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4

As Engrossed: S4/1/25

A Bill

SENATE BILL 568

5 By: Senators Crowell, Gilmore, Stone
6 By: Representatives Jean, Andrews, Dalby, Henley, M. Shepherd
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE TAXES
10 APPLICABLE TO LITHIUM EXTRACTION AND DEVELOPMENT; TO
11 INCLUDE ELECTRONIC WASTE IN THE DEFINITION OF "SOLID
12 WASTE" FOR PURPOSES OF THE SALES AND USE TAX
13 EXEMPTION FOR WASTE REDUCTION, REUSE, OR RECYCLING
14 EQUIPMENT; TO PROVIDE A SALES AND USE TAX EXEMPTION
15 FOR LITHIUM RESOURCE DEVELOPMENT; TO AMEND THE LAW
16 CONCERNING THE SEVERANCE TAX ON LITHIUM; TO PROVIDE
17 AN EXEMPTION FROM THE SEVERANCE TAX FOR LITHIUM
18 EXTRACTION; AND FOR OTHER PURPOSES.
19
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Subtitle

21 TO AMEND THE LAW CONCERNING THE TAXES
22 APPLICABLE TO LITHIUM EXTRACTION AND
23 DEVELOPMENT; TO PROVIDE A SALES AND USE
24 TAX EXEMPTION FOR LITHIUM RESOURCE
25 DEVELOPMENT; AND TO AMEND THE LAW
26 CONCERNING THE SEVERANCE TAX ON LITHIUM.
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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
30

31 SECTION 1. Arkansas Code § 19-6-301(61) and (62), concerning the
32 enumeration of special revenues, are amended to read as follows:

33 (61) Brine taxes imposed upon all brine produced in the state
34 for the purpose of bromine or lithium extraction, as enacted by Acts 1979,
35 No. 759, and all laws amendatory thereto, § 26-58-301;

36 (62) Oil and Gas Commission fees, including oil assessments, gas



1 assessments in excess of four and one-half (4½) mills each fiscal year until
2 July 1, 2023, under § 15-71-107(b)(2)(A)(i), drilling permits, permits for
3 plugging wells, and permits for each salt water well, all as enacted by Acts
4 1939, No. 105, and all laws amendatory thereto, §§ 15-71-101 – 15-71-112, 15-
5 72-101 – 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 – 15-72-324,
6 and 15-72-401 – 15-72-407, and the portion of taxes levied on salt water used
7 in bromine or lithium production, as enacted by Acts 1947, No. 136, and all
8 laws amendatory thereto, § 26-58-111(9);

9
10 SECTION 2. Arkansas Code § 26-51-506(b)(15), concerning the
11 definitions to be used with respect to the income tax credit for waste
12 reduction, reuse, or recycling equipment, is amended to read as follows:

13 (15) "Solid waste" means all putrescible and nonputrescible
14 wastes in solid or semisolid form, including, but not limited to, yard or
15 food waste, waste glass, waste metals, waste plastics, wastepapers, waste
16 paperboard, electronic waste, lithium-ion battery cells and battery packs,
17 and all other solid or semisolid wastes resulting from industrial,
18 commercial, agricultural, community, and residential activities;

19
20 SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 4, is
21 amended to add an additional section to read as follows:

22 26-52-457. Lithium resources development – Definitions.

23 (a) As used in this section:

24 (1) "Direct compensation" means wages, salaries, bonuses, and
25 commissions;

26 (2) "Eligible facility costs" means expenditures for the
27 development, acquisition, construction, expansion, renovation, refurbishment,
28 maintenance, and operation of a qualified facility, including without
29 limitation costs incurred for land, buildings, site improvements, permitting,
30 lease payments, site characterization and assessment, engineering, and design
31 used directly and exclusively for a qualified facility;

32 (3) "Facility" means a tract or adjacent tracts of land in the
33 state and any structures and tangible personal property contained on the land
34 that are for the operation of a lithium, cathode, anode, lithium battery, and
35 grid storage facility or are directly engaged in the extraction, processing,
36 refining, conversion, manufacturing, and recycling of lithium or lithium

1 products;

2 (4) "Indirect compensation" means actual costs incurred for:

3 (A) Health, life, and disability insurance coverage;

4 (B) Retirement benefits, including without limitation
5 pensions, annuities, and matching retirement fund contributions; and

6 (C) Moving, relocation, and housing benefits;

7 (5)(A) "Lithium, cathode, anode, lithium battery, and grid
8 storage facility equipment" means equipment and related services whether
9 purchased or leased for immediate use or stored for future use in this state
10 and other enabling machinery, equipment, software, and hardware purchased or
11 leased for the further extraction, processing, development, refinement,
12 conversion, manufacturing, or recycling of lithium, cathode, anode, lithium
13 battery, and grid storage products.

14 (B) "Lithium, cathode, anode, lithium battery, and grid
15 storage facility equipment" includes without limitation:

16 (i) Equipment and materials used for:

17 (a) The direct extraction, processing,
18 refining, conversion, manufacturing, or recycling of lithium or lithium
19 products, including without limitation lithium hydroxide and lithium
20 carbonate;

21 (b) The development or manufacturing of
22 cathode facilities and cathode active materials, anode facilities and anode
23 active materials, grid storage facilities and electrolytes, separator
24 facilities, or lithium battery recycling facilities;

25 (c) Equipment and input materials used in the
26 operation of a qualified facility, including without limitation a component
27 part, installation, refreshment, replacement, or upgrade of a qualified
28 facility whether or not the property is affixed to or incorporated into real
29 property;

30 (d) Equipment necessary for the
31 transformation, generation, distribution, storage, or management of
32 electricity that is required to operate equipment of a qualified facility,
33 including without limitation any substation, generator, uninterruptible
34 energy equipment, supply, conduit, fuel piping and storage, cabling, duct
35 bank, switch, switchboard, battery bank or energy storage system, testing
36 equipment, and backup generator; and

1 (e) Water conservation systems, including
2 without limitation a mechanism that is designed to collect, conserve, and
3 reuse water; and

4 (ii) Labor services to install, repair, service,
5 alter, fabricate, or maintain equipment and materials described in
6 subdivision (a)(5)(B)(i) of this section;

7 (6) "Qualified facility" means one (1) or more facilities,
8 including any addition to or expansion of a facility, owned or operated by a
9 qualified firm that:

10 (A) Creates a qualified investment of at least one hundred
11 million dollars (\$100,000,000) within the state no later than ten (10) years
12 after the start of construction of the facility;

13 (B) Annually pays total direct compensation and indirect
14 compensation of at least three million dollars (\$3,000,000) to employees
15 within the state over the two (2) calendar years following the calendar year
16 in which the facility commences operations; and

17 (C) Has received a positive cost-benefit analysis from the
18 Arkansas Economic Development Commission for the facility;

19 (7) "Qualified firm" means a for-profit business establishment
20 that is:

21 (A) Subject to state income, sales, and property taxes;

22 (B) The owner or operator of a facility;

23 (C) Engaged in developing lithium, cathode, anode, lithium
24 battery, and grid storage facility equipment; and

25 (8) "Qualified investment" means, with respect to a qualified
26 facility, the aggregate, nonduplicative, eligible facility costs expended by
27 a qualified firm in the state.

28 (b) The gross receipts or gross proceeds derived from the purchase or
29 sale of the following are exempt from the gross receipts tax levied by this
30 chapter and the compensating use tax levied by the Arkansas Compensating Tax
31 Act of 1949, § 26-53-101 et seq.:

32 (1) Lithium, cathode, anode, lithium battery, and grid storage
33 facility equipment;

34 (2) Services purchased for the purpose of and in conjunction
35 with developing, acquiring, constructing, expanding, renovating,
36 refurbishing, and operating a qualified facility;

1 (3) Electricity used by a qualified facility; and
2 (4) Equipment, materials, and products for the further
3 processing of materials used in manufacturing lithium, cathode, anode,
4 lithium battery, and grid storage facility equipment in the state.

5 (c)(1) To claim the exemption provided under this section, a qualified
6 firm shall submit an application for a qualified facility to the Department
7 of Finance and Administration.

8 (2) A qualified firm is eligible for the exemption provided
9 under this section upon the creation of a minimum qualified investment of at
10 least one hundred million dollars (\$100,000,000), if the qualified investment
11 is created no later than ten (10) years after the start of construction of
12 the qualified facility that is the subject of the application submitted under
13 this subsection.

14 (3)(A) Within thirty (30) days after receiving a completed
15 application under this subsection, the department shall grant or deny the
16 application in whole or in part.

17 (B) If an application submitted under this subsection is
18 denied as incomplete and the qualified firm submitting the application
19 provides the additional information or documentation required by the
20 department or otherwise completes its application within thirty (30) days of
21 the notice of denial, the application shall be considered completed as of the
22 original date of submission.

23 (C) If an application submitted under this subsection is
24 denied as incomplete and the qualified firm submitting the application fails
25 to provide the information or documentation required by the department or
26 complete its application within thirty (30) days of the notice of denial, the
27 application shall remain denied and may be resubmitted in full with a new
28 submission date.

29 (D) If an application submitted under this subsection is
30 complete and meets the requirements of this section, the department shall
31 approve the application and certify that the qualified facility is eligible
32 for the exemption provided under this section.

33 (4) Once an application is approved under this subsection:

34 (A) The department shall transmit an approved financial
35 incentive certificate to the qualified firm; and

36 (B) The exemption provided under this section may be

1 claimed by the qualified facility.

2 (d) Upon confirmation that the minimum qualified investment required
3 under subdivision (a)(6)(A) of this section has been met, the department
4 shall issue a rebate to the qualified firm for any state sales or use tax
5 paid on the eligible facility costs used to determine the minimum qualified
6 investment.

7 (e) After receiving an approved financial incentive certificate from
8 the department under subdivision (c)(4)(A) of this section, a qualified firm
9 shall certify annually, for each calendar year in which the qualified firm is
10 subject to the compensation requirement provided in subdivision (a)(6)(B) of
11 this section, the aggregate annualized compensation at the qualified facility
12 for the calendar year.

13 (f) An approved financial incentive certificate transmitted under
14 subdivision (c)(4)(A) of this section shall be revoked if:

15 (1) The qualified facility ceases operations within ten (10)
16 years of the commencement of construction;

17 (2) The qualified facility fails to meet the qualified
18 investment requirement under subdivision (a)(6)(A) of this section; or

19 (3) The aggregate annualized compensation of a qualified
20 facility falls below the required aggregate compensation stated in
21 subdivision (a)(6)(B) of this section.

22
23 SECTION 4. Arkansas Code § 26-58-111(9), concerning the rate of the
24 severance tax, is amended to read as follows:

25 (9) On salt water whose naturally dissolved components, or
26 solutes, are used as source raw materials for bromine, lithium, and other
27 products derived from the same salt water used in the bromine or lithium
28 production, two dollars and forty-five cents (\$2.45) per one thousand (1,000)
29 barrels, forty-two thousand United States gallons (42,000 U.S. gals.); and
30

31 SECTION 5. Arkansas Code § 26-58-124(a), concerning distribution of
32 the severance tax, is amended to read as follows:

33 (a) All taxes, penalties, and costs collected by the Secretary of the
34 Department of Finance and Administration under the provisions of this
35 subchapter, except for the taxes, penalties, and costs collected on natural
36 gas and salt water, shall be deposited into the State Treasury to the credit

1 of the State Apportionment Fund.

2
3 SECTION 6. Arkansas Code § 26-58-124, concerning distribution of the
4 severance tax, is amended to add an additional subsection to read as follows:

5 (d) All taxes, penalties, and costs collected by the secretary on salt
6 water shall be deposited into the State Treasury as follows:

7 (1) The Treasurer of State shall allocate the first three
8 hundred twenty-five thousand dollars (\$325,000) collected each fiscal year in
9 the following manner on or before the fifth of the month next following the
10 month during which funds under this subsection are received by the Treasurer
11 of State:

12 (A) Forty-five cents (45¢) of the fee levied per one
13 thousand (1,000) barrels shall be deposited and credited as provided in § 26-
14 58-125; and

15 (B) Of the amount remaining after the allocation under
16 subdivision (d)(1)(A) of this section:

17 (i) Three percent (3%) shall be allocated to the
18 General Revenue Fund Account of the State Apportionment Fund to be used for
19 defraying the necessary expenses of the state government; and

20 (ii) Ninety-seven percent (97%) shall be allocated
21 as follows:

22 (a) Seventy-five percent (75%) shall be
23 general revenues and shall be allocated to the various State Treasury funds
24 participating in general revenues in the respective proportions to each as
25 provided by and to be used for the respective purposes set forth in the
26 Revenue Stabilization Law, § 19-5-101 et seq.; and

27 (b) Twenty-five percent (25%) shall be special
28 revenues and shall be allocated to the County Aid Fund; and

29 (2) The Treasurer of State shall allocate funds collected each
30 fiscal year in excess of three hundred twenty-five thousand dollars
31 (\$325,000) in the following manner on or before the fifth of the month next
32 following the month during which funds under this subsection are received by
33 the Treasurer of State:

34 (A) Forty-five cents (45¢) of the fee levied per one
35 thousand (1,000) barrels shall be deposited and credited as provided in § 26-
36 58-125; and

1 (B) Of the amount remaining after the allocation under
2 subdivision (d)(2)(A) of this section:

3 (i) Three percent (3%) shall be allocated to the
4 General Revenue Fund Account of the State Apportionment Fund to be used for
5 defraying the necessary expenses of the state government; and

6 (ii)(a) Ninety-seven percent (97%) shall be special
7 revenues and shall be allocated to the County Aid Fund.

8 (b) On or before the tenth of the month
9 following the end of each calendar quarter, the Treasurer of State shall
10 remit by state warrants to the various county treasurers all funds under
11 subdivision (d)(2)(B)(ii)(a) of this section then received by him or her
12 during the quarterly period and transferred to the County Aid Fund in the
13 proportions of the funds as between the respective counties that, as
14 certified by the secretary to the Treasurer of State, the salt water
15 severance tax produced from each respective county bears to the total of the
16 taxes produced from all counties.

17 (c) Upon receipt of any taxes under
18 subdivision (d)(2)(B)(ii)(b) of this section, each county treasurer shall
19 credit the entire amount to the county road fund for use for the same
20 purposes as other moneys credited to the county road fund.

21
22 SECTION 7. Arkansas Code § 26-58-301(b)(1), concerning the tax levied
23 for the benefit of the Arkansas Museum of Natural Resources Fund, is amended
24 to read as follows:

25 (b)(1) There is levied upon all brine produced in the state for the
26 purpose of bromine or lithium extraction a tax of twenty cents (20¢) per one
27 thousand (1,000) barrels.

28
29 SECTION 8. Arkansas Code § 26-58-302(b)(1), concerning the additional
30 tax levied for the benefit of the Arkansas Museum of Natural Resources Fund,
31 is amended to read as follows:

32 (b)(1) There is levied a tax of ten cents (10¢) per one thousand
33 (1,000) barrels on all brine produced in this state for the purpose of
34 bromine or lithium extraction.

35
36 SECTION 9. DO NOT CODIFY. TEMPORARY LANGUAGE. Severance tax exemption

1 for lithium extraction.

2 (a)(1) Beginning July 1, 2028, a new brine unit created by a producer
3 of natural resources after January 1, 2023, is exempt from the severance tax
4 on salt water levied under § 26-58-111(9).

5 (2) For the purposes of this section, a new brine unit created
6 by a producer of natural resources does not include:

7 (A) A brine production area recognized by the Oil and Gas
8 Commission before January 1, 2023; or

9 (B) A size reduction or transfer of one (1) or more
10 contiguous tracts of a brine production unit or brine expansion unit under
11 Acts 2025, No. 254.

12 (b)(1) A producer of natural resources claiming the exemption provided
13 under this section shall file a report in the form prescribed by the
14 Secretary of the Department of Finance and Administration within twenty-five
15 (25) days after the end of each month that states:

16 (A) The total number of barrels of salt water produced by
17 the producer of natural resources;

18 (B) The amount of severance tax that would have been due
19 on the production of salt water if the producer of natural resources were not
20 exempt from the severance tax on salt water under this section; and

21 (C) Any other information reasonably required by the
22 secretary for the enforcement of Arkansas Code § 26-58-101 et seq.

23 (2) The report required under subdivision (b)(1) of this section
24 shall be verified by:

25 (A) In the instance of an individual producer of natural
26 resources or the primary processor, the producer of natural resources or the
27 primary processor; and

28 (B) In all other instances:

29 (i) A member or officer of the producer of natural
30 resources or the primary processor; or

31 (ii) The manager of the producer of natural
32 resources or the primary processor.

33 (c) This section expires June 30, 2033.

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35 SECTION 10. EFFECTIVE DATE. Sections 1-8 of this act are effective on
36 and after October 1, 2025.

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/s/Crowell