

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB924**

**Bill Subtitle: TO CREATE AN INVESTMENT TAX CREDIT FOR CAPITAL IMPROVEMENTS RELATING TO WATER TRANSPORTATION IN THE STATE.**

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**Basic Change :** Sponsor: Senator Files

This bill provides for a new income credit equal to 100% of the cost of making capital improvements to a facility or property related to water transportation, including the construction, improvement, rehabilitation, and expansion of a waterway facility and the construction or improvement of rail or road access to a waterway facility from January 1, 2015 through December 31, 2016. A taxpayer cannot earn more than \$3,000,000 in income credit under this Act, and in a single tax year may not use more than 10% of the credit earned. Unused credits may be carried forward for nine (9) tax years.

The total cumulative amount of tax credits for all taxpayers shall not exceed \$2,500,000 in a tax year and use of the credits will be on a first-come basis. DFA shall review the overall economic impact of this Act and report its findings to the Legislative Council, or if the General Assembly is in session, to the Joint Budget Committee on or before December 31, 2021, and again on or before December 31, 2026. The income tax credits are effective for tax years beginning on or after January 1, 2015.

**Revenue Impact :**

FY2016 through FY2025 \$2.5M per year reduction to General Revenue

**Taxpayer Impact :**

Taxpayers will be eligible for a tax credit if they meet the requirements of the bill. No certification process is included in the bill. Because the credit is used on a first come, first served basis, some taxpayers may have available credits during a year that they cannot use because others filed their tax returns before them and used the \$2.5M available credit. DFA has authority to promulgate rules.

**Resources Required :**

None

**Time Required :**

Adequate time is provided for implementation.

**Procedural Changes :**

Tax forms and instruction booklets will need to be updated. Employees will need to be educated as well as the tax community.

**Other Comments :**

The bill does not limit the amount of tax credit that can be established to a percentage of the total costs. Instead, it allows 100% of the total costs to be used in calculating the credit, potentially resulting in the State of Arkansas paying 100% of the cost of a private investment. The bill does not limit taxpayers from deducting the cost of construction through depreciation which would result in a more than 100% benefit to taxpayers. ACA 26-51-515(b)(1) states that the tax credit shall not exceed \$3,000,000 per taxpayer, but ACA 26-51-515(b)(3) states that the amount of tax credits for all taxpayers shall not exceed \$2,500,000 per year. The amount of credit that can be claimed each year is equal to a maximum of 10% of the total tax credit for a particular taxpayer, but the bill does not limit the amount of credit that can be claimed to the amount of income tax due.

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### Legal Analysis :

SB924 amends Arkansas Code Title 26, Chapter 51, Subchapter 5 by adding § 26-51-515 which creates an income tax credit for the cost of making capital improvements to a facility or property related to using water transportation in the state. This tax credit will apply without limitation to the construction, improvement, capital rehabilitation, and expansion of a waterway facility on or after January 1, 2015 and on or before December 31, 2016. This also includes the construction or improvement of rail or road access to a waterway facility.

This section does not define waterway facility, nor does it specify whether or not the project must be commenced or completed during the specified time frame for the tax credit to apply. There is a \$3,000,000 limitation for an individual taxpayer and a maximum of ten percent (10%) of the total tax credit for which the taxpayer is eligible. Additionally, there is a total cumulative amount limitation of \$2,500,000 for all taxpayers in a tax year. This tax credit will be available on a first come, first served basis. This tax credit is not available for any taxpayer who receives funds under the Arkansas Port, Intermodal, and Waterway Development Grant Program.

The Director of the Department of Finance and Administration is mandated to promulgate rules necessary to implement this section and is mandated to review the overall economic impact of this section on or before December 31, 2021 and again on or before December 31, 2026 and report the findings to the Legislative Council or if the General Assembly is in session, to the Joint Budget Committee within thirty (30) days of completing the required review. This act will be effective for tax years beginning on or after January 1, 2015.