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A Bill

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SENATE BILL 568

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5 By: Senators Crowell, Gilmore, Stone

6 By: Representatives Jean, Andrews, Dalby, Henley, M. Shepherd

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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; AND FOR
 17 OTHER PURPOSES.

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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.

27

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

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

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

35 (62) Oil and Gas Commission fees, including oil assessments, gas
 36 assessments in excess of four and one-half (4½) mills each fiscal year until



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

8
9 SECTION 2. Arkansas Code § 26-51-506(b)(15), concerning the
10 definitions to be used with respect to the income tax credit for waste
11 reduction, reuse, or recycling equipment, is amended to read as follows:

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

18
19 SECTION 3. Arkansas Code Title 26, Chapter 52, Subchapter 4, is
20 amended to add an additional section to read as follows:

21 26-52-457. Lithium resources development – Definitions.

22 (a) As used in this section:

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

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

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

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

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

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

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

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

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

14 (i) Equipment and materials used for:

15 (a) The direct processing, refining,
16 conversion, manufacturing, or recycling of lithium or lithium products,
17 including without limitation lithium hydroxide and lithium carbonate;

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

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

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

34 (e) Water conservation systems, including
35 without limitation a mechanism that is designed to collect, conserve, and
36 reuse water; and

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

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

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

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

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

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

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

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

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

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

25 (b)(1) The gross receipts or gross proceeds derived from the purchase
26 or sale of the following are exempt from the gross receipts tax levied by
27 this chapter and the compensating use tax levied by the Arkansas Compensating
28 Tax Act of 1949, § 26-53-101 et seq.:

29 (A) Lithium, cathode, anode, lithium battery, and grid storage
30 facility equipment;

31 (B) Services purchased for the purpose of and in conjunction
32 with developing, acquiring, constructing, expanding, renovating,
33 refurbishing, and operating a qualified facility;

34 (C) Electricity used by a qualified facility; and

35 (D) Equipment, materials, and products for the further
36 processing of materials used in manufacturing lithium, cathode, anode,

1 lithium battery, and grid storage facility equipment in the state.

2 (2) Equipment, materials, products, land, and services
3 purchased, leased, or rented for the extraction of salt water are
4 specifically excluded from the exemption provided under subdivision (b)(1) of
5 this section.

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

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

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

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

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

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

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

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

1 (B) The exemption provided under this section may be
2 claimed by the qualified facility.

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

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

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

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

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

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

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

26 (9) On salt water whose naturally dissolved components, or
27 solutes, are used as source raw materials for bromine, lithium, and other
28 products derived from the same salt water used in the bromine or lithium
29 production, two dollars and forty-five cents (\$2.45) per one thousand (1,000)
30 barrels, forty-two thousand United States gallons (42,000 U.S. gals.); and
31

32 SECTION 5. Arkansas Code § 26-58-301(b)(1), concerning the tax levied
33 for the benefit of the Arkansas Museum of Natural Resources Fund, is amended
34 to read as follows:

35 (b)(1) There is levied upon all brine produced in the state for the
36 purpose of bromine or lithium extraction a tax of twenty cents (20¢) per one

1 thousand (1,000) barrels.

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3 SECTION 6. Arkansas Code § 26-58-302(b)(1), concerning the additional
4 tax levied for the benefit of the Arkansas Museum of Natural Resources Fund,
5 is amended to read as follows:

6 (b)(1) There is levied a tax of ten cents (10¢) per one thousand
7 (1,000) barrels on all brine produced in this state for the purpose of
8 bromine or lithium extraction.

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10 SECTION 7. EFFECTIVE DATE. Sections 1-6 of this act are effective on
11 and after October 1, 2025.

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13 /s/Crowell

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