

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Willems**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO LEVY TAXES ON ALL ALTERNATIVE FUELS SOLD, OR
9 USED IN THIS STATE, OR PURCHASED FOR SALE OR USE IN THIS
10 STATE FOR THE PROPULSION OF MOTOR VEHICLES LICENSED OR
11 REQUIRED TO BE LICENSED FOR USE UPON THE PUBLIC HIGHWAYS;
12 TO PRESCRIBE THE MANNER FOR COLLECTING SUCH TAXES; TO
13 PROVIDE FOR THE DISTRIBUTION OF REVENUES COLLECTED FROM
14 SUCH TAXES; TO AMEND TITLE 26, CHAPTER 51, SUBCHAPTER 5 OF
15 THE ARKANSAS CODE TO ADD STATE TAX CREDITS FOR ALTERNATIVE
16 FUEL VEHICLES AND CERTAIN REFUELING PROPERTY; TO DECLARE
17 AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

19 "ALTERNATIVE FUELS TAX LAW."
20

21
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Section 2 through 24 of this act may be known and cited as
25 the "Alternative Fuels Tax Law."

26
27 SECTION 2. Definitions. For the purposes of this act, the following
28 words and terms shall have the following meanings unless the context clearly
29 indicates a different meaning:

30 (1) "Alternative fuels" means and includes all liquids or combustion
31 gases, used or suitable for use in an internal combustion engine or motor for
32 the generation of power for motor vehicles, including, but not limited to,
33 "liquefied gas special fuels" (as defined in §26-56-102(10)) and "natural gas
34 fuels" (as defined herein), but shall not include fuel subject to the tax
35 levied by the "Motor Fuel Tax Law", §26-55-201, et seq., nor "distillate

1 special fuels", as defined in §26-56-102(9) subject to the tax levied in
2 Subchapter 2 of Chapter 56 of Title 26 of the Arkansas Code;

3 (2) "Alternative fuels supplier" means and includes every person who:

4 (A) Sells alternative fuels for the purpose of delivering such
5 fuels or delivers such fuels into the fuel tanks of motor vehicles; or

6 (B) Sells alternative fuels to any user or dealer, including
7 interstate users, or IFTA carrier users, which user or dealer delivers such
8 fuels into the fuel tanks of motor vehicles;

9 (3) "Dealer" means and includes every person who sells or delivers
10 alternative fuels to a user at retail for use in motor vehicles;

11 (4) "Director" means the Director of the Department of Finance and
12 Administration or his duly authorized agents;

13 (5) "Gallon Equivalent" or "Equivalent Gallon" means a quantity of
14 alternative fuels which is the equivalent of one (1) U.S. gallon of gasoline
15 as determined by the Director based on United States Standards or industry
16 standards, provided, one (1) U.S. gallon of gasoline shall be the equivalent
17 of one (1) gallon of liquefied gas special fuels and one (1) U.S. gallon of
18 gasoline shall be the equivalent of one (1) therm of natural gas fuels;

19 (6) "Interstate user" means any person, except an IFTA carrier user,
20 who imports or exports alternative fuels into or out of this state in the fuel
21 supply tanks of motor vehicles owned or operated by that person;

22 (7) "IFTA carrier" or "IFTA carrier user" means any person who
23 operates a motor vehicle licensed pursuant to the International Fuel Tax
24 Agreement and imports or exports alternative fuels into or out of this state
25 in the fuel supply tanks of motor vehicles owned or operated by that carrier;

26 (8) "Motor vehicles" or "vehicles" means and includes any automobile,
27 truck, truck-tractor, tractor, bus, vehicle, or other conveyance which is
28 propelled by an internal combustion engine or motor and is licensed or
29 required to be licensed for highway use;

30 (9) "Natural gas fuels" means and includes all mixtures of hydrocarbon
31 gases and vapors consisting principally of methane (CH₄) in gaseous form;

32 (10) "Person" means every natural person, fiduciary, partnership, firm,
33 association, corporation, business trust combination acting as a unit, any
34 receiver appointed by any state or federal court, or any municipality, county,
35 or any subdivision, department, agency, board, commission, or other

1 instrumentality of this state;

2 (11) "Use" or "used" means:

3 (A) (A) Keeping alternative fuels in storage and selling,
4 using, or otherwise disposing of the same for the operation of motor vehicles;

5 (B) Selling alternative fuels in this state to be used for
6 operating motor vehicles; or

7 (C) Operating a motor vehicle in this state with alternative
8 fuels;

9 (12) "User" means and includes every person who delivers or causes to
10 be delivered any alternative fuels into the supply tank of a motor vehicle or
11 motor vehicles used or operated by that person;

12 (13) "Therm" means one hundred and fourteen (114) cubic feet of natural
13 gas fuels;

14 (14) "Sale" shall include any exchange, gift, or other disposition; and

15 (15) "Purchase" shall include any acquisition of ownership.

16

17 SECTION 3. Penalties. Any person who violates or fails or refuses to
18 comply with any provision of this act for which a specific penalty is not
19 otherwise prescribed shall be guilty of a misdemeanor, and upon conviction
20 shall be fined not less than one hundred dollars (\$100) nor more than one
21 thousand dollars (\$1,000) or imprisoned not less than ten (10) days nor more
22 than sixty (60) days, or both so fined and imprisoned.

23

24 SECTION 4. Rules and regulations. The director is authorized and
25 empowered in consultation with the Director of Highways and Transportation of
26 the Arkansas State Highway and Transportation Department to make and
27 promulgate such rules and regulations, not inconsistent with this act, as they
28 shall deem necessary and desirable to facilitate the collection of the taxes
29 levied in this act and to otherwise effectuate the purposes of this act, and
30 these rules and regulations shall have the same effect as if specifically set
31 forth in this act.

32

33 SECTION 5. Failure, refusal, etc. to make report or pay tax -
34 Penalties, interest - Attorneys_ fees.

35 (a) (1) Once an alternative fuels supplier, user, interstate user,

1 or IFTA carrier user of alternative fuels has become liable to file a report
2 with the Director of the Department of Finance and Administration, he must
3 continue to file a report, even though no tax is due, until such time as he
4 notifies the director, in writing, that he is no longer liable for those
5 reports.

6 (2) Any alternative fuels supplier, user, interstate user, or
7 IFTA carrier user of alternative fuels who fails, neglects, or refuses to make
8 any report required by this act or to pay any tax levied at the time and in
9 the manner required in this act shall, in addition to any other penalty
10 provided in this act, be liable for the amount of the tax due, together with a
11 penalty of twenty percent (20%) or a minimum of five dollars (\$5.00),
12 whichever is greater, plus interest at the rate of ten percent (10%) per annum
13 from the date due until paid.

14 (b) If the tax, penalty, and interest are collected by proceedings in
15 court, an additional penalty of twenty percent (20%) of the tax shall be
16 imposed and collected as attorney_s fees.

17

18 SECTION 6. False or fraudulent reports - Fraudulent avoidance of tax -
19 Penalty. Any person who makes a false or fraudulent report hereunder or who
20 fraudulently attempts to avoid the payment of the tax herein levied on any
21 alternative fuels shall be guilty of a misdemeanor and upon conviction shall
22 be fined not less than two hundred dollars (\$200) nor more than one thousand
23 dollars (\$1,000) or by imprisonment for not less than thirty (30) days nor
24 more than six (6) months, or both so fined and imprisoned.

25

26 SECTION 7. Assessment of delinquent tax - Time limitations. No
27 assessment of delinquent alternative fuels tax or penalties or interest shall
28 be made for any month after the expiration of three (3) years from the date
29 set for the filing of such monthly return. However, that in case of a false
30 or fraudulent report with intent to evade tax or of failure to file a report,
31 assessment may be made at any time.

32

33 SECTION 8. All of the taxes, fees, penalties and interest collected
34 under the provisions of this act shall be classified as special revenues and
35 shall be deposited in the state treasury. After deducting therefrom the three

1 percent (3%) for credit to the Constitutional Officers Fund and the State
2 Central Services Fund as provided in the Revenue Stabilization Law, §
3 19-5-101, et seq., the treasurer shall transfer on the last business day of
4 each month:

5 (A) Fifteen percent (15%) of the amount thereof to the
6 County Aid Fund;

7 (B) Fifteen percent (15%) of the amount thereof to the Municipal Aid
8 Fund; and

9 (C) Seventy percent (70%) of the amount thereof to the State Highway
10 and Transportation Department Fund. The funds shall be further disbursed in
11 the same manner and used for the same purposes as set out in the Arkansas
12 Highway Revenue Distribution Law, § 27-70-201, et seq.

13

14 SECTION 9. Imposition of tax - Exemptions. (a) There is hereby levied
15 and imposed an excise tax per gallon equivalent, at the rate set forth in
16 subsection (b) of this section, on each type of alternative fuels sold, or
17 used in this state, for the purpose of propelling a motor vehicle or motor
18 vehicles in this state, or purchased for sale or use in this state for the
19 purpose of propelling a motor vehicle or motor vehicles in this state. The
20 director shall determine the various types of alternative fuels being utilized
21 in this state and the applicable rates to be imposed for each type fuel in
22 accordance with the following provisions of this section, provided, the
23 director shall, in his initial determination, at a minimum, find at least two
24 types of alternative fuels, specifically, liquefied gas special fuels, as
25 defined in § 26-56-102 (10), and natural gas fuels.

26 (b) The tax rate for each equivalent gallon for each type of
27 alternative fuel shall be in accordance with the following table:

28

29 Number of Motor Vehicles Licensed	Tax Rate Per
30 in Arkansas utilizing Alternative	Equivalent Gallon
31 Fuels (for each type of	(for each type of alter-
32 alternative fuel)	native fuel)

33

34 _____

35

1	0 - 1,000	\$0.025
2		
3	1,001 - 1,499	\$0.045
4		
5	1,500 - 1,999	\$0.065
6		
7	2,000 - 2,499	\$0.085
8		
9	2,500 - 2,999	\$0.105
10		
11	3,000 & over	\$0.165
12		
13		

14 (c) (1) The tax rate set forth in subsection (b) of this section for
15 each type of alternative fuel from the effective date of this act through
16 March 31, 1994, shall be determined and published by the director prior to
17 June 1, 1993, and such rates shall be effective for each type of alternative
18 fuel through March 31, 1994. The tax rate set forth in subsection (b) of this
19 section for each type of alternative fuel shall be adjusted, if necessary, by
20 the director to be effective on April 1, 1994 and on April 1st of each year
21 thereafter based upon the number of vehicles utilizing alternative fuels (by
22 each type of alternative fuel) licensed in this state, as determined by the
23 director, as of December 31st of the preceding calendar year. If a change in
24 the tax rate in accordance with subsection (b) of this section for any type of
25 alternative fuel is required, the director shall include this in the report
26 required by this Section, and the director shall also notify each alternative
27 fuels supplier of the new tax rate not later than thirty (30) days prior to
28 the effective date of such change.

29 (2) Notwithstanding any other provision of this act, in determining
30 the number of alternative fuels vehicles licensed in this state by each type
31 of alternative fuel in order to determine the tax rate per equivalent gallon,
32 there shall not be taken into account any alternative fuel vehicles owned,
33 licensed or used by the United States Government, or any agency or
34 instrumentality thereof.

35 (d) (1) In determining the equivalent gallon for each type alternative

1 fuel, the director shall, to the maximum extent possible, ensure that the
2 gallon equivalent for each type of alternative fuel does not discriminate
3 against, or favor, any particular alternative fuel over any other alternative
4 fuel.

5 (2) It is the intent of the tax levy set forth in this section to
6 tax each particular type of alternative fuel depending upon the number of
7 alternative fuel vehicles using the particular type of alternative fuel
8 licensed in Arkansas.

9 (e) The director is authorized to develop a procedure such as one
10 pursuant to which the alternative fuel type is noted on the certificate of
11 title and/or certificate of registration of such vehicle. It is the intention
12 of this subsection to develop a system for the director, the Arkansas
13 Alternative Fuels Commission, and other officials of the State of Arkansas to
14 know the precise number of vehicles utilizing alternative fuels licensed in
15 this state, both in the aggregate and by the type of alternative fuel
16 propelling such vehicle.

17 (f) Not later than June 1, 1993, February 15, 1994 and the 15th day of
18 February each year thereafter, the director shall file a written report with
19 the Director of the Arkansas Highway and Transportation Department and the
20 Director of the Arkansas Alternative Fuels Commission setting forth the number
21 of vehicles utilizing alternative fuels and licensed in this state as of the
22 end of the preceding calendar year (both in the aggregate and by type of
23 alternative fuel) and, for the report due February 15, 1994 and the 15th day
24 of February for each year thereafter, the amount of tax revenue received by
25 the State of Arkansas on the tax levied by this act. The written report shall
26 also state the tax rate for the next twelve months commencing as of the first
27 day of April of such year for each type of alternative fuel.

28 (g) Sales to the United States Government are exempted from the tax
29 levied by subsection (a) of this section.

30 (h) The tax levied herein shall not apply to alternative fuels imported
31 into this state in the fuel supply tanks, including any additional containers,
32 of motor vehicles being used solely for noncommercial purposes if the
33 aggregate capacity of the fuel supply tanks, including any additional
34 containers, does not exceed thirty (30) equivalent gallons.

35

1 SECTION 10. Collection and payment of tax.

2 (a) The tax levied by this act shall be collected and paid by
3 alternative fuels suppliers on all alternative fuels, sold or delivered by
4 such suppliers when:

- 5 (1) delivered into the fuel supply tanks of a motor vehicle;
- 6 (2) sold to a dealer or user; or
- 7 (3) used in any motor vehicle owned or operated by that
8 alternative fuels supplier.

9 (b) The tax levied by this act shall be paid by an interstate user who
10 uses alternative fuels in this State as provided by section 17 and section 19
11 of this act.

12 (c) The tax levied by this act shall be paid by any person who uses
13 alternative fuels in this state on which the tax levied in this act has not
14 been paid in accordance with the provisions of section 17 or section 19 of
15 this act.

16 (d) The tax levied by this act shall be paid by an IFTA carrier user
17 who uses alternative fuels in this state as provided by section 17 of this
18 act.

19

20 SECTION 11. Separate meters for taxable natural gas fuels and
21 residential or other tax free natural gas.

22 (a) No user, including an alternative fuels supplier of natural gas
23 fuels, who utilizes natural gas for residential or other tax free purposes,
24 shall use such natural gas fuels in motor vehicles unless such natural gas
25 fuels are removed through a separate meter installed by the alternative fuels
26 supplier for such purposes.

27 (b) All alternative fuels suppliers shall monitor such separate meters
28 for billing and taxation purposes.

29 (c) Such users shall be licensed and bonded only if required by section
30 12 of this act but shall remit all taxes to the alternative fuels supplier
31 upon billing by that supplier, which supplier shall further remit such taxes
32 to the director as provided in section 14 of this act. Such user, however, at
33 the time of the installation of the separate meter shall report to the
34 director the number of vehicles, models and makes, license numbers, VIN
35 numbers, and any other information required by the director pursuant to rules

1 and regulations of the director.

2

3 SECTION 12. Licenses and bonds for alternative fuels suppliers and
4 interstate users, IFTA carrier users, etc., generally.

5 (a) No person shall commence operations as an alternative fuels
6 supplier, interstate user, or IFTA carrier user of alternative fuels without
7 first procuring a license for that purpose from the director. This license
8 shall be issued and remain in effect until revoked as provided in this
9 section.

10 (b) (1) Each application for a license as an alternative fuels
11 supplier, interstate user, or IFTA carrier user of alternative fuels, and each
12 license, shall have as a condition that the applicant and holder shall comply
13 with the provisions of this Act.

14 (2) (A) Each application for a license as an alternative fuels
15 supplier, interstate user, or IFTA carrier user, and each such license, shall
16 have as a further condition that the applicant and holder shall not deliver or
17 permit delivery into the fuel supply tanks of motor vehicles any alternative
18 fuels on which the tax levied by this act is not collected or will be remitted
19 pursuant to section 17 of this act.

20 (B) A taxable use of alternative fuels on which the tax is
21 not collected by an applicant for, or a holder of, an alternative fuels
22 supplier license or on a licensed interstate user or IFTA carrier user on
23 which the tax is not remitted pursuant to section 17 of this act, in addition
24 to the penal provisions prescribed in this act, shall cause immediate
25 cancellation of the applicant or holder's license.

26 (c) (1) Every alternative fuels supplier shall file with the director
27 a surety bond of not less than one and one-half (1 1/2) times or one hundred
28 fifty percent (150%) of the prior six (6) months average alternative fuels tax
29 due which is based upon the gallon equivalent of alternative fuels to be sold
30 or distributed as shown by the application for a license if the applicant has
31 not previously been engaged in the business of an alternative fuels supplier,
32 or as shown by sales for the previous year if the applicant previously has
33 been engaged in such business in this state. However, no bond shall be filed
34 for less than one thousand dollars (\$1,000).

35 (2) If the director deems it necessary to protect the state in

1 the collection of alternative fuels taxes, he may require any alternative
2 fuels supplier to post a bond in an amount up to three (3) times or three
3 hundred percent (300%) of the prior six (6) months average alternative fuels
4 tax due.

5 (3) (A) However, the director is authorized to waive the
6 posting of bond by any licensed alternative fuels supplier organized and
7 operating under the laws of Arkansas and wholly owned by residents of this
8 state who has been licensed for a period of at least three (3) years and who
9 has not been delinquent in remitting alternative fuels taxes during the
10 three-year period immediately preceding application by the alternative fuels
11 supplier for waiver of bond.

12 (B) If any alternative fuels supplier whose bond has been
13 waived by the director as authorized in subdivision (c)(3)(A) of this section,
14 subsequently becomes delinquent in remitting alternative fuels taxes to the
15 director, the director may require that the alternative fuels supplier post a
16 bond in the amount required in this section, and the alternative fuels
17 supplier shall not be eligible to petition for a waiver of bond for a period
18 of three (3) years thereafter.

19 (d) Each application of an interstate user, or IFTA carrier user for a
20 license shall be accompanied by a surety bond of a surety company authorized
21 to do business in this state, in favor of the director, satisfactory to him,
22 and in an amount to be fixed by him of not less than one thousand dollars
23 (\$1,000) nor more than fifty thousand dollars (\$50,000), guaranteeing the
24 payment of any and all taxes, penalties, interest, attorney fees, and costs
25 levied by, accrued or accruing under this act. Any violation of this act
26 shall be cause for revocation of any license issued under this act.

27 (e) (1) The bond or bonds shall be issued by a surety company
28 qualified to do business in Arkansas, which shall be executed by the
29 alternative fuels supplier, interstate user, or IFTA carrier user as the
30 principal obligor and shall be made payable to the State of Arkansas as the
31 obligee.

32 (2) The bond shall be conditioned upon the prompt filing of true
33 reports and the payment by the alternative fuels supplier, interstate user, or
34 IFTA carrier user to the director of any and all alternative fuels taxes which
35 are levied or imposed by the State of Arkansas, together with any and all

1 penalties and interest thereon, and, generally, upon faithful
2 compliance with the provisions of this act.

3 (f) In the event that liability upon the bond filed pursuant to this
4 section by the alternative fuels supplier, interstate user, or IFTA carrier
5 user with the director shall be discharged or reduced, whether by judgment
6 rendered, payment made, or otherwise, or if, in the opinion of the director,
7 any surety on the bond shall have become unsatisfactory or unacceptable, then
8 the director may require the filing of a new bond with a satisfactory surety
9 in the same form and amount; failing which, the director shall immediately
10 cancel the license of the alternative fuels supplier, interstate user, or IFTA
11 carrier user. If a new bond shall be furnished, the director shall cancel the
12 bonds for which the new bond shall be substituted.

13 (g) In the event that, upon hearing, of which the alternative fuels
14 supplier, interstate user, or IFTA carrier user shall be given five (5) days'
15 notice in writing, the director shall decide that the amount of the existing
16 bond is insufficient to insure payment to the State of Arkansas of the amount
17 of the tax and any penalties and interest for which said alternative fuels
18 supplier, interstate user, or IFTA carrier user is or may at any time become
19 liable, then the alternative fuels supplier, interstate user or IFTA carrier
20 user, shall immediately, upon written demand of the director, file an
21 additional bond in the same manner and form and with a surety company thereon
22 approved by the director in any amount determined by the director to be
23 necessary to secure at all times the payment to the State of Arkansas of all
24 taxes, penalties, and interest due under the provisions of this Act; failing
25 which, the director shall immediately cancel the license of the alternative
26 fuels supplier, interstate user, or IFTA carrier user.

27 (h) (1) Any surety on any bond furnished as provided in this section
28 shall be released and discharged from any and all liability to the State of
29 Arkansas accruing on the bond after the expiration of sixty (60) days from the
30 date upon which a surety shall have lodged with the director written request
31 to be released and discharged. However, the request shall not operate to
32 relieve, release, or discharge the surety from any liability already accrued,
33 or which shall accrue, before the expiration of the sixty-day period.

34 (2) Upon receipt of notice of such request, the director shall
35 promptly notify the alternative fuels supplier, interstate user, or IFTA

1 carrier user who furnished the bond, and unless the alternative fuels
2 supplier, interstate user, or IFTA carrier user on or before the expiration of
3 the sixty-day period, files with the director a new bond with a surety company
4 satisfactory to the director in the amount and form as provided in this
5 section, the director shall immediately cancel the license of that alternative
6 fuels supplier, interstate user, or IFTA carrier user.

7 (3) If a new bond shall be furnished as provided in this section,
8 the director shall cancel the bond for which the new bond shall be
9 substituted.

10 (i) In lieu of furnishing a bond or bonds executed by a surety company,
11 as provided in this section, any alternative fuels supplier, interstate user,
12 or IFTA carrier user may furnish a bond or other instrument, in form
13 prescribed by the director, equal to the amount of the bond or bonds required
14 by this section, which will provide security or payment of all amounts as
15 described in this section and in compliance with all provisions of this act.

16 (j) (1) Any violation of this act shall be cause for revocation of
17 any license issued pursuant to this act.

18 (2) Should his license be revoked, any alternative fuels
19 supplier, interstate user, or IFTA carrier user may bring an action against
20 the director in the Pulaski County, Arkansas, Chancery Court within fifteen
21 (15) days of the date of revocation to determine whether or not the
22 alternative fuels supplier, interstate user, or IFTA carrier user has in fact
23 violated any of the provisions of this Act. If the court determines that the
24 provisions of the law have been violated by the alternative fuels supplier,
25 interstate user, or IFTA carrier user, it shall affirm the director's action
26 in revoking the license.

27 (k) If any of the provisions of this act regarding IFTA carrier users
28 conflicts with the International Fuel Tax Agreement entered into by this
29 state, the provisions of that agreement shall govern.

30

31 SECTION 13. Sales tickets.

32 (a) (1) Each alternative fuels supplier shall have available a
33 sufficient number of sales tickets prepared in quadruplicate to cover sales of
34 alternative fuels under the provisions of this act.

35 (2) The forms shall be numbered and prepared with blank spaces

1 for the name and address of the alternative fuels supplier, the name and
2 address of the purchaser, the date of the purchase, number of gallons
3 equivalent purchased, the total cost of fuels purchased including taxes, and
4 such other information as the director may require.

5 (b) The sales tickets shall be issued in quadruplicate by the
6 alternative fuels supplier, shall be signed by the alternative fuels supplier
7 or his authorized agent, and the original and two (2) copies shall be given to
8 the purchaser, and the remaining copy shall be retained by the seller as a
9 record for a period of at least three (3) years, during which period it shall
10 be subject to inspection by the director or his representative, at all
11 reasonable times.

12 (c) The sales tickets as defined in subsections (a) and (b) of this
13 section shall be the only evidence accepted for tax credit by the director
14 under the provisions of section 17 of this act.

15 (d) Any licensed alternative fuels supplier or agent or employee of
16 such alternative fuels supplier who issues any sales ticket or invoice to any
17 user showing that the user has purchased a quantity of alternative fuels from
18 such alternative fuels supplier, agent, or employee, when in fact such user
19 has not purchased alternative fuels or has purchased less fuel than the
20 ticket or invoice shows, shall be guilty of a misdemeanor and upon conviction
21 shall be fined not less than one hundred dollars (\$100) nor more than one
22 thousand dollars (\$1,000).

23 (e) The director, in consultation with the Director of Highways and
24 Transportation, is hereby authorized to promulgate rules and regulations
25 regarding an alternative to the required usage of sales tickets for all sales
26 made by alternative fuels suppliers by separate meter as provided in section
27 11 of this act.

28

29 SECTION 14. Alternative fuels suppliers' and users' reports -
30 Computation and remittance of tax.

31 (a) Every alternative fuels supplier shall, on or before the
32 twenty-fifth day of each calendar month, file with the director, on forms
33 prescribed by him, a report accounting for the alternative fuels taxable under
34 this act during the preceding month and shall remit all taxes as reflected by
35 the report to the director at the time of filing such report. The alternative

1 fuels supplier shall file supporting documents necessary to assure accurate
2 reporting. The reports shall include the following:

3 (1) An itemized statement of the number of equivalent gallons of
4 alternative fuels sold and delivered into the fuel supply tanks of motor
5 vehicles during the next preceding calendar month by the alternative fuels
6 supplier;

7 (2) An itemized statement of the number of gallons equivalent of
8 alternative fuels delivered into the fuel supply tanks of motor vehicles
9 owned, leased or operated by the alternative fuels supplier during the next
10 preceding calendar month by the alternative fuels supplier; and

11 (3) An itemized statement of the number of gallons equivalent of
12 alternative fuels sold through separate meter to a user for the fueling of
13 motor vehicles during the next preceding calendar month by the supplier; and

14 (4) Such other documents as the director requires.

15 (b) Every interstate user, and IFTA carrier user, on or before the
16 twenty-fifth day of the month following the end of each calendar quarter,
17 shall file with the director, on forms prescribed by the director, an itemized
18 report showing the quantities of alternative fuels purchased and used in this
19 state during the preceding calendar quarter, together with payments of the tax
20 due thereon.

21 SECTION 15. Records required - Invoices - Falsification of records.

22 (a) Every person required by law to secure a license under this Act
23 shall keep records in the time and manner and subject to inspection and audit
24 as required by § 26-18-101 et seq., including a complete record of all
25 alternative fuels taxable under this Act and sold, delivered, or used by him
26 showing for each purchase, receipt, sale, delivery, or use:

27 (1) The date;

28 (2) The name and address of the seller from whom the
29 user, interstate user or IFTA carrier user purchased the fuels, and that
30 interstate user, or IFTA carrier user's license number; and

31 (3) An accurate record of the number of gallons equivalent of
32 alternative fuels sold or used for taxable purposes with quantities measured
33 by a meter.

34 (b) (1) For each delivery of alternative fuels directly into the fuel
35 supply tank of a motor vehicle, the required record shall include a

1 serially-numbered invoice issued in not less than quadruplicate counterparts
2 on which shall be printed or stamped with a rubber stamp the name and address
3 of the alternative fuels supplier making such delivery and on which shall be
4 shown, in spaces to be provided on that invoice, the date of delivery, the
5 number of equivalent gallons and kind of alternative fuels so delivered, the
6 total mileage recorded on the odometer or hub meter of the motor vehicle into
7 which delivered, and the motor vehicle registration number of the motor
8 vehicle, or the interstate user, or IFTA carrier user's license number,
9 if
10 applicable.

11 (2) The invoice shall reflect that the tax has been paid or
12 accounted for on each of the products delivered.

13 (3) One (1) counterpart of the invoice required by this
14 subsection shall be kept by the alternative fuels supplier making such
15 delivery as a part of his record and for the period of time and purposes
16 provided in this Act. Another counterpart shall be delivered to the operator
17 of the motor vehicle and carried in the cab compartment of the motor vehicle
18 for inspection by the director or his representatives until the fuel it covers
19 has been consumed.

20 (c) (1) Every person who operates a motor vehicle that is equipped to
21 use motor fuels taxable under the Motor Fuel Tax Law, § 26-55-201 et seq., or
22 equipped to use distillate special fuels taxable under the Special Motor Fuels
23 Tax Law, § 26-56-101 et seq., and alternative fuels interchangeably in the
24 propulsion of the motor vehicle shall carry in the cab compartment of the
25 motor vehicle for inspection by the director or his representative, not
26 only the counterpart of the serially-numbered invoice required under
27 subsection (b) of this section for the delivery of alternative fuels into the
28 fuel supply tanks of the motor vehicle but also an invoice or receipt from the
29 seller for each delivery into the fuel supply tanks of the motor vehicle of
30 motor fuels taxable under the Motor Fuel Tax Law, or of distillate special
31 fuels taxable under the Special Motor Fuels Tax Law, which latter invoices or
32 receipts shall show the same information as to date of delivery, quantity,
33 odometer or hub meter mileage, and motor vehicle registration number as is
34 required for the invoice covering alternative fuels.

35 (2) These invoices shall be carried with the motor vehicle until

1 the types of fuels covered thereby have been consumed.

2 (d) The willful issuance of any invoice, required by this act, bill of
3 sale, or receipt which is false, untrue, or incorrect in any material
4 particular, or the alteration or changing except for errors, or forging any
5 such invoice, bill of sale, or receipt, or any duplicate of any such receipt
6 pertaining to alternative fuels, shall constitute a violation of this act.

7 (e) All sales to users made pursuant to section 11 of this act shall
8 not require the carriage of an invoice by the user, provided, the director
9 shall provide by regulation another means of providing an indication that the
10 tax on the fuel being utilized to propel the motor vehicle will ultimately be
11 paid by the user to the alternative fuels supplier who is required to remit
12 such tax to the director.

13

14 SECTION 16. Prima facie presumptions - Failure to keep records, issue
15 invoices, or file reports - Tax, penalties, and interest.

16 (a) Any alternative fuels supplier, user, interstate user, or IFTA
17 carrier user who fails to keep the records, issue the invoices, or file the
18 reports required by this act shall be prima facie presumed to have sold,
19 delivered, or used for taxable purposes all alternative fuels shown by a
20 verified audit by the Arkansas State Highway and Transportation Department,
21 the director, or any authorized representative.

22 (b) The director is authorized to fix or establish the amount of taxes,
23 penalties, and interest due the State of Arkansas from any record or
24 information available to him, or to the Arkansas State Highway and
25 Transportation Department, and if the tax claim as developed from that
26 procedure is not paid, the claim and any audit made by the Arkansas State
27 Highway and Transportation Department, the director or an authorized
28 representative, or any report filed by such alternative fuels supplier, user,
29 interstate user, or IFTA carrier user shall be admissible in evidence in any
30 suit or judicial proceedings filed by the director and shall be prima facie
31 evidence of the correctness of said claim or audit. However, the prima facie
32 presumption of the correctness of the claim may be overcome by evidence
33 adduced by the alternative fuels supplier, user, interstate user or IFTA
34 carrier user.

35

1 SECTION 17. Interstate users and IFTA carrier users - Reports -
2 Computation of tax and refunds.

3 (a) For the purpose of determining whether an interstate user or IFTA
4 carrier user owes alternative fuels tax or is entitled to a credit or refund,
5 the licensed interstate user or licensed IFTA carrier user shall file a
6 quarterly report on or before the twenty-fifth day of the month following the
7 end of each calendar quarter and shall be made on forms prescribed by the
8 director, which forms shall include such information as the director may
9 require.

10 (b) If it shall be determined by the quarterly report that the licensed
11 interstate user or licensed IFTA carrier user has used alternative fuel in
12 this state in excess of the number of equivalent gallons of the fuel upon
13 which the Arkansas tax had been paid, the interstate user or IFTA carrier user
14 shall remit to the director, at the time of filing the report, an excise tax
15 at the rate as previously determined in accordance with Section 9 of this act
16 per equivalent gallon for the taxable quarter multiplied by the number of
17 equivalent gallons used on which the tax has not been paid.

18 (c) If it shall be determined that the licensed interstate user or
19 licensed IFTA carrier user has purchased more equivalent gallons of
20 alternative fuel in this state than he has used in this state, then the
21 licensed interstate user or licensed IFTA carrier user shall be entitled to a
22 credit or refund at the rate as previously determined in accordance with
23 section 9 of this act per equivalent gallon for the taxable quarter for the
24 number of excess equivalent gallons upon which the tax has been paid.

25 (d) Licensed interstate users or licensed IFTA carrier users may not
26 take credit on reports at a tax rate in excess of that actually paid.

27 (e) (1) For the purpose of determining whether such a licensed
28 interstate user or licensed IFTA carrier user owes tax or is entitled to a
29 credit or refund, such licensed user shall determine the average miles per
30 equivalent gallon of alternative fuel used. The average miles per equivalent
31 gallon shall be
32 determined by dividing total miles traveled in all jurisdictions by the total
33 equivalent gallons of alternative fuel used in all jurisdictions. Such
34 licensed user shall then determine the total amount of alternative fuel used
35 within the State of Arkansas by dividing the total number of miles traveled

1 within the State of Arkansas by the average miles per equivalent gallon.

2 (2) The taxpayer's tax liability shall be calculated by
3 multiplying the number of equivalent gallons of alternative fuel used within
4 the State of Arkansas by the applicable tax rate for that calendar quarter per
5 equivalent gallon. A taxpayer shall be entitled to credits against his tax
6 liability for tax-paid alternative fuel purchased within the State of
7 Arkansas.

8 (f) (1) Any licensed interstate user or licensed IFTA carrier user
9 who fails to maintain adequate mileage or fuel records, for the purpose of
10 determining the amount the licensed user owes the State of Arkansas for tax on
11 alternative fuel used in this state as provided in this section, the number of
12 equivalent gallons of alternative fuels used in this state shall be determined
13 by an assessment based on the following mileage factors per equivalent gallon
14 of alternative fuels, regardless of the type of alternative fuel, as compared
15 to the appropriate class of vehicle set out in subdivision (2) of this
16 subsection.

17 (2) For the purposes of this section:

18 (A) All automobiles, except buses, with a capacity of less
19 than eight (8) passengers shall be deemed to be Class A vehicles;

20 (B) All truck-type vehicles, except buses, with a factory
21 rating and gross loaded weight of less than twenty-two thousand five hundred
22 pounds (22,500 lbs.), shall be deemed to be Class B vehicles;

23 (C) All other vehicles, except buses, with a factory rating
24 in excess of twenty-two thousand five hundred pounds (22,500 lbs.), or whose
25 total gross loaded weight exceeds twenty-two thousand five hundred pounds
26 (22,500 lbs.) shall be deemed to be Class C vehicles; and

27 (D) All buses rated and licensed as such shall be deemed to
28 be Class D vehicles.

29 (3) The mileage factor per equivalent gallon of alternative fuels
30 for:

31 (A) Class A vehicles shall be twelve (12) miles;

32 (B) Class B vehicles shall be eight (8) miles;

33 (C) Class C vehicles shall be five (5) miles; and

34 (D) Class D vehicles shall be six (6) miles.

35 (4) These mileage factors shall be utilized in conjunction with

1 the Arkansas mileage as determined through an audit and based upon the best
2 records available regardless of source.

3 (g) For the purposes of determining the amount any unlicensed or
4 unbonded user owes the State of Arkansas for tax on alternative fuels used in
5 this state, only the above mileage factors per equivalent gallon of
6 alternative fuels for the applicable vehicles shall be utilized.

7 (h) (1) If a quarterly report of a licensed interstate user or
8 licensed IFTA carrier user results in a net credit, such user may elect to
9 have the credit carried forward and applied against the alternative fuels tax
10 due for the succeeding eight (8) quarters or until the credit is completely
11 used, whichever occurs first. In the alternative, a taxpayer who is entitled
12 to a net credit on his quarterly fuel tax report may elect to have the amount
13 of credit refunded to him.

14 (2) A licensed interstate user or licensed IFTA carrier user who
15 has a total tax liability for alternative fuels tax during the previous
16 calendar year of less than one hundred dollars (\$100) may, upon application to
17 the director, obtain permission to report his alternative fuel tax liability
18 on an annual basis. The annual report shall be due on or before the
19 twenty-fifth day of the month following the end of each fiscal year.

20 (i) The director shall prescribe the appropriate forms necessary for
21 the administration of this act. The director may make appropriate rules and
22 regulations necessary to insure the accurate reporting of the alternative
23 fuels tax.

24

25 SECTION 18. Interstate users and IFTA carrier users - Tax refund
26 procedure.

27 (a) (1) The director shall quarterly estimate the amount necessary to
28 pay refunds to licensed interstate users and licensed IFTA carrier users of
29 alternative fuels who are entitled to refunds with respect to alternative
30 fuels taxes paid in this state as authorized in section 17 hereof, and, upon
31 certification by the director, the State Treasurer shall transfer from the
32 gross amount of alternative fuels taxes collected each month the amount to the
33 Interstate Alternative Fuels Refund Fund, which is established on the books of
34 the State Treasury, from which the Department of Finance and Administration
35 shall make refunds as provided by law.

1 (2) The transfers from the gross alternative fuels taxes
2 collected each month shall be after deducting allowances for bad checks or
3 claims but before making any other distribution as provided by law.

4 (b) All warrants drawn against the Interstate Alternative Fuels Tax
5 Refund Fund which are not presented for payment within one (1) year of
6 issuance shall be void.

7 (c) Neither the director nor any member or employee of the department
8 shall be held personally liable for making any refund by reason of a
9 fraudulent claim being filed as a basis for such refund.

10 (d) The director, in consultation with the Director of Highways and
11 Transportation, is authorized to promulgate rules and regulations and to
12 prescribe the necessary forms required for the administration of claims for
13 tax refunds from licensed interstate users or licensed IFTA carrier users of
14 alternative fuels in this state as authorized by law, which rules and
15 regulations shall be in conformance with the following requirements:

16 (1) The director shall first determine, with respect to each
17 refund claim filed, that the bond of the interstate user or IFTA carrier user
18 is adequate to compensate the State of Arkansas for any losses with respect to
19 the recovery of any refunds illegally claimed by such user, and he may require
20 the increase of the bond if he determines it to be inadequate before approving
21 any such claim for refund;

22 (2) Each licensed interstate user or licensed IFTA carrier user
23 of alternative fuels claiming refunds shall maintain adequate records to
24 substantiate each claim for refund, and the director may reject any claim for
25 refund if he determines the applicant has not maintained adequate records or
26 has not conformed to the rules and regulations of the department in filing the
27 claim therefor;

28 (3) Each claim for refund must be upon the request of the
29 licensed interstate user or licensed IFTA carrier user which shall be verified
30 by such user as to its accuracy and validity;

31 (4) (A) Each quarterly report filed by a licensed interstate
32 user or licensed IFTA carrier user of alternative fuels with the department
33 shall reflect thereon the amount of alternative fuels purchased for use in
34 Arkansas during the quarter, the number of equivalent gallons of alternative
35 fuels upon which taxes are due the State of Arkansas for the quarter,

1 and the excess equivalent gallons upon which such user is entitled to refunds.

2 (B) At the end of each calendar quarter, the licensed
3 interstate user or licensed IFTA carrier user may make application for refund
4 with respect to the number of equivalent gallons of alternative fuels upon
5 which the alternative fuels taxes have been paid during the calendar quarter
6 for which such user is entitled to refund.

7 (5) The director is authorized to promulgate any such rules or
8 regulation he deems desirable in consultation with the Director of Highways
9 and Transportation regarding refunds to licensed interstate users and IFTA
10 carrier users.

11

12 SECTION 19.(a) Any unlicensed alternative fuels user, unless exempt
13 from the tax levied herein, operating an out-of-state motor vehicle, upon
14 entering the State of Arkansas shall, at the point of entry, secure a copy of
15 an entry slip from the Director of the Department of Finance and
16 Administration or his authorized agent or employee.

17 (b) The entry slip shall be signed by the director or his authorized
18 agent or employee, and the entry slip shall also be signed by the driver of
19 the vehicle.

20 (c) The entry slip shall contain the following information:

- 21 (1) Name and address of the owner or the operator of the vehicle;
22 (2) State of registration;
23 (3) License number;
24 (4) Odometer reading;
25 (5) Destination and point of leaving state; and
26 (6) Description of vehicle.

27 (d) The entry slip shall remain in the vehicle for the remainder of the
28 trip over the highways of this state and shall be produced for the inspection
29 of the director, or his authorized employee or representative, at any point
30 within the state and shall also be produced at the port of exit to the
31 director, or his authorized agent or employee, for determination of any
32 alternative fuels taxes due the state.

33 (e) For the purpose of determining the amount the interstate user owes
34 the State of Arkansas for tax on alternative fuels used in this state as
35 provided in this section, the number of equivalent gallon of alternative fuels

1 used in this state shall be determined by an assessment based on the mileage
2 factors per equivalent gallon of alternative fuels set out in subsection
3 (f) of section 17 of this act compared to the appropriate class of vehicle set
4 out in that same subsection (f) of section 17.

5 (f) The alternative fuels tax levied by this act shall be paid upon all
6 such fuels used to propel out-of-state motor vehicles upon the highways of
7 this state.

8 (g) The tax shall be paid by the owner or operator of the motor vehicle
9 in either of the following ways, at the option of the owner or operator:

10 (1) By the purchase of a sufficient amount or quantity, as
11 determined above, of alternative fuels from an alternative fuels supplier
12 within the State of Arkansas to propel the vehicle the number of miles which
13 the vehicle travels upon the highways of this state.

14 (A) At the time of the purchase of the fuels, the owner or
15 operator of such vehicle shall obtain from the alternative fuels supplier from
16 whom purchased an invoice or sales ticket, on forms approved by the Director
17 of the Department of Finance and Administration, which shall contain the name
18 and address of the seller of the alternative fuels, the name and address of
19 the purchaser, the date of purchase, the amount or quantity and type of
20 alternative fuels purchased, and the invoice or sales ticket shall remain in
21 the vehicle for the remainder of the trip over the highways of this state.

22 (B) The invoice or sales ticket shall be preserved and
23 retained by the owner or operator for a period of not less than three (3)
24 years and shall be produced for the inspection and examination of the
25 director, or his authorized agent or employee, at any reasonable time and
26 place, either within or without this state, upon proper demand therefor;

27 (2) By the payment of the amount of tax which would be due upon a
28 sufficient quantity, as determined above, of alternative fuels to propel the
29 vehicle over the highways of this state to the director or to his agent,
30 representative, or employee.

31 (A) At the time of payment of the tax, the director, or his
32 employee or representative, shall issue to the person paying the tax a receipt
33 showing the amount of tax paid, the name and address of the owner or operator
34 of the vehicle, a description of the vehicle, including license number and
35 state of registration, the point at which the vehicle entered upon the

1 highways of this state, the destination and the place where the vehicle is to
2 leave the highways of this state, and any other information which the director
3 may require, which receipt shall be signed by the director or his agent or
4 representative.

5 (B) The receipt shall remain in the vehicle for the
6 remainder of the trip over the highways of this state and thereafter shall be
7 preserved and retained by the owner or operator for a period of not less than
8 three (3) years, and shall be produced for the inspection of the director, or
9 his authorized agent or representative, at any reasonable time and place,
10 either within or without this state, upon proper demand.

11 (h) (1) If a person who has not obtained an alternative fuels license
12 from this state, and who is nevertheless determined an alternative fuels user,
13 leaves the State of Arkansas by a state highway or other road not equipped
14 with a permanent port of entry or exit and has not paid the alternative fuels
15 tax or has not purchased tax-paid alternative fuels from a licensed
16 alternative fuels supplier in an amount equal to the number of equivalent
17 gallons used upon the highways of the State of Arkansas, he shall be liable
18 for the payment of the tax due, as determined above, together with the
19 penalties as set out in section 5 of this act.

20 (2) If an unlicensed alternative fuels user is within one (1)
21 mile of the state line on the way out of the state and does not have in his
22 possession a form issued by a licensed alternative fuels supplier showing the
23 number of equivalent gallons purchased equal to the amount used in traveling
24 upon the highways of the State of Arkansas, it shall be prima facie
25 evidence of his failure to comply with the requirements of this act, and he
26 shall be liable for the payment of the tax due, plus the fine as set out in
27 section 6 of this act.

28 (3) In the event an unlicensed alternative fuels user enters the
29 State of Arkansas via a state highway not equipped with a permanent port of
30 entry, and the driver of the vehicle does not receive an entry form, then the
31 burden of proof of the point of entry and time of entry for the purpose of
32 determining the miles traveled, and the tax due shall be upon the driver or
33 owner of the vehicle.

34

35 SECTION 20. Power to stop, investigate, and impound vehicles -

1 Assessment of tax.

2 (a) In order to enforce the provisions of this act, the director or his
3 authorized representative is empowered to stop any motor vehicle which appears
4 to be operating with alternative fuels for the purpose of examining the
5 invoices or other documents required by this act or by regulation and for such
6 other investigative purposes reasonably necessary to determine whether the
7 taxes imposed by this act have been paid, or whether the vehicle is being
8 operated in compliance with the provisions of this act.

9 (b) If, after examination or investigation, it is determined by the
10 director or his authorized representative that the tax imposed by this act has
11 not been paid with respect to the alternative fuels being used in the vehicle,
12 the director or his representative shall immediately assess the tax due,
13 together with the penalty hereinafter provided, to the owner of the vehicle,
14 and give the owner written notice of the assessment by handing it to the
15 driver of the vehicle.

16 (c) The director or his representative is empowered to impound any
17 vehicle found to be operating in violation of this act by a person other than
18 one who has furnished the bond required of users by section 12 of this act
19 until such time as any tax assessed as provided herein has been paid.

20

21 SECTION 21. Unlawful activities regarding operation of motor vehicles.

22 (a) It is unlawful and a violation of this act to operate with
23 alternative fuels any motor vehicle licensed for highway operation on which an
24 odometer or hub meter is not kept at all times in good operating condition to
25 correctly measure and register the miles traveled by the motor vehicle.

26 (b) It shall be unlawful for any person to operate with alternative
27 fuels any vehicle of Arkansas domestic registry unless he has in his
28 possession an invoice, if required, for the alternative fuel and the invoice
29 meets the requirements of section 15 of this act or, if the user has purchased
30 such alternative fuels pursuant to section 11 of this act, he has in his
31 possession the required documents mandated by the provisions of subsection (e)
32 of section 15 of this act.

33 (c) (1) In addition to any other penalties which may be incurred
34 there is levied a specific penalty of twenty-five dollars (\$25.00) for each
35 violation of the provisions of this section.

1 (2) This penalty shall be assessed by the director or his
2 representative and shall be collected in the same manner as is provided for
3 the collection of tax in section 20 of this act.

4

5 SECTION 22. Conversion of vehicles for use of alternative fuels.

6 (a) (1) Any alternative fuels supplier, garage, mechanic, owner, or
7 operator of a motor vehicle who converts or causes a vehicle to be converted
8 to enable the vehicle to be operated on any type of alternative fuel shall
9 report the conversion to the director, on forms prescribed by the director,
10 which shall include, but not be limited to, the model, make, license number
11 and VIN number of the converted vehicle, within ten (10) days after the
12 conversion.

13 (2) If any owner or operator fails to report a conversion to the
14 director within the time prescribed above, such person shall be assessed a
15 penalty of two-hundred and fifty dollars (\$250.00) which shall be in addition
16 to any criminal penalty in this act.

17 (b) No person shall convert or equip any motor vehicle for the use of
18 the type of alternative fuel known as liquefied gas special fuel, as that fuel
19 is defined in § 26-56-102(10), unless the person is licensed to do so by the
20 Liquefied Petroleum Gas Board and has made application for and obtained a
21 license as a liquefied gas special fuel converter from the director and posted
22 a bond in an amount determined by the director conditioned that the person
23 will report to the director all vehicles so converted by him as required by
24 this section. The converting or equipping of a vehicle for natural gas
25 propulsion shall be in compliance with rules and regulations to be made and
26 promulgated by the director.

27 (c) It shall be unlawful for any person to operate any motor vehicle
28 which has been converted or equipped to use alternative fuels unless the
29 vehicle has been reported to the director and any permit, if required by this
30 act of that person, has been obtained.

31

32 SECTION 23. In all audits conducted by the Arkansas State Highway and
33 Transportation Department pursuant to this act, that Department may call upon
34 the Director of the Department of Finance and Administration for assistance.

35

1 SECTION 24. The provisions of the "Arkansas Tax Procedure Act," §
2 26-18-101, et seq., shall be read in para materia with this act and in the
3 event of any conflict with that act and this act, the provisions of the
4 "Arkansas Tax Procedure Act" shall control.

5

6 SECTION 25. Arkansas Code Title 26, Chapter 51, Subchapter 5 is amended
7 to add the following new section:

8 "26-51-507. Tax Credits for Alternative-fuel Vehicles and Certain
9 Refueling Property.

10 (a) There shall be allowed as credits against the tax imposed by the
11 Arkansas Income Tax Act, as amended, § 26-51-101 et seq., amounts as
12 determined in subsection (d) of this section for investments in qualified
13 alternative-fuel vehicle property and qualified alternative-fuel vehicle
14 refueling property.

15 (b) For purposes of this section,

16 (1) the term qualified alternative-fuel vehicle refueling
17 property means property (not including a building and its structural
18 components) if-

19 (A) such property is of a character subject to the
20 allowance for depreciation,

21 (B) the original use of which commences with the taxpayer,
22 and

23 (C) such property is related to the delivery of an
24 alternative-fuel into the fuel tank of a motor vehicle propelled by such fuel,
25 including compression and other equipment and storage tanks for such fuel in
26 proximity to the point where such fuel is so delivered.

27 (2) The term qualified alternative-fuel vehicle property means
28 property which is acquired for use by the taxpayer and not for resale, the
29 original use of which commences with the taxpayer, and which is

30 (A) property installed on a motor vehicle (whether as an
31 engine, or for storage of fuel, for delivery of fuel to the engine, or to
32 exhaust gases from combustion of such fuel) for purposes of permitting such
33 vehicle to be propelled by an alternative-fuel; or

34 (B) a motor vehicle produced by an original equipment
35 manufacturer and designed so that the vehicle may be propelled by an

1 alternative-fuel, but only to the extent of the portion of the basis of such
2 vehicle which is attributable to an engine which may use such fuel, to the
3 storage or delivery to the engine of such fuel, or to the exhaust of gases
4 from combustion of such fuel.

5 (c) For purposes of this section, the term alternative-fuel shall
6 have the same meaning ascribed to the term alternative-fuels in Section 2 of
7 the Alternative Fuels Tax Law.

8 (d) (1) The credit provided for in subsection (a) of this section for
9 qualified alternative-fuel vehicle property shall be fifty percent (50%) of
10 the taxpayer's cost of such property.

11 (2) The credit provided for in subsection (a) of this section for
12 qualified alternative-fuel vehicle refueling property shall be fifty percent
13 (50%) of the taxpayer's cost of such property, including the cost of
14 installation.

15 (e) (1) In the case of a proprietorship or partnership, the amount of
16 the credit determined under this section shall be apportioned to each
17 proprietor or partner in proportion to the amount of income from the entity
18 which the proprietor or partner is required to include as gross income.

19 (2) In the case of a Subchapter S corporation, as allowed by §
20 26-51-409, the amount of the credit determined under this section for any
21 taxable year shall be apportioned among the persons who are shareholders of
22 the corporation on the last day of the taxable year based on each person's
23 percentage of ownership.

24 (3) In the case of an estate or trust:

25 (A) The amount of the credit determined under this section
26 for any taxable year shall be apportioned between the estate or trust and the
27 beneficiaries on the basis of the income of the estate or trust allocable to
28 each; and

29 (B) Any beneficiary to whom any amount has been apportioned
30 under subdivision (e)(3)(A) of this section shall be allowed, subject to
31 limitations contained in this section, a credit under this section for the
32 amount.

33 (4) In the case of a husband and wife who file returns for a
34 taxable year in which they could have filed a joint return, each may claim
35 only one-half (1/2) of the credit that would have been allowed for a joint

1 return.

2 (f) The amount of the credit that may be used by a taxpayer for a
3 taxable year may not exceed the amount of state, individual, or corporate
4 income tax otherwise due. Any unused credit may be carried over for a maximum
5 of three (3) consecutive years following the taxable year in which the credit
6 originated.

7 (g) A taxpayer who receives a credit under this section shall not be
8 entitled to claim any other state tax credit based on the purchase or cost of
9 qualified alternative-fuel vehicle refueling property, or qualified
10 alternative-fuel vehicle property.

11 (h) The credits provided for in this section shall apply to purchases
12 of, or investments in, qualified alternative-fuel vehicle property and
13 qualified alternative-fuel vehicle refueling property made on or after January
14 1, 1993, and before January 1, 2000."

15

16 SECTION 26. Subchapter 3 of the "Special Motor Fuels Tax Law" (Arkansas
17 Code §§ 26-56-301 through 26-56-315) is hereby repealed. All other laws and
18 parts of laws in conflict with this act are hereby repealed, provided, nothing
19 in this act is intended to nor shall it abrogate any of the provisions of the
20 "Motor Fuel Tax Law," § 26-55-201, et seq., nor shall it abrogate any of the
21 provisions of the "Special Motor Fuels Tax Law," § 26-56-102, et seq., which
22 provisions apply to the taxation of motor fuel and distillate special fuels,
23 it being the intent of this act that such fuels continue to be taxed in
24 accordance with those tax laws and not in accordance with this act.

25

26 SECTION 27. The provisions of this act are hereby declared to be
27 severable. If any provision of the act shall be declared to be invalid or to
28 be inapplicable to any person or circumstance, such determination shall not
29 affect the validity or applicability of the other provisions of this act.

30

31 SECTION 28. All provisions of this act of a general and permanent
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
33 Code Revision Commission shall incorporate the same in the Code.

34

35 SECTION 29. It is hereby found and determined by the Seventy-Ninth

1 General Assembly that no provisions currently exist in the Arkansas Code
2 regarding the taxation of certain alternative fuels utilized in propelling
3 motor vehicles in this state; that such vehicles are currently being operated
4 on the highways, roads and streets of this state without the payment of
5 any fuel taxes thus creating an inequity among the various classes of
6 road-users in this state. It is further found that only by the effectiveness
7 of this act as soon as practicable may such inequity be corrected. Therefore,
8 an emergency is hereby declared to exist and this act being necessary for the
9 immediate preservation of the public peace, health and safety shall be in
10 full force and effect on and after July 1, 1993.

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