

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1673

6 By: Fields

7 COMMITTEE SUBSTITUTE

8 An Act relating to Agriculture; creating the  
9 Commodity Research Enhancement Act; providing for  
10 short title; defining terms; providing for petition  
11 to conduct referendum; authorizing nonprofit  
12 commodity organization to conduct referendum for a  
13 state assessment; providing for voter eligibility;  
14 directing nonprofit commodity organization to provide  
15 ballots; designating responsibility for referendum  
16 expenses; providing for exemptions; directing the  
17 Department of Agriculture, Food, and Forestry to  
18 determine ballot eligibility; directing the  
19 Commissioner of Agriculture to verify ballots and  
20 production volumes; directing the Commissioner of  
21 Agriculture to certify referendum outcome; delegating  
22 powers and duties to the federally approved commodity  
23 board; prohibiting commingling of funds; requiring  
24 submission of annual report; authorizing commodity  
board to receive funds; prescribing method of  
collection; providing for refund of the state  
assessment; providing for automatic repeal of the  
state assessment under certain conditions; allowing  
the commodity board to investigate and recover the  
state assessments; providing for penalties; providing  
for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5-63.1 of Title 2, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Commodity  
5 Research Enhancement Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 5-63.2 of Title 2, unless there  
8 is created a duplication in numbering, reads as follows:

9 As used in the Commodity Research Enhancement Act:

10 1. "Agricultural commodity" means an agricultural commodity,  
11 horticultural commodity, silvicultural commodity, or agricultural  
12 product, horticultural product, viticulture, or silvicultural  
13 product, or bees and honey, planting seed, rice, livestock or  
14 livestock product, or poultry or poultry product, produced in this  
15 state, either in its natural state or as processed by the producer;

16 2. "Board" means federally approved commodity board;

17 3. "Commissioner" means the Commissioner of the Oklahoma  
18 Department of Agriculture, Food, and Forestry;

19 4. "District" means a geographical area within the jurisdiction  
20 of a board;

21 5. "Federally approved commodity board" means a board organized  
22 and sanctioned by the United States Department of Agriculture to  
23 receive a federal assessment for the specific commodity;

24

1       6. "Nonprofit commodity organization" means any organization  
2 representing commodity producers with the ability to seek a state  
3 assessment and designate a federally approved commodity board as the  
4 recipient;

5       7. "Person" means an individual, firm, corporation,  
6 association, or any other business entity;

7       8. "Processor" means a person who:

8           a. is a purchaser, warehouseman, processor, or other  
9           commercial handler of an agricultural commodity, or

10          b. is engaged in the operation of packing, grading,  
11          selling, offering for sale or marketing any  
12          agricultural commodity in commercial quantities as  
13          defined in a marketing program, who as owner, agent,  
14          or otherwise, ships or causes agricultural commodities  
15          to be shipped;

16       9. "Producer" means a person engaged in the business of  
17 producing or causing to be produced for commercial purposes an  
18 agricultural commodity. The term "producer" includes the owner of a  
19 farm on which the commodity is produced and the owner's tenant or  
20 sharecropper; and

21       10. "Volume of production" shall be defined by the certified  
22 organization and can refer to units of product sold such as pounds,  
23 bushels, gallons, flats, containers, packages, or other commonly  
24 recognized units of measure, square footage or acreage of production

1 space or other appropriate measurement units, or number of  
2 production units, such as trees, vines, head count of livestock or  
3 poultry, or other commonly recognized measurement units, or gross  
4 sales.

5 SECTION 3. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 5-63.3 of Title 2, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. 1. Any nonprofit commodity organization may petition the  
9 Commissioner of the Oklahoma Department of Agriculture, Food, and  
10 Forestry to request approval to conduct a state assessment  
11 referendum pursuant to the Commodity Research Enhancement Act.

12 2. The petition shall state:

13 a. the name of the nonprofit organization that will  
14 conduct the referendum,

15 b. the reasons for and the purposes of the state  
16 assessment,

17 c. the federally approved commodity board that will be  
18 designated by the nonprofit commodity organization as  
19 the recipient of the state assessment,

20 d. the maximum state assessment to be levied pursuant to  
21 an election, and

22 e. such other information required by the commissioner.

23 3. The petition shall be signed by at least twenty percent  
24 (20%) of the commodity producers in the state.

1 B. 1. Within fifteen (15) days following the day on which a  
2 petition for certification is received, the Commissioner shall  
3 schedule a public hearing to consider the petition. The public  
4 hearing shall be scheduled no later than forty (40) days after  
5 receipt of the completed petition by the Department.

6 2. Upon the scheduling of the public hearing, the nonprofit  
7 commodity organization shall provide for notification of interested  
8 commodity producers in the manner, method and locations required by  
9 the Oklahoma Department of Agriculture, Food, and Forestry.

10 3. If the Commissioner determines that, on the basis of  
11 testimony presented at the public hearing, the petitioning nonprofit  
12 commodity organization is representative of the producers of the  
13 agricultural commodity and that the petition conforms to the  
14 purposes and provisions of the Commodity Research Enhancement Act,  
15 the Commissioner shall designate the nonprofit commodity  
16 organization as representative of the producers of the commodity and  
17 authorized to conduct the state assessment referendum.

18 SECTION 4. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 5-63.4 of Title 2, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. A designated nonprofit commodity organization may conduct a  
22 referendum of the producers of an agricultural commodity on the  
23 proposition of whether or not the producers shall levy a state  
24 assessment on themselves to finance programs of research, disease

1 and insect control, predator control, education or promotion  
2 designed to encourage the production, marketing and use of the  
3 commodity. The designated nonprofit commodity organization shall  
4 give public notice of:

5 1. The date, hours and polling places for voting in the  
6 referendum;

7 2. The estimated amount and basis of the state assessment  
8 proposed to be collected;

9 3. Whether a producer exemption is to be allowed in accordance  
10 with Section 8 of this act; and

11 4. A description of the manner in which the state assessment is  
12 to be collected and the proceeds administered and used.

13 B. The notice under subsection A of this section shall be  
14 published in one or more newspapers published and distributed within  
15 the boundaries described in the petition. The notice shall be  
16 published for not less than once a week for three (3) consecutive  
17 weeks, beginning at least sixty (60) days before the date of the  
18 election. In addition, at least sixty (60) days before the date of  
19 the election, the designated nonprofit commodity organization shall  
20 give direct written notice to each county extension educator in any  
21 county within the boundaries described in the petition.

22 SECTION 5. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5-63.5 of Title 2, unless there  
24 is created a duplication in numbering, reads as follows:

1           A. Subject to the approval of the Commissioner of the Oklahoma  
2 Department of Agriculture, Food, and Forestry, the designated  
3 nonprofit commodity organization shall conduct the referendum on a  
4 statewide basis.

5           B. A producer of the agricultural commodity is eligible to vote  
6 in the election and referendum if the producer would be required  
7 under the referendum to pay the state assessment.

8           SECTION 6.           NEW LAW           A new section of law to be codified  
9 in the Oklahoma Statutes as Section 5-63.6 of Title 2, unless there  
10 is created a duplication in numbering, reads as follows:

11           A. The designated nonprofit commodity organization shall  
12 prepare and distribute all necessary ballots in advance of the  
13 referendum and shall cause ballots to be available at all polling  
14 places.

15           B. The ballot shall specify a maximum rate for the authorized  
16 state assessment.

17           C. The ballot shall provide a space for the voter to certify  
18 the volume of the voter's production of the commodity during the  
19 preceding year or other relevant production period, as designated on  
20 the ballot.

21           SECTION 7.           NEW LAW           A new section of law to be codified  
22 in the Oklahoma Statutes as Section 5-63.7 of Title 2, unless there  
23 is created a duplication in numbering, reads as follows:

24

1 The designated nonprofit commodity organization is responsible  
2 for all expenses incurred in connection with the referendum.

3 SECTION 8. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-63.8 of Title 2, unless there  
5 is created a duplication in numbering, reads as follows:

6 The original referendum may provide exemptions for producers  
7 from payment of the state assessment if the exemptions are included  
8 in full written form on the election ballot and the referendum is  
9 adopted as outlined in Section 11 of this act.

10 SECTION 9. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 5-63.9 of Title 2, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. In any contest of an election, a ballot is void if the voter  
14 overstated the volume of production of the producer by more than ten  
15 percent (10%). Any other error in stating volume of production is  
16 not grounds for invalidating the ballot.

17 B. If a ballot is void or if any other error is made in stating  
18 production volume, the returns shall be corrected and the results  
19 adjusted accordingly.

20 C. In any referendum election, the Commissioner of the Oklahoma  
21 Department of Agriculture, Food, and Forestry shall be authorized  
22 and is responsible for making the determination if a ballot is void  
23 due to overstatement of production volume.

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1           SECTION 10.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5-63.10 of Title 2, unless there  
3 is created a duplication in numbering, reads as follows:

4           Upon receiving the report of the returns of the referendum, the  
5 Commissioner of the Oklahoma Department of Agriculture, Food, and  
6 Forestry shall determine:

7           1. The number of votes cast for and against the referendum  
8 proposition;

9           2. The total volume of production of the commodity during the  
10 relevant production period; and

11           3. The percentage of the total volume of production of the  
12 commodity that was produced by those voting in favor of the  
13 referendum proposition.

14           SECTION 11.           NEW LAW           A new section of law to be codified  
15 in the Oklahoma Statutes as Section 5-63.11 of Title 2, unless there  
16 is created a duplication in numbering, reads as follows:

17           A. In a referendum election, if the Commissioner of the  
18 Oklahoma Department of Agriculture, Food, and Forestry finds that  
19 either of the two conditions set forth in subsection B of this  
20 section are met, the Commissioner shall publicly certify the  
21 adoption of the referendum proposition. Otherwise, the Commissioner  
22 shall certify that the referendum proposition was defeated.

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1 B. 1. The adoption of the referendum proposition will be  
2 subject to the referendum process outlined by the federally approved  
3 commodity board.

4 2. In the event that the federally approved commodity board  
5 does not have an outlined referendum process, the referendum  
6 proposition will be adopted upon finding that:

7 a. Two-thirds or more of those voting in the election  
8 voted in favor of the referendum proposition; or

9 b. More than one-half of those voting in the election  
10 voted in favor of the referendum proposition, and  
11 those voting in favor of the proposition produced at  
12 least fifty percent (50%) of the volume of the  
13 production of the commodity during the relevant  
14 production period.

15 C. Upon certification of the referendum proposition, the  
16 designated federally approved commodity board shall be the recipient  
17 of any state assessment.

18 SECTION 12. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 5-63.12 of Title 2, unless there  
20 is created a duplication in numbering, reads as follows:

21 The federally approved commodity board shall have the power and  
22 duty to:

23 1. Employ personnel deemed necessary by the board, fix the  
24 amount and manner of their compensation, and incur other expenses

1 that are necessary and proper to enable the board to effectively  
2 carry out the purposes of the Commodity Research Enhancement Act;

3 2. Retain legal counsel as is required to fulfill the purposes  
4 of the Commodity Research Enhancement Act;

5 3. Sue and be sued;

6 4. Initiate prosecution and civil remedies necessary to collect  
7 state assessments due and owing to the federally approved commodity  
8 board;

9 5. Cooperate with local, state or national organizations,  
10 whether public or private, in carrying out the purposes of contracts  
11 as may be necessary;

12 6. Make such reasonable expenditures of funds as is necessary  
13 to carry out the provisions of the Commodity Research Enhancement  
14 Act;

15 7. The board shall open its state assessment records to  
16 examination by any participating producer during regular business  
17 hours; provided, the board may determine that certain information  
18 provided by a commodity producer is proprietary and is confidential;

19 8. Set the rate of the state assessment. The rate may not  
20 exceed the maximum established in the election authorizing the state  
21 assessment or a subsequent election establishing a maximum rate;

22 9. Act separately or in cooperation with any person in  
23 developing, carrying out, and participating in programs of research,  
24 disease and insect control, predator control, education, and

1 promotion designed to encourage the production, marketing, and use  
2 of the commodity on which the state assessment is levied; and

3 10. Exercise such other powers as necessary to carry out the  
4 purposes of the Commodity Research Enhancement Act.

5 SECTION 13. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 5-63.13 of Title 2, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. The federally approved commodity board shall not commingle  
9 funds derived from the state assessment with any other funds.

10 B. Within ninety (90) days following the end of each fiscal  
11 year of the board, the board shall submit to the Commissioner of the  
12 Oklahoma Department of Agriculture, Food, and Forestry a report  
13 itemizing all income and expenditures and describing all activities  
14 of the board during the previous fiscal year.

15 C. State assessment funds collected by the federally approved  
16 commodity board pursuant to the Commodity Research Enhancement Act  
17 shall not be subject to state budget and expenditure limitations.  
18 Such funds shall at no time become monies of the state or become  
19 part of the general budget of the state. Debts or obligations of  
20 the board shall not be construed to be debts or obligations of this  
21 state.

22 SECTION 14. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5-63.14 of Title 2, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. The board is authorized to receive state assessments as  
2 provided for in the Commodity Research Enhancement Act, donations  
3 from any source and grants from governmental agencies.

4       B. Money received by the board may be expended for the purpose  
5 of implementing the provisions of the Commodity Research Enhancement  
6 Act.

7       C. Funds assessed and collected under this act shall not be  
8 expended for use directly or indirectly to promote or oppose the  
9 election of any candidate for public office or to influence  
10 legislation.

11       SECTION 15.       NEW LAW       A new section of law to be codified  
12 in the Oklahoma Statutes as Section 5-63.15 of Title 2, unless there  
13 is created a duplication in numbering, reads as follows:

14       The collection of the state assessment shall be collected in the  
15 same manner as the federal assessment for the federally approved  
16 commodity.

17       SECTION 16.       NEW LAW       A new section of law to be codified  
18 in the Oklahoma Statutes as Section 5-63.16 of Title 2, unless there  
19 is created a duplication in numbering, reads as follows:

20       A. A producer who has paid a state assessment may obtain a  
21 refund of the amount paid by filing an application for refund with  
22 the federally approved commodity board within sixty (60) days after  
23 the date of payment. The application must be in writing, on a form  
24

1 prescribed by the board for that purpose, and accompanied by proof  
2 of payment of the state assessment.

3 B. The board shall pay the refund to the producer before the  
4 eleventh day of the month following the month in which the  
5 application for refund and proof of payment are received.

6 SECTION 17. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 5-63.17 of Title 2, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. The nonprofit commodity organization who originally  
10 submitted the petition for a referendum may submit to the voters a  
11 proposition to increase the maximum rate of the state assessment.  
12 The proposition is approved, and the new maximum rate is in effect  
13 if the referendum proposition is adopted as outlined in Section 11  
14 of this act.

15 B. 1. Consistent with the referendum process as outlined by  
16 the federally approved commodity board, producers may petition for a  
17 referendum to discontinue the state assessment. In the event that  
18 the federally approved commodity board does not have an established  
19 process, if ten percent (10%) or more of the producers participating  
20 in the program present to the federally approved commodity board a  
21 petition calling for a referendum of the qualified voters on the  
22 proposition of discontinuing the state assessment, the nonprofit  
23 commodity organization who originally submitted the petition for the  
24 referendum shall conduct a referendum for that purpose. An election

1 on a proposition of discontinuing the state assessment shall be held  
2 no more than once per year.

3 2. The nonprofit commodity organization shall give notice of  
4 the referendum, the referendum shall be conducted, and the results  
5 shall be declared in the manner provided by law for the original  
6 referendum.

7 3. The nonprofit commodity organization shall conduct the  
8 referendum within ninety (90) days of the date of filing of the  
9 petition.

10 4. The adoption of the referendum proposition will be subject  
11 to the referendum process outlined by the federally approved  
12 commodity board. In the event that the federally approved commodity  
13 board does not have an outlined referendum process, the referendum  
14 proposition shall be approved if:

- 15 a. two-thirds or more of those voting in the election  
16 voted in favor of the referendum proposition, or  
17 b. more than one-half of those voting in the election  
18 voted in favor of the referendum proposition, and  
19 those voting in favor of the proposition produced at  
20 least fifty percent (50%) of the volume of the  
21 production of the commodity during the relevant  
22 production period.

23 5. If the proposition is approved, the state assessment is  
24 abolished.

1 C. If the federally approved commodity board's federal  
2 assessment is increased, then the state-approved assessment shall  
3 automatically discontinue upon the date the federally approved  
4 commodity board's new federal assessment becomes effective, unless  
5 within one (1) month of the announcement of the increase, the  
6 nonprofit commodity organization that originally submitted the  
7 petition for a referendum may initiate a referendum to be conducted  
8 within six (6) months of the announcement to determine if the state-  
9 approved assessment shall be continued. The proposition referendum  
10 to continue the state assessment will be adopted as outlined in  
11 Section 11 of this act.

12 SECTION 18. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 5-63.18 of Title 2, unless there  
14 is created a duplication in numbering, reads as follows:

15 The federally approved commodity board may investigate  
16 conditions that relate to the prompt remittance of the state  
17 assessment by any producer or processor. If the board determines  
18 that a person has failed to remit to the board the state assessment  
19 as required by the Commodity Research Enhancement Act, the board may  
20 independently institute proceedings for recovery of the amount due  
21 to the board or for injunctive or other appropriate relief.

22 SECTION 19. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5-63.19 of Title 2, unless there  
24 is created a duplication in numbering, reads as follows:

1 A violation of any provision of the Commodity Research  
2 Enhancement Act is a misdemeanor punishable by a fine not to exceed  
3 One Thousand Dollars (\$1,000.00), imprisonment in the county jail  
4 for not more than one (1) year, or by both such fine and  
5 imprisonment and may be enjoined by a district court of competent  
6 jurisdiction. In any action brought by a board which results in an  
7 injunction against a person, and the court determines that such  
8 person has violated any provision of the Commodity Research  
9 Enhancement Act, the court shall award costs and attorney fees to  
10 the board.

11 SECTION 20. This act shall become effective November 1, 2014.

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