

Senate Bills with Proposed Amendments

SB 987 (Puller/Stosch)/HB 1645 (O'Bannon) Real Property Tax; Exemption for Disabled Veterans

General Assembly Action: As required, codifies the constitutional amendment adopted by voters in November 2010 that provides for a property tax exemption for the principal residence of veterans who have a 100 percent service-related disability and for their surviving spouses, as long as the spouse does not remarry. The bill specifies that the exemption covers the land, not exceeding one acre, upon which the residence is located.

The bill also specifies that the surviving spouse of a veteran that qualified for the exemption is eligible for the exemption, if the death occurred on or after January 1, 2011. Required documentation to apply for the exemption is specified.

An emergency clause states the Act is in force from its passage.

Governor's Action: Proposes an amendment clarifying that tax relief would be for the entire 2011 calendar year and would not need to be prorated to cover just the portion of the year after the statute went into effect. The amendment specifies the exemption applies for tax years beginning on or after January 1, 2011. (The Constitutional amendment was ratified on November 2, 2010 and was effective January 1, 2011.)

Note: Questions have been raised as to whether the Constitutional amendment was meant to apply to spouses of disabled veterans who died prior to January 1, 2011. SB 987/HB 1645 states that death had to occur on or after January 1, 2011, in order for the surviving spouse to be eligible. The Governor's amendment does not deal with this issue.

SB 999 (Stosch/McEachin)/HB 1822 (Peace)
Local Defense Production Zones

General Assembly Action: Created a separate classification of machinery and tools designed and used directly in manufacturing or processing materials, components, or equipment for national defense. Local governments would be authorized to tax such machinery and tools at a rate that is less than the rate generally applicable to machinery and tools.

The bill also authorizes local governments to establish, by ordinance, local defense production zones including incentives and regulatory flexibility for the design, development, or production by a defense production business of materials, components, or equipment for national defense.

Governor's Action: Proposes three amendments, of which the first two are technical and clarifying in nature. The third amendment strikes language that required all incentive proposals to conform with the Virginia and U.S. Constitutions. This language is unnecessary since this would be required anyway.

SB 1062 (Howell)/HB 2467 (Greason)
Health insurance; mandated coverage for
Autism spectrum disorder

General Assembly Action: Requires that group health insurance plans, including the health insurance plan for state employees, provide coverage for the diagnosis of autism spectrum disorder and the treatment of autism spectrum disorder in individuals from ages two through six.

Treatment for autism spectrum disorder would be identified in a treatment plan prescribed or ordered by a licensed physician or a licensed psychologist who determines the care to be medically necessary.

The provisions of SB 1062 requiring coverage for behavioral health treatment would not apply to a state or local health plan where the costs would increase premiums by 1.0 percent or more.

The bill caps the amount of coverage that a plan must provide for the applied behavior analysis component of a treatment plan at \$35,000.

Governor's Action: Proposes the following amendments:

- 1) Requires that applied behavior analysis care must be provided or supervised by a Board of Medicine-licensed analyst rather than an analyst certified by the Behavior Analyst Certification Board, and the analyst must be independent from the prescribing practitioner.
- 2) The annual review of treatment that is allowed by an insurer, corporation or health maintenance organization may be an independent review, the cost of which would be covered by the insurance program.
- 3) Allows insurance providers to require prior authorization for treatment of autism spectrum disorder.
- 4) Adds a second enactment clause that causes the provisions of SB 1062 to expire if the annual cap of \$35,000 for applied behavior analysis is invalidated by state or federal law, or it is found to be invalid by a court.

Notes:

- The Board of Medicine does not license Applied Behavior Analysts.
- The \$35,000 cap on annual benefits may be invalid under the provisions of the Mental Health and Substance Abuse Parity

Act (“Wellstone Act”). This federal law went into effect in 2009, and prohibits plans from requiring more restrictive financial and treatment limitations for mental health or substance abuse than for medical/surgical benefits.

- The General Assembly provided \$400,000 for the projected impact of SB 1062 on the state employee health benefits plan.

SB 1130 (Stosch)

Taxation; removes obsolete language from various sections of Title 58.1

General Assembly Action: SB 1130 is a “housekeeping bill” that removes obsolete language from various sections of Title 58.1, and contains technical amendments.

Governor's Action: Additional technical amendments that correct Code citations and reinsert certain clarifying language that should not have been stricken.

SB 1185 (Norment)

Sex Offenses; Penalty

General Assembly Action: Expands the prohibition on entry into school grounds by an adult convicted of a sexually violent offense to include (i) any school bus, or (ii) any property, public or private, when such property is being used solely by a public or private elementary or secondary school for a school-related or school-sponsored activity. The bill provides certain exceptions for these provisions if the adult is a registered voter and entering the school property to vote; is a student enrolled at the school; or has a court order allowing him to enter the property, has obtained permission and has complied with applicable terms and conditions.

Governor's Action: Proposes an amendment which clarifies that an adult convicted of a sexually violent offense cannot enter a school bus, although there are exceptions which allow the adult to enter school grounds for specific stated purposes.

**SB 1282 (Wagner)/HB 2385 (Purkey)
Barge and Rail Use Tax Credits**

General Assembly Action: Provided an income tax credit to encourage increased use of barge and rail to move cargo containers through port facilities rather than using trucks or other motor vehicles on the Commonwealth's highways. The amount of the credit is \$50 per cargo container moved by barge or rail, with a credit cap of \$1.5 million per fiscal year.

The credit will be available for taxable years beginning on January 1, 2011, but before January 1, 2015.

There is ambiguity in the substitute that passed the General Assembly as to whether the credit was to be based on increased barge and rail volume or total volume (the introduced bill established a direct link between the credit and decreased truck traffic on highways).

Governor's Action: Proposes amendments that (1) removes a reference to increased volume and (2) reduces the per container credit from \$50 to \$25. Effectively, the amendment removes the ambiguity by clarifying that the credit will be awarded on the basis of total volume moved by barge or rail, and lowers the per unit credit to accommodate this feature.

**SB 1359 (Stosch)/HB 1359 (Garrett)
Insurance Premiums Tax; Retaliatory Costs Tax Credit**

General Assembly Action: Modifies provisions of the insurance premium retaliatory tax credit as follows:

- Increases the maximum annual retaliatory tax credit amount that can be refunded from \$800,000 to \$7.0 million (2010 Session Appropriation Act language increased refund from \$800,000 to \$1.6 million), for insurance companies receiving a credit in taxable year 2000;
- Codifies current Appropriation Act language that limits the refund amount for other insurance companies to 60 percent of the retaliatory costs paid to other states;
- Eliminates the current ten-year expiration of unused tax credits, allowing taxpayers to carry forward any unused credits until totally used; and
- Requires that refunds be paid after July 1, following the request for refund.

Governor's Action: Technical amendment substitutes the word Department for Commission for consistency with SB 1124 (Stosch), which transfers administration of the tax on gross premiums from the State Corporation Commission to the Department of Taxation.

SB 1384 (Colgan)

State's tax code; advances conformity with federal law

General Assembly Action: Advances the conformity with the federal tax code from January 22, 2010, to December 31, 2010, thereby incorporating certain provisions of Congressional Tax Acts of 2010.

Governor's Action: Technical amendment to make the bill's title consistent with action taken in the bill.

SB 1446 (Wampler)/HB 2527 (Howell)
Transportation Infrastructure Bank / Debt Issues

General Assembly Action: Established the Virginia Transportation Infrastructure Bank within the Virginia Resources Authority to make loans and grants to private or public entities for transportation projects. Also increased available transportation revenues from several actions related to existing debt authorization levels and issuance amounts. Specifically, the conference amendments **prohibited** the interest rate levied on loans from the Bank from being less than the yield on U.S. Treasury securities of a similar maturity.

Governor's Action: Proposes amendments that would eliminate the requirement that the interest charged on loans from the VTIB have at least an interest rate consistent with U.S. Treasury yields. Under the proposed amendment, the Virginia Resources Authority would have discretion for establishing the interest on the loan, which could potentially be set at zero.

Makes several technical corrections related to reporting requirements assigned to the Secretary of Transportation that should appropriately be placed with the Commonwealth Transportation Board.

SB 1459 (Houck and Norment)/HB 2510 (Cox)
The Virginia Higher Education Opportunity Act of 2011

General Assembly Action: Legislation provides for reform-based investment and affordable access through a revised higher education funding policy. Colleges and universities are required to submit six-year financial and academic plans that provide a mechanism for evaluating the funding requirements of each institution and targeting general fund investments.

Finally, the legislation creates a Higher Education Advisory Committee (a combination of executive, legislative, and institution

representatives) that will develop and review: (1) the methodology and timing for the per student enrollment growth funding (2) criteria for determining which families are “low income” and “middle income” and how this relates to federal, state, and financial aid institutional policies and programs, (3) criteria for the financial incentives and the benefits or consequences for not meeting the incentives in the six-year financial plan, (4) economic opportunity metrics, (5) additional authority, state goals, and objective criteria for evaluating performance, and benefits and consequences for meeting and not meeting goals and objectives, and (6) the utility of creating a Higher Education Revenue Stabilization Fund, as a subfund of the Revenue Stabilization Fund.

Governor's Action: Proposes amendments that would (1) allow the Governor to designate other persons to serve on the Higher Education Advisory Committee (HEAC); (2) adds that the HEAC will examine the role of nonpublic higher education institutions (not just private non-profit) in addressing the goals of the legislation and make recommendations regarding such matters; and (3) adds an enactment clause that would allow the Governor (in consultation with the Chairmen of the money and education committees) to modify, delay, or suspend some requirements for the six-year plan due on July 1, 2011. (Comments on the plan are to be given to the institutions by October 1, 2011.)

**SB 1481 (Wagner)/HB 2531 (Purkey)
Port Volume Tax Credits**

General Assembly Action: Provides an income tax credit to companies engaged in the manufacturing of goods or the distribution of manufactured goods that use Virginia port facilities and increase their port cargo volume of non-containerized cargo or twenty-foot equivalent unit containers of cargo (TEUs) by at least five percent in a single year over their base year volume. The five percent requirement may be waived for a taxpayer qualifying as a “major facility” (a new

facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs).

The total credit amount available in a calendar year is capped at \$3.2 million. The Virginia Port Authority is provided the discretion for determining the allocation of the credits based on several factors, and each taxpayer would be limited to \$250,000 in credits annually. However, if on March 15 of each year, the \$3.2 million amount of credit has not been fully allocated among qualifying taxpayers, then those taxpayers who have been allocated the maximum \$250,000 credit for a year shall be allowed a pro rata share of the remaining credit up to \$3.2 million.

The credit would be available for taxable years beginning on and after January 1, 2011, but before January 1, 2016.

Governor's Action: Proposes amendments that add specificity as to how the tax credits would be calculated. For qualifying companies, tax credits of \$50 per TEU would be allowed for each TEU unit shipped over the base year port cargo volume. For a "major facility" in its first year, the credit would be \$50 per TEU transported through the port in the facility's first calendar year.

Proposes amendments to allow any taxpayer who receives a credit to be eligible to receive a pro rata share of any unused tax credits, rather than limiting it to those taxpayers who have been allocated the maximum \$250,000 credit. Furthermore, if the tax credit requests exceed \$3.2 million, then the total amount shall be pro-rated among all taxpayers requesting the credit.

SB 1485 (Newman/Herring) Investment in Research and Technology

General Assembly Action: Amended the existing Commonwealth Research Commercialization Fund (CRCF) to allow awards for a matching funds program and an eminent researcher program.

Expands the Innovation and Entrepreneurship Investment Authority's (IEIA) current responsibility to develop a strategic roadmap for research in the Commonwealth.

Establishes a Research and Technology Investment Advisory Committee to assist the IEIA in making awards from the CRCF by ensuring that applications considered for awards are based upon sound science and research, are in an area of focus identified in the roadmap, and present significant potential for commercialization in the Commonwealth.

Governor's Action: Proposes six amendments, all of which are technical. Two of the amendments correct typographical errors and one amendment corrects a misspelling. The other three amendments clarify the required elements to be included in a report to the Governor and General Assembly.

House Bills with Proposed Amendments

HB 1645 (O'Bannon)/SB 987 (Puller/Stosch) Real Property Tax; Exemption for Disabled Veterans

General Assembly Action: As required, codifies the constitutional amendment adopted by voters in November 2010 that provides for a property tax exemption for the principal residence of veterans who have a 100 percent, service-related disability and for their surviving spouses, as long as the spouse does not remarry. The bill specifies that the exemption covers the land, not exceeding one acre, upon which the residence is located.

The bill also specifies that the surviving spouse of a veteran that qualified for the exemption is eligible for the exemption, if the death occurred on or after January 1, 2011. Required documentation to apply for the exemption is specified.

An emergency clause states the Act is in force from its passage.

Governor's Action: Proposes an amendment clarifying that tax relief would be for the entire 2011 calendar year and would not need to be prorated to cover just the portion of the year after the statute went into effect. The amendment specifies the exemption applies for tax years beginning on or after January 1, 2011. (The Constitutional amendment was ratified on November 2, 2010 and was effective January 1, 2011.)

Note: Questions have been raised as to whether the Constitutional amendment was meant to apply to spouses of disabled veterans who died prior to January 1, 2011. SB 987/HB 1645 states that death had to occur on or after January 1, 2011, in order for the surviving spouse to be eligible. The Governor's amendment does not deal with this issue.

HB 1795 (Tata)
Retirement System; difference in benefits for employee who becomes member on or after July 1, 2010

General Assembly Action: Amends certain provisions of the Workforce Transition Act and retirement plans administered by the Virginia Retirement System to recognize the difference in benefits accorded a person who was a Virginia Retirement System member before July 1, 2010, and one who becomes a member on or after July 1, 2010.

These technical changes are required to conform to the provisions of pension reform legislation that was passed by the 2010 General Assembly (HB 1189 and SB 232).

Governor's Action: Proposes a substitute for HB 1795 that 1) incorporates the original, technical provisions of HB 1795, and 2) adds an optional defined contribution plan for state and local employee groups, and employees of local school divisions covered under defined benefit programs but not currently eligible for existing defined contribution plans.

Notes:

- The Senate Finance Committee rejected versions of the proposed defined contribution retirement program on four occasions during the 2011 session. These include SB 1008, SB 1115, HB 2410, and the House's proposed amendment to Part 5 of the budget.
- The Finance Committee chairman has requested that JLARC undertake a comprehensive study of the Commonwealth's retirement programs for public employees. This study is intended to provide a rational basis for action, as well as firm estimates of the fiscal impact.

- The state and local fiscal impact of the Governor's proposed defined contribution retirement program is unknown.
- The Governor also has included the provisions of the substitute for HB 1795 establishing an optional defined contribution plan for state employees in his proposed Appropriation Act amendments (Amendment No. 86), which is before the reconvened session.

HB 1822 (Peace)/SB 999 (Stosch/McEachin) Local Defense Production Zones

General Assembly Action: Created a separate classification of machinery and tools designed and used directly in manufacturing or processing materials, components, or equipment for national defense. Local governments would be authorized to tax such machinery and tools at a rate that is less than the rate generally applicable to machinery and tools.

The bill also authorizes local governments to establish, by ordinance, local defense production zones including incentives and regulatory flexibility for the design, development, or production by a defense production business of materials, components, or equipment for national defense.

Governor's Action: Proposes three amendments, of which the first two are technical and clarifying in nature. The third amendment strikes language that required all incentive proposals to conform with the Virginia and U.S. Constitutions. This language is unnecessary since this would be required anyway.

HB 1898 (Hugo)
Abduction of Minors for Sexual Purposes; Penalty

General Assembly Action: Expanded the definition of abduction to include the abduction of any minor for the purpose of manufacturing child pornography. The bill also provides for a Class 4 felony for any person convicted of receiving any money or other item of value for causing any person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography.

Governor's Action: Proposes a technical amendment that would clarify that the bill applies to abduction with intent to extort money or pecuniary benefit of any child under the age of 16 for the purpose of prostitution.

HB 2145 (Cline)
Tax documents; specifies those admissible in court

General Assembly Action: Provides that tax bulletins, guidelines, and other published documents issued by TAX are accorded judicial notice. Under Virginia case law, when a matter is judicially noted, it is taken as true without the offering of evidence by the party who should have ordinarily done so, but the opponent is not prevented from disputing the matter.

HB 2145 also would require TAX to publish tax bulletins and guidelines and would include posting the documents on the TAX website as a permitted publication method.

Governor's Action: Technical amendment clarifying that provisions of the act shall be effective for proceedings commenced on or after July 1, 2011.

HB 2285 (James)
Tax Revenues for Tourism Projects in Tourism Zones

General Assembly Action: Entitles certain tourism projects to a percentage of the state and local sales tax revenues generated on the premises of the project, to be used towards debt service to bridge the gap between available debt and equity and the expected costs of the project.

Governor's Action: Proposes a technical amendment to add the word “project”, which was inadvertently left out in the enrolled bill.

HB 2316 (Byron)
Clean Energy Manufacturing Incentive Grant Program

General Assembly Action: Repealed the Solar Photovoltaic Manufacturing Incentive Grant Program effective July 1, 2013, and the Biofuels Production Incentive Grant Program effective July 1, 2017.

Replaced these programs with the Clean Energy Manufacturing Incentive Grant Program, which provides financial incentives to companies that manufacture or assemble equipment, systems, or products used to produce renewable or nuclear energy, or products used for energy conservation, storage, or grid efficiency purposes.

The bill “grandfathered” in an existing company that previously qualified for a Biofuels Production grant

Governor's Action: Proposes a technical amendment that more specifically identifies the “grandfathered” entity.

HB 2335 (Garrett)/SB 1359 (Stosch)
Insurance Premiums Tax; Retaliatory Costs Tax Credit

General Assembly Action: Modifies provisions of the insurance premium retaliatory tax credit as follows:

- Increases the maximum annual retaliatory tax credit amount that can be refunded from \$800,000 to \$7.0 million (2010 Session Appropriation Act language increased refund from \$800,000 to \$1.6 million), for insurance companies receiving a credit in taxable year 2000;
- Codifies current Appropriation Act language that limits the refund amount for other insurance companies to 60 percent of the retaliatory costs paid to other states;
- Eliminates the current ten-year expiration of unused tax credits, allowing taxpayers to carry forward any unused credits until totally used;
- Requires that refunds be paid after July 1, following the request for refund.

Governor's Action: Technical amendment to indicate consistency with legislation adopted in the 2011 session that transfers administration of the tax on gross premiums from the State Corporation Commission to the Department of Taxation.

HB 2385 (Purkey)/SB 1282 (Wagner)
Barge and Rail Use Tax Credits

General Assembly Action: Provided an income tax credit to encourage increased use of barge and rail to move cargo containers through port facilities rather than using trucks or other motor

vehicles on the Commonwealth's highways. The amount of the credit is \$50 per cargo container moved by barge or rail, with a credit cap of \$1.5 million per fiscal year.

The credit will be available for taxable years beginning on January 1, 2011, but before January 1, 2015.

There is ambiguity in the substitute that passed the General Assembly as to whether the credit was to be based on increased barge and rail volume or total volume (the introduced bill established a link between the credit and decreased truck traffic on highways).

Governor's Action: Proposes amendments that (1) removes a reference to increased volume and (2) reduces the per container credit from \$50 to \$25. Effectively, the amendment removes the ambiguity by clarifying that the credit will be awarded on the basis of total volume moved by barge or rail, and lowers the per unit credit to accommodate this feature.

HB 2467 (Greason)/SB 1062 (Howell)
Health insurance; mandated coverage for
Autism spectrum disorder

General Assembly Action: Requires that group health insurance plans, including the health insurance plan for state employees, provide coverage for the diagnosis of autism spectrum disorder and the treatment of autism spectrum disorder in individuals from ages two through six.

Treatment for autism spectrum disorder would be identified in a treatment plan prescribed or ordered by a licensed physician or a licensed psychologist who determines the care to be medically necessary.

The provisions of SB 1062 requiring coverage for behavioral health treatment would not apply to a state or local health plan where the costs would increase premiums by 1.0 percent or more.

The bill caps the amount of coverage that a plan must provide for the applied behavior analysis component of a treatment plan at \$35,000.

Governor's Action: Proposes the following amendments:

- 1) Requires that applied behavior analysis care must be provided or supervised by a Board of Medicine-licensed analyst rather than an analyst certified by the Behavior Analyst Certification Board, and the analyst must be independent from the prescribing practitioner.
- 2) The annual review of treatment that is allowed by an insurer, corporation or health maintenance organization may be an independent review, the cost of which would be covered by the insurance program.
- 3) Allows insurance providers to require prior authorization for treatment of autism spectrum disorder.
- 4) Adds a second enactment clause that causes the provisions of SB 1062 to expire if the annual cap of \$35,000 for applied behavior analysis is invalidated by state or federal law, or it is found to be invalid by a court.

Notes:

- The Board of Medicine does not license Applied Behavior Analysts.
- The \$35,000 cap on annual benefits may be invalid under the provisions of the Mental Health and Substance Abuse Parity Act (“Wellstone Act”). This federal law went into effect in 2009,

and prohibits plans from requiring more restrictive financial and treatment limitations for mental health or substance abuse than for medical/surgical benefits.

- The General Assembly provided \$400,000 for the projected impact of SB 1062 on the state employee health benefits plan.

HB 2510 (Cox)/ SB 1459 (Houck and Norment) The Virginia Higher Education Opportunity Act of 2011

General Assembly Action: Legislation provides for reform-based investment and affordable access through a revised higher education funding policy. Colleges and universities are required to submit six-year financial and academic plans that provide a mechanism for evaluating the funding requirements of each institution and targeting general fund investments.

Finally, the legislation creates a Higher Education Advisory Committee (a combination of executive, legislative, and institution representatives) that will develop and review: (1) the methodology and timing for the per student enrollment growth funding (2) criteria for determining which families are “low income” and “middle income” and how this relates to federal, state, and financial aid institutional policies and programs, (3) criteria for the financial incentives and the benefits or consequences for not meeting the incentives in the six-year financial plan, (4) economic opportunity metrics, (5) additional authority, state goals, and objective criteria for evaluating performance, and benefits and consequences for meeting and not meeting goals and objectives, and (6) the utility of creating a Higher Education Revenue Stabilization Fund, as a subfund of the Revenue Stabilization Fund.

Governor's Action: Proposes amendments that would (1) allow the Governor to designate other persons to serve on the Higher Education Advisory Committee (HEAC); (2) adds that the HEAC will examine the role of nonpublic higher education institutions (not

just private non-profit) in addressing the goals of the legislation and make recommendations regarding such matters; and (3) adds an enactment clause that would allow the Governor (in consultation with the Chairmen of the money and education committees) to modify, delay, or suspend some requirements for the six-year plan due on July 1, 2011. (Comments on the plan are to be given to the institutions by October 1, 2011.)

**HB 2527 (Howell)/SB 1446 (Wampler)
Transportation Infrastructure Bank / Debt Issues**

General Assembly Action: Established the Virginia Transportation Infrastructure Bank within the Virginia Resources Authority to make loans and grants to private or public entities for transportation projects and increased available transportation revenues from several actions related to existing debt authorization levels and issuance amounts. Specifically, the conference amendments **prohibited** the interest rate levied on loans from the Bank from being less than the yield on U.S. Treasury securities of a similar maturity.

Governor's Action: Proposes amendments that would eliminate the requirement that the interest charged on loans from the VTIB have at least an interest rate consistent with U.S. Treasury yields. Under the proposed amendment, the Virginia Resources Authority would have discretion for establishing the interest on the loan, which could potentially be set at zero.

Includes several technical corrections related to reporting requirements assigned to the Secretary of Transportation that should appropriately be placed with the Commonwealth Transportation Board.

HB 2531 (Purkey)/SB 1481 (Wagner)
Port Volume Tax Credits

General Assembly Action: Provides an income tax credit to companies engaged in the manufacturing of goods or the distribution of manufactured goods that use Virginia port facilities and increase their port cargo volume of non-containerized cargo or twenty-foot equivalent unit containers of cargo (TEUs) by at least five percent in a single year over their base year volume. The five percent requirement may be waived for a taxpayer qualifying as a “major facility” (a new facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs).

The total credit amount available in a calendar year is capped at \$3.2 million. The Virginia Port Authority is provided the discretion for determining the allocation of the credits based on several factors, and each taxpayer would be limited to \$250,000 in credits annually. However, if on March 15 of each year, the \$3.2 million amount of credit has not been fully allocated among qualifying taxpayers, then those taxpayers who have been allocated the maximum \$250,000 credit for a year shall be allowed a pro rata share of the remaining credit up to \$3.2 million.

The credit would be available for taxable years beginning on and after January 1, 2011, but before January 1, 2016.

Governor's Action: Proposes amendments that add specificity as to how the tax credits would be calculated. For qualifying companies, tax credits of \$50 per TEU would be allowed for each TEU unit shipped over the base year port cargo volume. For a “major facility” in its first year, the credit would be \$50 per TEU transported through the port in the facility’s first calendar year.

Proposes amendments to allow any taxpayer who receives a credit to be eligible to receive a pro rata share of any unused tax credits, rather than limiting it to those taxpayers who have been allocated the maximum \$250,000 credit. Furthermore, if the tax credit

requests exceed \$3.2 million, then the total amount shall be pro-rated among all taxpayers requesting the credit.