

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill

HOUSE BILL

4 **By: Representatives McCuiston, Hogue, Baker,**
5 **Porter, McGinnis, Northcutt and**
6 **Schexnayder**

For An Act To Be Entitled

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9
10 "AN ACT TO AMEND ARKANSAS CODE 2-20-401 ET SEQ. TO
11 HARMONIZE STATE LAW ON SOYBEAN RESEARCH, PROMOTION AND
12 MARKET DEVELOPMENT WITH THE FEDERAL SOYBEAN PROMOTION,
13 RESEARCH AND CONSUMER INFORMATION ACT OF 1990; AND FOR
14 OTHER PURPOSES."

15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. Arkansas Code 2-20-401 is hereby amended to read as follows:
19 "2-20-401. Purpose.

20 The purpose of this subchapter is to promote the growth and development
21 of the soybean industry in Arkansas by research, extension, promotion, and
22 market development, thereby promoting the general welfare of the people of
23 Arkansas."

24

25 SECTION 2. Arkansas Code 2-20-402 is hereby repealed and new Arkansas
26 Code 2-20-402 is hereby enacted to read as follows:

27 "2-20-402. Definitions.

28 As used in this subchapter, unless the context otherwise requires:

29 (1) 'Board' means the Arkansas Soybean Promotion Board created
30 pursuant to this subchapter.

31 (2) 'Net market price' means:

32 (A) The sales price or value received by a producer for soybeans after
33 adjustments for any premium or discount based on grading or quality factors,
34 as determined by the Secretary; or

35 (B) For soybeans pledged as collateral for a loan issued under any

1 price support loan program administered by the Commodity Credit Corporation,
2 the principal amount of the loan.

3 (3) 'Secretary' means the Secretary of Agriculture of the United
4 States.

5 (4) 'Soybean Promotion, Research and Consumer Information Act' means
6 the Federal Soybean Promotion, Research and Consumer Information Act of 1990,
7 Subtitle E of Title XIX, of the Food, Agriculture, Conservation and Trade Act
8 of 1990, Public Law No. 101-624, as amended from time to time, and any order
9 issued pursuant thereto by the Secretary.

10 (5) 'United Soybean Board' means the United Soybean Board created by
11 the Soybean Promotion, Research and Consumer Information Act."

12

13 SECTION 3. Arkansas Code 2-20-403 is hereby amended to read as follows:

14 "2-20-403. Penalties.

15 (a) (1) Any first purchaser or other person required to pay an
16 assessment pursuant to this subchapter who fails to pay any assessment when
17 due shall forfeit a penalty of two percent (2%) of the assessment each month
18 beginning the day following the date such assessment was due.

19 (2) The penalty shall be paid to the Board or to its designee, the
20 Director of the Department of Finance and Administration, and shall be
21 disposed of in the same manner as funds derived from the payment of
22 assessments as provided in this subchapter.

23 (b) The Board or its designee, the Director of the Department of
24 Finance and Administration, shall collect the penalties levied in this
25 section, together with the delinquent assessment, by any and all of the
26 following methods:

27 (1) Voluntary payment by the person liable;

28 (2) Legal proceedings instituted in a court of competent jurisdiction;

29 or

30 (3) Injunctive relief to enjoin any person owing the assessment or
31 penalties from operating his business or engaging in business as a buyer or
32 seller of soybeans until the delinquent assessment or penalties are paid.

33 (c) Any person required to pay the assessment provided for in this
34 subchapter who refuses to allow full inspection of the premises or any books,
35 records, or other documents relating to the liability of the person for the

1 assessment imposed, or who shall hinder or in any way delay or prevent the
2 inspection, shall be guilty of a misdemeanor. Upon conviction, an offender
3 shall be punished by a fine not exceeding five hundred dollars (\$500)."

4

5 SECTION 4. Arkansas Code 2-20-404 is hereby amended to read as follows:

6 "2-20-404. Arkansas Soybean Promotion Board.

7 (a) The Arkansas Soybean Promotion Board is created. The Board shall
8 be composed of nine (9) producer members appointed by the Governor as follows:

9 (1) (A) The Arkansas Farm Bureau Federation, Inc., Riceland Foods, Inc.,
10 Arkansas Soybean Association, and Arkansas Agriculture Council shall submit
11 the names of five (5) practical soybean producers to the Governor.

12 (B) The Governor shall appoint three (3) members from the list
13 submitted by the Arkansas Farm Bureau Federation, Inc. and two (2) members
14 from the list submitted by each of the other organizations named above to
15 serve on the Board.

16 (C) All of the nine (9) producer members of the Board shall be
17 practical producers of soybeans in the State of Arkansas and shall be members
18 of the boards of directors of their respective organizations.

19 (2) Each year, not less than thirty (30) days prior to the expiration
20 of the terms of the current Board members whose terms expire, the
21 organizations named above shall submit to the Governor names of two (2)
22 nominees for each position to be filled on the Board from the respective
23 organizations, and the Governor shall appoint the new members from each list
24 of nominees.

25 (3) Each member selected shall serve for a term of two (2) years and
26 until his successor is duly selected as provided in this section.

27 (b) The members of the Board shall meet and organize immediately after
28 their appointment and shall elect a chairman, a vice-chairman and a
29 secretary-treasurer from the membership of the Board, whose duties shall be
30 those customarily exercised by those officers or specifically designated by
31 the Board. The principal office of the Board shall be located at the office
32 of the Arkansas Farm Bureau Federation, Inc. in Little Rock, Arkansas.

33 (c) The Board may establish rules and regulations for its own
34 government and for the administration of the affairs of the Board.

35 (d) The Board is hereby designated as the qualified state soybean board

1 to represent the State of Arkansas pursuant to the Soybean Promotion, Research
2 and Consumer Information Act."

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4 SECTION 5. Arkansas Code 2-20-405 is hereby enacted to read as follows:

5 "2-20-405. Arkansas Soybean Promotion Board - Powers.

6 (a) The Arkansas Soybean Promotion Board shall have power:

7 (1) To conduct plans, projects or activities that are intended to
8 strengthen the soybean industry's position in the marketplace;

9 (2) To report to the United Soybean Board the manner in which
10 assessments are collected and the procedure utilized to ensure that
11 assessments due are paid;

12 (3) To collect assessments paid on soybeans marketed within the State
13 and to establish procedures for ensuring compliance with regard to the payment
14 of such assessments; provided, that the Board may designate the Director of
15 the Department of Finance and Administration to collect assessments and ensure
16 compliance with regard to the payment of such assessments, subject to such
17 rules as may be promulgated by the Board and as may be reasonably necessary to
18 comply with the Soybean Promotion, Research and Consumer Information Act;

19 (4) To remit to the United Soybean Board any assessments paid pursuant
20 to this subchapter and the Soybean Promotion, Research and Consumer
21 Information Act, minus authorized credits and other required deductions, by
22 the last day of the month following the month in which the assessment was
23 paid, unless the United Soybean Board determines a different date for
24 remittance of assessments;

25 (5) To pay refunds of assessments as required by the Secretary or as
26 authorized by this subchapter and determined by the Board;

27 (6) To establish escrow accounts to be held and administered as special
28 fund accounts by the State Treasurer, for the payment of refunds in such
29 amounts and for such periods as required by the Secretary or as authorized by
30 this subchapter and determined by the Board; provided, that interest from such
31 accounts shall accrue to the Board to be used for authorized activities;

32 (7) To furnish the United Soybean Board with an annual report by a
33 certified public accountant or an authorized state agency of all funds
34 remitted to the United Soybean Board;

35 (8) To receive and certify petitions as provided in Section 2-20-

1 406(b)(3) of this subchapter and to conduct a referendum election or elections
2 pursuant to this subchapter or the Soybean Promotion, Research and Consumer
3 Information Act;

4 (9) To exempt by resolution a class of persons who purchase one
5 thousand (1,000) or fewer bushels of soybeans in any calendar year from the
6 assessment imposed by Section 2-20-406(b)(1) of this subchapter;

7 (10) To contract with the United Soybean Board or other persons to
8 implement plans or projects pursuant to this subchapter and the Soybean
9 Promotion, Research and Consumer Information Act; and

10 (11) To take such further action as may be necessary or appropriate to
11 comply with and to administer this subchapter and the Soybean Promotion,
12 Research and Consumer Information Act.

13 (b) The Board shall not use funds collected or received pursuant to
14 this subchapter or the Soybean Promotion, Research and Consumer Information
15 Act:

16 (1) To fund plans or projects which make use of any unfair or deceptive
17 acts or practices with respect to the quality, value or use of any product
18 that competes with soybeans or soybean products; or

19 (2) To influence any action or policy of the United States government,
20 any foreign or state government, or any political subdivision thereof;
21 provided, however, that this paragraph (b)(2) shall not apply to:

22 (A) The communication to appropriate government officials of
23 information relating to the conduct, implementation, or results of promotion,
24 research, consumer information and industry information;

25 (B) Any action designed to market soybeans or soybean products directly
26 to a foreign government or a political subdivision thereof; or

27 (C) The development and recommendation of amendments to this subchapter
28 or the Soybean Promotion, Research and Consumer Information Act."

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30 SECTION 6. Arkansas Code 2-20-406 is hereby amended to read as follows:

31 "2-20-406. Assessments on Arkansas grown soybeans.

32 (a)(1) Except as otherwise prescribed by regulations approved by the
33 Secretary or the Board, each person purchasing from, and making payment to, a
34 producer for soybeans produced by such producer and marketed for commercial
35 use, including, in any case in which soybeans are pledged as collateral for a

1 loan issued under any federal price support loan program, the Commodity Credit
2 Corporation, shall be a first purchaser and shall collect an assessment from
3 the producer, and each producer shall pay such assessment to the first
4 purchaser, at the applicable rate prescribed in this section. Each first
5 purchaser shall remit such assessment to the Board or to its designee, the
6 Director of the Department of Finance and Administration. For the purpose of
7 this section, purchases from a producer of soybeans or contracts with a
8 producer for production of soybeans for livestock feed or any other
9 application shall constitute marketing for commercial use.

10 (2) Any producer marketing processed soybeans or soybean products of
11 that producer's own production to consumers, either directly or through retail
12 or wholesale outlets, or for export purposes, shall remit the assessment as
13 required by this section.

14 (b)(1) Effective July 1, 1989, there is imposed and levied an
15 assessment at the rate of two cents (2¢) per bushel on all soybeans grown
16 within the State of Arkansas. The assessment shall be deducted from the
17 amount paid the producer at the first point of sale, whether within or without
18 the State, or at the point the soybeans enter into the United States
19 Department of Agriculture loan program.

20 (2) Notwithstanding paragraph (b)(1) hereof, if an assessment is made
21 pursuant to the Soybean Promotion, Research and Consumer Information Act upon
22 soybeans grown within the State of Arkansas, then for so long as such
23 assessment is effective, the assessment imposed and levied pursuant to this
24 section shall be one quarter percent (0.25%) of the net market price of all
25 soybeans grown within the State of Arkansas. The assessment of one quarter
26 percent (0.25%) shall not be in addition to the national assessment, but is
27 intended to correspond to the state credit for assessments paid to a qualified
28 state soybean board pursuant to the Soybean Promotion, Research and Consumer
29 Information Act. If an assessment pursuant to the Soybean Promotion, Research
30 and Consumer Information Act shall cease to be effective, then for so long as
31 no such assessment is made, the assessment imposed and levied pursuant to this
32 section shall be as provided in paragraph (b)(1) hereof.

33 (3)(A) So long as the assessment on soybeans provided for in this
34 section is two cents (2¢) per bushel, the question of the levy of the two
35 cents (2¢) per bushel assessment on soybeans may be referred to a vote of the

1 soybean producers of the State by the filing of petitions with the Board
2 containing signatures of Arkansas soybean producers equal in number to fifteen
3 percent (15%) of all soybean producers in the State.

4 (B) If the petitions are filed and at the referendum election a
5 majority of the Arkansas soybean producers voting on the question vote against
6 the levy of two cents (2¢) per bushel on soybeans, the assessment shall not
7 thereafter be levied.

8 (C) Only those soybean producers who produce soybeans in Arkansas in
9 the crop year immediately preceding the referendum election shall be eligible
10 to vote in the election.

11 (c) (1) The proceeds of the assessment shall be deposited with the State
12 Treasurer in a special fund to be established for the Board; provided, that
13 the Director of the Department of Finance and Administration may deduct not
14 more than three percent (3%) to cover the cost of collections.

15 (2) Disbursement shall be made only upon motion duly passed by the Board
16 and presented to the State Treasurer and only for the purposes prescribed in
17 this subchapter."

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19 SECTION 7. Arkansas Code 2-20-407 is hereby amended to read as follows:

20 "2-20-407. Reports, books and records.

21 (a) Each person responsible for the collection and remittance of
22 assessments pursuant to Section 2-20-406(a) of this subchapter shall report to
23 the Board such information as may be required from time to time by regulations
24 approved by the Secretary or the Board. Such information may include but not
25 be limited to the following:

26 (1) The number of bushels of soybeans purchased, initially transferred,
27 or which, in any other manner, is subject to the collection of assessment;

28 (2) The amount of assessments remitted;

29 (3) The basis, if necessary, to show why the remittance is less than
30 the applicable rate of assessment per bushel of soybeans purchased multiplied
31 by the number of bushels purchased; and

32 (4) The date any assessment was paid.

33 (b) (1) Each person who is subject to this subchapter shall maintain and
34 make available for inspection by the Secretary, the Board or its designee, the
35 Director of the Department of Finance and Administration, such books and

1 records as are necessary to carry out the provisions of this subchapter and
2 the regulations issued thereunder, including such records as are necessary to
3 verify any reports required. Such records shall be retained for at least two
4 (2) years beyond the fiscal period of their applicability.

5 (2) Any producer who plants less than twenty-five (25) acres of
6 soybeans annually shall not be required to maintain books or records pursuant
7 to this section.

8 (c) All information obtained from books, records or reports required to
9 be filed or kept pursuant to this section shall be kept confidential by all
10 persons, including employees and former employees of the Board, all officers
11 and employees and all former officers and employees of the Department of
12 Finance and Administration, and by all officers and employees and all former
13 officers and employees of contracting parties having access to such
14 information, and shall not be available to Board members or any other
15 producers. Only those persons having a specific need for such information in
16 order to effectively administer the provisions of this subchapter shall have
17 access to such information. In addition, only such information so furnished
18 or acquired as the Secretary or the Board deems relevant shall be disclosed by
19 them, and then only in a suit or administrative hearing brought at the
20 direction, or upon the request, of the Secretary or the Board, or to which the
21 Secretary, any officer of the United States, the Board or the Director of the
22 Department of Finance and Administration is a party. Nothing in this section
23 shall be deemed to prohibit:

24 (1) The issuance of general statements based upon the reports of the
25 number of persons subject to this subchapter or statistical data collected
26 therefrom, which statements do not identify the information furnished by any
27 person; and

28 (2) The publication, by direction of the Secretary or the Board, of the
29 name of any person who has been adjudged to have violated this subchapter,
30 together with a statement of the particular provisions of the subchapter
31 violated by such person."

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33 SECTION 8. Arkansas Code 2-20-408 is hereby amended to read as follows:

34 "2-20-408. Refunds to producers.

35 (a) So long as the assessment on soybeans is as provided in Section 2-

1 20-406(b)(1) of this subchapter, any soybean producer may request and receive
2 a refund of such assessment, provided he makes a written application therefor
3 with the Board or its designee, the Director of the Department of Finance and
4 Administration, within forty-five (45) days from the date of sale, supported
5 by copies of sales slips signed by the purchaser

6 and provided further that the application is filed before the annual
7 accounting is made of the funds not later than July 1 each year.

8 (b) So long as the assessment on soybeans is as provided in Section 2-
9 20-406(b)(2) of this subchapter, any soybean producer may request and receive
10 a refund of such assessment to the extent provided by the Soybean Promotion,
11 Research and Consumer Information Act. Such producer shall make written
12 application therefor with the Board or its designee, the Director of the
13 Department of Finance and Administration, within forty-five (45) days from the
14 date the assessment was due from such producer, supported by copies of sales
15 slips signed by the purchaser."

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17 SECTION 9. Arkansas Code 2-20-409 is hereby amended to read as follows:

18 "2-20-409. Promotion program - Use of funds.

19 (a) The Arkansas Soybean Promotion Board shall administer this
20 subchapter to promote the soybean industry in Arkansas and shall be vested
21 with the authority and discretion to determine administrative or program
22 implementation and administrative or program expenditure allocations.

23 (b)(1)(A) The Board is authorized to use the funds derived from the
24 assessments imposed in this subchapter for research, extension, market
25 development, and advertising designed to promote the soybean industry in
26 Arkansas, including administration expenses.

27 (B) Use of these funds may be applied, as prescribed in this section,
28 within or without Arkansas, including regional, national, and international
29 applications.

30 (2) The funds may also be used to defray costs of referenda."

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32 SECTION 10. All provisions of this Act of a general and permanent
33 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
34 Code Revision Commission shall incorporate the same in the Code.

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1 SECTION 11. If any provision of this Act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the Act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 Act are declared to be severable.

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7 SECTION 12. All laws and parts of laws in conflict with this Act are
8 hereby repealed.

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