DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. **Patron** S. Chris Jones

2. **Bill Number** HB 873
   House of Origin:
   _____ **Introduced**
   _____ **Substitute**
   _____ **Engrossed**

   Second House:
   __X__ **In Committee**
   _____ **Substitute**
   _____ **Enrolled**

3. **Committee** Senate Finance

4. **Title** Virginia Port Volume Increase Tax Credit

5. **Summary/Purpose:**

   This bill would increase the annual cap for the International Trade Facility Tax Credit by $1 million, from $250,000 to $1.25 million, and would reduce the annual cap for the Barge and Rail Usage Tax Credit by $1 million, from $1.5 million to $500,000.

   This bill would permit qualifying taxpayers to claim the Barge and Rail Usage Tax Credit and Port Volume Increase Tax Credit for the same cargo, so long as the taxpayer meets the criteria of both credits.

   This bill would also expand the International Trade Facility, Barge and Rail Usage, and Virginia Port Volume Increase Tax Credits to allow taxpayers to claim such credits for roll-on/roll-off cargo, and make several technical corrections to the three credits.

   This bill would require the Department of Taxation ("the Department") to annually provide information to the Virginia Port Authority regarding the International Trade Facility and the Barge and Rail Usage Tax Credits, notwithstanding the secrecy of taxpayer information provisions of the *Code of Virginia*.

   This bill would be effective for taxable years beginning on or after January 1, 2014, for the Commonwealth's 2014-2015 fiscal year, and for all fiscal years thereafter.

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

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

8. **Fiscal implications:**

   Administrative Impact

   The Department and the Virginia Port Authority consider implementation of this bill as routine, and do not require additional funding.

Revenue Impact

This bill would have no impact on General Fund revenues. Assuming that the International Trade Facility and Barge and Rail Usage Tax Credits will be fully utilized if this bill is enacted, the negative General Fund revenue impact of increasing the International Trade Facility Tax Credit cap by $1 million would be offset by the positive General Fund revenue impact of reducing the Barge and Rail Usage Tax Credit cap by $1 million.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Port Authority

10. Technical amendment necessary: No.

11. Other comments:

Current Law

International Trade Facility Tax Credit

The International Trade Facility Tax Credit is allowed for taxpayers that increase jobs at an international trade facility or invest in an international trade facility. The amount of the credit is equal to either $3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or 2 percent of the capital investment made by the taxpayer to facilitate the increased qualified trade activities. For international trade facilities that create jobs or make capital investments in a tobacco-dependent locality, the amount of the credit is equal to either $7,000 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or 4 percent of the capital investment made by the taxpayer to facilitate the increased qualified trade activities. The increased credit for jobs created or capital investments made in a tobacco-dependent locality are only allowed to the extent that moneys from the Tobacco Indemnification and Community Revitalization Fund are deposited into the Technology Initiative in Tobacco-Dependent Localities Fund for the purpose of funding the credit.

The credit is capped at $250,000 per fiscal year. The credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2017.

"International trade facility" is defined as 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 in the Commonwealth; and
- Transports at least 10 percent more cargo, measured in 20-foot equivalent marine containers, through maritime port facilities in the Commonwealth during the taxable year than was transported by the company through such facilities during the preceding taxable year.

"Qualified trade activities" are defined as the completed exportation or importation of at least one International Organization for Standardization ocean container, with a minimum 20-foot length, through a Virginia Port Authority-operated cargo facility. An export container must be loaded on a barge or ocean-going vessel and an import container must be discharged from a barge or ocean-going vessel at such facility.

Barge and Rail Usage Tax Credit

The Barge and Rail Usage Tax Credit is allowed for an international trade facility that transport containers by barge or rail, rather than by trucks or other motor vehicles on the Commonwealth's highways. The amount of the credit is $25 per 20-foot equivalent unit ("TEU") or 16 tons of noncontainerized cargo moved by barge or rail.

The credit is capped at $1.5 million per fiscal year. The credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2017.

Virginia Port Volume Increase Tax Credit

The Virginia Port Volume Increase Tax Credit is allowed for a taxpayer that is an agricultural entity, manufacturing-related entity, or mineral and gas entity that uses port facilities in the Commonwealth, and increases its port cargo volume at such facilities by a minimum of five percent in a single calendar year over its base year port cargo volume. The amount of the credit is equal to $50 for each TEU above the base year port cargo volume, or $50 for each TEU transported through a port facility during a major facility's first calendar year.

A qualifying taxpayer may receive no more than $250,000 in credits per calendar year. The credit is capped at $3.2 million per calendar year. The credit is effective for taxable years beginning on and after January 1, 2011, but before January 1, 2017.

A taxpayer may qualify for the International Trade Facility Tax Credit, Barge and Rail Usage Tax Credit, and Virginia Port Volume Increase Tax Credit in the same year. However, a taxpayer cannot claim more than one of these credits in such year for the same activity or activities.

Secrecy of Taxpayer Information

Unless an exception applies, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to the law, or any former officer or employee of any of the aforementioned offices may not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm, or corporation. This prohibition applies to any copy of a federal return or federal return information that is required to be attached to or included in the Virginia return. It also applies to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provision of the *Code of Virginia* implementing the Tobacco Master Settlement Agreement.

It is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. This prohibition does not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure.

Neither prohibition applies if the disclosure was one that was authorized under Virginia law.

Proposed Legislation

This bill would increase the annual cap for the International Trade Facility Tax Credit by $1 million, from $250,000 to $1.25 million, and would reduce the annual cap for the Barge and Rail Usage Tax Credit by $1 million, from $1.5 million to $500,000.

This bill would permit qualifying taxpayers to claim the Barge and Rail Usage Tax Credit and Port Volume Increase Tax Credit for the same cargo, so long as the taxpayer meets the criteria of both credits.

This bill would also expand the International Trade Facility, Barge and Rail Usage, and Virginia Port Volume Increase Tax Credits to allow taxpayers to claim such credits for roll-on/roll-off (RORO) cargo, and make several technical corrections to the three credits.

International Trade Facility Tax Credit

This bill would lower the threshold for the increased amount of cargo that must be transported through maritime port facilities in the Commonwealth during the taxable year in order to qualify for the International Trade Facility Tax Credit from 10 percent to 5 percent.

This bill would expand the definition of qualified trade activities for which the credit may be claimed. Under current law, “qualified trade activities” include the completed exportation or importation of at least one International Organization for Standardization (ISO) ocean container, with a minimum 20-foot-length, through a Virginia Port Authority-operated cargo facility. This bill would expand this definition to include the exportation or importation of at least 16 tons of noncontainerized cargo or one unit of roll-on/roll-off cargo. Additionally, under this bill, cargo would qualify if it is transported through any publicly or privately owned cargo facility located within the Commonwealth.

This bill would also strike an obsolete provision that allows an increased International Trade Facility Tax Credit amount for international trade facilities that create jobs or make capital investments in a tobacco-dependent locality. Current law states that an increased credit amount is available to the extent moneys from the Tobacco Indemnification and Community Revitalization Fund are deposited into the Technology Initiative in Tobacco-Dependent Localities Fund (the Fund) for the purpose of funding the International Trade Facility Tax Credit. Such funding has never been provided. The law provides that any money remaining in the Fund after any eligible tax credits have been claimed for taxable years beginning before January 1, 2013, any money remaining in the Fund must revert to the Tobacco Indemnification and Community Revitalization Fund. Unless the General

Assembly subsequently amends this provision of the law, funding will not be available for the increased credit amount.

Barge and Rail Usage Tax Credit

This bill would expand the Barge and Rail Usage Tax Credit to allow an international trade facility to receive a credit for roll-on/roll-off cargo, in addition to 20-foot equivalent units (TEUs) and noncontainerized cargo. The amount of the credit for such cargo would be equal to $25 for each unit of roll-on/roll-off cargo moved by barge or rail rather than by trucks or other motor vehicles on the Commonwealth's highways.

Port Volume Increase Tax Credit

This bill would expand the Port Volume Increase Tax Credit to allow qualifying taxpayers to receive a credit for roll-on/roll-off cargo. The amount of the credit for such cargo would be $50 for each unit of roll-on/roll-off cargo above such taxpayer's base year port cargo volume, or for each unit of roll-on/roll-off cargo transported through a port facility during a major facility's first year. This bill would also update the definitions of "base year port cargo volume" and "port cargo volume" to include roll-on/roll-off cargo. The minimum base year port cargo volume under this bill would be equal to at least 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo.

Exchange of Taxpayer Information

This bill would require the Department of Taxation ("the Department") to annually provide information to the Virginia Port Authority regarding the International Trade Facility and the Barge and Rail Usage Tax Credits, notwithstanding the secrecy of taxpayer information provisions of the *Code of Virginia*.

This bill would be effective for taxable years beginning on or after January 1, 2014, for the Commonwealth's 2014-2015 fiscal year, and for all fiscal years thereafter.

<u>Similar Bills</u>

House Bill 672 would require the Department and the VPA to exchange information regarding whether a qualified company has claimed Major Business Facility Job Tax Credits or International Trade Facility Tax Credits for the same employees or capital expenditures for which a Port of Virginia Economic and Infrastructure Development Zone Grant is claimed.

House Bill 99 would increase the penalty for impermissibly divulging tax information and for disseminating, publishing, or causing to be published any confidential tax document from a Class 2 misdemeanor to a Class 1 misdemeanor.

House Bill 121 would require the Department to disclose to the General Assembly the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of how few taxpayers took the deduction or credit, or any other circumstances.

cc : Secretary of Finance