

1 State of Arkansas
2 95th General Assembly
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4

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

8
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
20

Subtitle

21
22 TO AMEND THE LAW CONCERNING THE TAXES
23 APPLICABLE TO LITHIUM EXTRACTION AND
24 DEVELOPMENT; TO PROVIDE A SALES AND USE
25 TAX EXEMPTION FOR LITHIUM RESOURCE
26 DEVELOPMENT; AND TO AMEND THE LAW
27 CONCERNING THE SEVERANCE TAX ON LITHIUM.
28

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

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

36 (3)(A) "Lithium, cathode, anode, lithium battery, and grid

1 storage facility equipment" means equipment and related services whether
2 purchased or leased for immediate use or stored for future use in this state
3 and other enabling machinery, equipment, software, and hardware purchased or
4 leased for the further extraction, processing, development, refinement,
5 conversion, manufacturing, or recycling of lithium, cathode, anode, lithium
6 battery, and grid storage products.

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

9 (i) Equipment and materials used for:

10 (a) The direct extraction, processing,
11 refining, conversion, manufacturing, or recycling of lithium or lithium
12 products, including without limitation lithium hydroxide and lithium
13 carbonate;

14 (b) The development or manufacturing of
15 cathode facilities and cathode active materials, anode facilities and anode
16 active materials, grid storage facilities and electrolytes, separator
17 facilities, or lithium battery recycling facilities;

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

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

30 (e) Water conservation systems, including
31 without limitation a mechanism that is designed to collect, conserve, and
32 reuse water; and

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

36 (4) "Qualified facility" means one (1) or more facilities,

1 including any addition to or expansion of a facility, owned or operated by a
 2 qualified firm that:

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

6 (B) Directly or indirectly pays an aggregate annualized
 7 compensation of at least two million dollars (\$2,000,000) to employees within
 8 the state over the two (2) calendar years following the calendar year in
 9 which the facility commences operations; and

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

12 (5) "Qualified firm" means a for-profit business establishment
 13 that is:

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

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

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

18 (6) "Qualified investment" means, with respect to a qualified
 19 facility, the aggregate, nonduplicative, eligible facility costs expended by
 20 a qualified firm in the state.

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

25 (1) Lithium, cathode, anode, lithium battery, and grid storage
 26 facility equipment;

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

30 (3) Electricity used by a qualified facility; and

31 (4) Equipment, materials, and products for the further
 32 processing of materials used in manufacturing lithium, cathode, anode,
 33 lithium battery, and grid storage facility equipment in the state.

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

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

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

10 (B) If an application submitted under this subsection is
11 denied as incomplete and the qualified firm submitting the application
12 provides the additional information or documentation required by the
13 department or otherwise completes its application within thirty (30) days of
14 the notice of denial, the application shall be considered completed as of the
15 original date of submission.

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

22 (D) If an application submitted under this subsection is
23 complete and meets the requirements of this section, the department shall
24 approve the application and certify that the qualified facility is eligible
25 for the exemption provided under this section.

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

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

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

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

36 (e)(1) After receiving an approved financial incentive certificate

1 from the department under subdivision (c)(4)(A) of this section, a qualified
 2 firm shall certify annually, for each calendar year in which the qualified
 3 firm is subject to the compensation requirement provided in subdivision
 4 (a)(4)(B) of this section, the aggregate annualized compensation at the
 5 qualified facility for the calendar year.

6 (2) Data reported to the department under this subsection shall
 7 be used only to determine eligibility for the exemption provided under this
 8 section.

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

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

13 (2) The qualified facility fails to meet the qualified
 14 investment requirement under subdivision (a)(4)(A) of this section; or

15 (3) The aggregate annualized compensation of a qualified
 16 facility falls below the required aggregate compensation stated in
 17 subdivision (a)(4)(B) of this section.

18
 19 SECTION 4. Arkansas Code § 26-58-111(9), concerning the rate of the
 20 severance tax, is amended to read as follows:

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

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

29 (a) All taxes, penalties, and costs collected by the Secretary of the
 30 Department of Finance and Administration under the provisions of this
 31 subchapter, except for the taxes, penalties, and costs collected on natural
 32 gas and salt water, shall be deposited into the State Treasury to the credit
 33 of the State Apportionment Fund.

34
 35 SECTION 6. Arkansas Code § 26-58-124, concerning distribution of the
 36 severance tax, is amended to add an additional subsection to read as follows:

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

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

8 (A) Forty-five cents (45¢) of the fee levied per one
9 thousand (1,000) barrels shall be deposited and credited as provided in § 26-
10 58-125; and

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

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

16 (ii) Ninety-seven percent (97%) shall be allocated
17 as follows:

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

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

25 (2) The Treasurer of State shall allocate funds collected each
26 fiscal year in excess of three hundred twenty-five thousand dollars
27 (\$325,000) in the following manner on or before the fifth of the month next
28 following the month during which funds under this subsection are received by
29 the Treasurer of State:

30 (A) Forty-five cents (45¢) of the fee levied per one
31 thousand (1,000) barrels shall be deposited and credited as provided in § 26-
32 58-125; and

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

35 (i) Three percent (3%) shall be allocated to the
36 General Revenue Fund Account of the State Apportionment Fund to be used for

1 defraying the necessary expenses of the state government; and

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

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

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

17
18 SECTION 7. Arkansas Code § 26-58-301(b)(1), concerning the tax levied
19 for the benefit of the Arkansas Museum of Natural Resources Fund, is amended
20 to read as follows:

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

24
25 SECTION 8. Arkansas Code § 26-58-302(b)(1), concerning the additional
26 tax levied for the benefit of the Arkansas Museum of Natural Resources Fund,
27 is amended to read as follows:

28 (b)(1) There is levied a tax of ten cents (10¢) per one thousand
29 (1,000) barrels on all brine produced in this state for the purpose of
30 bromine or lithium extraction.

31
32 SECTION 9. DO NOT CODIFY. TEMPORARY LANGUAGE. Severance tax exemption
33 for lithium extraction.

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

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

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

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

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

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

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

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

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

21 (A) In the instance of an individual producer of natural
22 resources or the primary processor, the producer of natural resources or the
23 primary processor; and

24 (B) In all other instances:

25 (i) A member or officer of the producer of natural
26 resources or the primary processor; or

27 (ii) The manager of the producer of natural
28 resources or the primary processor.

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

30
31 SECTION 10. EFFECTIVE DATE. Sections 1-8 of this act are effective on
32 and after October 1, 2025.