

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H2/13/97

A Bill

ACT 271 OF 1997
HOUSE BILL 1534

5 By: Representatives Simmons and Baker
6
7

For An Act To Be Entitled

9 "AN ACT TO CREATE THE ARKANSAS CORN AND GRAIN SORGHUM
10 BOARD FOR THE PROMOTION OF THE CORN AND GRAIN SORGHUM
11 INDUSTRY IN ARKANSAS; TO PROVIDE FOR ITS MEMBERSHIP AND
12 POWERS; TO PROVIDE FOR ASSESSMENT ON CORN AND GRAIN
13 SORGHUM GROWN WITHIN THE STATE SUBJECT TO APPROVAL OF CORN
14 AND GRAIN SORGHUM PRODUCERS VOTING IN REFERENDUM; TO
15 PROVIDE FOR THE HOLDING AND FINANCING OF THE REFERENDUM;
16 TO PROVIDE FOR THE COLLECTING AND ADMINISTRATION OF THE
17 ASSESSMENT SHOULD THE ASSESSMENT BE APPROVED; TO PROVIDE
18 FOR PENALTIES AND THE DURATION OF THE ASSESSMENT; AND FOR
19 OTHER PURPOSES."

Subtitle

21 "TO CREATE THE ARKANSAS CORN AND GRAIN
22 SORGHUM BOARD."
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. The purpose of this act is to promote the growth and
28 development of the corn and grain sorghum industry in Arkansas by research,
29 extension, promotion and market development, thereby promoting the general
30 welfare of the people of Arkansas.

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32 SECTION 2. (a) The Arkansas Corn and Grain Sorghum Promotion Board is
33 created to be domiciled in Little Rock, Arkansas, 10720 Kanis Road, to be
34 composed of seven (7) producer members to be appointed by the Governor as
35 herein provided. All of the seven (7) producer members of the board shall be
36 practical producers of corn or grain sorghum in the State of Arkansas and

1 shall be nominated by their respective organizations. Within ten (10) days
2 following the effective date of this act, each of the following organizations,
3 namely, Arkansas Farm Bureau Federation, Inc., Riceland Foods, Inc., and
4 Agricultural Council of Arkansas, shall submit the names of five (5) practical
5 corn or grain sorghum producers to the Governor and he shall appoint three (3)
6 members from the list submitted by the Arkansas Farm Bureau Federation, Inc.,
7 and two (2) members from the lists submitted by each of the other above named
8 organizations, to serve on the board. The members selected as herein provided
9 from the Arkansas Farm Bureau Federation, Inc., shall draw lots to determine
10 their terms so that two (2) of such members will serve for terms of two (2)
11 years and one (1) shall serve for a term of one (1) year, and the members from
12 each of the other organizations shall draw lots for terms so that one (1)
13 shall serve for a term of one (1) year and one (1) shall serve for a term of
14 two (2) years. Thereafter, each member selected shall serve for a term of two
15 (2) years and until his successor is duly selected as herein provided. Each
16 year thereafter not less than thirty (30) days prior to the expiration of the
17 terms of the current board members whose terms expire, the organizations named
18 above shall submit to the Governor names of two (2) nominees named for each
19 position to be filled on the board from the respective organizations, and the
20 Governor shall appoint from each list of nominees the new member or members.

21 (b) The members of the board shall meet and organize immediately after
22 their appointment, and shall elect a chairman, a vice chairman, and secretary-
23 treasurer from the membership of the board, whose duties shall be those
24 customarily exercised by such officers, or specifically designated by the
25 board. The board may establish rules and regulations for its own government
26 and for the administration of affairs of the board.

27 (c) The resident agent of the Arkansas Corn and Grain Sorghum Promotion
28 Board shall be the executive vice president, Arkansas Farm Bureau Federation,
29 Inc., or his designee.

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31 SECTION 3. (a) The Arkansas Corn and Grain Sorghum Promotion Board
32 shall appoint three (3) corn or grain sorghum producers from each county who
33 will be responsible for holding a referendum in said county.

34 The Arkansas Corn and Grain Sorghum Promotion Board will set the dates
35 for referendum and prescribe procedures to be followed in conducting the
36 referendum.

1 Voting shall be in farm service agency offices under supervision of the
2 three (3) producers appointed to hold the referendum.

3 Ballots will be furnished by the Arkansas Corn and Grain Sorghum
4 Promotion Board.

5 The results shall be certified not more than three (3) days after
6 election on forms furnished by the Arkansas Corn and Grain Sorghum Promotion
7 Board by registered mail to the Arkansas Corn and Grain Sorghum Promotion
8 Board.

9 The Arkansas Corn and Grain Sorghum Promotion Board shall be reimbursed
10 from funds collected for costs of holding referendum.

11 (b) There is imposed and levied an assessment at the rate of one cent
12 (1¢) per bushel on all corn and grain sorghum grown within the state. This
13 assessment to be deducted from the amount paid the producer at the first point
14 of sale, whether within or without the state or at the point the corn or grain
15 sorghum enters into the USDA loan program; provided, however, that the
16 assessment shall not be imposed unless and until the question of its
17 imposition has been submitted to and approved by sixty percent (60%) of the
18 corn and grain sorghum producers who vote in the referendum to be called and
19 held within nine (9) months following the effective date of this act, and
20 further provided a minimum of ten percent (10%) of the total corn and grain
21 sorghum producers in this state as determined by latest available agricultural
22 census data shall have voted. The corn and grain sorghum producers shall be
23 notified by the board of the results of the referendum. The assessment
24 imposed herein shall be effective beginning July 1, 1998. This assessment may
25 be extended for an indefinite period of time or until twenty percent (20%) of
26 the producers shall petition the board to hold a referendum on whether the
27 program should be continued; then another referendum shall be called by the
28 board in the manner set forth herein. In all such referenda, in order to be
29 eligible to vote the producer must have produced corn or grain sorghum in the
30 crop year immediately preceding the referendum.

31 (c) The assessment imposed and levied by this section shall be
32 collected by the Arkansas Commissioner of Revenues from the buyer of corn or
33 grain sorghum at the first point of sale or when the corn or grain sorghum
34 enters the USDA loan program. The proceeds of the assessment, less not more
35 than three percent (3%) to cover cost of collections, shall be deposited with
36 the State Treasurer in a special fund to be established for the Arkansas Corn

1 and Grain Sorghum Promotion Board to the credit of the Arkansas Corn and Grain
2 Sorghum Promotion Board. Disbursement thereof shall be made only upon motions
3 duly passed by the Arkansas Corn and Grain Sorghum Promotion Board and
4 presented to the State Treasurer and only for purposes prescribed in this act.

5 (d) Every buyer shall keep a complete and accurate record of all corn
6 and grain sorghum handled by him. Such records shall be in such form and
7 contain other information as the board shall by rule or regulation prescribe.
8 The record shall be preserved for a period of one (1) year and shall be
9 offered for inspection at any time upon written demand by the Commissioner of
10 Revenues or any duly authorized agent or representative thereof. Every buyer,
11 at such time or times as the Commissioner may require, shall submit reports or
12 otherwise document any information deemed necessary for the efficient
13 collection of the assessment imposed in this section. The Commissioner of
14 Revenues shall have the power to cause any duly authorized agent or
15 representative to enter upon the premises of any buyer of corn or grain
16 sorghum and examine or cause to be examined by such agent, any books, papers
17 and records which deal in any way with respect to the payment of the
18 assessment or enforcement of the provisions of this act.

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20 SECTION 4. (a) Any buyer who fails to file a report or pay any
21 assessment within the required time set by the Commissioner shall forfeit to
22 the Commissioner a penalty of five percent (5%) of the assessment determined
23 to be due, plus one percent (1%) for each month of delay or fraction thereof
24 after the first month after such report was required to be filed or such
25 assessment became due. The penalty shall be paid to the Commissioner and
26 shall be disposed of by him in the same manner as funds derived from the
27 payment of the assessment imposed herein.

28 (b) The Commissioner of Revenues shall collect the penalties levied
29 herein together with the delinquent assessment, by any or all of the following
30 methods:

31 (1) By voluntary payment by the person liable;

32 (2) By legal proceedings instituted in a court of competent
33 jurisdiction;

34 (3) By injunctive relief to enjoin any buyer owing such
35 assessment and/or penalties from operating his business or engaging in
36 business as a buyer of corn or grain sorghum until the delinquent assessment

1 and/or penalties are paid.

2 (c) Any person required to pay the assessment provided for in this act
3 who refuses to allow full inspection of the premises, or any books, records or
4 other documents relating to the liability of such person for the assessment
5 herein imposed, or who shall hinder or in any way delay or prevent such
6 inspection, shall be guilty of a misdemeanor and, upon conviction, shall be
7 punished by a fine not exceeding five hundred dollars (\$500.00).

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9 SECTION 5. The provisions of this act shall not apply to any person who
10 purchases one thousand (1,000) or less bushels of corn or grain sorghum in any
11 calendar year.

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13 SECTION 6. The Arkansas Corn and Grain Sorghum Promotion Board shall
14 plan and conduct a program of research and extension designed to promote the
15 corn and grain sorghum industry in Arkansas and said board is authorized to
16 use the funds derived from the assessments imposed herein for these purposes,
17 including basic administration expenses of said plan. This program may include
18 a program of market development as determined by the board. Use of these
19 funds may be applied as prescribed in this act within or without the State of
20 Arkansas, including regional, national, and international applications. Such
21 funds may also be used to defray costs of referenda.

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23 SECTION 7. All provisions of this act of a general and permanent nature
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
25 Revision Commission shall incorporate the same in the Code.

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27 SECTION 8. If any provision of this act or the application thereof to
28 any person or circumstance is held invalid, such invalidity shall not affect
29 other provisions or applications of the act which can be given effect without
30 the invalid provision or application, and to this end the provisions of this
31 act are declared to be severable.

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33 SECTION 9. All laws and parts of laws in conflict with this act are
34 hereby repealed.

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36 SECTION 10. The effective date of this act shall be July 1, 1997.

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/s/Rep. Simmons et al

APPROVED: 2-25-97