

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0344

HOUSE BILL NO. 1058

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the application of
2 railroad tax credits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-28-21.2 be amended to read as follows:

5 10-28-21.2. Any publicly operated railroad or railway corporation operating over rail lines
6 owned by the publicly operated railroad or railway corporation located within this state may
7 claim a credit against the tax levied on ~~such~~ the rail lines for amounts that the railroad or railway
8 corporation has certified as having been expended in the replacement, improvement, and repair
9 of ~~such~~ the rail lines. Only those expenses of a capital nature may be certified as an expense
10 eligible for a credit pursuant to this section. The certification required by this section shall be
11 on forms provided by the Department of Revenue. The labor and material expenses certified
12 pursuant to this section shall be itemized separately by rail line and mile post locations. The
13 credit provided in this section shall be applied proportionally across the railroad's entire
14 mainline within this state, excluding any portion of the mainline that goes over ten million gross
15 ton miles of revenue freight per mile annually in a calendar year. The credit shall be applied to



1 tax liability over a three-year period in an amount equal to thirty-three and one-third percent the
 2 first year following certification; thirty-three and one-third percent of such an amount shall carry
 3 forward into the second year following certification; and thirty-three and one-third percent shall
 4 carry forward into the third year following certification. Each year's carryover shall be
 5 accumulated as a tax credit with other years' annual tax credits. No credit may be given for ~~the~~;

6 (1) The repair or replacement of railway line necessitated by washout, fire, or train
 7 derailment. No credit may be given for that;

8 (2) Any portion of a project that is funded with state or federal grant funds or paid for by
 9 any third party. If any rail line goes over ten million gross ton miles of revenue
 10 freight per mile annually in a calendar year, the rail line may not receive a credit
 11 pursuant to this section in the following calendar year; or

12 (3) Any expenses of a capital nature that are made on a segment of the rail line that
 13 exceeds ten million gross ton miles of revenue freight per mile in the previous
 14 calendar year.

15 Section 2. That § 10-28-21.3 be amended to read as follows:

16 10-28-21.3. Expenses of a capital nature contained in § 10-28-21.2 are as defined in CFR
 17 49 Parts 1200 through 1219 Subpart A Uniform Systems of Accounts for Railroad Companies,
 18 as amended through January 1, ~~2004~~ 2014, for Class 1 railroads or as defined in accordance with
 19 generally accepted accounting principles for regulated industries for Class 2 and Class 3
 20 railroads.

21 Section 3. That § 10-28-21.4 be amended to read as follows:

22 10-28-21.4. Each year the railroad or railroad corporation requesting tax credits shall prepare
 23 a capital improvement plan detailing the proposed mainline and secondary line capital
 24 improvement projects including the project scope, estimated value, approximate scheduling of

1 the projects, and the current category of the line on the railroad's system diagram map as
2 provided in 49 CFR § 1152.10 as of January 1, ~~2004~~ 2014. The plan shall be presented to the
3 Department of Transportation by March first of each year for any capital improvement project
4 for which a tax credit will be requested.

5 Section 4. That § 10-28-21.5 be amended to read as follows:

6 10-28-21.5. The railroad shall annually notify the Department of Transportation of
7 completion of any capital project. However, if the cost of the capital project exceeds three
8 hundred thousand dollars, the railroad shall notify the department immediately upon completion.
9 The department may conduct a verification inspection of capital improvement project
10 completion and may audit the capital improvement project according to South Dakota
11 Department of Transportation Audit guidelines and the Federal-Aid Policy Guide 23 CFR
12 Chapter 1, Subchapter B, Part 140, Subpart 1, as amended through January 1, ~~2004~~ 2014, to
13 determine project value. The department shall report its findings to each county where the
14 railroad has requested a tax credit. Only those capital expenses that have been claimed on the
15 railroad's certification and verified by the department are eligible for a credit pursuant to § 10-
16 28-21.2. Any railroad aggrieved by the decision of the department concerning the eligibility of
17 a claimed capital expenditure for the tax credit authorized by § 10-28-21.2 is entitled to an
18 administrative hearing conducted in accordance with the provisions of chapter 1-26.