DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Jeffrey L. McWaters

2. Bill Number SB 1282

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee House Finance

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

5. Summary/Purpose:

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 20-foot equivalent unit (TEU) moved by barge or rail rather than by trucks or other motor vehicles on Virginia's highways.

To receive a credit under this bill, an international trade facility would be required to apply to TAX. No more than $1.5 million in tax credits could be issued in any fiscal year. TAX would determine the allowable credit amount for the taxable year and provide a written certification of the credit amount to each taxpayer.

Taxpayers would be able to claim this credit against the individual income tax, the corporate income tax, the tax on estates and trusts, the bank franchise tax, the insurance premiums tax, and the tax on public service corporations.

The credit would be effective for taxable years beginning on and after January 1, 2011, but before January 1, 2015. No tax credits could be issued after the fiscal year ending June 30, 2015.

This is an executive bill.

6. Budget amendment necessary: No.

7. No Fiscal Impact (See Line 8.)

8. Fiscal implications:

<u>Administrative Impact</u>

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
Virginia Port Authority

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 20-foot equivalent unit (TEU) moved by barge or rail rather than by trucks or other motor vehicles on Virginia's highways.

For purposes of this bill, an "international trade facility" would be a company that is doing business in Virginia and is engaged in port-related activities, including but not limited to warehousing, distribution, freight forwarding and handling, and goods processing; has the sole discretion and authority to move cargo in containers originating or terminating in Virginia; 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.

To receive a credit under this bill, an international trade facility would be required to apply to TAX. No more than $1.5 million in tax credits could be issued in any fiscal year. TAX would determine the allowable credit amount for the taxable year and provide a written certification of the credit amount to each taxpayer.

Taxpayers would be able to claim this credit against the individual income tax, the corporate income tax, the tax on estates and trusts, the bank franchise tax, the insurance premiums tax, and the tax on public service corporations.

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. No tax credits could be issued after the fiscal year ending June 30, 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

House Bill 2385 is similar to this bill, except that may only be claimed against the individual income, trust and estate, and corporate income 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