State of Arkansas *As Engrossed: S4/1/25 S4/8/25 S4/9/25*
95th General Assembly
Regular Session, 2025 SENATE BILL 568

A Bill

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

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE TAXES APPLICABLE TO LITHIUM EXTRACTION AND DEVELOPMENT; TO INCLUDE ELECTRONIC WASTE IN THE DEFINITION OF "SOLID WASTE" FOR PURPOSES OF THE SALES AND USE TAX EXEMPTION FOR WASTE REDUCTION, REUSE, OR RECYCLING EQUIPMENT; TO PROVIDE A SALES AND USE TAX EXEMPTION FOR LITHIUM RESOURCE DEVELOPMENT; TO AMEND THE LAW *CONCERNING THE SEVERANCE TAX ON LITHIUM; AND FOR OTHER PURPOSES.*

Subtitle

TO AMEND THE LAW CONCERNING THE TAXES APPLICABLE TO LITHIUM EXTRACTION AND DEVELOPMENT; TO PROVIDE A SALES AND USE TAX EXEMPTION FOR LITHIUM RESOURCE DEVELOPMENT; AND TO AMEND THE LAW CONCERNING THE SEVERANCE TAX ON LITHIUM.

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

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

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

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

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

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

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

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

26-52-457. Lithium resources development — Definitions.

(a) As used in this section:

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

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

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

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

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

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

(C) Moving, relocation, and housing benefits;

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

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

(i) Equipment and materials used for:

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

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

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

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

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

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

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

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

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

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

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

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

(B) The owner or operator of a facility;

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

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

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

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

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

(C) Electricity used by a qualified facility; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) All taxes, penalties, and costs collected by the Secretary of the Department of Finance and Administration under the provisions of this subchapter, except for the taxes, penalties, and costs collected on natural

gas and salt water, shall be deposited into the State Treasury to the credit of the State Apportionment Fund.

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

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

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

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

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

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

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

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

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

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

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

58-125; and

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

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

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

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

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

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

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

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

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

SECTION *9*. EFFECTIVE DATE. Sections *1-8* of this act are effective on and after October 1, 2025.

/s/Crowell

APPROVED: 4/22/25