippi
166 Development Authority shall be drawn from the Emerging Crops Fund
167 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
168 in the aggregate. The amount of a loan to any single agribusiness
169 enterprise or loan guaranty on behalf of such agribusiness
170 enterprise, or both, under this paragraph (b) shall not exceed the
171 total cost of the project for which financing is sought or
172 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
173 The interest charged on a loan made under this paragraph (b) shall
174 be at a rate determined by the Mississippi Development Authority.
175 All repayments of any loan made under this paragraph (b) shall be
176 deposited into the Emerging Crops Fund. Assistance received by an
177 agribusiness enterprise under this paragraph (b) shall not
178 disqualify the agribusiness enterprise from obtaining any other
179 assistance under this chapter.

180 (4) (a) Through June 30, 2010, the Mississippi Development
181 Authority may loan or grant to qualified planning and development
182 districts, and to small business investment corporations,
183 bank-based community development corporations, the Recruitment and
184 Training Program, Inc., the City of Jackson Business Development
185 Loan Fund, the Lorman Southwest Mississippi Development
186 Corporation, the West Jackson Community Development Corporation,
187 the East Mississippi Development Corporation, and other entities
188 meeting the criteria established by the Mississippi Development
189 Authority (all referred to hereinafter as "qualified entities"),
190 funds for the purpose of establishing loan revolving funds to
191 assist in providing financing for minority economic development.
192 The monies loaned or granted by the Mississippi Development
193 Authority shall be drawn from the Emerging Crops Fund and shall
194 not exceed Twenty-seven Million Dollars (\$27,000,000.00) in the



195 aggregate. Planning and development districts or qualified
196 entities which receive monies pursuant to this provision shall use
197 such monies to make loans to minority business enterprises
198 consistent with criteria established by the Mississippi
199 Development Authority. Such criteria shall include, at a minimum,
200 the following:

201 (i) The business enterprise must be a private,
202 for-profit enterprise.

203 (ii) If the business enterprise is a
204 proprietorship, the borrower must be a resident citizen of the
205 State of Mississippi; if the business enterprise is a corporation
206 or partnership, at least fifty percent (50%) of the owners must be
207 resident citizens of the State of Mississippi.

208 (iii) The borrower must have at least five percent
209 (5%) equity interest in the business enterprise.

210 (iv) The borrower must demonstrate ability to
211 repay the loan.

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

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

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



228 (viii) The maximum amount that may be loaned to
229 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
230 (\$250,000.00).

231 (ix) The Mississippi Development Authority shall
232 review each loan before it is made, and no loan shall be made to
233 any borrower until the loan has been reviewed and approved by the
234 Mississippi Development Authority.

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

256 From and after July 1, 2010, monies not loaned or granted by
257 the Mississippi Development Authority to planning and development
258 districts or qualified entities under this subsection, and monies
259 not loaned by planning and development districts or qualified
260 entities, shall be deposited to the credit of the sinking fund



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

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

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



294 provided loans to minority businesses in a manner inconsistent
295 with the provisions of this subsection, then the amount of such
296 loans so provided shall be withheld by the Mississippi Development
297 Authority from any additional grant funds to which the planning
298 and development district or qualified entity becomes entitled
299 under this subsection. If the Mississippi Development Authority
300 determines, after notifying such planning and development district
301 or qualified entity twice in writing and providing such planning
302 and development district or qualified entity a reasonable
303 opportunity to comply, that a planning and development district or
304 qualified entity has consistently failed to comply with this
305 subsection, the Mississippi Development Authority may declare such
306 planning and development district or qualified entity in default
307 under this subsection and, upon receipt of notice thereof from the
308 Mississippi Development Authority, such planning and development
309 district or qualified entity shall immediately cease providing
310 loans under this subsection, shall refund to the Mississippi
311 Development Authority for distribution to other planning and
312 development districts or qualified entities all funds held in its
313 revolving loan fund and, if required by the Mississippi
314 Development Authority, shall convey to the Mississippi Development
315 Authority all administrative and management control of loans
316 provided by it under this subsection.

317 (e) If the Mississippi Development Authority
318 determines, after notifying a planning and development district or
319 qualified entity twice in writing and providing copies of such
320 notification to each member of the Legislature in whose district
321 or in a part of whose district such planning and development
322 district or qualified entity is located and providing such
323 planning and development district or qualified entity a reasonable
324 opportunity to take corrective action, that a planning and
325 development district or qualified entity administering a revolving
326 loan fund under the provisions of this subsection is not actively



327 engaged in lending as defined by the rules and regulations of the
328 Mississippi Development Authority, the Mississippi Development
329 Authority may declare such planning and development district or
330 qualified entity in default under this subsection and, upon
331 receipt of notice thereof from the Mississippi Development
332 Authority, such planning and development district or qualified
333 entity shall immediately cease providing loans under this
334 subsection, shall refund to the Mississippi Development Authority
335 for distribution to other planning and development districts or
336 qualified entities all funds held in its revolving loan fund and,
337 if required by the Mississippi Development Authority, shall convey
338 to the Mississippi Development Authority all administrative and
339 management control of loans provided by it under this subsection.

340 (5) The Mississippi Development Authority shall develop a
341 program which will assist minority business enterprises by
342 guaranteeing bid, performance and payment bonds which such
343 minority businesses are required to obtain in order to contract
344 with federal agencies, state agencies or political subdivisions of
345 the state. The Mississippi Development Authority may secure
346 letters of credit, as determined necessary by the authority, to
347 guarantee bid, performance and payment bonds pursuant to this
348 subsection. Monies for such program shall be drawn from the
349 monies allocated under subsection (4) of this section to assist
350 the financing of minority economic development and shall not
351 exceed Three Million Dollars (\$3,000,000.00) in the aggregate.
352 The Mississippi Development Authority may promulgate rules and
353 regulations for the operation of the program established pursuant
354 to this subsection. For the purpose of this subsection (5), the
355 term "minority business enterprise" has the meaning assigned such
356 term in subsection (4) of this section.

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



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

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

382 (8) From and after July 1, 1996, the Mississippi Development
383 Authority shall make available to the Mississippi Small Farm
384 Development Center One Million Dollars (\$1,000,000.00) to be used
385 by the center to assist small entrepreneurs as provided in Section
386 37-101-25, Mississippi Code of 1972. The monies made available by
387 the Mississippi Development Authority shall be drawn from the
388 Emerging Crops Fund.

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



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

398 (10) The Mississippi Development Authority shall make
399 available to the Small Farm Development Center at Alcorn State
400 University funds in an aggregate amount not to exceed Three
401 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
402 balance of the Emerging Crops Fund. The Small Farm Development
403 Center at Alcorn State University shall use such funds to make
404 loans to producers of sweet potatoes and cooperatives anywhere in
405 the State of Mississippi owned by sweet potato producers to assist
406 in the planting of sweet potatoes and the purchase of sweet potato
407 production and harvesting equipment. A report of the loans made
408 under this subsection shall be furnished by January 15 of each
409 year to the Chairman of the Senate Agriculture Committee and the
410 Chairman of the House Agriculture Committee.

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

416 (12) The Mississippi Development Authority shall make
417 available to the Mississippi Department of Agriculture and
418 Commerce an amount not to exceed One Hundred Fifty Thousand
419 Dollars (\$150,000.00) to be drawn from the cash balance of the
420 Emerging Crops Fund to be used for the rehabilitation and
421 maintenance of the Mississippi Farmers Central Market in Jackson,
422 Mississippi.

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



426 (\$25,000.00) to be drawn from the cash balance of the Emerging
427 Crops Fund to be used for advertising purposes related to the
428 Mississippi Farmers Central Market in Jackson, Mississippi.

429 (14) (a) The Mississippi Development Authority shall, in
430 addition to the other programs described in this section, provide
431 for a program of loan guaranties to be made on behalf of any
432 nonprofit entity qualified under Section 501(c)(3) of the Internal
433 Revenue Code and certified by the United States Department of the
434 Treasury as a community development financial institution for the
435 purpose of encouraging the extension of financing to such an
436 entity which financing the entity will use to make funds available
437 to other entities for the purpose of making loans available in
438 low-income communities in Mississippi. Monies to make such loan
439 guaranties by the Mississippi Development Authority shall be drawn
440 from the Emerging Crops Fund and shall not exceed Two Million
441 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
442 guaranty on behalf of such an entity under this subsection (14)
443 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
444 received by an entity under this subsection (14) shall not
445 disqualify the entity from obtaining any other assistance under
446 this chapter.

447 (b) An entity desiring assistance under this subsection
448 (14) must submit an application to the Mississippi Development
449 Authority. The application must include any information required
450 by the Mississippi Development Authority.

451 (c) The Mississippi Development Authority shall have
452 all powers necessary to implement and administer the program
453 established under this subsection (14), and the Mississippi
454 Development Authority shall promulgate rules and regulations, in
455 accordance with the Mississippi Administrative Procedures Law,
456 necessary for the implementation of this subsection (14).

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

