

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 420

By: Price, Crutchfield and  
Martin of the Senate

and

Turner of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to agriculture; creating the  
11 Oklahoma Agricultural Commodity Referendum Act;  
12 citing act; stating purpose of act; defining  
13 terms; providing procedures for petition for  
14 certification as an organization authorized to  
15 conduct an assessment referendum and election of a  
16 commodity producer board; providing content;  
17 providing for notice; providing for public hearing  
18 to consider the petition; providing for the  
19 Commissioner of the State Department of  
20 Agriculture to determine and certify the  
21 organization is representative of the producers of  
22 the commodity; authorizing certain organizations  
23 to conduct the assessment referendum and board  
24 election; providing for public notice; setting  
25 estimated amount and basis of the proposed  
26 assessment; providing for certain exemption;  
27 setting procedure for collection of assessment;  
28 providing for referendum and election on a  
29 statewide basis; specifying eligibility to vote;  
30 specifying eligibility for membership on the  
31 board; providing for candidate's name on the  
32 ballot; providing for write-in candidates on the  
ballot; providing for distribution of ballots;  
providing for certification of volume of voter's  
production on the ballot; providing for expenses  
incurred in connection with the referendum and  
election; authorizing certain exemptions;  
authorizing the Commissioner to determine if  
certain ballots are void; providing for the  
determination of the returns of a referendum and  
election; providing for the certification of the  
adoption of the referendum proposition; providing  
for the certification of the defeat of the  
referendum proposition; providing for elections  
for electing members of certain boards; providing  
for boards to be established; authorizing boards  
to have certain powers and duties; providing for  
organization of certain commodity producers  
boards; providing for terms of office; authorizing  
the board to elect certain officers; requiring  
certain officers to execute a corporate surety  
bond; setting requirements for actions of the  
board; stating certain powers and duties of the  
board; providing for certain budget review and

1 expenditure of funds; making funds not state  
2 monies or subject to certain requirements; making  
3 board debts or obligations not debts or  
4 obligations of the state; providing for audits;  
5 providing for certain reports; authorizing the  
6 board to receive certain funds; providing for  
7 certain expenditures; authorizing the processor to  
8 collect assessments at the first point of sale;  
9 providing for collection of certain assessments;  
10 stating no commodity shall be subject to fees more  
11 than once per growing season; providing for  
12 refunds; providing for propositions to increase  
13 maximum rate of assessment; providing for  
14 referendum to increase assessment; providing for  
15 referendum to discontinue assessments; providing  
16 for notice of referendum and election; providing  
17 for certain proceedings for recovery of  
18 assessments in certain conditions; providing for  
19 certain violations; providing for certain  
20 exemptions; providing for codification; providing  
21 an effective date; and declaring an emergency.

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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 5-60.10 of Title 2, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma  
Agricultural Commodity Referendum Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 5-60.11 of Title 2, unless there  
is created a duplication in numbering, reads as follows:

A. The purpose of the Oklahoma Agricultural Commodity  
Referendum Act is to authorize and prescribe the necessary  
procedures by which the producers of agricultural commodities grown  
in this state may establish agriculture commodity producers boards  
to finance programs devised to alleviate any circumstance or  
condition that serves to impede the production, marketing, research  
or use of agricultural commodities.

1 B. Agriculture commodity producers boards established pursuant  
2 to the Oklahoma Agricultural Commodity Referendum Act shall not be  
3 agencies of the state.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5-60.12 of Title 2, unless there  
6 is created a duplication in numbering, reads as follows:

7 As used in the Oklahoma Agricultural Commodity Referendum Act:

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

14 2. "Board" means an agricultural commodity producers board;

15 3. "Commissioner" means the Commissioner of the State  
16 Department of Agriculture;

17 4. "District" means a geographical area within the jurisdiction  
18 of a board;

19 5. "Processor" means a person who:

20 a. is a purchaser, warehouseman, processor, or other  
21 commercial handler of an agricultural commodity, or

22 b. is engaged in the operation of packing, grading,  
23 selling, offering for sale or marketing any  
24 agricultural commodity in commercial quantities as  
25 defined in a marketing program, who as owner, agent,  
26 or otherwise, ships or causes agricultural commodities  
27 to be shipped;

28 6. "Producer" means a person engaged in the business of  
29 producing or causing to be produced for commercial purposes an  
30 agricultural commodity. The term "producer" includes the owner of a  
31 farm on which the commodity is produced and the owner's tenant or  
32 sharecropper;

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

3       8. "Secretary-treasurer" means the secretary-treasurer of a  
4 board;

5       9. "Certified organization" means the agricultural commodity  
6 entity certified by the State Department of Agriculture to conduct a  
7 referendum; and

8       10. "Volume of production" shall be defined by the certified  
9 organization and can refer to units of product sold such as pounds,  
10 bushels, gallons, flats, containers, packages, or other commonly  
11 recognized units of measure, square footage or acreage of production  
12 space or other appropriate measurement units, or number of  
13 production units such as trees, vines, head count of livestock or  
14 poultry, or other commonly recognized measurement units, or gross  
15 sales.

16       SECTION 4.       NEW LAW       A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-60.13 of Title 2, unless there  
18 is created a duplication in numbering, reads as follows:

19       A. 1. Any nonprofit organization authorized under the laws of  
20 this state representing the producers of an agricultural commodity  
21 may petition the Commissioner of the State Department of Agriculture  
22 for certification as the organization authorized to establish a  
23 commodity producers board and conduct an assessment referendum  
24 pursuant to the Oklahoma Agricultural Commodity Referendum Act.

25       2. The petition shall state:

26           a. the reasons for and the purposes of the commodity  
27           producers board,

28           b. the number of board members and board organization,

29           c. propose either a six-member, nine-member, twelve-  
30           member or fifteen-member board and whether board  
31           members will be appointed by district or appointed at  
32           large,

1 d. the maximum assessment to be levied pursuant to an  
2 election, and

3 e. such other information required by the commissioner;

4 3. The petition shall be signed by at least twenty percent  
5 (20%) of the commodity producers in the state or at least two  
6 hundred commodity producers, whichever is less.

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

12 2. Upon the scheduling of the public hearing, the nonprofit  
13 organization shall provide for notification of interested commodity  
14 producers in the manner, method and locations required by the  
15 Department of Agriculture.

16 3. If the Commissioner determines that, on the basis of  
17 testimony presented at the public hearing, the petitioning  
18 organization is representative of the producers of the agricultural  
19 commodity and that the petition conforms to the purposes and  
20 provisions of the Oklahoma Agricultural Commodity Referendum Act,  
21 the Commissioner shall certify that the organization is  
22 representative of the producers of the commodity and is authorized  
23 to establish the commodity producers board and to conduct the board  
24 election and assessment referendum.

25 SECTION 5. NEW LAW A new section of law to be codified  
26 in the Oklahoma Statutes as Section 5-60.14 of Title 2, unless there  
27 is created a duplication in numbering, reads as follows:

28 A. A certified organization may establish a commodity producers  
29 board and conduct an election of members to the commodity producers  
30 board for the commodity. The ballot shall also provide for a  
31 referendum of the producers of an agricultural commodity on the  
32 proposition of whether or not the producers shall levy an assessment

1 on themselves to finance programs of research, disease and insect  
2 control, predator control, education, or promotion designed to  
3 encourage the production, marketing, and use of the commodity. The  
4 certified organization shall give public notice of:

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

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

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

11 4. A description of the manner in which the assessment is to be  
12 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 certified organization shall give direct written  
20 notice to each county extension educator in any county within the  
21 boundaries described in the petition.

22 SECTION 6. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 5-60.15 of Title 2, unless there  
24 is created a duplication in numbering, reads as follows:

25 A. Subject to the approval of the Commissioner of the State  
26 Department of Agriculture, the certified organization shall conduct  
27 the election and referendum on a statewide basis.

28 B. A producer of the agricultural commodity is eligible to vote  
29 in the election and referendum if:

30 1. The producer's production occurs within the state; and

31 2. The producer would be required under the referendum to pay  
32 the assessment.

1 C. Any producer who is eligible to vote at the election and  
2 referendum is eligible to be a member or a candidate for membership  
3 on the commodity producers board.

4 D. A potential candidate must file with the certified  
5 organization an application to have the name of such potential  
6 candidate printed on the ballot. The application must be signed by  
7 the candidate and by at least ten producers who are eligible to vote  
8 at the election. The application must be filed at least thirty (30)  
9 days before the date set for the election.

10 E. A voter may vote for board members by writing in the name of  
11 any eligible person whose name is not printed on the ballot.

12 SECTION 7. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 5-60.16 of Title 2, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The certified organization shall prepare and distribute all  
16 necessary ballots in advance of the referendum and election and  
17 shall cause ballots to be available at all polling places.

18 B. The referendum provisions of the ballot shall specify a  
19 maximum rate for the authorized assessment.

20 C. The election provisions of the ballot may be printed only  
21 with the names of candidates who have filed valid petitions under  
22 Section 6 of this act, but the ballot shall provide a space for  
23 write-in votes.

24 D. The ballot shall provide a space for the voter to certify  
25 the volume of the voter's production of the commodity during the  
26 preceding year or other relevant production period, as designated on  
27 the ballot.

28 SECTION 8. NEW LAW A new section of law to be codified  
29 in the Oklahoma Statutes as Section 5-60.17 of Title 2, unless there  
30 is created a duplication in numbering, reads as follows:

31 The certified organization is responsible for all expenses  
32 incurred in connection with the referendum and election, but it may

1 be reimbursed for actual and necessary expenses out of funds  
2 deposited in the treasury of the commodity producers board if the  
3 assessment is levied and collected.

4 SECTION 9. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5-60.18 of Title 2, unless there  
6 is created a duplication in numbering, reads as follows:

7 The original referendum and subsequent biennial board elections  
8 may provide exemptions for producers from payment of the assessment  
9 if the exemptions are included in full written form on the election  
10 ballot and are approved by:

- 11 1. Two-thirds (2/3) or more of those voting in the election; or
- 12 2. More the one-half (1/2) of those voting in the election and  
13 those voting in favor of the proposition produce at least fifty  
14 percent (50%) of the volume of production of the commodity during  
15 the relevant production period.

16 SECTION 10. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-60.19 of Title 2, unless there  
18 is created a duplication in numbering, reads as follows:

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

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

26 C. In the original referendum election, the Commissioner of the  
27 State Department of Agriculture shall be authorized and is  
28 responsible for making the determination if a ballot is void due to  
29 overstatement of production volume. In any subsequent referendum  
30 elections the individual commodity producer boards are authorized  
31 and shall be responsible for making such determination.

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1 SECTION 11. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5-60.20 of Title 2, unless there  
3 is created a duplication in numbering, reads as follows:

4 Upon receiving the report of the returns of an election and  
5 referendum, the Commissioner of the State Department of Agriculture  
6 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;

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; and

14 4. The appropriate number of candidates receiving the highest  
15 number of votes for membership on the commodity producers board.

16 SECTION 12. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-60.21 of Title 2, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. In a referendum election, if the Commissioner of the State  
20 Department of Agriculture finds that either of the two conditions  
21 set forth in subsection B of this section are met, the Commissioner  
22 shall publicly certify the adoption of the referendum proposition  
23 and issue certificates of election to those persons elected to the  
24 board. Otherwise the Commissioner shall certify that the referendum  
25 proposition was defeated.

26 B. The referendum proposition will be adopted upon a finding  
27 that:

28 1. Two-thirds (2/3) or more of those voting in the election  
29 voted in favor of the referendum proposition; or

30 2. More than one-half (1/2) of those voting in the election  
31 voted in favor of the referendum proposition, and those voting in  
32 favor of the proposition produced at least fifty percent (50%) of

1 the volume of the production of the commodity during the relevant  
2 production period.

3 SECTION 13. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-60.22 of Title 2, unless there  
5 is created a duplication in numbering, reads as follows:

6 A commodity producers board shall conduct biennial elections for  
7 the purpose of electing members to the board. The board shall give  
8 notice and hold the election in accordance with the applicable  
9 provisions of the Oklahoma Agricultural Commodity Referendum Act  
10 relating to the initial election and, to the extent necessary, in  
11 accordance with the rules of the Commissioner of the State  
12 Department of Agriculture.

13 SECTION 14. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 5-60.23 of Title 2, unless there  
15 is created a duplication in numbering, reads as follows.

16 If the Commissioner of the State Department of Agriculture  
17 certifies adoption of a referendum proposition under Section 12 of  
18 this act, the commodity producers board is established and has the  
19 powers and duties prescribed by the Oklahoma Agricultural Commodity  
20 Referendum Act.

21 SECTION 15. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 5-60.24 of Title 2, unless there  
23 is created a duplication in numbering, reads as follows:

24 A. On receiving certificates of election from the Commissioner  
25 of the State Department of Agriculture, the members of the commodity  
26 producers board shall meet and organize.

27 B. Members of the initial board shall draw lots so that one-  
28 third (1/3) of the members shall hold office for two (2) years, one-  
29 third (1/3) for four (4) years, and one-third (1/3) for six (6)  
30 years. Thereafter, members of the board shall serve for terms of  
31 six (6) years.

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1 C. Each member holds office until a successor is elected and  
2 has qualified.

3 SECTION 16. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-60.25 of Title 2, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The commodity producers board shall elect from its members a  
7 chair, a secretary-treasurer, and other officers that it considers  
8 necessary.

9 B. The secretary-treasurer shall execute a corporate surety  
10 bond in an amount required by the board. The bond shall be  
11 conditioned on the secretary-treasurer faithfully accounting for all  
12 money that comes into the custody of the officer. The bond shall be  
13 filed with the Commissioner.

14 C. The board shall fill any vacancy on the board by appointment  
15 for the unexpired term.

16 D. A majority vote of all members present is necessary for an  
17 action of the board to be valid.

18 E. Members of the board serve without compensation but are  
19 entitled to reimbursement from their commission for reasonable and  
20 necessary expenses incurred in the discharge of their duties.

21 SECTION 17. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 5-60.26 of Title 2, unless there  
23 is created a duplication in numbering, reads as follows:

24 A. The commodity producers board shall have the power and duty  
25 to:

26 1. Employ personnel deemed necessary by the board, fix the  
27 amount and manner of their compensation, and incur other expenses  
28 that are necessary and proper to enable the board to effectively  
29 carry out the purposes of the Oklahoma Agricultural Commodity  
30 Referendum Act;

31 2. Adopt rules as necessary to promptly and effectively  
32 administer the Oklahoma Agricultural Commodity Referendum Act;

- 1        3. Retain legal counsel as is required to fulfill the purposes  
2 of the Oklahoma Agricultural Commodity Referendum Act;
- 3        4. Sue and be sued;
- 4        5. Initiate prosecution and civil remedies necessary to collect  
5 any assessments due and owing to the commodity producers board;
- 6        6. Cooperate with local, state or national organizations,  
7 whether public or private, in carrying out the purposes of contracts  
8 as may be necessary;
- 9        7. Make such reasonable expenditures of funds as is necessary  
10 to carry out the provisions of the Oklahoma Agricultural Commodity  
11 Referendum Act;
- 12        8. Call and conduct such meetings and elections as may be  
13 necessary in carrying out the provisions of the Oklahoma  
14 Agricultural Commodity Referendum Act;
- 15        9. Keep minutes of its meetings and other books and records  
16 that clearly reflect all acts and transactions of the board. The  
17 board shall open its records to examination by any participating  
18 producer during regular business hours; provided, the board may  
19 determine by rule that certain information provided by a commodity  
20 producer is proprietary and is confidential;
- 21        10. Set the rate of the assessment. The rate may not exceed  
22 the maximum established in the election authorizing the assessment  
23 or a subsequent election establishing a maximum rate;
- 24        11. Act separately or in cooperation with any person in  
25 developing, carrying out, and participating in programs of research,  
26 disease and insect control, predator control, education, and  
27 promotion designed to encourage the production, marketing, and use  
28 of the commodity on which the assessment is levied; and
- 29        12. Exercise such other powers as necessary to carry out the  
30 purposes of the Oklahoma Agricultural Commodity Referendum Act.
- 31        B. The Commissioner of the State Department of Agriculture  
32 shall promulgate rules for the establishment of commodity producer

1 boards pursuant to the Oklahoma Agricultural Commodity Referendum  
2 Act. The rules shall ensure that such commodity producer boards are  
3 established and administered in a uniform manner.

4 SECTION 18. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5-60.27 of Title 2, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. The commodity producers board shall file with the Director  
8 of the Market Development Division of the State Department of  
9 Agriculture a proposed budget and may expend funds only after the  
10 division director has approved the budget. If after thorough review  
11 the division director disapproves the proposed budget, the proposed  
12 budget shall be returned to the submitting board not later than the  
13 45th day after the date on which the proposed budget is submitted  
14 with a statement of reasons for disapproval.

15 B. Accounts of the board are subject to audit by the State  
16 Auditor and Inspector.

17 C. Within thirty (30) days following the end of each fiscal  
18 year of the board, the board shall submit to the Director of the  
19 Market Development Division of the State Department of Agriculture a  
20 report itemizing all income and expenditures and describing all  
21 activities of the board during the previous fiscal year.

22 D. Funds collected by the commodity producers board pursuant to  
23 the Oklahoma Agricultural Commodity Referendum Act shall not be  
24 subject to state budget and expenditure limitations. Such funds  
25 shall at no time become monies of the state or become part of the  
26 general budget of the state. Debts or obligations of the board  
27 shall not be construed to be debts or obligations of this state.

28 SECTION 19. NEW LAW A new section of law to be codified  
29 in the Oklahoma Statutes as Section 5-60.28 of Title 2, unless there  
30 is created a duplication in numbering, reads as follows:

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1       A. The board is authorized to receive assessments as provided  
2 for in the Oklahoma Agricultural Commodity Referendum 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 Oklahoma Agricultural  
6 Commodity Referendum 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 20.       NEW LAW       A new section of law to be codified  
12 in the Oklahoma Statutes as Section 5-60.29 of Title 2, unless there  
13 is created a duplication in numbering, reads as follows:

14       A. The processor at the first point of sale determined by the  
15 board shall collect the assessment. Except as provided by  
16 subsection B of this section, the processor at that point shall  
17 collect the assessment by deducting the appropriate amount from the  
18 purchase price of the commodity or from any funds advanced for that  
19 purpose.

20       B. If the producer and processor are the same legal entity, or  
21 if the producer retains ownership after processing, such entity  
22 shall remit the assessment at the time of first sale of the  
23 commodity.

24       C. The secretary-treasurer of the commodity producers board, by  
25 registered or certified mail, shall notify each processor of the  
26 duty to collect the assessment, the manner in which the assessment  
27 is to be collected, and the date on or after which the processor is  
28 to begin collecting the assessment.

29       D. The amount of the assessment collected shall be clearly  
30 shown on the sales invoice or other document evidencing the  
31 transaction. The processor shall furnish a copy of the document to  
32 the producer.

1 E. Unless otherwise provided by the original referendum, no  
2 later than the tenth day of each month the processor shall remit the  
3 amount collected during the previous month to the secretary-  
4 treasurer of the board.

5 F. No commodity shall be subject to the applicable fee more  
6 than once per growing season.

7 SECTION 21. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 5-60.30 of Title 2, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. A producer who has paid an assessment may obtain a refund of  
11 the amount paid by filing an application for refund with the  
12 secretary-treasurer of the commodity producers board within sixty  
13 (60) days after the date of payment. The application must be in  
14 writing, on a form prescribed by the board for that purpose, and  
15 accompanied by proof of payment of the assessment.

16 B. The secretary-treasurer shall pay the refund to the producer  
17 before the 11th day of the month following the month in which the  
18 application for refund and proof of payment are received.

19 SECTION 22. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 5-60.31 of Title 2, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. At any biennial election of the commodity producers board,  
23 the board may submit to the voters a proposition to increase the  
24 maximum rate of assessment. The proposition is approved and the new  
25 maximum rate is in effect if:

26 The referendum proposition will be adopted upon a finding that:

27 1. Two-thirds (2/3) or more of those voting in the election  
28 voted in favor of the referendum proposition; or

29 2. More than one-half (1/2) of those voting in the election  
30 voted in favor of the referendum proposition, and those voting in  
31 favor of the proposition produced at least fifty percent (50%) of  
32

1 the volume of the production of the commodity during the relevant  
2 production period.

3 B. 1. If twenty percent (20%) or more of the producers  
4 participating in the program present to the secretary-treasurer a  
5 petition calling for a referendum of the qualified voters on the  
6 proposition of discontinuing the assessment, the board shall conduct  
7 a referendum for that purpose. An election on a proposition of  
8 discontinuing the assessment shall be held no more than once per  
9 year.

10 2. The board shall give notice of the referendum, the  
11 referendum shall be conducted, and the results shall be declared in  
12 the manner provided by law for the original referendum and election,  
13 with any necessary exceptions provided by rule promulgated pursuant  
14 to the Oklahoma Agricultural Commodity Referendum Act.

15 3. The board shall conduct the referendum within ninety (90)  
16 days of the date of filing of the petition.

17 4. The proposition shall be approved if:

18 a. two-thirds (2/3) or more of those voting in the  
19 election voted in favor of the referendum proposition,  
20 or

21 b. more than one-half (1/2) of those voting in the  
22 election voted in favor of the referendum proposition,  
23 and those voting in favor of the proposition produced  
24 at least fifty percent (50%) of the volume of the  
25 production of the commodity during the relevant  
26 production period.

27 C. If the proposition is approved, the assessment is abolished.

28 SECTION 23. NEW LAW A new section of law to be codified  
29 in the Oklahoma Statutes as Section 5-60.32 of Title 2, unless there  
30 is created a duplication in numbering, reads as follows:

31 The commodity producers board may investigate conditions that  
32 relate to the prompt remittance of the assessment by any producer or

1 processor. If the board determines that a person has failed to  
2 remit to the board the assessment as required by the Oklahoma  
3 Agricultural Commodity Referendum Act, the board may independently  
4 institute proceedings for recovery of the amount due to the board or  
5 for injunctive or other appropriate relief.

6 SECTION 24. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 5-60.33 of Title 2, unless there  
8 is created a duplication in numbering, reads as follows:

9 A violation of any provision of the Oklahoma Agricultural  
10 Commodity Referendum Act is unlawful and may be enjoined by a  
11 district court of competent jurisdiction. In any action brought by  
12 a board which results in an injunction against a person and the  
13 court determines that such person has violated any provision of the  
14 Oklahoma Agricultural Commodity Referendum Act, the court shall  
15 award costs and attorney fees to the board.

16 SECTION 25. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 5-60.34 of Title 2, unless there  
18 is created a duplication in numbering, reads as follows:

19 All commissions and assessments established before July 1, 1999,  
20 are exempt from the requirements and provisions of the Oklahoma  
21 Agricultural Commodity Referendum Act.

22 SECTION 26. This act shall become effective July 1, 1999.

23 SECTION 27. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby  
25 declared to exist, by reason whereof this act shall take effect and  
26 be in full force from and after its passage and approval.

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28 47-1-6749 KSM 6/11/15

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