

SENATE BILL NO. 122

BY SENATORS CHABERT, JOHNS, LONG, MURRAY, TARVER AND WHITE AND REPRESENTATIVES ABRAMSON, BADON, BARROW, BERTHELOT, BILLIOT, STUART BISHOP, WESLEY BISHOP, BROADWATER, BROSSETT, BROWN, HENRY BURNS, TIM BURNS, BURRELL, CARMODY, CHAMPAGNE, CONNICK, COX, DIXON, DOVE, EDWARDS, GAINES, GAROFALO, GISCLAIR, GUILLORY, GUINN, HARRISON, HAZEL, HENSGENS, HILL, HOLLIS, HOWARD, HUNTER, IVEY, JEFFERSON, JOHNSON, JONES, KLECKLEY, LEOPOLD, LORUSSO, MORENO, PONTI, PRICE, PUGH, PYLANT, REYNOLDS, RICHARD, RITCHIE, SCHEXNAYDER, ST. GERMAIN, STOKES, THOMPSON, WHITNEY, ALFRED WILLIAMS, PATRICK WILLIAMS AND WILLMOTT

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 47:6036(B)(2), R.S. 47:6036(B)(8)  
3 and (13), (C)(1)(b) and (c), (G), and (I)(2)(a), relative to the Ports of Louisiana tax  
4 credit; to provide the term of the credit; to provide for the activities and projects to  
5 which the credit applies; to provide with respect to certain determinations and  
6 certifications; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 47:6036(B)(2), R.S. 47:6036(B)(8)  
9 and (13), (C)(1)(b) and (c), (G), and (I)(2)(a) are hereby amended and reenacted to read as  
10 follows:

11 §6036. Ports of Louisiana tax credits

12 \* \* \*

13 B. Definitions.

14 For purposes of this Section, the following words shall have the following  
15 meanings unless the context clearly indicates otherwise:

16 \* \* \*

1                   (2) "Capital costs" shall mean and include all costs and expenses ~~incurred~~  
 2                   paid after July 1, 2013, by one or more investing companies in connection with the  
 3                   acquisition, construction, installation, and equipping of a qualifying project during  
 4                   the period commencing with the date on which the acquisition, construction,  
 5                   installation, and equipping commences and ending on the date on which the  
 6                   qualifying project is placed in service. Capital costs shall include, but not be limited  
 7                   to the following:

8   \*           \*           \*

9                   (8) "Port or port and harbor activity" ~~shall mean and include~~ means trade or  
 10                   business activity conducted on premises in which a duly recognized port  
 11                   authority has an ownership, leasehold, or other possessory interest and such  
 12                   premises are used as part of the operations of a duly recognized port authority,  
 13                   which is a any trade or business described in the ~~1997~~ 2012 North American  
 14                   Industry Classification System (NAICS) within Subsector 493 (Warehousing and  
 15                   Storage), Industry Number 488310 (Port and Harbor Operations), or Industry  
 16                   Number 488320 (Marine Cargo Handling), Industry Number 336611 (Ship  
 17                   Building and Repair), Industry Number 213112 (Support Activities for Oil and  
 18                   Gas Operations), ~~when the trade or business is conducted on premises in which a~~  
 19                   ~~duly recognized port authority has an ownership, leasehold, or other possessory~~  
 20                   ~~interest and such premises are used as part of the operations of a duly recognized~~  
 21                   ~~port authority~~, including the above trades and businesses as they may hereafter be  
 22                   reclassified in any subsequent publication of the NAICS or similar classification  
 23                   system developed in conjunction with the United States Department of Commerce  
 24                   and Office of Management and Budget.

25   \*           \*           \*

26                   (13) "Qualifying project" shall mean and include a project to be sponsored  
 27                   or undertaken by a public port and one or more investing companies that ~~have~~ has  
 28                   a capital cost of not less than ~~five~~ one and one-half million dollars and at which the  
 29                   predominant trade or business activity conducted will constitute ~~industrial,~~  
 30                   warehousing; or port and harbor operations and cargo handling, including any port

1 or port and harbor activity. However, "qualifying project" shall not mean bulk  
 2 liquid or gas facilities.

3 \* \* \*

4 C. Investor tax credit.

5 (1) \* \* \*

6 (b) The Investor Tax Credit provided for in this Subsection shall be ~~issued~~  
 7 **granted** by the Department of Economic Development for a qualifying project if the  
 8 commissioner of administration, after approval of the Joint Legislative Committee  
 9 on the Budget, and the state bond commission certifies to the secretary of the  
 10 department that ~~there will be sufficient revenue received by the state to offset the~~  
 11 ~~effect to the state of the tax credits provided for the capital costs of the project,~~  
 12 ~~whether from increased port or port and harbor activity because of the grant of the~~  
 13 ~~tax credit or otherwise~~ **securing the project will result in a significant positive**  
 14 **economic benefit to the state. "Significant positive economic benefit" means net**  
 15 **positive tax revenue that shall be determined by taking into account direct,**  
 16 **indirect, and induced impacts of the project based on a standard economic**  
 17 **impact methodology utilized by the commissioner, and the value of the credit,**  
 18 **and any other state tax and financial incentives that are used by the department**  
 19 **to secure the project.** If the commissioner with the approval of the committee so  
 20 certifies, then the Department of Economic Development may grant a tax credit  
 21 equal to the total capital costs of a **such** qualifying project to be taken at five percent  
 22 per tax year; **or shall grant such other amount of tax credit to be taken at such**  
 23 **other percentage which is warranted by the significant positive economic benefit**  
 24 **determined by the commissioner, but no tax credit granted for a qualifying**  
 25 **project shall exceed two million five hundred thousand dollars per tax year.**  
 26 However, the total amount of tax credits granted on a qualifying project shall not  
 27 exceed the total cost of the project. **In addition, the Investor Tax Credits granted**  
 28 **by the department to any recipient pursuant to this Section shall be limited to**  
 29 **an amount which shall not result in a reduction of tax liability by all recipients**  
 30 **of such credits to exceed six million two hundred fifty thousand dollars in any**

1 fiscal year.

2 (c) ~~The tax credit~~ Any tax credits granted pursuant to Subparagraph (b)  
3 of this Paragraph shall be earned by investors at the time expenditures are made by  
4 an investing company; however, such tax credits shall not be applied against a tax  
5 liability before July 1, 2014, and not until the project is approved by the department  
6 ~~after certification from the commissioner with the approval of the committee and the~~  
7 ~~state bond commission and~~ capital cost expenditures are certified by the department.  
8 The Department of Economic Development shall certify capital cost expenditures no  
9 less than twice during the duration of the qualifying project unless the investing  
10 company agrees, in writing, to reimburse the Department of Economic Development  
11 for the costs of any additional certifications.

12 \* \* \*

13 G. Termination of Investor and Import-Export Cargo Tax Credits.

14 The provisions of Subsection C and I of this Section shall be effective until  
15 ~~January 1, 2017~~ January 1, 2020, and no investor tax credit or import-export cargo  
16 credit pursuant to the provisions of this Section shall be granted after such date.

17 \* \* \*

18 I. ~~Import-Export~~ Cargo Credit.

19 \* \* \*

20 (2)(a)(i) For taxable years beginning on and after January 1, ~~2009~~ 2014, there  
21 shall be allowed a credit against the individual income, corporation income, and  
22 corporation franchise tax liability of a taxpayer who has received certification  
23 pursuant to the provisions of Paragraph (1) of this Subsection; provided that the  
24 credit shall be allowed only against the tax liability of the international business  
25 entity which receives the certification. The amount of the credit shall be equal to  
26 the product of multiplying five dollars by the taxpayer's number of tons of qualified  
27 cargo for the taxable year ~~but only for the total amount of the allocation provided to~~  
28 ~~the taxpayer by the secretary of the Department of Economic Development for such~~  
29 ~~taxable year~~ which exceeds the pre-certification tonnage or the product of  
30 multiplying the number of dollars by the taxpayer's number of tons of qualified

1 cargo for the taxable year or portion of a taxable year which exceeds the pre-  
2 certification tonnage which is warranted by the significant positive economic  
3 benefit determined by the commissioner pursuant to Item (ii) of this  
4 Subparagraph, whichever is less. For purposes of this Item, "pre-certification  
5 tonnage" means the number of tons of cargo which meets the definition of  
6 qualified cargo for purposes of this credit, and which was owned by the  
7 international business entity receiving the credit, were imported or exported to  
8 or from a manufacturing, fabrication, assembly, distribution, processing, or  
9 warehouse facility located in Louisiana, and which were so moved by way of an  
10 oceangoing vessel berthed at public port facilities in Louisiana during the 2013  
11 calendar year. However, each tax credit granted to a taxpayer shall be subject  
12 to the same limit as is provided for a qualifying project pursuant to  
13 Subparagraph (C)(1)(b) of this Section. In addition, the Import-Export Cargo  
14 Credits granted by the department to any recipient pursuant to this Section  
15 shall be limited to an amount which shall not result in a reduction of tax liability  
16 by all recipients of such credits to exceed six million two hundred fifty thousand  
17 dollars in any fiscal year.

18 (ii) The tax credit provided for in this Subsection shall ~~only~~ be allowed for  
19 ~~all or a portion of a fiscal year~~ if the commissioner of administration certifies to the  
20 secretary of the Department of Economic Development that ~~there will be sufficient~~  
21 ~~revenue received by the state to offset the effect to the state of the tax credits~~  
22 provided for in this Subsection whether from the increased utilization of public port  
23 facilities and other activity in Louisiana associated with the import or export of  
24 the international business entities qualified cargo will result in a significant  
25 positive economic benefit to the state. "Significant positive economic benefit"  
26 means net positive tax revenue that shall be determined by taking into account  
27 direct, indirect, and induced impacts of the port and state activity based on a  
28 standard economic impact methodology utilized by the commissioner, and the  
29 value of the credit, and any other state tax and financial incentives that are used  
30 by the department to secure the port and state activity because of the tax credit

1           ~~or otherwise~~, and such certification is approved by the Joint Legislative Committee  
2           on the Budget, **which approval shall not be granted earlier than July 1, 2014**, and  
3           the state bond commission.

\*           \*           \*

5           Section 2. This Act shall become effective on July 1, 2013; if vetoed by the governor  
6           and subsequently approved by the legislature, this Act shall become effective on July 1,  
7           2013, or on the day following such approval by the legislature, whichever is later.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_