

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 386

5 By: Senator J. Dismang  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING FUNDING AND INCENTIVES FOR CERTAIN  
9 WATERWAYS SYSTEMS, PROGRAMS, AND INVESTMENTS; TO  
10 REPEAL THE ARKANSAS RIVER NAVIGATION SYSTEM FUND; TO  
11 PROVIDE ADDITIONAL FUNDING FOR THE ARKANSAS PORT,  
12 INTERMODAL, AND WATERWAY DEVELOPMENT GRANT PROGRAM  
13 FUND; TO CREATE AN INVESTMENT TAX CREDIT FOR CAPITAL  
14 IMPROVEMENTS RELATING TO WATER TRANSPORTATION IN THE  
15 STATE; AND FOR OTHER PURPOSES.  
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## Subtitle

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19 TO REPEAL THE ARKANSAS RIVER NAVIGATION  
20 SYSTEM FUND; TO PROVIDE ADDITIONAL  
21 FUNDING FOR THE ARKANSAS PORT,  
22 INTERMODAL, AND WATERWAY DEVELOPMENT  
23 GRANT PROGRAM FUND; AND TO CREATE A  
24 WATERWAYS INVESTMENT INCOME TAX CREDIT.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code § 19-5-1264 is repealed.

30 ~~19-5-1264. Arkansas River Navigation System Fund.~~

31 ~~(a) There is created on the books of the Treasurer of State, the~~  
32 ~~Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous~~  
33 ~~fund to be known as the "Arkansas River Navigation System Fund".~~

34 ~~(b) The fund shall consist of:~~

35 ~~(1) The taxes and penalties described in § 26-26-1616(d)(2);~~

36 ~~(2) Grants made by any person or federal government agency;~~



1           ~~(3) Any remaining fund balances carried forward from year to~~  
2 ~~year; and~~

3           ~~(4) Any other funds authorized or provided by law.~~

4           ~~(e) The fund shall be used by the Arkansas Waterways Commission to~~  
5 ~~develop, improve, and expand river transportation resources within the~~  
6 ~~portion of the McClellan Kerr Arkansas River Navigation System located in the~~  
7 ~~State of Arkansas.~~

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9           SECTION 2. Arkansas Code § 26-26-1616(d)(2), concerning the  
10 disposition of ad valorem taxes and penalties collected from water  
11 transportation companies, is amended to read as follows:

12           (2) Any taxes and penalties collected in excess of two million  
13 five hundred fifty thousand dollars (\$2,550,000) each calendar year shall be  
14 ~~deposited as follows:~~

15                   ~~(A) Seventy percent (70%) shall be credited to the~~  
16 ~~Arkansas River Navigation System Fund; and~~

17                   ~~(B) Thirty percent (30%) shall be credited to the Arkansas~~  
18 ~~Port, Intermodal, and Waterway Development Grant Program Fund to be used~~  
19 ~~exclusively for the purposes stated in § 15-23-205.~~

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21           SECTION 3. Arkansas Code Title 26, Chapter 51, Subchapter 5, is  
22 amended to add an additional section to read as follows:

23           26-51-517. Waterways investment tax credit.

24           (a) There is allowed an income tax credit against the income tax  
25 imposed by this chapter in the amount stated in subsection (b) of this  
26 section for the cost of making capital improvements to a facility or property  
27 related to using water transportation in the state, including without  
28 limitation the construction, improvement, capital facility rehabilitation,  
29 and expansion of a waterway facility and the construction or improvement of  
30 rail or road access to a waterway facility, on or after January 1, 2024, and  
31 on or before December 31, 2025.

32           (b)(1) Except as otherwise provided in this subsection, the tax credit  
33 allowed under subsection (a) of this section shall not exceed three million  
34 dollars (\$3,000,000) for a taxpayer that makes the capital improvements to a  
35 facility or property related to using water transportation in the state.

36           (2) The amount of the tax credit that a taxpayer may claim each

1 year is limited to a maximum of ten percent (10%) of the total tax credit for  
2 which the taxpayer is eligible.

3 (3) The total cumulative amount of tax credits for all taxpayers  
4 under this section in a tax year shall:

5 (A) Not exceed two million five hundred thousand dollars  
6 (\$2,500,000); and

7 (B) Be issued on a first-come, first served basis.

8 (4) A tax credit allowed under this section shall be issued only  
9 after the Secretary of the Department of Commerce has determined, based on  
10 the information provided by the applicant for a tax credit under this  
11 section, that the taxpayer’s capital investment in a facility or property  
12 related to using water transportation in the state will provide an economic  
13 benefit to the state that will likely be equal to or greater than the amount  
14 of the tax credit allowed under this section.

15 (c) Any unused income tax credit that cannot be claimed in a tax year  
16 because of the limit stated in subdivision (b)(2) of this section may be  
17 carried forward for nine (9) consecutive tax years following the tax year in  
18 which the income tax credit was earned.

19 (d) A taxpayer is not eligible for the credit allowed under this  
20 section if the taxpayer has received funds under the Arkansas Port,  
21 Intermodal, and Waterway Development Grant Program.

22 (e) The Secretary of the Department of Finance and Administration  
23 shall:

24 (1) Promulgate rules to implement this section;

25 (2) Review the overall economic impact of this section on or  
26 before December 31, 2030, and again on or before December 31, 2035; and

27 (3) Report his or her findings under subdivision (e)(2) of this  
28 section to the Legislative Council or, if the General Assembly is in session,  
29 to the Joint Budget Committee within thirty (30) days of completing the  
30 required review.

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32 SECTION 4. EFFECTIVE DATE. Section 3 of this act is effective for tax  
33 years beginning on or after January 1, 2024.