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**HOUSE BILL NO. 1348**

Offered January 26, 1998

*A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.7, relating to a withholding tax credit for investments in the shipbuilding industry.*

Patrons—Diamonstein, Abbitt, Barlow, Behm, Blevins, Callahan, Christian, Crittenden, Croshaw, Davies, DeBoer, Drake, Grayson, Hamilton, Howell, Johnson, Jones, S.C., Katzen, McClure, Moss, O'Brien, Parrish, Purkey, Robinson, Rust, Sherwood, Shuler, Spruill, Stump, Wagner, Wardrup and Williams; Senators: Barry, Bolling, Forbes, Hawkins, Lambert, Lucas, Maxwell, Miller, Y.B., Norment, Potts, Quayle, Reasor, Reynolds, Saslaw, Schrock, Stolle, Walker and Williams

Referred to Committee on Finance

**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 58.1-439.7 as follows:**

*§ 58.1-439.7. Shipbuilding investment tax credit.*

*A. The General Assembly of Virginia finds that the encouragement of major investments in shipbuilding facilities in Virginia, the preservation of thousands of existing jobs, and the creation of new jobs in Virginia's shipbuilding industry are in the best interest of the Commonwealth and its citizens. The General Assembly has determined that the establishment of a center in Virginia to undertake (i) testing and integration development projects, (ii) research, and (iii) training of workers in the shipbuilding industry will enhance and promote the quality and competitiveness of Virginia's shipbuilding industry, is in the public interest and will promote the general welfare of the citizens of Virginia. The General Assembly finds that several states have provided financial and other incentives to preserve, expand and promote their shipbuilding industries. The General Assembly further finds that the enactment of incentives for the construction of a carrier platform integration center in Virginia is necessary to maintain Virginia's position as a leader in the shipbuilding industry and related defense industries and will thereby contribute to the strength and expansion of Virginia's economy.*

*B. As used in this section:*

*"Affiliate" of a specific company means a company that is directly or indirectly controlled by, or is under common control with, the company specified.*

*"Certified carrier platform integration center" means a shipbuilding facility, sponsored and operated in Virginia by a qualified shipbuilder, that is certified by the Secretary in accordance with subsection C as being established and operated primarily (i) to perform testing and integration projects, including research and development concerning those projects, and other projects relating to the design and integration of navigation, communication, weapon, and other ship systems for aircraft carriers, and (ii) to provide education, training, and retraining of workers in the shipbuilding industry.*

*"Qualified contribution" means a contribution, in cash or in kind, for the construction, expansion, improvement, modernization, operation or maintenance of a certified carrier platform integration center. The value of contributions of property or services shall be the fair market value of such property or services on the date of contribution.*

*"Qualified investment" means any expenditure capitalized for federal income tax purposes that is related to the construction, expansion, improvement or modernization of a shipbuilding facility in Virginia and shall include qualified contributions. Except for qualified contributions and for salaries that are capitalized as part of the cost of a shipbuilding facility, "qualified investment" shall not include the salaries or other compensation paid to employees of a qualified shipbuilder or its affiliates.*

*"Qualified shipbuilder" means a corporation that (i) is primarily engaged in designing, constructing, overhauling, modernizing, and repairing ships at its facilities in Virginia; (ii) employs more than 10,000 persons at its shipbuilding facilities in Virginia; and (iii) makes a qualified investment of at least \$50 million in the calendar year preceding each year in which the credit provided by this section is claimed.*

*"Secretary" means the Secretary of Commerce and Trade or his designee.*

*"Shipbuilding facility" means any property, including land, buildings and other improvements to real estate, tangible personal property, machinery and tools, ships, boats and parts thereof, docks and dry docks, employed or designed to be employed in the shipbuilding industry.*

*"Shipbuilding industry" includes (i) businesses engaged in designing, building, overhauling, modernizing and repairing ships in Virginia and (ii) other persons engaged in research, design, manufacturing or other activities in Virginia that are directly related to, or that provide necessary*

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60 support for, such businesses.

61 "Sponsor" means a qualified shipbuilder that establishes and operates a certified carrier platform  
62 integration center, and includes the affiliates of such qualified shipbuilder.

63 "Withholding taxes" means the state income taxes deducted and withheld from wages of employees  
64 pursuant to Article 16 (§ 58.1-460 et seq.) of this chapter.

65 C. Prior to certifying a shipbuilding facility as a carrier platform integration center, the Secretary  
66 shall find that the sponsor has, to the extent practicable and consistent with the security requirements of  
67 the United States government and the protection of the sponsor's proprietary data and information,  
68 established procedures to:

69 1. Include members of the faculties and staffs of those public institutions of higher education in  
70 Virginia that provide engineering and other courses of study relevant to the shipbuilding industry, in the  
71 center's research and development, education and training activities; and

72 2. Allow other members of the shipbuilding industry access to, and participation in, the activities of  
73 the carrier platform integration center, including its ship systems integration activities. The training,  
74 retraining and education services provided by the certified carrier platform integration center shall not  
75 be limited to employees of the sponsor.

76 D. Subject to the limitations specified in subsection E, any qualified shipbuilder shall be entitled to a  
77 credit against its withholding taxes of an amount equal to its qualified contributions. Notwithstanding  
78 the provisions of § 58.1-472, the qualified shipbuilder shall not be required to remit withheld taxes of an  
79 amount equal to the amount of the credit allowed under this section. The amount credited against  
80 withholding taxes pursuant to this subsection shall be stated separately on the withholding tax returns  
81 submitted by the qualified shipbuilder.

82 E. The credit authorized by this section shall be subject to the following limitations:

83 1. The credit shall be offset against withholding taxes on wages earned by employees of the qualified  
84 shipbuilder and paid by the qualified shipbuilder after June 30, 1998, but before January 1, 2004;

85 2. The credit shall be taken only for those qualified contributions made after December 31, 1997, but  
86 before January 1, 2004;

87 3. The total credit taken by all qualified shipbuilders shall not exceed (i) \$30 million in any calendar  
88 year and (ii) \$140 million in the aggregate;

89 4. The credit taken by any qualified shipbuilder shall not exceed the qualified contributions made by  
90 that qualified shipbuilder on or before the date the credit is claimed by that qualified shipbuilder,  
91 reduced by the amount of credits previously claimed under this section by that qualified shipbuilder;  
92 and

93 5. The Tax Commissioner shall notify, at least annually, every qualified shipbuilder claiming a credit  
94 under this section of the total amount of credits claimed by all qualified shipbuilders. If the annual or  
95 cumulative limitation in subdivision 3 is exceeded, the available credits for the affected withholding  
96 period shall be allowed in proportion to each qualified shipbuilder's credit otherwise allowable for that  
97 period, (including any unused amount carried forward from a prior reporting period), and the Tax  
98 Commissioner shall assess the qualified shipbuilders, with interest but without penalty, for any resulting  
99 underpayment.

100 F. The amount of withholding taxes deducted and withheld by a qualified shipbuilder from the wages  
101 of an employee shall be considered remitted pursuant to Article 16 (§ 58.1-460 et seq.) of this chapter  
102 to the Tax Commissioner on behalf of that employee from whom the income tax was withheld without  
103 regard to any credit taken by a qualified shipbuilder under this section, and that employee shall be  
104 credited with having paid that amount of tax in the taxable year with respect to which the taxes were  
105 withheld without regard to any credit taken under this section.

106 G. A qualified shipbuilder claiming or intending to claim the credit allowed by this section shall  
107 submit annually to the Tax Commissioner a copy of the certification from the Secretary that its certified  
108 carrier platform integration center has met the requirements of subsection C, together with a statement,  
109 approved by an independent certified public accountant licensed by the Commonwealth, confirming that  
110 the qualified shipbuilder: (i) has made a qualified investment of at least \$50 million during the  
111 preceding calendar year; (ii) employs more than 10,000 persons in Virginia; (iii) has made qualified  
112 contributions and stating the total amount of such qualified contributions; and (iv) is eligible for the  
113 credit claimed pursuant to this section and stating the total amount of credits claimed. The statement  
114 shall be in the form specified by the Tax Commissioner, shall be submitted with the annual report of  
115 corporation income tax required by Article 14 (§ 58.1-440 et seq.) of this chapter, and shall be subject  
116 to audit and verification by the Department.

117 2. That the provisions of this act shall expire on December 31, 2003.