

By: Senator(s) Lee (35th)

To: Agriculture;  
Appropriations

SENATE BILL NO. 2986

1 AN ACT TO CREATE THE PEANUT PROMOTION BOARD; TO PROVIDE FOR  
2 AN ASSESSMENT ON PEANUTS PRODUCED IN THE STATE; TO CREATE A  
3 SPECIAL FUND FOR SUCH ASSESSMENT; TO PROVIDE FOR METHOD OF  
4 COLLECTION AND DISBURSEMENT OF THE ASSESSMENT; TO PRESCRIBE  
5 CONDITIONS AND PURPOSES FOR WHICH THE ASSESSMENT MAY BE EXPENDED;  
6 TO PRESCRIBE DUTIES OF THE DEPARTMENT OF AGRICULTURE AND COMMERCE  
7 RELATED TO THE PEANUT PROMOTION BOARD; TO PROVIDE A PENALTY FOR  
8 FAILURE TO PAY THE ASSESSMENTS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The purpose of this chapter is to promote the  
11 growth and development of the peanut industry in Mississippi by  
12 research, advertisement promotions and education and market  
13 development, thereby promoting the general welfare of the people  
14 of this state.

15 For purposes of this chapter:

16 (a) "Board" means the Mississippi Peanut Promotion  
17 Board.

18 (b) "Department" means the Mississippi Department of  
19 Agriculture and Commerce.

20 **SECTION 2.** (1) The Mississippi Peanut Promotion Board is  
21 hereby created, to be composed of six (6) members to be appointed  
22 by the Governor to serve terms of three (3) years. All of the six  
23 (6) members of the board shall be producers of peanuts in the  
24 State of Mississippi. Within ten (10) days following the  
25 effective date of this chapter, the Mississippi Farm Bureau  
26 Federation, Inc., and the Mississippi Peanut Growers Association  
27 shall each submit the names of six (6) peanut producers to the  
28 Governor, and he shall appoint three (3) members from the nominees  
29 of each organization to serve on the board on rotating three-year  
30 terms. The original board shall be appointed with members of each

31 of the organizations appointed as follows: one (1) for one (1)  
32 year, one (1) for two (2) years, and one (1) for three (3) years.  
33 Each year thereafter, not less than thirty (30) days prior to the  
34 expiration of the terms of expiring board members, the  
35 organizations shall submit the names of three (3) nominees to the  
36 Governor and succeeding boards shall be appointed by the Governor  
37 in the same manner, giving equal representation to each  
38 organization. Vacancies which occur shall be filled in the same  
39 manner as the original appointments were made.

40 (2) The members of the board shall meet and organize  
41 immediately after their appointment, and shall elect a chairman,  
42 vice chairman and secretary-treasurer from the membership of the  
43 board, whose duties shall be those customarily exercised by such  
44 officers or specifically designated by the board. The chairman,  
45 vice chairman and secretary-treasurer shall be bonded in an amount  
46 not less than Twenty Thousand Dollars (\$20,000.00). The cost of  
47 the bonds shall be paid from the funds received under this  
48 chapter. The bond shall be a security for any illegal act of such  
49 member of the board and recovery thereon may be had by the state  
50 for any injury by the illegal act of the member. The board may  
51 establish rules and regulations for its own government and the  
52 administration of the affairs of the board.

53 **SECTION 3.** (1) (a) There is imposed and levied an  
54 assessment at the rate of Two Dollars and Fifty Cents (\$2.50) per  
55 ton gross weight on all peanuts grown within the State of  
56 Mississippi or delivered to the first point of sale within the  
57 State of Mississippi. The assessment shall be deducted by the  
58 purchaser from the amount paid the producer at the first point of  
59 sale, whether within or without the state. Assessments on peanuts  
60 put under loan to the Commodity Credit Corporation or purchased by  
61 the Commodity Credit Corporation and delivered to it shall be  
62 payable when such peanuts are placed under loan or are purchased.  
63 The Commodity Credit Corporation may require deduction and payment

64 of the assessment from the loan proceeds or from the purchases  
65 price on behalf of the producer. Assessments on peanuts put under  
66 loan to the Commodity Credit Corporation and redeemed by the  
67 producer before the takeover date, if already paid by having been  
68 deducted from the loan proceeds, shall not be deducted by each  
69 handler from the amount paid the producer at the first point of  
70 sale as provided in this section; otherwise, the assessment shall  
71 be deducted.

72 (b) Any peanut producer may request and receive a  
73 refund of the amount of assessment deducted from the sale of his  
74 peanuts if he makes a written application with the department  
75 within sixty (60) days from the date of sale, supported by bona  
76 fide copies of sales slips signed by the purchaser. The  
77 application forms shall be prepared by the department and shall be  
78 available at the first point of sale. All such applications shall  
79 be processed and refunds paid by the department within sixty (60)  
80 days after the funds have been received by the department. Each  
81 marketing agency shall be furnished a poster to be displayed in a  
82 prominent place, stating that refunds are available and that the  
83 forms, including self-addressed envelopes, are available at its  
84 office. If a producer pledges peanut grown by that producer as  
85 collateral for a loan issued by the Commodity Credit Corporation  
86 and if that producer forfeits the peanut in lieu of loan  
87 repayment, the Commodity Credit Corporation shall at the time of  
88 the loan settlement, collect the assessment from the producer.

89 (2) The assessment imposed and levied by this section shall  
90 be payable to and collected by the department from the purchaser  
91 of the peanut at the first point of sale or from the Commodity  
92 Credit Corporation as provided in subsection (1) of this section.  
93 The proceeds of the assessment collected by the department shall  
94 be deposited monthly with the State Treasurer in a special fund to  
95 be established as the "Mississippi Peanut Promotion Fund," and  
96 promptly remitted to a foundation under the terms and conditions

97 as the board deems necessary to ensure that the assessments are  
98 used properly in carrying out the purposes of this chapter.

99 (3) The department shall submit to the board a budget  
100 detailing and justifying the administrative costs of the  
101 department in administering the provisions of this chapter. The  
102 budget must be approved by the board by April 1 of each year. The  
103 department shall pay over to the Mississippi Peanut Promotion Fund  
104 the funds collected, less three and one-half percent (3-1/2%) of  
105 the gross amount collected. The amount withheld by the department  
106 must be approved by the board by July 1 of each year.

107 (4) Each purchaser or the Commodity Credit Corporation shall  
108 keep a complete and accurate record of all peanuts handled by him  
109 and shall furnish each producer with a signed sales slip showing  
110 the number of bushels purchased from him and the amount deducted  
111 by him for the Mississippi Peanut Promotion Fund. The records  
112 shall be in the form and contain any other information as the  
113 department shall by rule or regulation prescribe. The records  
114 shall be preserved by the purchaser for a period of two (2) years  
115 and shall be offered for inspection at any time upon oral or  
116 written demand by the department or any duly authorized agent or  
117 representative thereof. Every purchaser or the Commodity Credit  
118 Corporation, at such time or times as the department may require,  
119 shall submit reports or other documentary information deemed  
120 necessary for the efficient and equitable collection of the  
121 assessment imposed in this chapter. The department shall have the  
122 power to cause any duly authorized agent or representative to  
123 enter upon the premises of any purchaser of peanut and examine or  
124 cause to be examined by the agent only books, papers and records  
125 which deal in any way with the payment of the assessment or  
126 enforcement of the provisions of this chapter.

127 **SECTION 4.** The department is authorized to collect the  
128 assessment created by the Peanut Promotion, Research and Consumer

129 Information Act administered by the U.S. Department of Agriculture  
130 on behalf of the board.

131 **SECTION 5.** (1) Any purchaser who fails to file a report or  
132 to pay any assessment within the time required by the department  
133 shall forfeit to the department a penalty of five percent (5%) of  
134 the assessment determined to be due, plus one percent (1%) of the  
135 amount for each month of delay or fraction thereof after the first  
136 month after the report was required to be filed or the assessment  
137 became due. The penalty shall be paid to the department and shall  
138 be disposed of by it in the same manner as funds derived from the  
139 payment of the assessment imposed herein.

140 (2) The department shall collect the penalties levied  
141 herein, together with the delinquent assessment, by any or all of  
142 the following methods:

143 (a) By voluntary payment by the person liable.

144 (b) By legal proceedings instituted in a court of  
145 competent jurisdiction.

146 (3) Any person required to pay the assessment provided for  
147 in this chapter who fails to remit same or who refuses to allow  
148 full inspection of the premises, or the books, records or other  
149 documents relating to the liability of the person for the  
150 assessment herein imposed, or who shall hinder or in any way delay  
151 or prevent the inspection, shall be guilty of a misdemeanor and,  
152 upon conviction, shall be punished by a fine not exceeding One  
153 Thousand Dollars (\$1,000.00) or by imprisonment not to exceed one  
154 (1) year, or both.

155 (4) The provisions of this chapter shall not apply to any  
156 person who purchases two thousand (2,000) pounds (one (1) ton)  
157 gross weight, or less in any calendar year, provided he is not  
158 regularly engaged in the purchase of peanuts.

159 **SECTION 6.** (1) The board shall plan and conduct a program  
160 of research, education and advertising designed to promote the  
161 peanut industry in Mississippi. The board is authorized to use

162 the funds derived from the assessment imposed herein for these  
163 purposes, including basic administration expenses of the plan.  
164 Use of these funds may be applied, as prescribed in this section,  
165 within or without the State of Mississippi, including regional,  
166 national and international research and promotional applications.

167 (2) (a) The Mississippi Legislature finds and declares that  
168 the factors which affect the ability of Mississippi peanut farmers  
169 to market their crop are established by national and international  
170 forces in the world market. The Legislature further finds and  
171 declares that the expenditure of funds by the board for the  
172 purpose of influencing the development and implementation of  
173 national and international policy affecting the marketing,  
174 research and advertising of peanuts produced by Mississippi  
175 farmers is the expenditure of funds for a public purpose.

176 (b) The board may expend a portion of the funds  
177 received and administered by the board for the purpose of  
178 influencing the development and implementation of national and  
179 international policy affecting peanuts produced by Mississippi  
180 farmers.

181 (c) The amount of funds expended by the board in each  
182 fiscal year for the purposes authorized in this subsection shall  
183 not exceed fifteen percent (15%) of the budget of the board for  
184 that fiscal year.

185 (d) The board shall not expend any funds for the  
186 purpose of influencing any legislative action on the state level.

187 **SECTION 7.** The State Tax Commission shall provide any  
188 information necessary to assist the department in collecting the  
189 assessments provided for in this chapter.

190 **SECTION 8.** Notwithstanding the provisions of any laws or  
191 parts of laws in conflict herewith, the provisions of this chapter  
192 shall be controlling to the extent of the conflict.

193 **SECTION 9.** This act shall take effect and be in force from  
194 and after July 1, 2007.