

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Harry R. Purkey

3. **Committee** Senate Finance

4. **Title** Income tax; barge and rail usage tax credit

2. **Bill Number** HB 2385

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow a tax credit for transporting additional containers by barge or rail. The amount of the credit for any international trade facility would be equal to \$50.00 per 20-foot equivalent marine cargo container moved by barge or rail rather than by trucks or other motor vehicles on the highways.

The total amount of credits available would not exceed \$1.5 million. If the amount of tax credits requested for a taxable year exceeded the \$1.5 million cap, then the credits would be allocated proportionately among all qualified international trade facilities.

Taxpayers would be able to claim this credit against the individual income tax, the tax on estates and trusts, and the corporate income tax.

The credit would be effective for taxable years beginning on and after January 1, 2011, but before January 1, 2015.

This is an executive bill.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact** (See Line 8.)

8. **Fiscal implications:**

Administrative Costs - TAX

TAX considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

Because the credit is subject to an annual cap, the maximum revenue impact would be an annual \$1.5 million revenue loss. No budget amendment is needed as this bill is funded

in the introduced Executive Budget as part of the Governor's transportation package for the ports.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Transportation

10. Technical amendment necessary: No.

11. Other comments:

Proposed Legislation

This bill would allow an income tax credit for transporting additional containers on a barge or by rail. The amount of the credit for any international trade facility would be equal to \$50.00 per container moved by barge or rail rather than by trucks or other motor vehicles on Virginia highways.

For purposes of this bill, an "international trade facility" would be a company that is engaged in port-related activities, including but not limited to warehousing, distribution, freight forwarding and handling, and goods processing; uses maritime port facilities located within the Commonwealth; and undertakes activities that result in utilizing a barge or rail to move cargo containers rather than using trucks or other motor vehicles on a highway.

Taxpayers would be able to claim this credit against the individual income tax, the corporate income tax, and the tax on estates and trusts.

Any amount of credit attributable to a partnership, S-corporation, or limited liability company would be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in the business entity.

TAX would be required to issue guidelines to carry out the provisions of this bill, including the computation and carryover of credits and the establishment of criteria for international trade facilities. Such guidelines would be exempt from the Administrative Process Act.

The guidelines, forms, and instructions issued by TAX would require that the containers for which a credit is claimed resulted from a diversion of shipments from the highways; in other words, that an increase in barge or rail traffic be linked to a decrease in traffic on the highways. Also, the international trade facility would be linked to the person with an ownership interest in the cargo who controls the choice of transportation.

The credit would be effective for taxable years beginning on and after January 1, 2011, but before January 1, 2015.

Similar Legislation in Other States

Six states (Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina) currently have statutes directed at increasing the use of state ports. Alabama, Georgia, and Louisiana allow investment tax credits related to port infrastructure. In addition to its investment tax credit, Georgia also allows a job tax credit related to the use of state ports. Mississippi allows tax credits that are equal to the charges paid for exporting and importing cargo from ports located within the state. Similarly, North Carolina allows a tax credit equal to increasing export and import charges.

Louisiana and South Carolina currently allow tax credits based on the volume of cargo imported or exported from state ports. Louisiana allows an import export cargo credit against the individual income tax, the corporate income tax, and the corporate franchise tax equal to \$5 per ton of qualified cargo. The amount of the credit is limited to the taxpayer's tax liability for the taxable year and the credit may be carried forward for a period of five taxable years. To qualify for the credit, a taxpayer must first be certified by the Louisiana Department of Economic Development.

South Carolina allows a tax credit for taxpayers whose port cargo volume at state port facilities increases by a minimum of five percent in a calendar year over their base year port cargo volume. For purposes of the tax credit, "port cargo volume" is defined as the total amount of net tons of noncontainerized cargo or containers measured in twenty-foot equivalent units (TEUs) of cargo transported by way of waterborne ship or vehicle through a port facility.

Similar Legislation

Senate Bill 1282 is similar to this bill, except that it is allowed against several additional types of taxes and it creates a slightly different process for issuing credits.

Senate Bill 1136 would create an alternative income tax credit for either capital investment in an international trade facility or increased employment due to increased qualified trade activities at an international trade facility.

House Bill 2531 and **Senate Bill 1481** would allow tax credits for certain taxpayers that increase port cargo volume at Virginia port facilities by five percent over the base year.

cc : Secretary of Finance

Date: 2/11/2011 KLC
HB2385FE161