



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.



State of Arkansas
Department of Finance and Administration
Fiscal Impact Statement

Bill: SB568

Amendment Number: S1

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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-S1, a "qualified facility" shall obtain a positive cost benefit analysis from the Arkansas Economic Development Commission (AEDC). There is an undetermined fiscal impact for the temporary severance tax exemption for new brine units, which applies to the July 1, 2028 through June 30, 2033 period.]

Taxpayer Impact:

A taxpayer engaged in lithium extraction and development may benefit from multiple provisions. 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. A producer of a new brine units after January 1, 2023, are exempt from the severance tax under § 26-58-111(9) from July 1, 2028, to June 30, 2033, and must file monthly reports. 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.

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



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Time Required:

Adequate time is provided for implementation.

Procedural Changes:

Changes to the current brine return and Arkansas Taxpayer Access Point (ATAP) would be required. Department employees will need to be educated, as well as the tax community.

Other Comments:

None.

Legal Analysis:

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.