

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 569

4
5 By: Senator B. Sample

For An Act To Be Entitled

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7
8 AN ACT TO AMEND THE ARKANSAS CODE TO CLARIFY THE
9 PROVISIONS CONCERNING THE SALT WATER DISPOSAL SYSTEM
10 TAX CREDIT; AND FOR OTHER PURPOSES.

Subtitle

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14 AN ACT TO AMEND THE ARKANSAS CODE TO
15 CLARIFY THE PROVISIONS CONCERNING THE
16 SALT WATER DISPOSAL SYSTEM TAX CREDIT.

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

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21 SECTION 1. Arkansas Code § 8-5-503(a), concerning denial of tax
22 deductions, is amended to read as follows:

23 (a) Should any individual, partnership, corporation, or employee
24 ~~willfully~~ knowingly or negligently cause, let, or permit salt water to flow,
25 seep, or otherwise escape from the leased premises, the rights of the party
26 to claim tax deductions or credits ~~will be denied tax deductions~~ under §§ 8-
27 5-501, 8-5-502, and 26-58-201 ~~—26-58-204, 26-58-206—~~ 26-58-210, ~~and 26-58-~~
28 ~~211 [repealed]~~ will be denied for a period of twelve (12) months.

29
30 SECTION 2. Arkansas Code § 26-58-201 is amended to read as follows:
31 26-58-201. Definitions.

32 As used in this subchapter:

33 (1)(A) “Approved underground salt water disposal system” means a
34 system or systems of reinjection of salt water produced as a result of oil or
35 natural gas production into an underground level or stratum, as approved by
36 the Arkansas Pollution Control and Ecology Commission or the ~~Arkansas~~ Oil and



1 Gas Commission, ~~whereby~~ in which the salt water disposed of and the method of
2 disposing of the ~~same shall~~ the saltwater does not pose ~~ne~~ a menace to a
3 fresh water supply or to the lakes and streams of this state.

4 (B) "Approved underground salt water disposal system" does
5 not include any:

6 (i) Reinjection system which is designed primarily
7 for the purpose of secondary recovery and pressure maintenance; or

8 (ii) Pool that has been unitized for secondary
9 recovery or pressure maintenance by order of the ~~Arkansas~~ Oil and Gas
10 Commission;

11 (2) "Director" means the Director of the Department of Finance
12 and Administration or any of his or her duly appointed deputies or agents;

13 ~~(3) "Oil producer" means the producer of oil who is charged with~~
14 ~~the responsibility of reporting and paying the severance tax on oil as~~
15 ~~required by the laws of this state;~~

16 ~~(4)(3)~~ (3) "Person" means any individual, firm, association,
17 partnership, limited liability company, or corporation; ~~and~~

18 (4) "Producer" means the producer of oil or natural gas who is
19 charged with the responsibility of reporting and paying the severance tax on
20 the oil or natural gas as required by the laws of this state; and

21 (5) "Severance tax" means the severance tax on oil or natural
22 gas produced in this state as levied by § 26-58-107.

23

24 SECTION 3. Arkansas Code § 26-58-202(a), concerning nonsalt water
25 producing wells, is amended to read as follows:

26 (a) ~~In no instance shall the~~ The benefits of the provisions of this
27 subchapter shall not apply to the severance tax due or payable on oil or
28 natural gas produced from nonsalt water producing ~~oil~~ wells in this state.

29

30 SECTION 4. Arkansas Code § 26-58-204 is amended to read as follows:

31 26-58-204. ~~Credit on severance tax of oil producer~~ Severance tax credit
32 for oil producer.

33 ~~Any~~ An oil producer in this state who provides for the disposition of
34 salt water produced in the production of oil from oil wells of ~~such~~ the oil
35 producer in this state by ~~the~~ means of an approved underground salt water
36 disposal system shall be allowed a severance tax credit ~~on severance taxes~~

1 ~~due and payable to the State of Arkansas~~ on all oil ~~so~~ produced by ~~such~~ the
 2 salt water producing oil wells in the amount and in the method provided in
 3 this subchapter.

4
 5 SECTION 5. Arkansas Code § 26-58-205 is amended to read as follows:

6 26-58-205. ~~Credit on severance tax of gas producer~~ Severance tax
 7 credit for natural gas producer.

8 A natural gas producer charged with the responsibility of reporting and
 9 paying the severance tax on natural gas who provides for the disposal of salt
 10 water produced in the production ~~thereof~~ of natural gas by means of an
 11 approved underground salt water disposal system ~~shall be~~ is allowed a
 12 severance tax credit on severance taxes due thereon in the same manner, to
 13 the same extent, and on the same conditions as the credit on severance taxes
 14 authorized in the case of oil production under this subchapter all natural
 15 gas produced by the salt water producing natural gas wells in the amount and
 16 in the method provided in this subchapter.

17
 18 SECTION 6. Arkansas Code § 26-58-206 is amended to read as follows:

19 26-58-206. Permit for credit.

20 (a) ~~Any oil~~ A producer in this state wishing to obtain the benefits of
 21 the provisions for this subchapter shall make application to the Director of
 22 the Department of Finance and Administration for a permit to obtain credit on
 23 severance taxes due on all oil or natural gas produced in salt water
 24 producing ~~oil~~ wells of ~~such oil~~ the producer as provided in this subchapter.

25 (b) The application shall list:

26 (1) The name and address of the ~~oil~~ producer;
 27 (2) The number and location of all salt water producing ~~oil~~
 28 wells of ~~such oil~~ the producer; and

29 (3) A certified copy of a certificate from the Arkansas
 30 Pollution Control and Ecology Commission and the ~~Arkansas~~ Oil and Gas
 31 Commission certifying that all salt water produced in the production of oil
 32 or natural gas in ~~such oil~~ the wells is being disposed of in an approved
 33 underground salt water disposal system.

34 (c) If the director determines that the ~~oil~~ producer has complied with
 35 the provisions of this subchapter and the rules ~~and regulations~~ established
 36 by the director, the director shall issue a permit to ~~such oil~~ the producer.

1 (d) The permit shall entitle the oil producer to obtain a severance
2 tax credit on severance taxes due the State of Arkansas on all oil or natural
3 gas produced in salt water producing oil wells in the amount provided in this
4 subchapter.

5
6 SECTION 7. Arkansas Code § 26-58-207 is repealed.

7 ~~26-58-207. Reports of tax due on oil produced.~~

8 ~~(a) Each oil producer having a permit from the Director of the~~
9 ~~Department of Finance and Administration authorizing such oil producer to~~
10 ~~obtain the benefits of this subchapter upon forms prescribed by the director~~
11 ~~and under such rules and regulations as may be prescribed by the director~~
12 ~~shall report during each tax reporting period the total barrels of oil~~
13 ~~produced by oil wells producing salt water during such reporting period and~~
14 ~~shall compute the total severance tax due on such oil production.~~

15 ~~(b) In addition, the oil producer shall report any additional or~~
16 ~~supporting information as may be required by the director during each tax~~
17 ~~reporting period as may be necessary to support the credit claimed by the oil~~
18 ~~producer.~~

19
20 SECTION 8. Arkansas Code § 26-58-208 is amended to read as follows:

21 26-58-208. Amounts of credits or tax - Maximum annual credits allowed.

22 (a) ~~The oil~~ A ~~producer shall be is~~ entitled to a credit on the
23 ~~severance tax due during the reporting period in the amount of~~ an annual
24 severance tax credit that is calculated based upon the cost, as defined in §
25 26-58-209, of the oil producer in maintaining, ~~during such reporting period,~~
26 an approved underground salt water disposal system during the calendar year
27 for which the severance tax credit is approved.

28 ~~(b)(1) If the cost of maintaining such approved underground salt water~~
29 ~~disposal system during the reporting period is less than the total severance~~
30 ~~tax due for the reporting period, the oil producer shall pay to the Director~~
31 ~~of the Department of Finance and Administration the amount that the total tax~~
32 ~~exceeds the cost.~~

33 ~~(2)(A) In the event the cost of maintaining the approved~~
34 ~~underground salt water disposal system during the tax reporting period~~
35 ~~exceeds the total severance tax due during such period, the oil producer~~
36 ~~shall be given a credit for the total severance tax due for such reporting~~

1 period.

2 ~~(B) However, in no event shall such oil producer be~~
3 ~~permitted to credit such excess of cost over the total severance tax due for~~
4 ~~such reporting period to any oil severance tax that may have been paid, or~~
5 ~~that may become due, during any previous or subsequent tax reporting period.~~

6 ~~(e)(b)(1) The total severance tax credits allowed all oil producers~~
7 ~~during for any calendar year by the director shall not exceed three hundred~~
8 ~~seventy thousand dollars (\$370,000).~~

9 (2) If ~~during for~~ any calendar year the total severance tax
10 credits of all oil producers operating, utilizing, or maintaining approved
11 underground salt water disposal systems exceed the total maximum allowable
12 severance tax credits ~~mentioned above~~ provided in subdivision (b)(1) of this
13 section, the director Director of the Department of Finance and
14 Administration shall prorate the allowable severance tax credits among the
15 respective oil producers in the proportion that the severance tax credits due
16 each oil producer bear to the total of all severance tax credits due all
17 qualifying oil producers.

18 (c)(1) The total severance tax credits allowed all natural gas
19 producers for any calendar year shall not exceed three hundred seventy
20 thousand dollars (\$370,000).

21 (2) If for any calendar year the total severance tax credits of
22 all natural gas producers operating, utilizing, or maintaining approved
23 underground salt water disposal systems exceed the total maximum allowable
24 severance tax credits provided in subdivision (c)(1) of this section, the
25 director shall prorate the allowable severance tax credits among the
26 respective natural gas producers in the proportion that the severance tax
27 credits due each natural gas producer bear to the total of all severance tax
28 credits due all qualifying natural gas producers.

29 (d)(1) A claim for a severance tax credit shall be filed with the
30 director on forms prescribed by the director on or before April 1 of the
31 calendar year following the calendar year in which the costs of maintaining
32 the underground salt water disposal system were incurred.

33 (2) A severance tax credit is not allowed for any claim filed
34 after April 1 of the calendar year following the calendar year in which the
35 costs were incurred.

36 (e) The amount of the severance tax credit shall be paid to each

1 qualifying and approved producer no later than June 1 of the calendar year
2 following the calendar year in which the costs were incurred.

3 (f) Interest shall not accrue or be paid on a severance tax credit
4 allowed under this subchapter.

5 (g) The director may promulgate rules to administer this section.
6

7 SECTION 9. Arkansas Code § 26-58-209 is amended to read as follows:
8 26-58-209. Cost of maintaining salt water disposal system.

9 The cost of ~~an oil~~ a producer in maintaining an approved underground
10 salt water disposal system for the purposes of this subchapter shall include
11 the following:

12 (1) An allowance, to be spread equally over each severance tax
13 reporting period, for depreciation of the actual cash investment of the ~~oil~~
14 producer in the constructing, equipping, and improving of an approved
15 underground salt water disposal system which depreciation period shall not be
16 less than five (5) years nor more than ten (10) years as may be approved by
17 the Director of the Department of Finance and Administration;

18 (2) The actual cash outlay of the ~~oil~~ producer in purchasing
19 stock in a business or corporation organized exclusively for the purpose of
20 constructing and operating an approved underground salt water disposal
21 system; and

22 (3)(A) The actual expenses of the ~~oil~~ producer in operating and
23 maintaining an approved underground salt water disposal system.

24 (B) These expenses shall include the cost of labor,
25 supplies, materials, utilities, and other necessary operating expenses.

26 (C) ~~In the case of an oil~~ For a producer who purchases the
27 services of an approved underground salt water disposal business or
28 corporation for disposing of salt water produced in the production of oil or
29 natural gas by ~~such oil~~ the producer, the actual cost of ~~such~~ the service
30 ~~shall be~~ is deemed to be the cost of ~~such oil~~ the producer within the meaning
31 of this section.
32

33 SECTION 10. Arkansas Code § 26-58-210 is amended to read as follows:
34 26-58-210. Records.

35 ~~The oil~~ A producer obtaining the benefits of the provisions of this
36 subchapter shall maintain for a period of not less than three (3) years such

1 records as may be required by the Director of the Department of Finance and
2 Administration that may be necessary to justify the cost credits allowed by
3 this subchapter.

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5 SECTION 11. This act is effective on and after January 1, 2012.
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8 **APPROVED: 03/30/2011**
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