



**State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement**

Bill: SB568

Amendment Number: S2

Bill 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.

Sponsors:

Sens. Crowell, Gilmore, and Stone

Reps. Jean, Andrews, Dalby, Henley and M. Shepherd

Basic Change:

Senate Amendment No. 2 --- SB568-S2 (engrossed 04/08/25) makes the following changes to the bill:

- Clarifies that eligible facility costs do not include any lease payments other than facility lease payments;
- Removes the mention of "extraction" from activities and machinery and equipment that qualify for the income tax and sales and use tax exemptions;
- Restores the current distribution of severance tax; and
- Removes the temporary severance tax exemption for new brine units.

Senate Amendment No. 1 --- **Sales and Use Tax Exemption for Qualified Firm** --- SB568-S1 creates a sales and use tax exemption for a qualified firm for purchases for and sales by a qualified facility. A qualified firm is a for-profit business engaged in developing lithium, cathode, anode, lithium battery, and grid storage facility equipment. The exemption applies to:

- Lithium storage facility equipment which includes both purchased and leased equipment, related services, other enabling machinery, equipment, software, and hardware for extraction, processing, development, refinement, conversion, manufacturing, or recycling of the listed chemicals either immediately or stored for future use;
- Services purchased for the purpose of and in conjunction with developing, acquiring, constructing, expanding, renovating, refurbishing, and operating a qualified facility;
- Electricity used by a qualified facility; and
- Equipment, materials, and products used for the further processing of materials used in manufacturing lithium, cathode, anode, lithium battery, and grid storage facility equipment.

To qualify for the exemption, a qualified firm must apply to the Department of Finance and Administration (DFA) and demonstrate that the firm has:

- Created a qualified investment of at least \$100,000,000 within the state within ten years of the start of the construction of a qualified facility;
- Directly or indirectly paid an aggregate total compensation of at least \$3,000,000 to employees within the state within two years of commencing operation; and
- Received a positive cost-benefit analysis from the Arkansas Economic Development Commission (AEDC) for the facility.



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Definition of Solid Waste --- SB568-S1 amends the definition of "solid waste" for purposes of the recycling tax credit to include "electronic waste, lithium-ion battery cells, and battery packs." If a taxpayer qualifies for the income tax credit for recycling equipment, the taxpayer will receive an income tax credit equal to 30% of the equipment used to reduce, recycle, or reuse electronic waste, lithium-ion battery cells, and battery packs. The income tax credits may be carried-forward for three years.

Distribution of Severance Tax for Salt Water --- SB568-S1 also amends the distribution of severance tax for salt water, or brine extraction, where the dissolved minerals are used for bromine, lithium, and other products. In addition to expressly authorizing lithium production as the basis for severance tax, SB568-S1 diverts any severance tax from brine in excess of \$325,000 in a fiscal year to be split between general revenue and the County Aid Fund.

Severance Tax Exemption for New Brine Units --- SB568-S1 also adds an exemption for new brine units put into service after July 1, 2023 from the severance tax on salt water brine. The exemption applies from July 1, 2028 to June 30, 2033. A producer claiming the exemption is required to file a monthly report showing how many barrels of salt water were produced, the amount of severance tax avoided, and any other information determined by DFA to be necessary. The tax exemption is limited by excluding wells in areas recognized by the Oil and Gas Commission prior to January 1, 2023.

Fiscal Impact:

Revenue neutral.

[To qualify for the sales and use tax exemption under SB568, a "qualified facility" shall obtain a positive cost benefit analysis from the Arkansas Economic Development Commission (AEDC).]

Taxpayer Impact:

A qualified firm under § 26-52-457 can claim sales and use tax exemptions on equipment, services, electricity, and materials, requiring application to be submitted to the Department of Finance and Administration and a \$100,000,000 investment within 10 years, with rebates available upon meeting this threshold and a positive cost-benefit analysis. The expanded "solid waste" definition in § 26-51-506(b)(15) would potentially allow a taxpayer engaging in the recycling of electronic waste or lithium-ion batteries to claim the waste reduction income tax credit provided that the additional requirements of § 26-51-506 are met.

Resources Required:

The Arkansas Integrated Revenue System (AIRS) will require programming changes at an estimated cost of \$22,000 with no ongoing maintenance. Tax forms and instructions will need to be updated.



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The Office of Excise Tax Administration would need additional personnel as follows:

- Two new Auditor II positions at a cost of \$69,834 each.
- DFA Statewide Program Coordinator at a cost of \$85,009

Time Required:

Adequate time is provided for implementation.

Procedural Changes:

Department employees will need to be educated, as well as the tax community.

Other Comments:

None.

Legal Analysis:

Senate Amendment No. 1 --- SB568-S1 may benefit from an amendment to clarify that AEDC will need to certify the entity as a qualifying facility to DFA before DFA may approve an application for a qualified facility.

SB568-S1 may benefit from an amendment to clarify whether the qualified firm may claim other tax credits and incentives for which the taxpayer also meets the qualifications.

SB568-S1 may benefit from an amendment to limit the exemption provided on page 9, lines 2-4, to "severance tax on salt water extracted for lithium production."

SB568-S1 may benefit from an amendment to strike the rebate provided on page 6, lines 2-6. The facility costs are exempt from sales and use tax under the bill. There should not be a need for a qualified firm to pay sales and use tax on the facility costs and then seek a rebate from the state up to ten years later.