

As Engrossed: 3/23/93

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1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senators Bell and Cassady**

A Bill

ACT 1156 OF 1993
SENATE BILL 672

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§ 26-58-124 AND 22-5-817
9 TO DIRECT REVENUE RAISED FROM DIAMOND MINING INTO THE
10 *ARKANSAS STATE PARKS TRUST FUND AND THE CRATER OF DIAMONDS*
11 *STATE PARK IMPROVEMENT FUND*; TO CREATE THE *CRATER OF*
12 *DIAMONDS STATE PARK IMPROVEMENT FUND* FOR CONTINUED
13 OPERATION AND IMPROVEMENT OF THE CRATER OF DIAMONDS STATE
14 PARK; TO CREATE THE *ARKANSAS STATE PARKS TRUST FUND*; AND
15 FOR OTHER PURPOSES."

Subtitle

18 "TO PROVIDE FOR THE DISTRIBUTION OF REVENUE RAISED FROM
19 DIAMOND MINING."

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

23 SECTION 1. (a) There is hereby created on the books of the State
24 Treasurer, State Auditor and Chief Fiscal Officer of the State a fund to be
25 *known as the "Arkansas State Parks Trust Fund", there to be used by the State*
26 *Parks, Recreation and Travel Commission, as appropriations are available. The*
27 *Commission shall annually expend at least ninety percent (90%) of the funds*
28 *available for the purpose of development, preservation and protection of the*
29 *infrastructure in the existing State Parks of Arkansas.*

30 (b) The fund shall consist of severance taxes collected from diamond
31 mining pursuant to Arkansas Code § 26-58-107, and royalties collected from
32 leases, which authorize the mining of diamonds on state property, as provided
33 by Arkansas Code § 22-5-817.

35 SECTION 2. Arkansas Code 26-58-124 is amended to read as follows:

1 "26-58-124. Distribution of severance tax generally.

2 (a) All taxes, penalties, and costs collected by the director under the
3 provisions of this subchapter shall be deposited in the State Treasury to the
4 credit of the State Apportionment Fund.

5 (b) The State Treasurer, on or before the fifth of the month next
6 following the month during which such funds shall have been received by him,
7 shall allocate the funds in the following manner:

8 (1) Three percent (3%) of the amount thereof to the General
9 Revenue Fund to be used for defraying the necessary expenses of the state
10 government; and

11 (2) Ninety-seven percent (97%) of the amount thereof, as follows:

12 (A) (i) All of such amount of severance taxes, penalties,
13 and costs on timber and timber products shall be credited to the State
14 Forestry Fund until there has been distributed thereto an amount not less than
15 the total amount of severance taxes, penalties, and costs on timber and timber
16 products distributed thereto during the fiscal year ending June 30, 1980, plus
17 an additional amount of two million dollars (\$2,000,000) thereof, to be used
18 exclusively for the purpose of carrying out the functions and duties of the
19 Arkansas Forestry Commission; and

20 (ii) The next three hundred fifty thousand dollars
21 (\$350,000) or so much thereof as may be collected in severance taxes,
22 penalties, and costs on timber and timber products, over and above the amount
23 distributed to the State Forestry Fund during each fiscal year as provided in
24 subdivision (b) (2) (A) (i) of this section, shall be distributed and credited to
25 the University of Arkansas at Monticello Fund to be set aside therein to be
26 used solely and exclusively for providing additional support for the School of
27 Forestry of the University of Arkansas at Monticello; and

28 (iii) All of such amount of severance taxes,
29 penalties, and costs on timber and timber products collected during each
30 fiscal year in excess of the amounts required to be distributed for each
31 fiscal year as provided in subdivisions (b) (2) (A) (i) and (ii) of this section
32 shall be distributed to the State Forestry Fund to be used exclusively for the
33 support of carrying out the functions and duties of the Arkansas Forestry
34 Commission;

35 (B) Seventy-five percent (75%) of the amount of the

1 severance taxes and penalties on diamonds shall be credited to the Arkansas
2 State Parks Trust Fund to be used by the State Parks, Recreation and Travel
3 Commission for the preservation and protection of the natural resources of
4 this state.

5 (C) Seventy-five percent (75%) of the amount of the
6 severance taxes and penalties, except those on timber and timber products and
7 except those on diamonds, shall be general revenues and shall be allocated to
8 the various State Treasury funds participating in general revenues in the
9 respective proportions to each as provided by, and to be used for the
10 respective purposes set forth in, the Revenue Stabilization Law of Arkansas, §
11 19-5-101 et seq.;

12 (D) Twenty-five percent (25%) of such amount of the
13 severance taxes and penalties, and costs, except those on timber and timber
14 products, shall be special revenues and shall be allocated to the County Aid
15 Fund.

16 (i) On or before the tenth of the month following the
17 end of each calendar quarter, the State Treasurer shall remit by state
18 warrants to the various county treasurers all such funds theretofore received
19 by him during such quarterly period and transferred to the County Aid Fund in
20 the proportions thereof as between the respective counties that, as certified
21 by the director to the State Treasurer, the total severance tax produced from
22 each such county bears to the total of such taxes produced from all counties.

23 (ii) Upon receipt of any such taxes, each county
24 treasurer shall credit fifty percent (50%) of such amount to the county public
25 school fund and fifty percent (50%) of such amount to the county highway fund
26 for use for the same purposes as other moneys credited to the respective
27 future funds."

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29 SECTION 3. Arkansas Code 26-58-111(8) is amended to read as follows:

30 "(8) On diamonds, fuller's earth, ochre, natural asphalt, native
31 sulphur, salt, pearls, and other precious stones, whetstone, novaculite, and
32 on all other natural resources, except gypsum, not otherwise specifically
33 identified under the severance tax laws of this state, except mussel shells,
34 five percent (5%) of the fair market value at the time of severance;"

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1 SECTION 4. Arkansas Code 22-5-817 is amended to read as follows:

2 "22-5-817. Leasing at Crater of Diamonds State Park.

3 (a) (1) The Arkansas Parks, Recreation, and Travel Commission, through
4 the Department of Parks and Tourism, is authorized to execute a lease after
5 securing the advice of the Legislative Council for the exploration and
6 production of diamonds at the Crater of Diamonds State Park.

7 (2) After securing the advice of the Legislative Council, the
8 commission shall have full authority to determine whether the lease shall be
9 executed, the area of the park to be included in any lease, the method of
10 selecting the lessee, benefits, and improvements for the park to be made by
11 the lessee, the royalty payments to be paid the commission by any lessee, and
12 any and all other terms of the lease; provided, however, any lease executed by
13 the commission shall contain plans for the continued operation and improvement
14 of the park, including long range plans that provide _finders keepers_ diamond
15 hunting opportunities for visitors to the park.

16 (b) (1) The lease may be executed pursuant to the solicitation of bids
17 or pursuant to negotiation without bids as may be determined by the
18 commission.

19 (2) The lease may include such area of the park lands and may
20 provide for such royalty payments on the production of diamonds as the
21 commission may deem appropriate.

22 (c) The authority granted the commission in this section shall be
23 exclusive and neither the provisions of §§ 22-5-801 - 22-5-813 nor any other
24 provisions of law shall be applicable with respect to the leasing of lands in
25 the Crater of Diamonds State Park for the exploration for and production of
26 diamonds.

27 (d) If a lease is executed by the commission for the exploration and
28 production of diamonds at the Crater of Diamonds State Park as authorized in
29 this section, the first two hundred thousand dollars (\$200,000) of the royalty
30 payments received by the commission under the lease shall be deposited by the
31 commission in the State Treasury as special revenues and credited to the
32 *Crater of Diamonds State Park Improvement Fund*, which is hereby created on the
33 books of the State Treasurer, the State Auditor and the Chief Fiscal Officer
34 of the State and there to be used by the Parks and Tourism Commission for
35 maintenance and improvements at the Crater of Diamonds State Park, as

1 appropriations are available. The balance of the royalty payments shall be
2 deposited by the commission in the State Treasury as special revenues and
3 credited to the *Arkansas State Parks Trust Fund*, there to be used by the *State*
4 *Parks, Recreation and Travel Commission*, as appropriations are available. The
5 *Commission* shall annually expend at least ninety percent (90%) of the funds
6 available for the purpose of development, preservation and protection of the
7 infrastructure in the existing *State Parks of Arkansas*.

8 SECTION 5. (a) *The State Parks, Recreation and Travel Commission*, as
9 trustees of the *Arkansas State Parks Trust Fund*, shall manage the funds in
10 this trust for growth and shall expend the income and principal of this trust
11 as follows:

12 (1) *Seventy-five percent (75%) of the revenues collected from*
13 *diamond mining pursuant to A.C.A. §§ 22-5-817 and 26-58-107 and paid into the*
14 *trust each year shall be spent, as appropriations are available, for the*
15 *purposes of the trust as set forth in this act and Arkansas Code § 22-5-817 as*
16 *amended by this act; however, the amount annually expended shall not exceed*
17 *ten million dollars (\$10,000,000).*

18 (2) *Twenty-five percent (25%) of the revenues collected from*
19 *diamond mining pursuant to A.C.A §§ 22-5-817 and 26-58-107 and paid into the*
20 *trust each year, plus all earnings of the trust, and plus all monies paid into*
21 *the trust that exceed ten million dollars (\$10,000,000) shall remain in trust*
22 *and be added to the principal; however, after revenues from diamond mining are*
23 *no longer received by the state or thirty (30) years after the effective date*
24 *of this act, whichever occurs earlier, the annual earnings of the trust may be*
25 *expended, as appropriations are available, for the purposes of the trust as*
26 *set forth in this act.*

27 SECTION 6. All provisions of this act of a general and permanent nature
28 are amendatory to the *Arkansas Code of 1987 Annotated* and the *Arkansas Code*
29 *Revision Commission* shall incorporate the same in the *Code*.

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31 SECTION 7. If any provision of this act or the application thereof to
32 any person or circumstance is held invalid, such invalidity shall not affect
33 other provisions or applications of the act which can be given effect without
34 the invalid provision or application, and to this end the provisions of this
35 act are declared to be severable.

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SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Senators Bell and Cassady

APPROVED: 4/14/93

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