

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

SENATE BILL 672

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

2 "26-58-124. Distribution of severance tax generally.

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

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

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

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

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

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

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

1 (B) Seventy-five percent (75%) of the amount of the
2 severance taxes and penalties on diamonds shall be credited to the Arkansas
3 State Parks Trust Fund to be used by the State Parks, Recreation and Travel
4 Commission for the preservation and protection of the natural resources of
5 this state.

6 (C) Seventy-five percent (75%) of the amount of the
7 severance taxes and penalties, except those on timber and timber products and
8 except those on diamonds, shall be general revenues and shall be allocated to
9 the various State Treasury funds participating in general revenues in the
10 respective proportions to each as provided by, and to be used for the
11 respective purposes set forth in, the Revenue Stabilization Law of Arkansas, §
12 19-5-101 et seq.;

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

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

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

29

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

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

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

3 "22-5-817. Leasing at Crater of Diamonds State Park.

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

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

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

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

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

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

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

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

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

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

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

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

1 act are declared to be severable.

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

5 */s/ Senators Bell and Cassady*