

By: Senator(s) Hyde-Smith, Lee (35th)

To: Agriculture;
Appropriations

SENATE BILL NO. 2871
(As Passed the Senate)

1 AN ACT TO CREATE THE CORN PROMOTION BOARD; TO PROVIDE FOR AN
2 ASSESSMENT ON CORN PRODUCED IN THE STATE; TO CREATE A SPECIAL FUND
3 FOR SUCH ASSESSMENT; TO PROVIDE FOR METHOD OF COLLECTION AND
4 DISBURSEMENT OF THE ASSESSMENT; TO PRESCRIBE CONDITIONS AND
5 PURPOSES FOR WHICH THE ASSESSMENT MAY BE EXPENDED; TO PRESCRIBE
6 DUTIES OF THE DEPARTMENT OF AGRICULTURE AND COMMERCE RELATED TO
7 THE CORN PROMOTION BOARD; TO PROVIDE A PENALTY FOR FAILURE TO PAY
8 THE ASSESSMENTS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The purpose of this chapter is to promote the
11 growth and development of the corn industry in Mississippi by
12 research, advertisement promotions and education and market
13 development, thereby promoting the general welfare of the people
14 of this state.

15 For purposes of this chapter:

16 (a) "Board" means the Mississippi Corn Promotion Board.

17 (b) "Department" means the Mississippi Department of
18 Agriculture and Commerce.

19 **SECTION 2.** (1) The Mississippi Corn Promotion Board is
20 hereby created, to be composed of twelve (12) members to be
21 appointed by the Governor to serve terms of three (3) years. All
22 of the twelve (12) members of the board shall be producers of corn
23 in the State of Mississippi. Within ten (10) days following the
24 effective date of this chapter, the Mississippi Farm Bureau
25 Federation, Inc., the Mississippi Feed and Grains Association, the
26 Mississippi Corn Growers Association and the Delta Council shall
27 each submit the names of six (6) corn producers to the Governor,
28 and he shall appoint three (3) members from the nominees of each
29 organization to serve on the board on rotating three-year terms.
30 The original board shall be appointed with members of each of the

31 organizations appointed as follows: one (1) for one (1) year, one
32 (1) for two (2) years, and one (1) for three (3) years. Each year
33 thereafter, not less than thirty (30) days prior to the expiration
34 of the terms of expiring board members, the organizations shall
35 submit the names of three (3) nominees to the Governor and
36 succeeding boards shall be appointed by the Governor in the same
37 manner, giving equal representation to each organization.
38 Vacancies which occur shall be filled in the same manner as the
39 original appointments were made.

40 (2) The members of the board shall meet and organize
41 immediately after their appointment, and shall elect a chairman,
42 vice chairman and secretary-treasurer from the membership of the
43 board, whose duties shall be those customarily exercised by such
44 officers or specifically designated by the board. The chairman,
45 vice chairman and secretary-treasurer shall be bonded in an amount
46 not less than Twenty Thousand Dollars (\$20,000.00). The cost of
47 the bonds shall be paid from the funds received under this
48 chapter. The bond shall be a security for any illegal act of such
49 member of the board and recovery thereon may be had by the state
50 for any injury by the illegal act of the member. The board may
51 establish rules and regulations for its own government and the
52 administration of the affairs of the board.

53 **SECTION 3.** (1) After July 1, 2006, there is imposed and
54 levied an assessment at the rate of One Cent (1¢) per bushel on
55 all corn grown within the State of Mississippi, and the assessment
56 shall be deducted by the purchaser from the amount paid the
57 producer at the first point of sale, whether within or without the
58 state. If a producer pledges corn grown by that producer as
59 collateral for a loan issued by the Commodity Credit Corporation
60 and if that producer forfeits the corn in lieu of loan repayment,
61 the Commodity Credit Corporation shall at the time of the loan
62 settlement, collect the assessment from the producer.

63 (2) The assessment imposed and levied by this section shall
64 be payable to and collected by the department from the purchaser
65 of the corn at the first point of sale or from the Commodity
66 Credit Corporation as provided in subsection (1) of this section.
67 The proceeds of the assessment collected by the department shall
68 be deposited with the State Treasurer in a special fund to be
69 established as the "Mississippi Corn Promotion Fund," and promptly
70 remitted to a foundation under the terms and conditions as the
71 board deems necessary to ensure that the assessments are used
72 properly in carrying out the purposes of this chapter.

73 (3) The department shall submit to the board a budget
74 detailing and justifying the administrative costs of the
75 department in administering the provisions of this chapter. The
76 budget must be approved by the board by April 1 of each year. The
77 department shall pay over to the Mississippi Corn Promotion Fund
78 the funds collected, less three and one-half percent (3-1/2%) of
79 the gross amount collected. The amount withheld by the department
80 must be approved by the board by July 1 of each year.

81 (4) Each purchaser or the Commodity Credit Corporation shall
82 keep a complete and accurate record of all corn handled by him and
83 shall furnish each producer with a signed sales slip showing the
84 number of bushels purchased from him and the amount deducted by
85 him for the Mississippi Corn Promotion Fund. The records shall be
86 in the form and contain any other information as the department
87 shall by rule or regulation prescribe. The records shall be
88 preserved by the purchaser for a period of two (2) years and shall
89 be offered for inspection at any time upon oral or written demand
90 by the department or any duly authorized agent or representative
91 thereof. Every purchaser or the Commodity Credit Corporation, at
92 such time or times as the department may require, shall submit
93 reports or other documentary information deemed necessary for the
94 efficient and equitable collection of the assessment imposed in
95 this chapter. The department shall have the power to cause any

96 duly authorized agent or representative to enter upon the premises
97 of any purchaser of corn and examine or cause to be examined by
98 the agent only books, papers and records which deal in any way
99 with the payment of the assessment or enforcement of the
100 provisions of this chapter.

101 **SECTION 4.** (1) Any purchaser who fails to file a report or
102 to pay any assessment within the time required by the department
103 shall forfeit to the department a penalty of five percent (5%) of
104 the assessment determined to be due, plus one percent (1%) of the
105 amount for each month of delay or fraction thereof after the first
106 month after the report was required to be filed or the assessment
107 became due. The penalty shall be paid to the department and shall
108 be disposed of by it in the same manner as funds derived from the
109 payment of the assessment imposed herein.

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

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

114 (b) By legal proceedings instituted in a court of
115 competent jurisdiction.

116 (3) Any person required to pay the assessment provided for
117 in this chapter who fails to remit same or who refuses to allow
118 full inspection of the premises, or the books, records or other
119 documents relating to the liability of the person for the
120 assessment herein imposed, or who shall hinder or in any way delay
121 or prevent the inspection, shall be guilty of a misdemeanor and,
122 upon conviction, shall be punished by a fine not exceeding One
123 Thousand Dollars (\$1,000.00) or by imprisonment not to exceed one
124 (1) year, or both.

125 (4) The provisions of this chapter shall not apply to any
126 person who purchases one thousand (1,000) or fewer bushels of corn
127 in any calendar year, provided he is not regularly engaged in the
128 purchase of corn.

129 SECTION 5. (1) The board shall plan and conduct a program
130 of research, education and advertising designed to promote the
131 corn industry in Mississippi. The board is authorized to use the
132 funds derived from the assessment imposed herein for these
133 purposes, including basic administration expenses of the plan.
134 Use of these funds may be applied, as prescribed in this section,
135 within or without the State of Mississippi, including regional,
136 national and international research and promotional applications.

137 (2) (a) The Mississippi Legislature finds and declares that
138 the factors which affect the ability of Mississippi corn farmers
139 to market their crop are established by national and international
140 forces in the world market. The Legislature further finds and
141 declares that the expenditure of funds by the board for the
142 purpose of influencing the development and implementation of
143 national and international policy affecting the marketing of corn
144 produced by Mississippi farmers is the expenditure of funds for a
145 public purpose.

146 (b) The board may expend a portion of the funds
147 received and administered by the board for the purpose of
148 influencing the development and implementation of national and
149 international policy affecting the marketing of corn produced by
150 Mississippi farmers.

151 (c) The amount of funds expended by the board in each
152 fiscal year for the purposes authorized in this subsection shall
153 not exceed fifteen percent (15%) of the budget of the board for
154 that fiscal year.

155 (d) The board shall not expend any funds for the
156 purpose of influencing any legislative action on the state level.

157 (3) A report of all expenditures shall be made annually with
158 three (3) copies of the report to be filed with each of the
159 following: the Clerk of the House of Representatives, the
160 Secretary of the Senate and the State Law Library.

161 SECTION 6. The State Tax Commission shall provide any
162 information necessary to assist the department in collecting the
163 assessments provided for in this chapter.

164 SECTION 7. Notwithstanding the provisions of any laws or
165 parts of laws in conflict herewith, the provisions of this chapter
166 shall be controlling to the extent of the conflict.

167 SECTION 8. This act shall take effect and be in force from
168 and after July 1, 2006.