

ENGROSSED HOUSE  
BILL NO. 2401

By: Erwin, Smith (Dale),  
Stites and Culver of the  
House

and

Rabon of the Senate

An Act relating to agriculture; creating the Oklahoma Emu Promotion Advisory Council; providing for qualifications; providing for appointment; providing for terms; setting term limits; providing for reimbursement and vacancies; providing for meetings and appointment of officers; specifying purpose and duties; requiring bonding; specifying limits and purpose; requiring promulgation of rules; levying an assessment on slaughtered emus; providing for payments; providing for collection; providing for deposit of proceeds; creating the Oklahoma Emu Promotion Advisory Council Fund; providing for disbursements; providing procedures; authorizing investments; providing for certain budgets; providing for contents; requiring approvals; authorizing certain administrative costs; providing for certain reports; requiring certain penalties; providing for amounts; providing for collection of penalties; making certain actions unlawful; specifying certain penalties; providing for duties and use of funds; prohibiting and restricting certain uses of funds; requiring certain reports; requiring assistance from certain

state agencies; specifying certain purposes and duties; including within the term agricultural commodity, emus and certain emu products; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Emu Promotion Advisory Council to be composed of persons involved in the production and processing of emus in this state.

B. The purpose of the Oklahoma Emu Promotion Advisory Council is the promotion, growth and development of the emu industry in Oklahoma. The Council shall advise the State Commissioner of Agriculture, the State Board of Agriculture and the State Department of Agriculture on:

1. Advertisement and promotion of products;
2. Market development;
3. Research and producer education; and
4. Such other matters and activities as directed by the Commissioner of Agriculture or by the State Board of Agriculture.

C. The Oklahoma Emu Promotion Advisory Council shall consist of three (3) persons. Members of the Council shall be appointed as follows:

1. One member shall be appointed by the State Commissioner of Agriculture;
2. One member shall be appointed by the Speaker of the House of Representatives; and
3. One member shall be appointed by the President Pro Tempore of the Senate.

D. The appointees to the Oklahoma Emu Promotion Advisory Council shall be appointed for a term of two (2) years, and shall serve at the pleasure of their appointing authority. All appointees shall be eligible for appointment, but in no case shall any appointee serve for more than six (6) years on the Oklahoma Emu Promotion Advisory Council. Vacancies on the Council shall be filled in the same manner as the original appointment.

E. The members of the Council shall meet and organize immediately after their appointment and shall elect a chairman, vice-chairman and secretary-treasurer from the membership of the Council, whose duties shall be those customarily exercised by such officers or specifically designated by the Council.

F. The chairman, vice-chairman and secretary-treasurer shall be bonded in an amount not less than Twenty Thousand Dollars (\$20,000.00). The cost of the bonds shall be paid from the funds received under the provisions of Section 2 of this act. Such bond shall be a security for any illegal act of any member of the Council and recovery thereon may be had by the state for any injury by such illegal act of such member.

G. The Council shall promulgate rules in accordance with the Administrative Procedures Act for its own government and the administration of the affairs of the Council.

H. Persons on the Council shall at all times serve without compensation, but shall be reimbursed for their actual and necessary travel expenses from funds derived from the provisions of Section 2 of this act and in accordance with the provisions of the State Travel Reimbursement Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. There is imposed and levied an assessment not to exceed Three Dollars (\$3.00) per emu slaughtered within the State of Oklahoma.

B. The assessment imposed and levied by this section shall be payable to and collected by the State Department of Agriculture from the processor of such emus at the first point of processing or sale.

C. 1. The proceeds of the assessment collected by the Department shall be deposited monthly with the State Treasurer in a special fund to be established as the "Oklahoma Emu Promotion Advisory Council Fund".

2. Disbursement from the fund shall be made upon warrants issued by the State Treasurer upon requisitions signed by the chairman and secretary-treasurer of the Oklahoma Emu Promotion Advisory Council in the manner provided by law.

3. The State Treasurer shall invest such proceeds and any interest earned thereon shall be credited to such special fund and shall not be deposited in the General Revenue Fund.

D. The funds may be expended only for the purposes set out in this act and shall not be spent in any manner for political purposes. A report of all expenditures shall be made annually with three copies of the report to be filed with each of the following: the Clerk of the House of Representatives, the Secretary of the Senate and the State Law Library.

E. 1. The Department may withhold an amount of money for administrative costs, which shall not exceed three and one-half percent (3 1/2%) of the gross amount collected by the Department pursuant to this section. The amount so withheld shall be approved by the Oklahoma Emu Promotion Advisory Council by June 1 of each year.

2. The State Department of Agriculture shall submit to the Oklahoma Emu Promotion Advisory Council a budget detailing and justifying the administrative costs of the Department in

administering the provisions of this act. Such budget must be approved by the Oklahoma Emu Promotion Advisory Council by May 1 of each year.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any processor who fails to file a report or to pay any assessment within the time required by the State Department of Agriculture shall forfeit to the Department a penalty of five percent (5%) of the assessment determined to be due, plus one percent (1%) of such amount for each month of delay or fraction thereof after the first month after such report was required to be filed or such assessment became due. The penalty shall be paid to the funds derived from the payment of the assessment imposed herein.

B. The Department shall collect the penalties levied pursuant to this section, together with the delinquent assessment, by the following methods:

1. The voluntary payment by the person liable; and
2. By legal proceedings instituted in a court of competent jurisdiction.

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Emu Promotion Advisory Council shall plan and conduct a program of research, education and advertising designed to promote the emu industry in Oklahoma. The Council is authorized to use the funds derived from the assessment imposed in this act for these purposes, including, but not limited to, basic administration expenses of the plan. After paying administrative expenses, all remaining funds shall be expended for purposes specified by this act on a pro rata basis of emus processed or sold. Use of these funds may be applied, as prescribed in this section, within or without the State of Oklahoma, including regional, national and international research and promotional applications.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall provide any information necessary to assist the State Department of Agriculture in collecting the assessments provided for in this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1600.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

Whenever the term "agricultural commodity" occurs in the Oklahoma Statutes, such term shall also include emus and marketable products derived from emus.

SECTION 7. This act shall become effective November 1, 1998.

Passed the House of Representatives the 2nd day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1998.

President

of the Senate