

By: Ford

To: Agriculture

HOUSE BILL NO. 244  
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 69-43-1 THROUGH 69-43-11,  
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE RATITE COUNCIL AND  
3 PROMOTION BOARD AND PRESCRIBE ITS DUTIES AND POWERS; TO AMEND  
4 SECTION 69-43-13, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF  
5 REPEAL ON THE RATITE COUNCIL AND PROMOTION BOARD; AND FOR RELATED  
6 PURPOSES.

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

8 SECTION 1. Section 69-43-1, Mississippi Code of 1972, is  
9 reenacted as follows:

10 69-43-1. The purpose of this act is to promote the growth  
11 and development of the ratite industry in Mississippi by  
12 advertisement and promotion of products, market development,  
13 research and producer education, thereby promoting the general  
14 welfare of the people of this state.

15 SECTION 2. Section 69-43-3, Mississippi Code of 1972, is  
16 reenacted as follows:

17 69-43-3. (1) The Mississippi Ratite Council and Promotion  
18 Board is created to be composed of five (5) members as follows:  
19 Two (2) members elected by the Mississippi State Emu Association;  
20 two (2) members elected by the Mississippi Ostrich Association;  
21 and one (1) member appointed by the Commissioner of Agriculture  
22 and Commerce. Each member shall serve a term of one (1) year to  
23 coincide with the calendar year. Vacancies which occur shall be  
24 filled in the same manner as the original elections or  
25 appointments were made.

26 (2) The members of the board shall meet and organize  
27 immediately after their election or appointment and shall elect a  
28 chairman, vice chairman and secretary-treasurer from the

29 membership of the board, whose duties shall be those customarily  
30 exercised by such officers or specifically designated by the  
31 board. The chairman, vice chairman and secretary-treasurer shall  
32 be bonded in an amount not less than Twenty Thousand Dollars  
33 (\$20,000.00). The cost of the bonds shall be paid from the funds  
34 received under the provisions of Section 3 of this act. Such bond  
35 shall be a security for any illegal act of any member of the board  
36 and recovery thereon may be had by the state for any injury by  
37 such illegal act of such member. The board may establish rules  
38 and regulations in accordance with the Administrative Procedures  
39 Act for its own government and the administration of the affairs  
40 of the board.

41 SECTION 3. Section 69-43-5, Mississippi Code of 1972, is  
42 reenacted as follows:

43 69-43-5. (1) There is imposed and levied an assessment not  
44 to exceed Eight Dollars (\$8.00) per ratite slaughtered within the  
45 State of Mississippi. Such assessment shall be deducted by the  
46 processor from the amount paid the producer at the first point of  
47 processing or sale.

48 (2) The assessment imposed and levied by this section shall  
49 be payable to and collected by the Mississippi Department of  
50 Agriculture and Commerce, hereafter referred to as "the  
51 department," from the processor of such ratites at the first point  
52 of processing or sale. The proceeds of the assessment collected  
53 by the department shall be deposited monthly with the State  
54 Treasurer in a special fund to be established as the "Mississippi  
55 Ratite Promotion Fund," and disbursement therefrom shall be made  
56 upon warrants issued by the State Fiscal Officer upon requisitions  
57 signed by the Chairman and Secretary-Treasurer of the Mississippi  
58 Ratite Council and Promotion Board, or their designee, in the  
59 manner provided by law. The State Treasurer shall invest such  
60 proceeds and any interest earned thereon shall be credited to such  
61 special fund and shall not be deposited in the State General Fund.

62 (3) The Mississippi Department of Agriculture and Commerce  
63 shall submit to the Mississippi Ratite Council and Promotion Board  
64 a budget detailing and justifying the administrative costs of the  
65 department in administering the provisions of this chapter, and

66 such budget must be approved by the Mississippi Ratite Council and  
67 Promotion Board by April 1 of each year. The amount withheld by  
68 the department, which shall not exceed three and one-half percent  
69 (3-1/2%) of the gross amount collected, must be approved by the  
70 Mississippi Ratite Council and Promotion Board by July 1 of each  
71 year.

72 SECTION 4. Section 69-43-7, Mississippi Code of 1972, is  
73 reenacted as follows:

74 69-43-7. (1) Any processor who fails to file a report or to  
75 pay any assessment within the time required by the department  
76 shall forfeit to the department a penalty of five percent (5%) of  
77 the assessment determined to be due, plus one percent (1%) of such  
78 amount for each month of delay or fraction thereof after the first  
79 month after such report was required to be filed or such  
80 assessment became due. The penalty shall be paid to the  
81 department and shall be disposed of by it in the same manner as  
82 funds derived from the payment of the assessment imposed herein.

83 (2) The department shall collect the penalties levied  
84 herein, together with the delinquent assessment, by any or all of  
85 the following methods:

86 (a) By voluntary payment by the person liable.

87 (b) By legal proceedings instituted in a court of  
88 competent jurisdiction.

89 (3) Any person required to collect the assessment provided  
90 for in this act who fails to remit the assessment or who refuses  
91 to allow full inspection of the premises or such books, records or  
92 other documents relating to the liability of such person for the  
93 assessment herein imposed, or who shall hinder or in any delay or  
94 prevent such inspection, shall be guilty of a misdemeanor and,  
95 upon conviction, shall be punished by a fine not to exceed One  
96 Thousand Dollars (\$1,000.00) or by imprisonment not to exceed one  
97 (1) year, or both.

98 SECTION 5. Section 69-43-9, Mississippi Code of 1972, is

99 reenacted as follows:

100           69-43-9. (1) The Mississippi Ratite Council and Promotion  
101 Board shall plan and conduct a program of research, education and  
102 advertising designed to promote the ratite industry in  
103 Mississippi. The board is authorized to use the funds derived  
104 from the assessment imposed herein for these purposes, including  
105 basic administration expenses of the plan. After paying  
106 administrative expenses, all remaining funds shall be expended on  
107 a pro rata basis of emus and ostriches processed or sold. Use of  
108 these funds may be applied, as prescribed in this section, within  
109 or without the State of Mississippi, including regional, national  
110 and international research and promotional applications.

111           (2) The funds may be expended only for the purposes set out  
112 in this act and shall be spent in no manner for political  
113 purposes. A report of all expenditures shall be made annually  
114 with three (3) copies of the report to be filed with each of the  
115 following: The Clerk of the House of Representatives, the  
116 Secretary of the Senate and the State Law Library.

117           SECTION 6. Section 69-43-11, Mississippi Code of 1972, is  
118 reenacted as follows:

119           69-43-11. The State Tax Commission shall provide any  
120 information necessary to assist the Department of Agriculture and  
121 Commerce in collecting the assessments provided for in this  
122 chapter.

123           SECTION 7. Section 69-43-13, Mississippi Code of 1972, is  
124 amended as follows:

125           69-43-13. Sections 69-43-1 through 69-43-11, shall stand  
126 repealed on July 1, 2004.

127           SECTION 8. This act shall take effect and be in force from  
128 and after July 1, 2000.