ENROLLED HOUSE
BILL NO. 1197

By: Leist, Glover, Maddux, Matlock, Pope (Clay), Turner, Mitchell, Covey, Ervin, Braddock and McCarter of the House

and

Price and Kerr of the Senate

An Act relating to agriculture; creating the Oklahoma Agriculture Enhancement and Diversification Act, the Oklahoma Agriculture Enhancement and Diversification Program and the Oklahoma Agriculture Enhancement and Diversification Advisory Board; authorizing establishment and administration of the Program; providing for purpose and establishing categories of the Program by the Oklahoma State Board of Agriculture; providing for promulgation of rules; creating the Oklahoma Agriculture Enhancement and Diversification Fund; providing for deposits and expenditures; providing for contents of fund; prohibiting certain uses and transfers; providing for applications and eligibility; requiring certain information; setting certain preferences; prohibiting certain uses; providing for appointment of members of the Advisory Board; providing for qualifications and removal; providing for powers and duties; providing for reimbursement; amending 2 O.S. 1991, Section 9-34, as amended by Section 93, Chapter 133, O.S.L. 1997 (2 O.S. Supp. 1998, Section 9-34), which relates to warehouses; clarifying language relating to state-chartered warehouses; adding penalty; repealing Section 12, Chapter 10, O.S.L. 1997 (2 O.S. Supp. 1998, Section 9-34), which is a duplicate section; 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 5-3.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this act shall be known and may be cited as the "Oklahoma Agriculture Enhancement and Diversification Act".

B. Pursuant to the Oklahoma Agriculture Enhancement and Diversification Act, there is hereby created the "Oklahoma Agriculture Enhancement and Diversification Program".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-3.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture is hereby authorized to establish and administer the Oklahoma Agriculture Enhancement and Diversification Program.

B. The purpose of the Oklahoma Agriculture Enhancement and Diversification Program is to promote and encourage the interests of agriculture through the allocation of funds, by grant or loan, to individuals, cooperatives and other agricultural entities to provide assistance to projects dealing with the development of new or expanded uses or both new and expanded uses of agricultural products, and to increase productivity, provide added value to agricultural products and benefit the agricultural producer.

C. The Program shall consist of the following categories:

1. Cooperative marketing grants and loans to be available to entities or individuals wishing to work together to develop or establish production, processing or marketing of agricultural products. The purpose of this category is to provide funding for promoting productivity, providing added value to agricultural products, stimulating and fostering agricultural diversification and encouraging processing innovations;

2. Marketing and utilization grants and loans to be used to assist in the development or implementation of sound domestic or foreign marketing plans for Oklahoma agricultural products, by-products, or new and better uses for existing agricultural products by the financing of marketing feasibility studies, business plans, and test marketing;

3. Farm diversification grants or loans to be used for projects dealing with the diversification of family farms or ranches to nontraditional crops, livestock, or on-farm, value-added processing of agricultural commodities; and

4. Basic and applied research grants and loans for business creation or expansion, or research which will likely lead to a marketable product through the focusing of research efforts on uses and processing of Oklahoma agricultural products and by-products, including but not limited to:

a. focused research which enhances the value of an agricultural product or by-product,

b. feasibility studies,

c. product development costs, and

d. projects that are driven by an entrepreneur or the industry.

D. The State Board of Agriculture, with the advice and assistance of the Oklahoma Agriculture Enhancement and Diversification Advisory Board created in Section 5 of this act, shall promulgate rules governing the Oklahoma Agriculture Enhancement and Diversification Program.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-3.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the State Treasury a fund for the State Board of Agriculture to be designated the "Oklahoma Agriculture Enhancement and Diversification Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Agriculture to implement and maintain the Oklahoma Agriculture Enhancement and Diversification Program.

B. The Oklahoma Agriculture Enhancement and Diversification Fund shall consist of:

1. Money received by the State Department of Agriculture in the form of gifts, grants, appropriations, reimbursements, donations, industry contributions, funds allocated by federal agencies for marketing, research and agricultural development programs and such other monies specifically designated for the Oklahoma Agriculture Enhancement and Diversification Program. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Board of Agriculture for the Oklahoma Agriculture Enhancement and Diversification Program; and

2. Interest attributable to investment of money in the fund.

C. All donations or other proceeds received by the Department pursuant to the provisions of this section shall be deposited with the State Treasurer to be credited to the Oklahoma Agriculture Enhancement and Diversification Fund. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. The monies deposited in the fund shall at no time become part of the general budget of the Department or any other state agency. Except for any administration costs incurred in development and implementation of the Oklahoma Agriculture Enhancement and Diversification Program, no monies from the fund shall be transferred for any purpose to any other state agency or to any account of the State Board of Agriculture or the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-3.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Agriculture shall require eligible applicants to submit information, forms and reports as are necessary to properly and efficiently administer the Oklahoma Agriculture Enhancement and Diversification Program.

B. Persons may apply to the State Department of Agriculture for grant or loan funds to develop or implement research or marketing and utilization or farm diversification plans, in accordance with rules promulgated by the State Board of Agriculture. Applications for grant or loan funds shall be approved or denied by the Department in accordance with criteria promulgated by the Board

pursuant to the Oklahoma Agriculture Enhancement and Diversification Program.

C. The Commissioner of Agriculture may also allocate monies from the fund to eligible applicants on a matching basis.

D. Grant or loan funds may be made available to eligible applicants pursuant to evaluation by the Department based on the following criteria:

1. Preference will be given to the applicants whose:

   a. industrial and nonfood production processes utilize agricultural products,

   b. food, feed and fiber products and uses are innovative and add to the value of agricultural products,

   c. applications demonstrate a high probability of job creation and return-on-investment,

   d. proposals feature research that is innovative as well as commercially plausible,

   e. proposals demonstrate a high probability of rapid commercialization,

   f. projects demonstrate a shared commitment for funding from other private or public sources or from the applicant,

   g. proposals center efforts on nonurban locales,

   h. principals are individuals, a group of individuals, an individual on behalf of a group, or corporations which meet the criteria set forth in Section 951 of Title 18 of the Oklahoma Statutes, to market a product or formulate or implement a marketing plan for products which have not been marketed through existing marketing cooperatives,

   i. proposals must contain the potential to create additional income for the farm unit, and

   j. proposals must provide for new and innovative plans for marketing the product; and

2. Consideration shall not be given to applications for:

   a. research or marketing plans which do not clearly meet the stated objectives of the Oklahoma Agriculture Enhancement and Diversification Act,

   b. proposals which are aimed solely at business expansion or creation without regard to agricultural products utilization, and

   c. research or marketing plans that cannot reasonably be expected to result in a viable commercial application,

or that are or have been duplicated by other research efforts.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-3.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Agriculture Enhancement and Diversification Advisory Board.

B. 1. The members of the Advisory Board shall be appointed as follows:

a. one member shall be appointed by the Speaker of the House of Representatives which member shall be an agricultural lending officer from an Oklahoma-based lending institution,

b. one member shall be appointed by the President Pro Tempore of the Senate from a farm credit institution,

c. one member shall be appointed by the State Treasurer which member shall have agricultural business experience,

d. one member shall be appointed by the Oklahoma Agricultural Cooperative Council who is an active co-op manager or chief executive officer, and

e. three members shall be appointed by the Governor from lists submitted by each of the state's three largest farm organizations and three largest commodity organizations. Each of these members must be actively engaged in farming or ranching.

2. The gubernatorial appointees shall serve terms of four (4) years. The remaining appointees shall serve terms of three (3) years.

3. The Secretary of Agriculture or designee, the Secretary of the Department of Commerce or designee, and the President of Oklahoma State University or designee, shall serve as ex officio members of the Advisory Board.

C. 1. Members of the Advisory Board shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Six members shall constitute a quorum.

2. The Advisory Board shall elect a chair and a vice-chair from among its members. The Advisory Board shall meet as required to comply with its duties and responsibilities specified by the Oklahoma Agriculture Enhancement and Diversification Act and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any five members.

3. The Secretary of Agriculture shall call the first meeting of the Advisory Board.

D. The duties of the Advisory Board shall be to:

1. Ensure that all proposals that receive funds have the potential to directly benefit agricultural producers;

2. Evaluate proposals and recommend to the State Department of Agriculture the funding level, and the allocation of funds for the proposal;

3. Review interim and final reports, including but not limited to financial reports;

4. Review and make recommendations to the Legislature on any changes needed in the Oklahoma Agriculture Enhancement and Diversification Program;

5. Assist the Department in developing an annual report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the State Board of Agriculture;

6. Make other written recommendations to the State Board of Agriculture which have been concurred upon by at least a majority of the membership of the Advisory Board; and

7. Provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

a. pass nonbinding resolutions expressing the intent of the Advisory Board, and

b. make recommendations to the State Board of Agriculture or the Department concerning the need and the desirability of conducting meetings, workshops and seminars.

E. Members of the Advisory Board shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Advisory Board is authorized to utilize the conference rooms of the State Department of Agriculture and obtain administrative assistance from the Department, as required.

SECTION 6. AMENDATORY 2 O.S. 1991, Section 9-34, as amended by Section 93, Chapter 133, O.S.L. 1997 (2 O.S. Supp. 1998, Section 9-34), is amended to read as follows:

Section 9-34. A. Any warehouseman, or employee or manager of a public warehouse, who shall be guilty of issuing any warehouse receipt for any commodities that are not actually in a store at the time of issuing such receipt, or who shall be guilty of issuing any warehouse receipt, including scale ticket, that is in any respect fraudulent in its character, either as to its date or to the quantity, quality or inspected grade of such commodities, or who shall remove any commodities from store, except to preserve the same from fire or other damage or as otherwise provided in this section, without the return and cancellation of any and all outstanding receipts that may have been issued to represent such commodities, shall, when convicted thereof, be guilty of a felony. The fine for a violation of this section shall be not more than Five Thousand

Dollars ($5,000.00) or by imprisonment in the State Penitentiary for not more than ten (10) years or by both such fine and imprisonment.

B. The Board, upon application from the warehouseman may approve the prepositioning of commodity stocks in ~~state~~ state-chartered or federally licensed terminal warehouses or other warehouses licensed in this state in order to free storage space for new harvest commodities. The period for such action shall not exceed sixty (60) days prior to anticipated harvest for the commodity nor can they be out of position more than one hundred eighty (180) days total, provided for good cause shown, the Board may extend such time period an additional one hundred eighty (180) days as specified by rules and regulations established by the Board.

SECTION 7. REPEALER Section 12, Chapter 10, O.S.L. 1997 (2 O.S. Supp. 1998, Section 9-34), is hereby repealed.

SECTION 8. This act shall become effective November 1, 1999.

Passed the House of Representatives the 11th day of May, 1999.

_____

Speaker of the House of Representatives

Passed the Senate the 11th day of May, 1999.

_____

President of the Senate