SLS 17RS-320 RE-REENGROSSED

2017 Regular Session

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SENATE BILL NO. 150

BY SENATORS CHABERT AND MORRELL

TAX/TAXATION. Provides for the Ports of Louisiana tax credits. (gov sig)

AN ACT

2 To amend and reenact R.S. 47:6036(C)(1)(b) as amended by Section 2 of Act No. 125 of the 2015 Regular Session of the Legislature, (G), (I)(1), (I)(1)(c) and (2)(a) and to repeal 3 4 R.S. 47:6036(C)(1)(b) as amended by Section 5 of Act No. 125 of the 2015 Regular 5 Session of the Legislature and R.S. 47:6036(K), relative to the Ports of Louisiana tax credits; to streamline the approval process; to change the overall credit caps; to 6 extend the sunset date of the credit; to remove an expired reporting provision; to 8 provide for an effective date; and to provide for related matters. Be it enacted by the Legislature of Louisiana: 9 10 Section 1. R.S. 47:6036(C)(1)(b) as amended by Section 2 of Act No. 125 of the 11 2015 Regular Session of the Legislature, (G), (I)(1), (I)(1)(c) and (2)(a) are hereby amended 12 and reenacted to read as follows: 13 §6036. Ports of Louisiana tax credits 14 C. Investor tax credit. 15 16 (1) 17

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

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(b) The Investor Tax Credit provided for in this Subsection shall be granted by the Department of Economic Development for a qualifying project if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget, and the state bond commission certifies to the secretary of the department that securing the project will result in a significant positive economic benefit to the state. "Significant positive economic benefit" means net positive tax revenue that shall be determined by taking into account direct, indirect, and induced impacts of the project based on a standard economic impact methodology utilized by the commissioner, and the value of the credit, and any other state tax and financial incentives that are used by the department to secure the project. If the commissioner with the approval of the committee so certifies, then the Department of Economic Development may grant a tax credit equal to seventy-two percent of the total capital costs of such qualifying project to be taken at five percent per tax year or shall grant such other amount of tax credit to be taken at such other percentage which is warranted by the significant positive economic benefit determined by the commissioner, but no tax credit granted for a qualifying project shall exceed one million eight hundred thousand dollars per tax year. However, the total amount of tax credits granted on a qualifying project shall not exceed the total cost of the project. In addition, the investor tax credits granted by the department to any recipient pursuant to this Section shall be limited to an amount which shall not result in a reduction of tax liability by all recipients of such credits to exceed four million five hundred thousand dollars in any fiscal year.

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G. Termination of investor and import-export cargo tax credits.

The provisions of Subsection C and I of this Section shall be effective until January 1, 2020 July 1, 2021, and no investor tax credit or import-export cargo tax credit pursuant to the provisions of this Section shall be granted after such date.

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I. Import-export cargo tax credit.

(1) Certification of taxpayer. Only those taxpayers who have received certification from the secretary of the Department of Economic Development shall be eligible to take the tax credits provided for by this Subsection and then only for the taxable year or years and for the amount provided for in the commissioner of administration's certification, approved by the Joint Legislative Committee on the Budget and the state bond commission, provided for in Item (2)(a)(ii) of this Subsection as allocated by the secretary. The secretary shall promulgate rules in accordance with the Administrative Procedure Act which establish the process by which a taxpayer shall apply for certification.

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(c) The secretary shall provide a statement of certification to each taxpayer which he has certified as eligible to take the tax credit after approval of the Joint Legislative Committee on the Budget and the state bond commission, which shall contain the taxable year or years for which the taxpayer is allowed the tax credit and the amount of tax credit allocated for such taxable year or years. The secretary shall also transmit a copy of such statement to the secretary of the Department of Revenue.

(2)(a)(i) For taxable years beginning on and after January 1, 2014, there shall be allowed a credit against the individual income, corporation income, and corporation franchise tax liability of a taxpayer who has received certification pursuant to the provisions of Paragraph (1) of this Subsection; provided that the credit shall be allowed only against the tax liability of the international business entity which receives the certification. The amount of the credit shall be equal to the product of multiplying three dollars and sixty cents by the taxpayer's number of tons of qualified cargo for the taxable year which exceeds the pre-certification tonnage or the product of multiplying the number of dollars by the taxpayer's number of tons of qualified cargo for the taxable year or portion of a taxable year which exceeds the pre-certification tonnage which is warranted by the significant positive economic benefit determined by the commissioner pursuant to Item (ii) of this Subparagraph,

whichever is less. For purposes of this Item, "pre-certification tonnage" means the number of tons of cargo which meets the definition of qualified cargo for purposes of this credit, and which was owned by the international business entity receiving the credit, were imported or exported to or from a manufacturing, fabrication, assembly, distribution, processing, or warehouse facility located in Louisiana, and which were so moved by way of an oceangoing vessel berthed at public port facilities in Louisiana during the 2013 calendar year the calendar year prior to the year in which the application is submitted. However, each tax credit granted to a taxpayer shall be subject to the same limit as is provided for a qualifying project pursuant to Subparagraph (C)(1)(b) of this Section. In addition, the import-export cargo tax credits granted by the department to any recipient pursuant to this Section shall be limited to an amount which shall not result in a reduction of tax liability by all recipients of such credits to exceed four million five hundred thousand dollars in any fiscal year.

(ii) The tax credit provided for in this Subsection shall be allowed if the

commissioner of administration certifies to the secretary of the Department of Economic Development that provided for in this Subsection whether from the increased utilization of public port facilities and other activity in Louisiana associated with the import or export of the international business entities qualified cargo will result in a significant positive economic benefit to the state. "Significant positive economic benefit means net positive tax revenue that shall be determined by taking into account direct, indirect, and induced impacts of the port and state activity based on a standard economic impact methodology utilized by the commissioner, and the value of the credit, and any other state tax and financial incentives that are used by the department to secure the port and state activity because of the tax credit, and such certification is approved by the Joint Legislative Committee on the Budget, which approval shall not be granted earlier than July 1, 2014, and the state bond commission.

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SB NO. 150

Section 2. R.S. 47:6036(C)(1)(b) as amended by Section 5 of Act No. 125 of the 2015 Regular Session of the Legislature and R.S. 47:6036(K) are hereby repealed.

Section 3. The provisions of this Act shall supercede and control to the extent of any

conflict between this Act and Act No. 125 of the 2015 Regular Session of the Legislature as amended by Act No. 29 of the 2016 First Extraordinary Session of the Legislature.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument was prepared by Leonore F. Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jeanne Johnston.

#### DIGEST 2017 Regular Session

Chabert

SB 150 Re-Reengrossed

Prior to Act 125 of the 2015 Regular Session, R.S. 47:6036(C)(1)(b) provided for an investor tax credit equal to 100% of the capital costs of a qualifying port project, up to \$2.5 million per project, with a total annual program cap of \$6,250,000 for all projects.

<u>Present law</u> (R.S. 47:6036(C)(1)(b) as amended by Section 2 of Act 125, 2015 R.S.) provides for an investor tax credit of 72% of the capital costs associated with a qualifying port project, up to \$1.8 million per project, with a total annual program cap of \$4.5 million, for projects approved by the commissioner of administration, the Joint Legislative Committee on the Budget, and the State Bond Commission. <u>Present law</u> would be effective through June 30, 2018.

<u>Proposed law</u> removes the requirement of prior approval by the State Bond Commission. Otherwise retains <u>present law</u>.

<u>Present law</u> (as amended by Section 5 of Act 125, of the 2015 R.S.) would become effective on July 1, 2018, and would restore the port project investor tax credit to an amount equal to 100% of capital costs, restore the per project credit amount and the annual total program amount, and reinstate the requirement for State Bond Commission approval.

<u>Proposed law</u> repeals R.S. 47:6036(C)(1)(b) as amended by Section 5 of Act 125 of the 2015 Regular Session, making permanent the reductions in the investor tax credits and total annual program costs as provided in Section 2 of Act 125 of 2015 R.S., and the elimination of State Bond Commission approval for such tax credits.

<u>Present law</u> provides for an import-export cargo tax credit of up to \$1.8 million per taxpayer at the rate of \$3.60 per ton of qualified cargo that is approved by the commissioner of administration, the Joint Legislative Committee on the Budget, and the State Bond Commission. <u>Proposed law</u> removes the requirement of prior approval by the State Bond Commission.

<u>Present law</u> defines "pre-certification tonnage" as the number of tons of qualified cargo owned by the international business entity receiving the credit, imported or exported, and which were moved by way of an oceangoing vessel berthed at public port facilities in this state during the 2013 calendar year.

<u>Proposed law</u> retains this provision but provides that the vessel was berthed at public port facilities in the state during the year prior to the year in which the import-export cargo credit application is submitted.

<u>Present law</u> terminates both the investor credit and the import-export cargo credit on January 1, 2020. <u>Proposed law</u> extends the termination date of both credits to July 1, 2021.

<u>Present law</u> requires the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs to review the credit to determine if the economic benefit provided by the credit outweighs the loss of revenue realized by the state as a result of awarding the credit. Requires the House and Senate committees to make their recommendations no later than March 1, 2017, to either continue the credit or to terminate the credit. Proposed law repeals the review and reporting requirement.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6036(C)(1)(b) as amended by Acts 2015, No. 125, §2, (G), (I)(1), (I)(1)(c) and (2)(a); repeals R.S. 47:6036(C)(1)(b) as amended by Acts 2015, No. 125, §5 and 6036(K))

### Summary of Amendments Adopted by Senate

# <u>Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill</u>

1. Makes the base year the previous year for cargo credits.

# <u>Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill</u>

1. Eliminates provisions that would increase the annual program cap for the investor and cargo credits to \$6.25 million for the remainder of the program.

#### Senate Floor Amendments to reengrossed bill

- 1. Makes technical corrections.
- 2. Makes permanent the reductions in the tax credit program for qualifying port projects set to sunset on 6/30/18.