

Stricken language would be deleted from and underlined language would be added to present law.

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

As Engrossed: S3/29/23

# 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 PROVIDE ADDITIONAL  
13 FUNDING FOR THE ARKANSAS PORT, INTERMODAL, AND  
14 WATERWAY DEVELOPMENT GRANT PROGRAM FUND; TO CREATE IN  
15 INVESTMENT TAX CREDIT FOR CAPITAL IMPROVEMENTS  
16 RELATING TO WATER TRANSPORTATION IN THE STATE; AND  
17 FOR OTHER PURPOSES.

## Subtitle

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21 TO PROVIDE ADDITIONAL FUNDING FOR THE  
22 ARKANSAS PORT, INTERMODAL, AND WATERWAY  
23 DEVELOPMENT GRANT PROGRAM FUND; AND TO  
24 CREATE A WATERWAYS INVESTMENT INCOME TAX  
25 CREDIT.

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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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30 SECTION 1. Arkansas Code § 15-23-205(a), concerning the Arkansas Port,  
31 Intermodal, and Waterway Development Grant Program, is amended to read as  
32 follows:

33 (a)~~(1)~~ The Arkansas Waterways Commission shall establish and  
34 administer the Arkansas Port, Intermodal, and Waterway Development Grant  
35 Program that shall be used for one (1) or more of the following purposes: ~~to~~  
36 (1) To provide financial assistance to port authorities and



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

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

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

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

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

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

22 (A) A description;

23 (B) Preliminary designs;

24 (C) Cost estimates;

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

27 (E) Any other information or documentation required by the  
28 commission.

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

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32 SECTION 3. Arkansas Code § 26-26-1616(d)(2), concerning the  
33 disposition of ad valorem taxes and penalties collected from water  
34 transportation companies, is amended to read as follows:

35 (2) Any taxes and penalties collected in excess of two million  
36 five hundred fifty thousand dollars (\$2,550,000) each calendar year shall be

1 ~~deposited as follows:~~

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

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

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8 SECTION 4. Arkansas Code Title 26, Chapter 51, Subchapter 5, is  
9 amended to add an additional section to read as follows:

10 26-51-517. Waterways investment tax credit.

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

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

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

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

28 (A) Not exceed two million five hundred thousand dollars  
29 (\$2,500,000); and

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

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

1 of the tax credit allowed under this section.

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

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

9 (e) The Secretary of the Department of Finance and Administration  
10 shall:

11 (1) Promulgate rules to implement this section;

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

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

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19 SECTION 5. EFFECTIVE DATE. Section 4 of this act is effective for tax  
20 years beginning on or after January 1, 2024.

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22 */s/J. Dismang*  
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