

SENATE BILL NO. 217

BY SENATOR HARRIS

1 AN ACT

2 To enact R.S. 47:6036.1, relative to tax credits; to create the Louisiana Import Tax Credit;
3 to provide for eligibility requirements for port credits; to provide for application
4 requirements; to provide for the allocation of port credits; to require certifications;
5 to provide relative to the utilization of port credits; to require the Department of
6 Economic Development to provide certain information to the Department of
7 Revenue; to authorize the recovery of credits under certain circumstances; to provide
8 for certain limitations; to authorize the Department of Economic Development to
9 promulgate rules; to provide for definitions; to provide for effectiveness; and to
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:6036.1 is hereby enacted to read as follows:

13 **§6036.1. Louisiana Import Tax Credit**

14 **A. Purpose. The primary purpose of this Section is to encourage the**
15 **utilization of Louisiana public port facilities for cargo imports and the**
16 **development of new port infrastructure facilities for the manufacturing,**
17 **distribution, and warehousing of imported goods. This Section presents a**
18 **streamlined and efficient method for applying for and utilizing tax credits for**
19 **imports that places Louisiana ports in an equal position with competing states'**
20 **ports that have very simple programs in place to incentivize cargo growth.**

21 **B. Definitions. For purposes of this Section, the following words and**

1 phrases shall have the following meanings unless the context clearly indicates
2 otherwise:

3 (1) "Actual cargo volume" shall mean the total amount of imported
4 cargo received (in TEUs) by a port facility user within its port credit incentive
5 period.

6 (2) "Base cargo volume" shall mean the average amount of imported
7 cargo received (in TEUs) by a port facility user in the three years preceding an
8 application for port credits. Only cargo that is owned by a port facility user at
9 the time the port facility is used may be included in the calculation of base cargo
10 volume.

11 (3) "Base cargo volume period" shall mean the three hundred sixty-five
12 day period ending on the last day of the month immediately preceding the
13 month in which an application for port credits is postmarked, provided that
14 project agreements awarding port credits may specify a different base cargo
15 volume period.

16 (4) "Port credit" shall mean a one-time tax credit of up to fifty dollars
17 per TEU of cargo imported through a Louisiana public port, or up to one
18 hundred dollars per TEU of cargo imported through a Louisiana public port if
19 entering into a project agreement with the state, that may be applied against
20 Louisiana income tax liability, as set forth in Subsection G of this Section.

21 (5) "Port credit incentive period" shall mean the three hundred sixty-five
22 day period designated by an applicant on its application as the twelve month
23 period in which it is eligible to earn port credits as approved by the Department
24 of Economic Development, provided that the port credit incentive period shall
25 begin no earlier than the first day of the month immediately following the date
26 of the application and shall begin no later than ninety days following the date
27 of the application. Project agreements awarding port credits may specify a port
28 credit incentive period beginning on any date.

29 (6) "Port facility user" shall mean any person engaged in the
30 manufacturing, warehousing, or distribution of goods imported through a

1 public port of the state.

2 (7) "Public port" shall mean any deep-water port commission or port,
3 harbor, and terminal district as defined in Article VI, Section 44 of the
4 Constitution of Louisiana, and any other port, harbor, and terminal district
5 established under Title 34 of the Louisiana Revised Statutes of 1950.

6 (8) "TEU" shall mean twenty-foot equivalent unit, that is a standard
7 measurement in shipping volumes in units of twenty-foot long containers.

8 C. Eligibility for port credits.

9 (1) In order to become eligible for an award of port credits, an applicant
10 shall meet all of the following criteria:

11 (a) The applicant shall be a port facility user that imports more than fifty
12 TEUs of cargo through Louisiana public ports.

13 (b) The applicant shall file an application for port credits with the
14 Department of Economic Development as set forth in Subsection D of this
15 Section.

16 (c) The applicant shall increase its imported cargo volumes by at least
17 one hundred five percent during its port credit incentive period as compared to
18 imported cargo volumes during its base cargo volume period.

19 (2) A recipient of port credits granted pursuant to this Section shall not
20 be eligible for import-export cargo tax credits pursuant to R.S. 47:6036(I) nor
21 shall a recipient of port credits be eligible to receive any other state tax credit,
22 exemption, exclusion, deduction, rebate, or any other tax benefit for which the
23 taxpayer has received a port credit pursuant to this Section. A recipient of
24 import-export cargo tax credits as provided in R. S. 47:6036(I) shall not be
25 eligible for port credits pursuant to this Section.

26 (3) The following two types of credits against state income tax are hereby
27 authorized under this Section:

28 (a) Tax credits based upon cargo volumes.

29 (b) Tax credits based upon project agreement with the Department of
30 Economic Development.

1 **D. Application for and allocation of port credits based on cargo volumes.**

2 **(1) Application for port credits. Port facility users seeking to obtain port**
3 **credits shall file an application on a form prescribed by the Department of**
4 **Economic Development. Applications shall be accepted on or after September**
5 **1, 2021, until port credits are no longer available.**

6 **(2) Allocation of port credits.**

7 **(a) Eligible applicants may be awarded port credits of up to fifty dollars**
8 **per net new TEU of actual cargo volumes imported through a public port of the**
9 **state during its port credit incentive period in excess of the applicant's base**
10 **cargo volume of cargo imports through the applicable public port for the**
11 **applicant's base cargo volume period.**

12 **(b) Port credit allocations are conditional and may be awarded based on**
13 **procedures adopted by the Department of Economic Development by rule.**

14 **(c) Port credits are earned based upon actual cargo volumes transiting**
15 **the applicable public port during the port credit incentive period and the**
16 **certification of actual cargo volumes as set forth in Subsection E of this Section.**

17 **(d) A port facility user that is awarded port credits pursuant to this**
18 **Section shall not be entitled to claim more port credits than are approved by the**
19 **Department of Economic Development for that particular port facility user.**

20 **E. Certification of cargo volumes.**

21 **(1) Certification of base cargo volumes. Calculation of base cargo**
22 **volumes shall be supported by records from the applicable public port facility**
23 **confirming the total amount of imported cargo volumes in TEUs for the**
24 **applicant during the three-year period immediately preceding the port facility**
25 **user's application. If the applicant is a new port facility user, the applicant shall**
26 **propose a base cargo volume, subject to approval by the Department of**
27 **Economic Development.**

28 **(2) Certification of actual cargo volumes. Within ninety days of the end**
29 **of the port credit incentive period, the port facility user shall file a certification**
30 **of cargo volume on a form prescribed by Department of Economic**

1 Development. Certifications postmarked after this date shall not be accepted
2 unless the port facility user receives approval for late submission from the
3 Department of Economic Development prior to the deadline. Calculations of
4 actual cargo volume shall be supported by records from the applicable public
5 port facility confirming the total amount of cargo volume for the applicable
6 base port credit incentive period. Only cargo that is owned by the port facility
7 user at the time the public port facility is used shall be included in the
8 calculation of actual cargo volume.

9 F. Award of port credits by project agreement.

10 (1) Port credits may be allocated by the governor and awarded by the
11 Department of Economic Development pursuant to a project agreement
12 between the state and a port facility user. A port facility user may be awarded
13 port credits by entering into a project agreement with the Department of
14 Economic Development in an amount of up to one hundred dollars per TEU
15 imported through public ports of the state during a three-year period, as
16 defined in the project agreement, subject to the following:

17 (a) A port facility user seeking an award of port credits by project
18 agreement shall file an application with the Department of Economic
19 Development on a form prescribed by the Department of Economic
20 Development for project agreement port credits before commencement of the
21 project.

22 (b) The Department of Economic Development may approve an award
23 of port credits based on the net new TEUs of actual cargo volume imported by
24 a port facility user according to the terms set forth in an executed project
25 agreement.

26 (2) Notwithstanding approval by the Department of Economic
27 Development, a port facility user shall become eligible to earn port credits
28 under this Subsection only upon execution of a project agreement between the
29 state and the port facility user.

30 (3) A port facility user that is awarded port credits by project agreement

1 shall not be entitled to claim more port credits than are approved by the
2 Department of Economic Development for that port facility user.

3 (4) After the approval of port credits, the Department of Economic
4 Development shall provide to the Department of Revenue the name and tax
5 identification number of the applicant who is approved for port credits, the
6 total amount of credits approved for the applicant, and any other information
7 required by the Department of Revenue.

8 G. Utilization of port credits.

9 (1) Port credits may be applied against an approved company's
10 Louisiana income tax liability for the tax year containing the last day of the port
11 credit incentive period.

12 (2) Port credits are not refundable or transferable, but any unused credit
13 may be carried forward for up to five years.

14 H. Credit cap. The Louisiana Import Tax Credits awarded by the
15 department to any recipient pursuant to this Section shall be subject to the
16 program limitation of four million five hundred thousand dollars per fiscal year
17 as provided for pursuant to R.S. 47:6036(I)(2)(a)(i).

18 I. Recovery of Credits. Credits previously granted to a taxpayer, but
19 later disallowed, may be recovered by the Department of Revenue through any
20 collection remedy authorized by R.S. 47:1561.3.

21 J. Rules. The Department of Economic Development may promulgate
22 rules and regulations in accordance with the Administrative Procedure Act to
23 implement the provisions of this Section subject to oversight by the House
24 Committee on Ways and Means and the Senate Committee on Revenue and
25 Fiscal Affairs.

26 K. Termination of the credit. No credits shall be awarded pursuant to
27 this Section for applications received after July 1, 2025.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____