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## HOUSE BILL NO. 2385

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on February 2, 2011)

(Patron Prior to Substitute—Delegate Purkey)

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:06, relating to an international trade facility income tax credit.

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:06 as follows:**

§ 58.1-439.12:06. Barge and rail usage tax credit.

A. As used in this section:

"International trade facility" means a company that satisfies the following:

1. Is engaged in port-related activities, including but not limited to warehousing, distribution, freight forwarding and handling, and goods processing;

2. Uses maritime port facilities located in the Commonwealth; and

3. Uses barges and rail systems to move cargo containers through port facilities in and around the Commonwealth rather than trucks or other motor vehicles on the highways.

B. For taxable years beginning on and after January 1, 2011, but before January 1, 2015, a company that is an international trade facility shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3. The amount of the credit shall be \$50 per 20-foot equivalent marine cargo container moved by barge or rail rather than trucks or other motor vehicles on the highways. The total amount of tax credits available under this section for any taxable year shall not exceed \$1.5 million. If the amount of tax credits requested for any taxable year exceeds \$1.5 million, such credits shall be allocated proportionately among all qualified international trade facilities.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. Any credit not usable for the taxable year may be carried over for the next five taxable years or until such credit is fully taken, whichever occurs first. The amount of the credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If a taxpayer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year before using any credit allowed pursuant to this section.

E. The Tax Commissioner shall issue guidelines that are necessary and desirable to carry out the provisions of this section, including (i) the computation and carryover of the credits provided under this section and (ii) the establishment of criteria for international trade facilities. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.)