

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

# A Bill

SENATE BILL 478

5 By: Senator J. Dismang  
6 By: Representative Eaves  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING FUNDING AND INCENTIVES FOR CERTAIN  
10 WATERWAYS SYSTEMS, PROGRAMS, AND INVESTMENTS; TO  
11 AMEND THE ARKANSAS PORT, INTERMODAL, AND WATERWAY  
12 DEVELOPMENT GRANT PROGRAM; TO REPEAL THE ARKANSAS  
13 RIVER NAVIGATION SYSTEM FUND; TO PROVIDE ADDITIONAL  
14 FUNDING FOR THE ARKANSAS PORT, INTERMODAL, AND  
15 WATERWAY DEVELOPMENT GRANT PROGRAM FUND; TO CREATE IN  
16 INVESTMENT TAX CREDIT FOR CAPITAL IMPROVEMENTS  
17 RELATING TO WATER TRANSPORTATION IN THE STATE; AND  
18 FOR OTHER PURPOSES.  
19  
20

## Subtitle

21 TO REPEAL THE ARKANSAS RIVER NAVIGATION  
22 SYSTEM FUND; TO PROVIDE ADDITIONAL  
23 FUNDING FOR THE ARKANSAS PORT,  
24 INTERMODAL, AND WATERWAY DEVELOPMENT  
25 GRANT PROGRAM FUND; AND TO CREATE A  
26 WATERWAYS INVESTMENT INCOME TAX CREDIT.  
27  
28  
29

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
31

32 SECTION 1. Arkansas Code § 15-23-205(a), concerning the Arkansas Port,  
33 Intermodal, and Waterway Development Grant Program, is amended to read as  
34 follows:

35 (a)~~(1)~~ The Arkansas Waterways Commission shall establish and  
36 administer the Arkansas Port, Intermodal, and Waterway Development Grant



1 Program that shall be used for one (1) or more of the following purposes: ~~to~~

2 (1) To provide financial assistance to port authorities and  
3 intermodal authorities for the purpose of funding port development projects,  
4 including without limitation the construction, improvement, capital facility  
5 rehabilitation, and expansion of a public port facility, including without  
6 limitation an intermodal facility and a maritime-related industrial park  
7 infrastructure development;

8 (2) ~~Wharves~~ To construct, install, or repair wharves, cargo  
9 handling equipment, utilities, railroads, primary access roads, and buildings  
10 that are an integral part of a port development project ~~are also eligible for~~  
11 ~~funding under this section;~~ and

12 (3) To share in the expense of United States Army Corps of  
13 Engineers navigation enhancements, improvements, and emergency assistance  
14 projects.

15  
16 SECTION 2. Arkansas Code § 15-23-205(c), concerning the Arkansas Port,  
17 Intermodal, and Waterway Development Grant Program, is amended to read as  
18 follows:

19 (c)(1) An Arkansas public port authority or intermodal authority may  
20 apply for funding of a port development project under the program.

21 (2) The Director of the Arkansas Waterways Commission shall  
22 provide the commission with the following information for any proposed  
23 projects under subdivision (a)(3) of this section:

24 (A) A description;

25 (B) Preliminary designs;

26 (C) Cost estimates;

27 (D) Cost-sharing percentages between the program and the  
28 United State Army Corps of Engineers; and

29 (E) Any other information or documentation required by the  
30 commission.

31 (3) The Chief Fiscal Officer of the State shall notify the  
32 commission when funding is available for the program.

33  
34 SECTION 3. Arkansas Code § 19-5-1264 is repealed.

35 ~~19-5-1264. Arkansas River Navigation System Fund.~~

36 ~~(a) There is created on the books of the Treasurer of State, the~~

1 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous  
2 fund to be known as the "Arkansas River Navigation System Fund".

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

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

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

6 ~~(3) Any remaining fund balances carried forward from year to~~  
7 ~~year; and~~

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

9 ~~(c) The fund shall be used by the Arkansas Waterways Commission to~~  
10 ~~develop, improve, and expand river transportation resources within the~~  
11 ~~portion of the McClellan-Kerr Arkansas River Navigation System located in the~~  
12 ~~State of Arkansas.~~

13  
14 SECTION 4. Arkansas Code § 26-26-1616(d)(2), concerning the  
15 disposition of ad valorem taxes and penalties collected from water  
16 transportation companies, is amended to read as follows:

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

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

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

25  
26 SECTION 5. Arkansas Code Title 26, Chapter 51, Subchapter 5, is  
27 amended to add an additional section to read as follows:

28 26-51-517. Waterways investment tax credit.

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

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

5       (2) The amount of the tax credit that a taxpayer may claim each  
6 year is limited to a maximum of ten percent (10%) of the total tax credit for  
7 which the taxpayer is eligible.

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

10           (A) Not exceed two million five hundred thousand dollars  
11 (\$2,500,000); and

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

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

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

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

27       (e) The Secretary of the Department of Finance and Administration  
28 shall:

29           (1) Promulgate rules to implement this section;

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

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

36

1           SECTION 6. EFFECTIVE DATE. Section 5 of this act is effective for tax  
2 years beginning on or after January 1, 2024.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36