An Act

ENROLLED HOUSE
BILL NO. 1756

By: Enns of the House

and

Schulz of the Senate

An Act relating to the Oklahoma Peanut Commission; amending 2 O.S. 2011, Sections 18-50, as amended by Section 26, Chapter 1, O.S.L. 2014, 18-51, 18-57, 18-58 and 18-62 (2 O.S. Supp. 2014, Section 18-50), which relate to the Oklahoma Peanut Act; removing authority of the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry to replace the Oklahoma Peanut Commission; modifying definitions; transferring certain duties to the executive director of the Commission; modifying reference to certain form; abolishing revolving fund for the Oklahoma Peanut Commission; declaring certain funds no longer be considered state property; authorizing balance be transferred; modifying reference to certain peanut growers; repealing 2 O.S. 2011, Sections 18-52, as amended by Section 1, Chapter 63, O.S.L. 2012, 18-53, 18-54, 18-55, 18-56 and 18-59 (2 O.S. Supp. 2014, Section 18-52), which relate to the Oklahoma Peanut Act; and providing an effective date.

SUBJECT: Oklahoma Peanut Act

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-50, as amended by Section 26, Chapter 1, O.S.L. 2014 (2 O.S. Supp. 2014, Section 18-50), is amended to read as follows:

Section 18-50. ~~A.~~ Sections 18-50 through 18-62 of this title shall be known and may be cited as the "Oklahoma Peanut Act".

~~B. The Oklahoma Peanut Commission shall cease to exist and be replaced by a successor organization if approved by the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry to receive the assessment contained in the Oklahoma Peanut Act pursuant to the procedures outlined in the Oklahoma Agricultural Commodity Act.~~

SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-51, is amended to read as follows:

Section 18-51. For the purpose of the Oklahoma Peanut Act:

1. "Commission" means the Oklahoma Peanut Commission;

2. "Grower" means any natural person engaged in growing peanuts;

3. "First purchaser" is any person, public or private corporation, association or partnership buying or otherwise acquiring after harvest the property in or to peanuts from a grower. A mortgagee, pledgee, lienor or other person, public or private, having a claim against the grower under a nonrecourse loan made against such peanuts after harvest thereof shall be deemed a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee; <u>and</u>

4. ~~"Commercial channels" is the sale of peanuts for use as food, feed, seed or any industrial or chemurgic use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any peanuts or product produced from peanuts; and~~

~~5.~~ "Sale" includes any pledge or mortgage of peanuts, after harvest, to any person, public or private.

SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-57, is amended to read as follows:

Section 18-57. A. There is hereby levied an assessment of Four Dollars ($4.00) per net ton of peanuts on a farmer's stock basis marketed in Oklahoma. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction

by the first purchaser from the price paid in settlement to the grower; provided that within sixty (60) days after any sale the grower may upon submission of a written request therefor to the executive ~~secretary~~ director obtain a refund in the amount of the assessment deducted by the first purchaser. The refund to the grower who has requested such refund shall be made within sixty (60) days following the request. Such request shall be accompanied by the producer's ~~Marketing Quota~~ marketing settlement forms ~~(MQ's)~~ which shall be evidence of the payment of the assessment which need not be verified.

B. The availability of a refund and instructions describing the process of obtaining a refund shall be posted in a conspicuous public location at all places where the fees are required to be collected.

C. The Oklahoma Peanut Commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two (2) years after the refund is made.

D. All funds expended in the administration of the Oklahoma Peanut Act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to the Oklahoma Peanut Act shall be paid from the proceeds derived from subsection A of this section. In the case of a lienholder who is a first purchaser, the assessment shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the peanuts are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such peanuts. The assessment shall be deducted and paid as herein provided whether such peanuts are stored in this or any other state.

SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-58, is amended to read as follows:

Section 18-58. A. The assessment imposed shall, before the twentieth day of the calendar month following the date of settlement, be paid by the purchaser to the executive ~~secretary~~ director of the Oklahoma Peanut Commission. The executive ~~secretary~~ director shall give the purchaser a receipt.

B. ~~There is hereby created in the State Treasury a revolving fund for the Oklahoma Peanut Commission, to be designated the Oklahoma Peanut Commission Revolving Fund. The fund shall consist~~

~~of all assessments received by the Commission. The fund shall be administered in accordance with the provisions of the Revolving Fund Procedures Act~~ Any unexpended balance contained in the Oklahoma Peanut Commission Revolving Fund as of November 1, 2015, shall no longer be considered state funds or state property and may be transferred to the successor organization.

SECTION 5. AMENDATORY 2 O.S. 2011, Section 18-62, is amended to read as follows:

Section 18-62. A. Before any change in assessment can be made, a referendum of ~~the members of the~~ Oklahoma ~~Peanut Growers Association~~ peanut growers shall be conducted to determine the proportion of the ~~members~~ peanut growers that favor continuation of the program and the proportion of ~~the members~~ peanut growers that favor discontinuing the program. Thereafter, such referendum shall be conducted no more than once every three (3) years upon the receipt by the Oklahoma Peanut Commission of petitions requesting a referendum signed by at least ten percent (10%) of ~~the members of the~~ Oklahoma ~~Peanut Growers Association~~ peanut growers.

B. At any time a referendum is to be held, the Commission shall write a definition of a producer eligible to vote, and shall cause a notice to be given, by letter or publication in the official publication of the Oklahoma Peanut Commission. The Commission shall send ballots to those persons eligible to vote and shall set the final date for ballots to be returned for tabulation. The Commission shall provide for the printing of ballots and shall furnish a double envelope system so that the identity of a voter cannot be determined. The grower shall return the ballots by way of a sealed envelope, pre-addressed to the President of the State Board of Agriculture.

C. Tabulation of ballots shall be jointly by the President of the State Board of Agriculture and chairman of the Oklahoma Peanut Commission. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of growers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

D. Thirty (30) days after termination of the assessment, all remaining funds of the Commission shall be transferred to the

experiment stations of Oklahoma State University to be used for continued research on peanuts.

SECTION 6. REPEALER 2 O.S. 2011, Sections 18-52, as amended by Section 1, Chapter 63, O.S.L. 2012, 18-53, 18-54, 18-55, 18-56 and 18-59 (2 O.S. Supp. 2014, Section 18-52), are hereby repealed.

SECTION 7. This act shall become effective November 1, 2015.

Passed the House of Representatives the 3rd day of March, 2015.

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Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2015.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____