

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

As Engrossed: H2/13/97

# A Bill

HOUSE BILL 1534

4  
5 By: Representatives Simmons and Baker

## 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  
22 "TO CREATE THE ARKANSAS CORN AND GRAIN  
23 SORGHUM BOARD."

24  
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*