

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1100

Introduced by Schilz, 47.

Read first time January 20, 2016

Committee:

- 1 A BILL FOR AN ACT relating to petroleum marketing; to adopt the Petroleum
- 2 Education and Marketing Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known and may be
2 cited as the Petroleum Education and Marketing Act.

3 Sec. 2. For purposes of the Petroleum Education and Marketing Act:

4 (1) Board means a petroleum education and marketing board as
5 authorized in section 3 of this act;

6 (2) First purchaser means:

7 (a) For crude oil, the person to whom title is first transferred
8 beyond the gathering tank or tanks or beyond the facility from which the
9 crude oil was first produced, or both; and

10 (b) For natural gas, the person to whom title is first transferred
11 beyond the inlet side of the measurement station from which the natural
12 gas was first produced;

13 (3) Independent producer means a person who complies with both of
14 the following:

15 (a) Produces oil or natural gas and is not engaged in refining
16 either product; and

17 (b) Derives a majority of the producer's income from ownership in
18 properties producing oil or natural gas;

19 (4) Interest owner means a person who owns or possesses an oil or
20 gas leasehold interest in the gross production of oil or natural gas
21 produced from a well in Nebraska. An oil and gas leasehold estate
22 interest includes the working interest and any overriding interest
23 divided out of the working interest in any oil and gas lease but does not
24 include any royalty interests or any overriding royalty interest divided
25 out of the working interest;

26 (5) Person means an individual, a group of individuals, a
27 partnership, a corporation, an association, a limited liability company,
28 a cooperative, or any other entity; and

29 (6) Qualified producer association means an entity that is organized
30 under section 501(c)(6) of the Internal Revenue Code as defined in
31 section 49-801.01, that is organized and operating within the State of

1 Nebraska, and that has independent producers as a majority of the members
2 of such entity's governing body.

3 Sec. 3. (1) Any group of qualified producer associations may
4 create, fund, administer, operate, manage, and select representatives to
5 serve on a board to administer a petroleum education and marketing
6 program pursuant to the Petroleum Education and Marketing Act. The
7 purposes of such board are to: (a) Coordinate a program designed to
8 demonstrate to the general public the importance and significance of the
9 oil and natural gas industry in Nebraska; (b) encourage the wise and
10 efficient use of energy; (c) promote environmentally sound production
11 methods and technologies; (d) support research and educational activities
12 concerning the oil and natural gas industry; (e) promote oil and natural
13 gas exploration and production safety; (f) support job training and
14 research activities concerning oil and natural gas production; and (g)
15 implement and comply with the Petroleum Education and Marketing Act.

16 (2) The board, if formed as a not-for-profit member corporation,
17 shall be formed, operated, and dissolved in accordance with the Nebraska
18 Nonprofit Corporation Act, enjoy all of the rights of not-for-profit
19 member corporations existing under such law, and be subject to the
20 restrictions and conditions set forth in the Petroleum Education and
21 Marketing Act.

22 (3) The board's governing body shall be composed of five
23 representatives to be appointed by the governing bodies of the qualified
24 producer associations as follows:

25 (a) Three members appointed by a Nebraska independent oil and gas
26 association; and

27 (b) Two members appointed by a Nebraska petroleum council.

28 (4) A representative on the board shall:

29 (a) Be a resident of the State of Nebraska; and

30 (b) Have at least five years of active experience in the oil and
31 natural gas industry.

1 (5) A board representative shall serve for a term of three years and
2 may be reappointed, except that of the initial appointments, three
3 representatives shall serve a term of three years and two representatives
4 shall serve a term of two years. Any vacancy on the board shall be filled
5 by appointment by the qualified producer association which appointed the
6 vacating representative and shall be filled for the remaining term of the
7 vacating representative.

8 (6) The board shall annually elect a presiding officer of the board
9 and may elect other officers as considered necessary by the board.

10 (7) No representative on the board shall receive a salary or
11 reimbursement for his or her duties performed as a board representative,
12 except that he or she may receive reimbursement for travel expenses
13 incurred in the performance of board duties.

14 Sec. 4. The board shall have the powers and duties to:

15 (1) Administer and enforce the Petroleum Education and Marketing
16 Act;

17 (2) Establish an office for the board within the State of Nebraska;

18 (3) Elect a presiding officer and any other officers that may be
19 necessary to direct the operations of the board;

20 (4) Employ and contract for personnel as deemed necessary to carry
21 out the Petroleum Education and Marketing Act;

22 (5) Administer the oil and gas resources fund authorized under
23 section 6 of this act;

24 (6) Approve or disapprove the budget of the board;

25 (7) Adopt rules as deemed necessary to carry out the Petroleum
26 Education and Marketing Act; and

27 (8) Enter into contracts or agreements for studies, research
28 projects, experimental work, supplies, or other services to carry out the
29 purposes of the Petroleum Education and Marketing Act and incur those
30 expenses necessary to carry out such purposes. A contract or agreement
31 entered into under this subdivision shall provide that:

1 (a) The person entering into the contract or agreement on behalf of
2 the board shall develop and submit to the board a plan or project
3 together with a budget that shows estimated costs to be incurred for the
4 plan or project; and

5 (b) The person entering into the contract or agreement shall:

6 (i) Keep accurate records of all such person's activities and make
7 periodic reports to the board of activities conducted and other reports
8 that the board may require;

9 (ii) Keep accurate records of all financial transactions performed
10 pursuant to the contract or agreement, including all funds received and
11 expended. Such records shall be audited annually by an independent
12 auditor and an annual report shall be compiled;

13 (iii) Accept for deposit into the oil and gas resources fund any
14 donations, grants, contributions, and gifts from any public or private
15 source; and

16 (iv) Keep an accurate record of all assessments collected.

17 Sec. 5. (1) The board shall conduct an annual meeting at which the
18 annual report and proposed budget shall be presented. The board, at the
19 call of the presiding officer, shall hold at least two other regular
20 meetings each year. The presiding officer shall establish the time,
21 manner, and place for all meetings and shall provide notice of the
22 meetings. A majority of the representatives on the board shall constitute
23 a quorum for the transaction of any business of the board. In addition,
24 the board shall determine the circumstances under which additional
25 meetings of the board may be held.

26 (2) The board may appoint an executive director who shall carry out
27 the Petroleum Education and Marketing Act. The executive director shall
28 not be one of the appointed board representatives.

29 Sec. 6. The board may levy assessments on the production of oil and
30 natural gas in Nebraska for the purposes of a petroleum education and
31 marketing program. A special fund shall be created and be designated as

1 the oil and gas resources fund. The fund shall consist of all money
2 received by the board from assessments collected pursuant to section 7 of
3 this act and any donations, grants, contributions, and gifts from any
4 public or private source. All interest earned on money in the oil and gas
5 resources fund shall remain in the fund.

6 Sec. 7. (1) To fund the activities of the board and in the board's
7 discretion, a voluntary assessment not to exceed five-hundredths percent
8 of the gross revenue from oil or natural gas produced from each well in
9 the State of Nebraska shall be deducted from proceeds paid by the first
10 purchaser to each interest owner. The board may permit or require an
11 entity other than the first purchaser to deduct such proceeds if that
12 entity is the operator or if the entity distributes revenue to interest
13 owners, directly or indirectly. Any interest owner may seek a refund as
14 provided in the Petroleum Education and Marketing Act. The assessment is
15 a voluntary checkoff and shall be treated accordingly.

16 (2) The assessment imposed pursuant to subsection (1) of this
17 section shall be deducted from the proceeds of production and collected
18 by the first purchaser except as otherwise provided in subsection (1) of
19 this section. There shall be a conspicuous line-item on each statement
20 showing the amount and pertinent time period of the assessment. The
21 statement shall provide contact information for the board regarding
22 obtaining more information or directions for obtaining a refund of the
23 assessment. The assessments imposed on the interest owner shall be
24 remitted to the board by the first purchaser not later than sixty days
25 following the end of the month in which the assessment was collected. The
26 money collected shall be deposited with a financial institution and shall
27 be used only in defraying costs of administration of the petroleum
28 education and marketing program and for carrying out the Petroleum
29 Education and Marketing Act.

30 (3) The board shall be responsible for taking any appropriate legal
31 action necessary to collect any assessment which is not paid or not

1 properly collected by the first purchaser.

2 Sec. 8. (1) Any person subject to the assessment levied in section
3 7 of this act may request a refund of the assessment paid on production
4 for the preceding calendar year as provided in this section. Upon
5 compliance with this section and any rules adopted by the board to
6 implement this section, the board shall refund to each person requesting
7 a refund the amount of the assessment paid by or on behalf of the person
8 during the preceding calendar year. Refunds shall include interest earned
9 at the rate equal to the average United States Treasury bill rate for the
10 preceding calendar year as certified by the State Treasurer.

11 (2) The request for a refund of the assessment paid on production
12 for the preceding calendar year shall be made before the end of the third
13 calendar month following the calendar year for which the refund is
14 requested. Failure to request a refund during this period shall terminate
15 the right of any person to receive a refund of the assessment paid on
16 production for the preceding calendar year. The board shall give notice
17 of the availability of the refund through press releases or by any other
18 means the board deems appropriate.

19 (3) Each person requesting a refund shall execute an affidavit
20 showing the amount of the refund requested, demonstrating that such
21 person was the owner of the production, and attesting to such other
22 matters as the board reasonably requires. The board may verify the
23 accuracy of the request for refund prior to issuance of a refund.

24 (4) No person requesting a full refund of all assessments imposed
25 under the Petroleum Education and Marketing Act shall be eligible to
26 serve as a member of the board.

27 Sec. 9. The board shall not use any funds collected under section 7
28 of this act for the purpose of influencing state or federal government
29 action or policy, except that the board may recommend amendments to the
30 Petroleum Education and Marketing Act.

31 Sec. 10. If a national or regional program providing for an

1 assessment on oil and natural gas production for an education and
2 marketing program for oil and natural gas is established, the board, by
3 majority vote, may elect to designate up to a maximum of thirty-five
4 percent of the money collected under the Petroleum Education and
5 Marketing Act be distributed to the national or regional program in lieu
6 of an additional assessment as may be required by the national or
7 regional program.

8 Sec. 11. The Petroleum Education and Marketing Act shall not be
9 construed to limit any other lawful activity, including the creation of
10 any checkoff, education and marketing program, or other association
11 permitted by law.

12 Sec. 12. If any section in this act or any part of any section is
13 declared invalid or unconstitutional, the declaration shall not affect
14 the validity or constitutionality of the remaining portions.