

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1379

5 By: Representatives Petrus, Sullivan, Thyer, Stewart, Shelby, Abernathy, Adcock, Allen, Anderson, T.
6 Baker, Berry, Blount, Bond, T. Bradford, Breedlove, E. Brown, J. Brown, Burris, Cash, Cheatham,
7 Chesterfield, Cook, Cooper, Cornwell, L. Cowling, D. Creekmore, Davenport, Davis, Dickinson, S.
8 Dobbins, Dunn, Edwards, L. Evans, D. Evans, Everett, Garner, Gaskill, George, Glidewell, R. Green,
9 Hall, Hardwick, Hardy, Harrelson, Harris, Hawkins, House, Hoyt, D. Hutchinson, Hyde, Jeffrey, J.
10 Johnson, Kenney, Key, Kidd, King, Lamoureux, W. Lewellen, Lovell, Lowery, Maloch, M. Martin,
11 Maxwell, Medley, Moore, Norton, Overbey, Pace, Pate, Patterson, Pennartz, Pickett, Pierce, Powers, S.
12 Prater, Pyle, Ragland, Rainey, Reep, Reynolds, J. Roebuck, Rogers, Rosenbaum, Sample, Saunders,
13 Sumpter, Wagner, Walters, Webb, Wells, Wills, Wood, Woods, Wyatt
14 By: Senators R. Thompson, Broadway, G. Jeffress, J. Jeffress, Steele
15
16

For An Act To Be Entitled

18 AN ACT TO CREATE THE ARKANSAS ALTERNATIVE FUELS
19 DEVELOPMENT PROGRAM; TO CREATE THE ARKANSAS
20 ALTERNATIVE FUELS DEVELOPMENT FUND; TO REPEAL
21 OBSOLETE SECTIONS OF THE ARKANSAS CODE RELATED TO
22 ALTERNATIVE FUELS INCLUDING THE ALTERNATIVE FUELS
23 COMMISSION, THE ALTERNATIVE FUELS FUND, THE
24 ARKANSAS WEATHERIZATION ASSISTANCE FUND, AND
25 SECTIONS RELATED TO WEATHERIZATION; AND FOR OTHER
26 PURPOSES.
27

Subtitle

29 TO CREATE THE ARKANSAS ALTERNATIVE FUELS
30 DEVELOPMENT PROGRAM AND THE ARKANSAS
31 ALTERNATIVE FUELS DEVELOPMENT FUND AND
32 TO REPEAL OBSOLETE SECTIONS OF THE
33 ARKANSAS CODE RELATED TO ALTERNATIVE
34 FUELS AND WEATHERIZATION.
35
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1
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

3
4 SECTION 1. Arkansas Code Title 15 is amended to add an additional
5 chapter to read as follows:

6 15-13-101. Title.

7 This chapter shall be known and may be cited as the "Arkansas
8 Alternative Fuels Development Act".

9
10 15-13-102. Definitions.

11 As used in this chapter:

12 (1) "Alternative fuels" means biodiesel fuel or ethanol;

13 (2) "Alternative fuels producer" means a business located in
14 Arkansas that uses agricultural crops, agricultural residues, or waste
15 products, excluding recycled petroleum oils, to manufacture biodiesel fuels;

16 (3) "Biodiesel distributor" means a business located in the
17 State of Arkansas that distributes biodiesel fuel or a biodiesel mixture;

18 (4) "Biodiesel fuel" means a renewable, biodegradable, mono
19 alkyl ester combustible liquid fuel derived from agricultural plant oils or
20 animal fats that meets American Society for Testing and Materials
21 Specification D6751-02 for biodiesel fuel, or B100, blend stock for
22 distillate fuels, as in effect January 1, 2007;

23 (5) "Biodiesel mixture" means a mixture of biodiesel fuel that
24 is:

25 (A) An undyed, clear distillate special fuel that is
26 suitable for use in motor vehicles on Arkansas highways;

27 (B) A dyed fuel for off-road use;

28 (C) Sold by the supplier producing biodiesel mixture to
29 any person for use as a fuel; or

30 (D) Used as a fuel by the supplier producing the biodiesel
31 mixture;

32 (6) "Ethanol" means ethyl alcohol derived from agricultural
33 products, including potatoes, cereal grains, cheese whey, and sugar beets;
34 forest products; or other renewable resources, including residue and waste
35 generated from the production, processing, and marketing of agricultural
36 products, forest products, and other renewable resources, that:

1 (A) Meets the American Society for Testing and Materials
 2 Specification D4806-04a for ethanol as in effect on January 1, 2007; and

3 (B) Is denatured as specified in 27 C.F.R. Part 20 and
 4 Part 21 as in effect on January 1, 2007; and

5 (7) "Feedstock processor" means a business located in Arkansas
 6 that uses agricultural crops, agricultural residues, or waste products,
 7 excluding recycled oils, to manufacture feedstock to be used in the
 8 production of alternative fuels.

9
 10 15-13-103. Arkansas Alternative Fuels Development Program.

11 (a) The Arkansas Alternative Fuels Development Program is established
 12 and shall be developed and administered by the Arkansas Agriculture
 13 Department.

14 (b) The Arkansas Alternative Fuels Development Program shall include
 15 three (3) types of grant incentives:

16 (1) Production incentives for alternative fuels producers;

17 (2) Production incentives for feedstock processors; and

18 (3) Distribution incentives for biodiesel distributors.

19 (c) The grant incentives under this subchapter are only available for
 20 investments made after January 1, 2007.

21
 22 15-13-104. Production incentives for alternative fuels producers.

23 (a) The Arkansas Alternative Fuels Development Program shall include a
 24 grant incentive program that provides grants to alternative fuels producers
 25 based on the gallonage production of alternative fuels to assist in the
 26 construction, modification, alteration, or retrofitting of alternative fuels
 27 production facilities that are located and operated in Arkansas.

28 (b) The Arkansas Agriculture Department shall create a grant
 29 application process for alternative fuels producers that shall include:

30 (1) An application for a grant under this subchapter that shall
 31 include at a minimum:

32 (A) The expected gallonage production of alternative fuels
 33 at the facility;

34 (B) A narrative description of the intended use of the
 35 grant moneys; and

36 (C) Evidence sufficient to satisfy the department that the

1 applicant has the capacity to complete the proposed project;

2 (2) Instructions about the grant process;

3 (3) Scoring procedures to determine the award of the grants; and

4 (4) Other factors that the Secretary of the Arkansas Agriculture
 5 Department deems necessary.

6 (c)(1) The department shall prepare an annual progress report on grant
 7 assistance made under this section.

8 (2) The report shall include:

9 (A) The amount of each grant;

10 (B) The purpose of each grant;

11 (C) How grant funds were expended by the grant recipient;

12 (D) The results produced or the progress made;

13 (E) The revenues produced;

14 (F) Tonnages of feedstock materials used; and

15 (G) The gallonage of alternative fuels produced.

16 (3) The report for each state fiscal year shall be filed by June
 17 30 of the following fiscal year with the Office of the Governor and the
 18 Legislative Council.

19 (d)(1) The Secretary of the Arkansas Agriculture Department shall make
 20 cash payments to an alternative fuels producer that qualifies as a grant
 21 recipient under this section in an amount not to exceed twenty cents (20¢)
 22 per gallon of alternative fuels produced.

23 (2) The payment to an alternative fuels producer under this
 24 section shall be for the annual production of alternative fuels.

25 (e)(1) The Arkansas Agriculture Department shall not award a grant in
 26 an amount that exceeds two million dollars (\$2,000,000) to any one (1)
 27 alternative fuels producer in any one (1) fiscal year.

28 (2) An entity that holds a controlling interest in more than one
 29 (1) alternative fuels production facility is considered one (1) alternative
 30 fuels producer under this section.

31 (f) Nothing in this section shall limit a grant recipient under this
 32 section from applying for or receiving a production incentive for feedstock
 33 processors under § 15-13-105.

34
 35 15-13-105. Production incentives for feedstock processors.

36 (a) The Arkansas Alternative Fuels Development Program shall include a

1 grant incentive program that provides grants to feedstock processors to
 2 assist in the construction, modification, alteration, or retrofitting of
 3 feedstock processing facilities that are located and operated in Arkansas.

4 (b) The Arkansas Agriculture Department shall create a grant
 5 application process for feedstock processors that shall include:

6 (1) An application for a grant under this subchapter that shall
 7 include at a minimum:

8 (A) A narrative description of the intended use of the
 9 grant moneys; and

10 (B) Evidence sufficient to satisfy the department that the
 11 applicant has the capacity to complete the proposed project;

12 (2) Instructions about the grant process;

13 (3) Scoring procedures to determine the award of the grants; and

14 (4) Other factors that the Secretary of the Arkansas Agriculture
 15 Department deems necessary.

16 (c)(1) The department shall prepare an annual progress report on grant
 17 assistance made under this section.

18 (2) The report shall include:

19 (A) The amount of each grant;

20 (B) The purpose of each grant;

21 (C) How grant funds were expended by the grant recipient;

22 and

23 (D) The origin and tonnage of the feedstock that was
 24 processed.

25 (3) The report for each state fiscal year shall be filed by June
 26 30 of the following fiscal year with the Office of the Governor and the
 27 Legislative Council.

28 (d)(1) The Arkansas Agriculture Department shall not award a grant in
 29 an amount that exceeds two million dollars (\$2,000,000) to any one (1)
 30 feedstock processor in any one (1) fiscal year.

31 (2) An entity that holds a controlling interest in more than one
 32 (1) feedstock processing plant is considered one (1) feedstock processor
 33 under this section.

34 (e) Nothing in this section shall limit a grant recipient under this
 35 section from applying for or receiving a production incentive for alternative
 36 fuels producers under § 15-13-104.

15-13-106. Distribution incentives for biodiesel distributors.

(a) The Arkansas Alternative Fuels Development Program shall include a grant incentive program that provides grants to biodiesel distributors to assist the biodiesel distributors with the storage and distribution of the biodiesel fuel or a biodiesel mixture at distribution facilities that are located and operated in Arkansas.

(b) The Arkansas Agriculture Department shall create a grant application process for biodiesel distributors that shall include:

(1) An application for a grant under this subchapter that shall include at a minimum:

(A) A narrative description of the intended use of the grant moneys; and

(B) Evidence sufficient to satisfy the department that the provision of a grant to the biodiesel distributor will improve the statewide supply and distribution of biodiesel fuel and biodiesel mixtures that are produced in Arkansas from feedstock that originates in Arkansas;

(2) Instructions about the grant process;

(3) Scoring procedures to determine the award of the grants; and

(4) Other factors that the Secretary of the Arkansas Agriculture Department deems necessary.

(c)(1) The department shall prepare an annual progress report on grant assistance made under this section.

(2) The report shall include:

(A) The amount of each grant;

(B) The purpose of each grant;

(C) How grant funds were expended by the grant recipient;

(D) The results produced or the progress made in the overall distribution of biodiesel fuel or biodiesel mixtures statewide;

(E) The revenues produced; and

(F) Tonnages of materials stored and distributed.

(3) The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the Office of the Governor and the Legislative Council.

(d) The Arkansas Agriculture Department shall not award a grant in an amount that exceeds fifty thousand dollars (\$50,000) to any one (1) biodiesel

1 distributor at each biodiesel distributor site in any one (1) fiscal year.

2
3 15-13-107. Rules.

4 The Arkansas Agriculture Department shall promulgate rules to implement
5 and administer this subchapter.

6
7 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12 is amended
8 to add an additional section to read as follows:

9 19-5-1230. Arkansas Alternative Fuels Development Fund.

10 (a) There is created on the books of the Treasurer of State, Auditor
11 of State, and Chief Fiscal Officer of the State a special revenue fund to be
12 known as the "Arkansas Alternative Fuels Development Fund".

13 (b)(1) All moneys appropriated for the Arkansas Alternative Fuels
14 Development Fund shall be deposited into the State Treasury to the credit of
15 the fund as special revenues.

16 (2) The fund shall also consist of any other revenues as may be
17 authorized by law.

18 (c) The fund shall be used by the Arkansas Agriculture Department to
19 provide grants to support alternative fuels producers, feedstock processors,
20 and biodiesel distributors in Arkansas as provided under the Arkansas
21 Alternative Fuels Development Act, § 15-13-101 et seq., or as otherwise
22 provided by law.

23
24 SECTION 3. Arkansas Code Title 15, Chapter 10, Subchapter 6 is
25 repealed.

26 ~~15-10-601. Alternative Fuels Commission.~~

27 ~~(a) There is created the Alternative Fuels Commission.~~

28 ~~(b)(1) The commission shall be composed of seven (7) members.~~

29 ~~(2)(A) One (1) member shall be appointed from the state at~~
30 ~~large. The member shall be appointed by the Governor.~~

31 ~~(B) Two (2) members shall be representatives of the oil~~
32 ~~marketing industry. The members shall be appointed by the Governor.~~

33 ~~(C) Two (2) members shall be representatives of the~~
34 ~~electric power industry. One (1) of these members must represent an electric~~
35 ~~utility that has elected to participate in the Alternative Fuels Fund and the~~
36 ~~Arkansas Weatherization Assistance Fund. The Speaker of the House of~~

1 Representatives and the President Pro Tempore of the Senate shall each
 2 appoint one (1) of these members.

3 (D) Two (2) members shall be representatives of the
 4 natural gas industry. The Speaker of the House of Representatives and the
 5 President Pro Tempore of the Senate shall each appoint one (1) of these
 6 members.

7 (e)(1) The members of the commission shall serve terms of four (4)
 8 years.

9 (2) However, the initial members shall serve terms to be
 10 determined by lot so that:

11 (A) One (1) member serves an initial term of one (1) year;

12 (B) Two (2) members serve an initial term of two (2)
 13 years;

14 (C) Two (2) members serve an initial term of three (3)
 15 years; and

16 (D) Two (2) members serve an initial term of four (4)
 17 years.

18 (d)(1) If a vacancy occurs on the commission, a successor shall be
 19 appointed within thirty (30) days to serve the remainder of the unexpired
 20 term.

21 (2) The appointment shall be made in the same manner as for the
 22 appointment of the predecessor.

23 (3) The appointment shall be made by the official holding the
 24 office responsible for appointing the predecessor.

25 (e) To the extent funds are available, members of the commission shall
 26 serve without pay but may receive expense reimbursement in accordance with §
 27 25-16-902.

28 (f) Members of the commission shall qualify by taking the oath of
 29 office as prescribed by law.

30 (g) The commission shall annually elect one (1) of its members as
 31 chair.

32 (h) Four (4) members of the commission shall be a quorum for the
 33 transaction of any business.

34 (i) The initial meeting of the commission shall be called by the
 35 members appointed by the Governor from the state at large.

36

~~15-10-602. Duties of commission.~~

~~The Alternative Fuels Commission shall:~~

- ~~(1) Identify and cooperate with existing agencies, organizations, and individuals to develop, coordinate, and promote the utilization of alternative fuels throughout the State of Arkansas;~~
- ~~(2) Emphasize the production, development, promotion, and utilization of alternative motor fuels;~~
- ~~(3) Establish priorities for addressing other alternative energy sources, taking into consideration the economics, availability, and the social and environmental benefits to be derived from the development and use of these alternative fuels;~~
- ~~(4) Cooperate in the implementation of a state energy strategy;~~
- ~~(5) Acquire by purchase, gift, devise, grant, dedication, or otherwise, any interest in real or personal property;~~
- ~~(6) Cooperate and contract with any governmental entity, any natural person, or any legal entity;~~
- ~~(7) Accept money, grants, or any other property from any governmental entity, natural person, or other legal entity;~~
- ~~(8) Make grants and loans;~~
- ~~(9) Hire staff if funds are available for that purpose; and~~
- ~~(10) Promulgate regulations necessary to implement this subchapter.~~

~~15-10-603. Grants and loans.~~

~~(a)(1) The Alternative Fuels Commission shall establish periodically the priorities for addressing alternative fuels or energy sources and shall solicit grant applications for research projects to address those priorities.~~

~~(2) The commission shall evaluate grant applications by a set of criteria which shall include, but not be limited to, the expertise of the applicant, previous related research by the applicant, relevance to the commission's priorities, the infrastructure available to support the project, and the value of the expected results to the Arkansas economy.~~

~~(3) At its discretion, the commission may make grants to applicants in amounts the commission deems appropriate.~~

~~(b)(1) The commission shall establish periodically the priorities for addressing alternative fuels or energy sources and shall solicit loan~~

1 applications for demonstration projects to address those priorities.

2 (2) ~~The commission shall evaluate loan applications by a set of~~
 3 ~~criteria which shall include, but not be limited to, the expertise of the~~
 4 ~~applicant, previous related projects of the applicant, relevance to the~~
 5 ~~commission's priorities, the infrastructure available to support the project,~~
 6 ~~and the value of the expected results to the Arkansas economy.~~

7 (3) ~~At its discretion, the commission may make loans to~~
 8 ~~applicants in amounts and on terms the commission deems appropriate.~~

9 (c) ~~As a condition for receiving a grant or loan under this~~
 10 ~~subchapter, the recipient must agree that any patent produced by research or~~
 11 ~~projects funded or partially funded by grants or loans under this subchapter~~
 12 ~~may be used by utilities participating in the Alternative Fuels Fund without~~
 13 ~~paying any royalty or license fee.~~

14
 15 SECTION 4. Arkansas Code Title 15, Chapter 10, Subchapter 7 is
 16 repealed.

17 ~~15-10-701. Alternative Fuels Fund.~~

18 (a) ~~There is created on the books of the Treasurer of State, the~~
 19 ~~Auditor of State, and the Chief Fiscal Officer of the State a special revenue~~
 20 ~~fund to be known as the "Alternative Fuels Fund".~~

21 (b) ~~The fund shall consist of that portion of the fees contributed~~
 22 ~~under § 15-10-703(a) as prescribed in § 15-10-703(e)(2).~~

23 (c) ~~The fund shall be used by the Alternative Fuels Commission for:~~

- 24 (1) ~~Operation of the office of the Alternative Fuels Commission;~~
- 25 (2) ~~Grants for alternative fuels research; and~~
- 26 (3) ~~Grants or loans for alternative fuels projects.~~

27
 28 ~~15-10-702. Arkansas Weatherization Assistance Fund.~~

29 (a) ~~There is created on the books of the Treasurer of State, the~~
 30 ~~Auditor of State, and the Chief Fiscal Officer of the State a special revenue~~
 31 ~~fund to be known as the "Arkansas Weatherization Assistance Fund".~~

32 (b) ~~The fund shall consist of that portion of the fees contributed~~
 33 ~~under § 15-10-703(a) as prescribed in § 15-10-703(e)(2).~~

34 (c) ~~The fund shall be used by the Department of Human Services to~~
 35 ~~supplement the federal Weatherization Assistance Program.~~

36 (d)(1) ~~The department may establish a weatherization assistance~~

1 ~~program and use the fund to carry out the program.~~

2 ~~(2) The program may include, but is not limited to:~~

3 ~~(A) Establishing criteria under which an applicant may~~
4 ~~qualify for weatherization assistance;~~

5 ~~(B) Defining the weatherization measures that may be~~
6 ~~undertaken under the program;~~

7 ~~(C) Contracting for weatherization to be performed upon~~
8 ~~qualified dwellings;~~

9 ~~(D) Making repairs to dwellings so that the dwellings will~~
10 ~~qualify for federal weatherization assistance; and~~

11 ~~(E) Providing financial literacy training for recipients~~
12 ~~of weatherization assistance.~~

13 ~~(3) The household income eligibility criterion for assistance~~
14 ~~under the program shall be a household income less than two hundred percent~~
15 ~~(200%) of the poverty level applicable to the household as determined by the~~
16 ~~department.~~

17 ~~(4) The department may establish grant agreements with local~~
18 ~~governments and nonprofit corporations that meet qualifications to be~~
19 ~~established by the department.~~

20 ~~(5) Grant agreements under this section shall be for the~~
21 ~~purposes authorized by this subchapter.~~

22
23 ~~15-10-703. Contributions by electric or natural gas utility.~~

24 ~~(a)(1) An electric or natural gas utility may elect to contribute to~~
25 ~~the Alternative Fuels Fund and the Arkansas Weatherization Assistance Fund by~~
26 ~~notifying the Director of the Department of Finance and Administration in~~
27 ~~writing.~~

28 ~~(2) Each contributing electric utility shall be assessed a fee~~
29 ~~of one tenth of a cent (0.1¢) per kilowatt hour sold to each residential~~
30 ~~customer in this state, but not to exceed one dollar (\$1.00) per customer in~~
31 ~~any month.~~

32 ~~(3) Each contributing natural gas utility shall be assessed a~~
33 ~~fee of one tenth of a cent (0.1¢) per hundred cubic feet sold to each~~
34 ~~residential customer in this state, but not to exceed one dollar (\$1.00) per~~
35 ~~customer in any month.~~

36 ~~(4) A utility may recover the cost of this fee by assessing a~~

1 ~~direct charge on each residential customer bill.~~

2 ~~(5) The charge shall not be considered a rate or tariffed~~
 3 ~~service subject to the jurisdiction of the Arkansas Public Service~~
 4 ~~Commission.~~

5 ~~(6) Proceeds from the fee shall not be considered revenue to the~~
 6 ~~utility for purposes of setting the utility's regulated rates.~~

7 ~~(b) By the twentieth day of each calendar month, the utility shall~~
 8 ~~remit the amount of the fee recovered during the previous calendar month to~~
 9 ~~the director.~~

10 ~~(c)(1) The director shall deposit thirty percent (30%) of the amount~~
 11 ~~remitted by each utility to the State Treasury as special revenues credited~~
 12 ~~to the Alternative Fuels Fund.~~

13 ~~(2) The director shall deposit seventy percent (70%) of the~~
 14 ~~amount remitted by each utility to the State Treasury as special revenues~~
 15 ~~credited to the Arkansas Weatherization Assistance Fund.~~

16
 17 ~~15-10-704. Annual reports.~~

18 ~~(a)(1) The Alternative Fuels Commission shall file a report with the~~
 19 ~~Legislative Council by September 15 of each year.~~

20 ~~(2) The report shall inform the Legislative Council as to the~~
 21 ~~grants made and the results for the period of the previous fiscal year ending~~
 22 ~~on June 30.~~

23 ~~(b)(1) The Department of Human Services shall file a report with the~~
 24 ~~Legislative Council by September 15 of each year.~~

25 ~~(2) The report shall provide an overview of program activity,~~
 26 ~~including, but not limited to, information on the types of families assisted,~~
 27 ~~the geographic distribution of assistance, and results of the program.~~

28 ~~(3) The report shall address the period of the previous fiscal~~
 29 ~~year ending on June 30.~~

30
 31 SECTION 5. Arkansas Code § 19-6-301(206), regarding special revenue
 32 from fees remitted by electric or natural gas utilities under § 15-10-703, is
 33 repealed.

34 ~~(206) Thirty percent (30%) of the fees remitted by each electric~~
 35 ~~or natural gas utility for services sold to residential customers, § 15-10-~~
 36 ~~703,~~

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SECTION 6. Arkansas Code § 19-6-301(207), regarding special revenue from fees remitted by electric or natural gas utilities under § 5-10-703, is repealed.

~~(207) Seventy percent (70%) of the fees remitted by each electric or natural gas utility for services sold to residential customers, § 15-10-703,~~

SECTION 7. Arkansas Code § 19-6-494 is repealed.

~~19-6-494. Alternative Fuels Fund.~~

~~The Alternative Fuels Fund shall consist of those special revenues as specified in § 19-6-301(206), there to be used by the Alternative Fuels Commission for the operation of the commission's office, grants for alternative fuels research, and grants or loans for alternative fuels projects, as set out in § 15-10-701.~~