

By: Senator(s) Hyde-Smith

To: Agriculture;
Appropriations

SENATE BILL NO. 2805

1 AN ACT TO ENACT AND TO ENTER INTO THE INTERSTATE PEST CONTROL
2 COMPACT; TO CREATE SECTIONS 69-26-1 THROUGH 69-26-7, MISSISSIPPI
3 CODE OF 1972, TO PROVIDE THAT THE GOVERNOR OR THE COMMISSIONER OF
4 AGRICULTURE MAY REQUEST ASSISTANCE UNDER THE COMPACT; TO DESIGNATE
5 THE COMMISSIONER OF AGRICULTURE AND COMMERCE AS COMPACT
6 ADMINISTRATOR FOR THE STATE OF MISSISSIPPI; TO PROVIDE FOR THE
7 DISPOSITION OF COMPACT GRANTS AND REIMBURSEMENTS; TO PROVIDE FOR
8 THE EFFECTIVE DATE OF THE COMPACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The following shall be codified as Section
11 69-26-1, Mississippi Code of 1972:

12 69-26-1. The Pest Control Compact is hereby enacted into law
13 and entered into with all other jurisdictions legally joining
14 therein in the form substantially as follows:

15 **PEST CONTROL COMPACT**

16 **Article I**

17 **Findings**

18 The party states find that:

19 (a) In the absence of the higher degree of cooperation
20 among them possible under this Compact, the annual loss of
21 approximately One Hundred Thirty-seven Billion Dollars
22 (\$137,000,000,000.00) from the depredations of pests is virtually
23 certain to continue, if not to increase.

24 (b) Because of the varying climatic, geographic and
25 economic factors, each state may be affected differently by
26 particular species of pests; but all states share the inability to
27 protect themselves fully against those pests which present serious
28 dangers to them.

29 (c) The migratory character of pest infestations makes
30 it necessary for states both adjacent to and distant from one

another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crops and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interest, the most equitable means of financing cooperative pest eradication and control programs.

Article II

Definitions

As used in this Compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the Compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (b) of this Article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses, or other plants of substantial value.

(e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this Compact.

(f) "Governing Board" means the administrators of this Compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this Compact.

(g) "Executive committee" means the committee established pursuant to Article V (e) of this Compact.

Article III

The Insurance Fund

There is hereby established a Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this Compact. The Insurance Fund shall contain monies appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this Compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the Insurance Fund shall not accept any donation or grant whose terms are inconsistent with any provision of this Compact.

Article IV

The Insurance Fund, Internal Operations and Management

(a) The Insurance Fund shall be administered by a Governing Board and Executive Committee as hereinafter provided. The actions of the Governing Board and the Executive Committee pursuant to this Compact shall be deemed the actions of the Insurance Fund.

(b) The members of the Governing Board shall be entitled to one vote on such board. No action of the Governing Board shall be binding unless taken at a meeting at which a majority of the total number of votes on the Governing Board is

cast in favor thereof. Action of the Governing Board shall be only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the Governing Board may provide.

(d) The Governing Board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The Governing Board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the Governing Board. The Governing Board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The Governing Board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize and dispose of the same. Any donation, gift, or grant accepted by the

Governing Board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Insurance Fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender.

(h) The Governing Board shall adopt bylaws for the conduct of the business of the Insurance Fund and shall have the power to amend and to rescind these bylaws. The Insurance Fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The Insurance Fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this Compact.

Article V

Compact and Insurance Fund Administration

(a) In each party state there shall be a Compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the Compact in his state; and

2. Represent his state on the Governing Board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefore within the federal government, the United States may be represented on the Governing Board of the Insurance Fund by not to exceed three

162 representatives. Any such representative or representatives of
163 the United States shall be appointed and serve in such manner as
164 may be provided by or pursuant to federal law, but no such
165 representative shall have a vote on the Governing Board or the
166 Executive Committee thereof.

167 (c) The Governing Board shall meet at least once each
168 year for the purpose of determining policies and procedures in the
169 administration of the Insurance Fund and, consistent with the
170 provisions of the Compact, supervising and giving direction to the
171 expenditure of monies from the Insurance Fund. Additional
172 meetings of the Governing Board shall be held on call of the
173 chairman, the Executive Committee, or a majority of the membership
174 of the Governing Board.

175 (d) At such times as it may be meeting, the Governing
176 Board shall pass upon applications for assistance from the
177 Insurance Fund and authorize disbursements therefrom. When the
178 Governing Board is not in session, the Executive Committee thereof
179 shall act as agent of the Governing Board, with full authority to
180 act for it in passing upon such applications.

181 (e) The Executive Committee shall be composed of the
182 chairman of the Governing Board and four additional members of the
183 Governing Board chosen by it so that there shall be one member
184 representing each of four geographic groupings of party states.
185 The Governing Board shall make such geographic groupings. If
186 there is representation of the United States on the Governing
187 Board, one such representative may meet with the Executive
188 Committee. The chairman of the Governing Board shall be chairman
189 of the Executive Committee. No action of the Executive Committee
190 shall be binding unless taken at a meeting at which at least four
191 members of such Committee are present and vote in favor thereof.
192 Necessary expenses of each of the five members of the Executive
193 Committee incurred in attending meetings of such Committee, when

not held at the same time and place as a meeting of the Governing Board, shall be charges against the Insurance Fund.

Article VI

Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this Compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this Compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use monies available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

226 (c) In order to apply for expenditures from the
227 Insurance Fund, a requesting state shall submit the following in
228 writing:

229 1. A detailed statement of the circumstances which
230 occasion the request for the invoking of the Compact.

231 2. Evidence that the pest on account of whose
232 eradication or control assistance is requested constitutes a
233 danger to an agricultural or forest crop, product, tree, shrub,
234 grass, or other plant having a substantial value to the requesting
235 state.

236 3. A statement of the extent of the present and
237 projected program of the requesting state and its subdivisions,
238 including full information as to the legal authority for the
239 conduct of such program or programs and the expenditures being
240 made or budgeted therefore, in connection with the eradication,
241 control, or prevention of introduction of the pest concerned.

242 4. Proof that the expenditures being made or
243 budgeted as detailed in item 3 do not constitute a reduction of
244 the effort for the control or eradication of the pest concerned
245 or, if there is a reduction, the reasons why the level of program
246 detailed in item 3 constitutes a normal level of pest control
247 activity.

248 5. A declaration as to whether, to the best of its
249 knowledge and belief, the conditions which in its view occasion
250 the invoking of the Compact in the particular instance can be
251 abated by a program undertaken with the aid of monies from the
252 Insurance Fund in one (1) year or less, or whether the request is
253 for an installment in a program which is likely to continue for a
254 longer period of time.

255 6. Such other information as the Governing Board
256 may require consistent with the provisions of this Compact.

257 (d) The Governing Board or Executive Committee shall
258 give due notice of any meeting at which an application for

259 assistance from the Insurance Fund is to be considered. Such
260 notice shall be given to the Compact administrator of each party
261 state and to such other officers and agencies as may be designated
262 by the laws of the party states. The requesting state and any
263 other party state shall be entitled to be represented and present
264 evidence and argument at such meeting.

265 (e) Upon the submission as required by paragraph (c) of
266 this Article and such other information as it may have or acquire,
267 and upon determining that an expenditure of funds is within the
268 purposes of this Compact and justified thereby, the Governing
269 Board or Executive Committee shall authorize support of the
270 program. The Governing Board or Executive Committee may meet at
271 any time or place for the purpose of receiving and considering an
272 application. Any and all determinations of the Governing Board or
273 Executive Committee, with respect to an application, together with
274 the reasons therefore shall be recorded and subscribed in such
275 manner as to show and preserve the votes of the individual members
276 thereof.

277 (f) A requesting state which is dissatisfied with a
278 determination of the Executive Committee shall upon notice in
279 writing given within twenty (20) days of the determination with
280 which it is dissatisfied, be entitled to receive a review thereof
281 at the next meeting of the Governing Board. Determinations of the
282 Executive Committee shall be reviewable only by the Governing
283 Board at one of its regular meetings, or at a special meeting held
284 in such manner as the Governing Board may authorize.

285 (g) Responding states required to undertake or increase
286 measures pursuant to this Compact may receive monies from the
287 Insurance Fund, either at the time or times when such state incurs
288 expenditures on account of such measures, or as reimbursement for
289 expenses incurred and chargeable to the Insurance Fund. The
290 Governing Board shall adopt and, from time to time, may amend or

291 revise procedures for submission of claims upon it and for payment
292 thereof.

293 (h) Before authorizing the expenditure of monies from
294 the Insurance Fund pursuant to an application of a requesting
295 state, the Insurance Fund shall ascertain the extent and nature of
296 any timely assistance or participation which may be available from
297 the federal government and shall request the appropriate agency or
298 agencies of the federal government for such assistance and
299 participation.

300 (i) The Insurance Fund may negotiate and execute a
301 memorandum of understanding or other appropriate instrument
302 defining the extent and degree of assistance or participation
303 between and among the Insurance Fund, cooperating federal
304 agencies, states, and any other entities concerned.

305 **Article VII**

306 **Advisory and Technical Committees**

307 The Governing Board may establish advisory and technical
308 committees composed of state, local, and federal officials, and
309 private persons to advise it with respect to any one or more of
310 its functions. Any such advisory or technical committee, or any
311 member or members thereof may meet with and participate in its
312 deliberations upon request of the Governing Board or Executive
313 Committee. An advisory or technical committee may furnish
314 information and recommendations with respect to any application
315 for assistance from the Insurance Fund being considered by such
316 Board or Committee and the Board or Committee may receive and
317 consider the same: provided that any participant in a meeting of
318 the Governing Board or Executive Committee held pursuant to
319 Article VI(d) of the Compact shall be entitled to know the
320 substance of any such information and recommendations, at the time
321 of the meeting if made prior thereto or as a part thereof or, if
322 made thereafter, no later than the time at which the Governing

323 Board or Executive Committee makes its disposition of the
324 application.

325 **Article VIII**

326 **Relations with Nonparty Jurisdictions**

327 (a) A party state may make application for assistance
328 from the Insurance Fund in respect of a pest in a nonparty state.
329 Such application shall be considered and disposed of by the
330 Governing Board or Executive Committee in the same manner as an
331 application with respect to a pest within a party state, except as
332 provided in this Article.

333 (b) At or in connection with any meeting of the
334 Governing Board or Executive Committee held pursuant to Article
335 VI(d) of this Compact a nonparty state shall be entitled to
336 appear, participate, and receive information only to such extent
337 as the Governing Board or Executive Committee may provide. A
338 nonparty state shall not be entitled to review of any
339 determination made by the Executive Committee.

340 (c) The Governing Board or Executive Committee shall
341 authorize expenditures from the Insurance Fund to be made in a
342 nonparty state only after determining that the conditions in such
343 state and the value of such expenditures to the party states as a
344 whole justify them. The Governing Board or Executive Committee
345 may set any conditions which it deems appropriate with respect to
346 the expenditure of monies from the Insurance Fund in a nonparty
347 state and may enter into such agreement or agreements with
348 nonparty states and other jurisdictions or entities as it may deem
349 necessary or appropriate to protect the interests of the Insurance
350 Fund with respect to expenditures and activities outside of party
351 states.

352 **Article IX**

353 **Finance**

354 (a) The Insurance Fund shall submit to the executive
355 head or designated officer or officers of each party state a

budget for the Insurance Fund for such period as may be required by the laws of that party state for a presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The request for appropriations shall be apportioned among the party states as follows: one-tenth (1/10) of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the "Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing two-year period. The Claims Account shall contain all monies not included in the Operating Account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the Insurance Fund for a period of three years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of monies requested for appropriation by the party states, the Governing Board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any monies in the Claims Account by virtue of conditional donations, grants, or gifts shall be included in calculations made pursuant to this

paragraph only to the extent that such monies are available to meet demands arising out of the claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with monies available to it under Article IV(g) of this Compact, provided that the Governing Board take specific action setting aside such monies prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of monies available to it under Article IV(g) hereof, the Insurance Fund shall not incur any obligation prior to the allotment of monies by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

Article X

Entry Into Force and Withdrawal

(a) This Compact shall enter into force when enacted into law by any five (5) or more states. Thereafter, this Compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two (2) years after the executive head of

the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating herein the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

SECTION 2. The following shall be codified as Section 69-26-2, Mississippi Code of 1972:

69-26-2. Consistent with law and within available appropriations, the departments, agencies and officers of this state may cooperate with the Insurance Fund established by the Pest Control Compact.

SECTION 3. The following shall be codified as Section 69-26-3, Mississippi Code of 1972:

69-26-3. Pursuant to Article IV(h) of the Compact, copies of bylaws and amendments thereto shall be filed with the Commissioner of Agriculture and Commerce.

SECTION 4. The following shall be codified as Section 69-26-4, Mississippi Code of 1972:

69-26-4. The Compact administrator for this state shall be Commissioner of Agriculture and Commerce. The duties of the Compact administrator shall be deemed a regular part of the duties of this office.

SECTION 5. The following shall be codified as Section 69-26-5, Mississippi Code of 1972:

69-26-5. Within the meaning of Article VI(b) or VIII(a), a request or application for assistance from the Insurance Fund may be made by the Commissioner of Agriculture and Commerce or the Governor whenever in such official's judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request.

SECTION 6. The following shall be codified as Section 69-26-6, Mississippi Code of 1972:

69-26-6. The department, agency or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the Compact shall have credited to his account, in the state treasury the amount or amounts of any payments made to this state to defray the cost of such program, or any part thereof, or as reimbursement thereof.

SECTION 7. The following shall be codified as Section 69-26-7, Mississippi Code of 1972:

69-26-7. As used in this Compact, with reference to this state, the term "executive head" shall mean the Governor.

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