

ENROLLED HOUSE
BILL NO. 2278

BY: RICE, THOMPSON and SMITH
(Dale) of the HOUSE

and

TAYLOR and LONG (Ed) of
the SENATE

AN ACT RELATING TO OIL AND GAS; CREATING THE OKLAHOMA INDEPENDENT ENERGY EDUCATION AND MARKETING ACT; PROVIDING DEFINITIONS; CREATING THE OKLAHOMA INDEPENDENT ENERGY RESOURCES BOARD; ESTABLISHING PURPOSE; PROVIDING FOR MEMBERSHIP OF BOARD; PROVIDING QUALIFICATIONS OF MEMBERSHIP; PROVIDING FOR ADDITIONAL MEMBERSHIP; ESTABLISHING POWERS AND DUTIES OF BOARD; PROVIDING FOR MEETINGS; AUTHORIZING APPOINTMENT OF A DIRECTOR; CREATING THE INDEPENDENT ENERGY EDUCATION REVOLVING FUND; AUTHORIZING BOARD TO LEVY ASSESSMENT; PROVIDING GUIDELINES FOR COLLECTING ASSESSMENT; PROVIDING EXEMPTION FOR CERTAIN COMPANIES AND OWNERS; ALLOWING CERTAIN INDEPENDENT PRODUCERS TO APPLY FOR ANNUAL EXEMPTION; ESTABLISHING REFERENDUM PROCESS TO VOTE ON CONTINUATION OF ASSESSMENT; PROVIDING FOR TRANSFER OF FUNDS; ALLOWING INVESTMENT OF FUNDS IN CERTAIN ACCOUNTS; LIMITING UTILIZATION OF FUND; PROVIDING THAT ACT SHALL NOT PREEMPT CERTAIN PROGRAMS; ALLOWING DESIGNATION OF CERTAIN FUNDS FOR PAYMENT OF CERTAIN PROGRAMS; 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 288.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Independent Energy Education and Marketing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.2 of Title 52, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Independent Energy Education and Marketing Act:

1. "Board" means the Oklahoma Independent Energy Resources Board;

2. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity;

3. "Independent producer" means any person:

a. who produces oil and is not engaged in refining or marketing of such products, or

b. who derives a majority of his oil-related income from working interest;

4. "Fully integrated oil company" means any person who produces oil in the State of Oklahoma and who is a retailer as defined in IRS Code Sec. 613A (d)(2) or a refiner as defined in Sec. 613A (d)(4) of the Code; or is classified as a public utility, or an affiliated company of a public utility; or is classified as an interstate pipeline, or an affiliated company of an interstate pipeline;

5. "Royalty interest" means any interest in oil production that exists by virtue of the base royalty of an oil lease and does not participate in the costs associated with operating and producing oil from said lease;

6. "Overriding royalty interest" means any interest in oil production, other than the base royalty interest, that does not participate in the cost associated with operating and producing oil from said lease;

7. "Working interest" means an interest derived under the terms of an oil lease that is proportionately responsible for the costs associated with extracting, producing and marketing the oil produced under said lease; and

8. "Qualified state association" means an entity in existence as of January 1, 1992, that is organized and operating within the state, a majority of whose governing body are independent producers and who represents the independent oil industry on a statewide basis.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.3 of Title 52, unless there is created a duplication in numbering, reads as follows:

There is hereby created the Oklahoma Independent Energy Resources Board which shall be subject to the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes. The purpose of the Board is to coordinate a program designed to demonstrate to the general public the importance of the Oklahoma independent oil exploration and production industry, to encourage the wise and efficient use of energy, to promote environmentally sound production methods and technologies, to develop existing supplies of Oklahoma's oil resources and to support research and educational activities concerning the independent oil exploration and production industry.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.4 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The Board shall be composed of at least eighteen (18) members who are independent oil producers, six to be appointed by the Governor, six to be appointed by the President Pro Tempore of the Senate and six to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore and Speaker of the House of Representatives shall make appointments from a list of names submitted by qualified state associations.

B. The independent producer members of the Board shall:

1. Be at least twenty-five (25) years of age;
2. Be a resident of the State of Oklahoma; and
3. Have at least five (5) years of active experience in the independent oil exploration and production industry.

C. The initial term of office for producer members of the Board shall be as follows: six members for one (1) year, six members for two (2) years and six members for three (3) years. Thereafter, the terms of the Board members shall be for three (3) years. For the initial appointments, each appointing authority shall make two

appointments for one-year terms, two appointments for two-year terms and two appointments for three-year terms.

D. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. The independent producer members may be removed from office by a majority vote of the three appointing authorities in a manner as provided by law.

E. The independent producer members of the Board may by majority vote appoint a maximum of three representatives with at least one from each of the following independent-producer-related areas to serve as members of the Board: royalty owner associations or crude oil purchasing companies, in a manner prescribed by the rules of the Board. These additional members shall have full voting rights and privileges and will serve three-year terms. They may be removed from the Board by a majority vote of the independent producer members of the Board.

F. The Board shall at its first meeting elect one of its independent producer members as chairperson, who shall preside over meetings of the Board and perform such other duties as may be required by the Board. The first meeting of the Board shall be called by the Governor.

G. No member of the Board shall receive a salary or reimbursement for duties performed as a member of the Board however, members are eligible to receive travel reimbursement as provided in the State Travel Reimbursement Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.5 of Title 52, unless there is created a duplication in numbering, reads as follows:

The Board shall have the following powers, duties and responsibilities:

1. To administer and enforce the provisions of the Oklahoma Independent Energy Education and Marketing Act;

2. To establish an office for the Board within the State of Oklahoma;

3. To elect a chairperson and whatever other officers may be necessary to direct operations of the Board;

4. To employ personnel as shall be deemed necessary to carry out the purpose and provisions of this act and to prescribe their duties and fix their compensation;

5. To promulgate such rules as it deems necessary to carry out its duties and responsibilities;

6. To establish and administer the Independent Energy Education Revolving Fund;

7. To approve or disapprove the budget of the Board;

8. To promulgate rules as it deems necessary to carry out the provisions of this act;

9. To enter into contracts or agreements for studies, research projects, experimental work, supplies or other services to carry out the purposes of the Oklahoma Independent Energy Education and Marketing Act, and incur those expenses necessary to carry out said purpose. Any such contract or agreement shall provide that:

a. the person entering the contract or agreement on behalf of the Board shall develop and submit to the Board a plan or project together with a budget or budgets that shows estimated costs to be incurred for the plan or project,

b. the person entering the contract or agreement shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Board of activities conducted, and such other reports as the Board may require;

10. To keep accurate records of all financial transactions performed pursuant to this act. These records shall be audited annually by an independent auditor and an annual report shall be compiled and presented to the Governor;

11. To cooperate with any private, local, state or national commission, organization, agency or group and to make contracts and agreements for joint programs beneficial to the independent oil industry;

12. To accept donations, grants, contributions and gifts from any public or private source and deposit such in the Independent Energy Education Revolving Fund;

13. To approve or disapprove the investment of any monies in the Independent Energy Education Revolving Fund pursuant to Section 10 of this act; and

14. To keep an accurate record of all assessments collected and a file of the independent producers who have paid the assessment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.6 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. There shall be an annual meeting of the Board at which the annual report and proposed budget will be presented. The Board shall, at the call of the chairperson, hold at least three other regular meetings each year. The chairperson shall establish the time, a manner and place of all meetings and shall provide notice of such meetings. A majority of the producer members of the Board shall constitute a quorum for the transaction of any business. In addition, the Board shall determine the circumstances under which additional meetings of the Board may be held.

B. The Board may appoint a Director who shall carry out the provisions of the Oklahoma Independent Energy Education and Marketing Act. The Director shall not be one of the appointed Board members.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.7 of Title 52, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Independent Energy Resources Board to be designated the "Independent Energy Education Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Oklahoma Independent Energy Resources Board from assessments received and collected pursuant to Section 8 of this act, and donations, grants, contributions and gifts from any public or private source. The Board may expend funds as provided for by law. Expenditures from said 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.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.8 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The Board is hereby authorized to levy an assessment on oil produced in the State of Oklahoma by independent producers. Said assessments shall be remitted to the Board by the person remitting the gross production or severance tax. In the event the remitter of the gross production tax is not the distributor of revenue, then the distributor of revenue shall remit the assessment, unless the distributor of revenue and the remitter of the gross production tax agree that said assessment shall be remitted by the remitter of the gross production tax. In the event of such agreement, the distributor of revenue shall furnish the remitter of the gross

production tax information on working interest owners necessary to comply with the provisions of this act. Beginning April 1, 1993, assessments shall be remitted to the Board on a quarterly basis no later than ninety (90) days following the last working day of the months of March, June, September and December. The Board shall deposit all remittances to the Independent Energy Education Revolving Fund.

Any person remitting assessment to the Board shall maintain and upon request make available for inspection data pertaining to the collection or remittance of independent producers assessments to the Board.

Said assessments shall be used for payment of the costs of plans and projects, as provided for in paragraph 9 of Section 5 of this act, administrative costs incurred by the Board, not to exceed twenty percent (20%) of the total collected assessment in any given year, and to establish a reasonable reserve.

Said assessment rate shall be two cents (\$0.02) per barrel of oil.

B. Fully integrated oil companies, royalty owners and overriding royalty interest owners shall be exempt from the assessment. The amount of the assessment collected under this act shall not be deducted from production proceeds payable to royalty or overriding royalty interest owners. Said assessment shall be borne entirely by the independent producer.

C. Upon request, the Corporation Commission shall supply a list of fully integrated oil companies to the parties charged with collection of the assessment. Within the first year after the enactment of this act, a company that does not appear on said list of exempt companies may petition the Board for inclusion on said list. The petition shall explain the company's qualifications as a fully integrated oil company as defined in Section 2 of this act. If the Board determines the company qualifies as a fully integrated oil company, an exemption shall be granted by majority vote of the Board.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.9 of Title 52, unless there is created a duplication in numbering, reads as follows:

Any independent producer subject to the assessment provided in this act that objects to the collection of the assessment may make annual application to the Oklahoma Independent Energy Resources Board for exemption from the assessment. Application for exemption shall be made no later than August 1 of each year. Exemptions from assessment shall be effective for the period of one (1) year beginning September 1 to August 31 of the succeeding year. Application forms for exemptions shall be furnished by the Board.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.10 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Independent producers of the state may petition for a referendum to determine if the assessment is to be continued, at any time after three (3) years following the effective date of this act. A majority of the members of the Board shall vote to call and conduct a referendum if said petition bears signatures of ten percent (10%) of the independent oil producers who are on file with the Board and have paid the assessment. No more than one such referendum shall be conducted in any one thirty-six-month period.

Any referendum conducted under this section shall be conducted by mail during a specific time frame established by the Board, whereby producers shall certify that they were engaged in the

production of oil during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

The Board shall determine if the petition bears the required number of valid signatures. The chairman of the Board shall announce the referendum at least thirty (30) days prior to the day mail balloting commences. The balloting period may extend no longer than ten (10) business days. At least thirty (30) days before the referendum, the chairperson of the Board shall mail a notice of said referendum to all known independent oil producers in the State of Oklahoma. The notice shall specify the dates and procedures for voting and shall include a sample ballot. The ballot shall include the following wording:

DO YOU FAVOR A CONTINUATION OF THE TWO CENT ASSESSMENT
PER BARREL OF OIL PRODUCED IN OKLAHOMA
BY INDEPENDENT PRODUCERS FOR UTILIZATION,
EDUCATION AND MARKET DEVELOPMENT?

YES () NO ()

The Board shall ensure sufficient ballots and supplies necessary to conduct the referendum. Election results shall be tabulated and certified by the Secretary of the State Election Board. Certified results of the referendum shall be transmitted within twenty-four (24) hours after voting ends to the chairman of the Board and the ballots themselves shall be transmitted to the chairman within forty-eight (48) hours. Ballots shall be preserved by the chairman for a period of at least three (3) months.

The results of the referendum shall be reported to the Governor. The chairman of the Board shall issue a proclamation declaring the results.

B. If levying the assessment is disapproved by a majority of the producers voting in the referendum, the proclamation declaring the result shall provide for the termination of the assessments on the final day of the calendar year or no sooner than ninety (90) days after the referendum vote took place.

C. If the majority of votes cast in the referendum approve continuation of the program, then the assessments as provided for in Section 8 of this act shall continue unless otherwise changed as provided for in this section or by law.

D. After the initial referendum, the Board may adopt amendments implementing rules and may request a referendum to modify the assessments or terminate or suspend the program. Administrative action to modify the assessment or terminate or suspend the program shall be effective only if it is ratified by a simple majority of votes cast by independent producers in a special referendum.

E. The State Election Board shall be reimbursed from assessments collected by the Board for any expenses incurred in connection with the tabulation and certification of any referendum under this section.

F. Thirty (30) days after termination of the assessment, all remaining funds in the Independent Energy Education Revolving Fund shall be transferred to the University of Oklahoma Foundation for the utilization of the Sarkey's Energy Center to be used for continued research, education and market development of the Oklahoma independent oil industry and the Board shall cease to exist.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.11 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The Board may invest, pending disbursement, funds collected through assessments only in obligations of the United States or any agency thereof, in general obligations of any state, in any interest-bearing account or certificate of deposit of a bank that is

a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

B. The Board shall be prohibited from utilizing any funds collected through the assessment procedure outlined in Section 8 of this act, for the purpose of influencing governmental action or policy, with the exception of recommending amendments to this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.12 of Title 52, unless there is created a duplication in numbering, reads as follows:

Nothing in this act may be construed to preempt or supersede any other program relating to independent oil and gas promotion and/or marketing organized and operated under the laws of the State of Oklahoma or the United States. The provisions of this act applicable to the rules shall be applicable to amendments to the rules. In the event of the establishment of a national program for an assessment on oil and natural gas production, the Board, by majority vote, may elect to designate up to a maximum of fifty percent (50%) of the funds collected under this act to such a national program in lieu of an additional assessment as may be required by such national program.

SECTION 13. This act shall become effective September 1, 1992.

Passed the House of Representatives the 12th day of May, 1992.

Speaker of the House of
Representatives

Passed the Senate the 18th day of May, 1992.

President of the Senate