Regular Session, 2013

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	* * *

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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
16 17	Number 488320 (Marine Cargo Handling), Industry Number 336611 (Ship Building and Repair), Industry Number 213112 (Support Activities for Oil and
17	Building and Repair), Industry Number 213112 (Support Activities for Oil and
17 18	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a
17 18 19	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory
17 18 19 20	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized
17 18 19 20 21	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority, including the above trades and businesses as they may hereafter be
 17 18 19 20 21 22 	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations) , when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority, including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification
 17 18 19 20 21 22 23 	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations) , when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority, including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification system developed in conjunction with the United States Department of Commerce
 17 18 19 20 21 22 23 24 	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations) , when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority, including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification system developed in conjunction with the United States Department of Commerce and Office of Management and Budget.
 17 18 19 20 21 22 23 24 25 	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority; including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification system developed in conjunction with the United States Department of Commerce and Office of Management and Budget.
 17 18 19 20 21 22 23 24 25 26 	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority, including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification system developed in conjunction with the United States Department of Commerce and Office of Management and Budget.
 17 18 19 20 21 22 23 24 25 26 27 	Building and Repair), Industry Number 213112 (Support Activities for Oil and Gas Operations), when the trade or business is conducted on premises in which a duly recognized port authority has an ownership, leasehold, or other possessory interest and such premises are used as part of the operations of a duly recognized port authority, including the above trades and businesses as they may hereafter be reclassified in any subsequent publication of the NAICS or similar classification system developed in conjunction with the United States Department of Commerce and Office of Management and Budget. * * * * (13) "Qualifying project" shall mean and include a project to be sponsored or undertaken by a public port and one or more investing companies that have has

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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
16 17	indirect, and induced impacts of the project based on a standard economic impact methodology utilized by the commissioner, and the value of the credit,
17	impact methodology utilized by the commissioner, and the value of the credit,
17 18	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
17 18 19	 <u>impact methodology utilized by the commissioner, and the value of the credit,</u> <u>and any other state tax and financial incentives that are used by the department</u> <u>to secure the project</u>. If the commissioner with the approval of the committee so
17 18 19 20	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
17 18 19 20 21	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 the total capital costs of a <u>such</u> qualifying project to be taken at five percent
17 18 19 20 21 22	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 the total capital costs of a <u>such</u> qualifying project to be taken at five percent per tax year; <u>or shall grant such other amount of tax credit to be taken at such</u>
 17 18 19 20 21 22 23 	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 the total capital costs of a <u>such</u> qualifying project to be taken at five percent per tax year; <u>or shall grant such other amount of tax credit to be taken at such</u> <u>other percentage which is warranted by the significant positive economic benefit</u>
 17 18 19 20 21 22 23 24 	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 the total capital costs of a <u>such</u> qualifying project to be taken at five percent per tax year; <u>or shall grant such other amount of tax credit to be taken at such</u> other percentage which is warranted by the significant positive economic benefit determined by the commissioner, but no tax credit granted for a qualifying
 17 18 19 20 21 22 23 24 25 	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 the total capital costs of a <u>such</u> qualifying project to be taken at five percent per tax year; <u>or shall grant such other amount of tax credit to be taken at such</u> 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 two million five hundred thousand dollars per tax year.
 17 18 19 20 21 22 23 24 25 26 	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 the total capital costs of a <u>such</u> qualifying project to be taken at five percent per tax year; <u>or shall grant such other amount of tax credit to be taken at such</u> <u>other percentage which is warranted by the significant positive economic benefit</u> <u>determined by the commissioner, but no tax credit granted for a qualifying</u> <u>project shall exceed two million five hundred thousand dollars per tax year</u> . However, the total amount of tax credits granted on a qualifying project shall not
 17 18 19 20 21 22 23 24 25 26 27 	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 the total capital costs of a 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 two million five 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

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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 <u>-</u> Export Cargo Credit.
19	* * *
20	(2)(a)(i) For taxable years beginning on and after January 1, $\frac{2009}{2014}$, 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

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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 <u>the</u> 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"

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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

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1	or otherwise, and such certification is approved by the Joint Legislative Committee
2	on the Budget <u>, which approval shall not be granted earlier than July 1, 2014,</u> and
3	the state bond commission.
4	* * *
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: _____