

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

446C0312

HOUSE ENGROSSED NO. **HB1106** - 2/10/99

Introduced by: Representatives Wetz, Brown (Jarvis), Cutler, Diedrich (Elmer), Duenwald, Eccarius, Garnos, Hanson, Jaspers, Klaudt, McCoy, McNenny, Monroe, Smidt, and Sutton (Duane) and Senators Vitter, Benson, Bogue, Everist, and Symens

1 FOR AN ACT ENTITLED, An Act to repeal certain tax benefits available to railroads.

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

3 Section 1. That § 10-46-7 be amended to read as follows:

4 10-46-7. Tangible personal property, the storage, use, or other consumption of which this
5 state is prohibited from taxing under the Constitution or laws of the United States of America
6 or under the Constitution of this state, or tangible personal property sold to the United States,
7 the State of South Dakota, or any public or municipal corporation of the state which is for the
8 use, storage, or consumption of such public corporations ~~or which is sold to, used, or to be used~~
9 ~~as or in operating or maintaining any type of railroad company property which is classified by~~
10 ~~§ 10-28-1 as operating property~~, is hereby specifically exempt from the tax imposed by this
11 chapter, ~~provided, however, the exemption as to railroad operating property shall be limited to~~
12 ~~one-half of such tax imposed by this chapter.~~

13 Section 2. That § 10-28-21.1 be amended to read as follows:

14 10-28-21.1. Any publicly operated railroad or railway corporation operating over rail lines
15 located within this state may claim a credit against the tax levied on such rail lines for amounts

1 which the railroad or railway corporation has certified as having been expended in the
2 replacement and repair of such rail lines. Only those expenses of a capital nature may be certified
3 as an expense eligible for a credit pursuant to this section. The certification required by this
4 section shall be on forms provided by the Department of Revenue. The labor and material
5 expenses certified pursuant to this section shall be itemized separately. Any rail line which carries
6 five million gross ton miles per mile annually or less shall receive a credit for one-half of the
7 expenses certified pursuant to this section. No rail line carrying ten million gross ton miles per
8 mile or more annually may receive a credit pursuant to this section. For any rail line which carries
9 between five million and ten million gross ton miles per mile annually, the credit available at five
10 million gross ton miles per mile shall be reduced pro rata as the amount carried increases, until
11 no credit is given at ten million gross tons per mile. The credit provided in this section shall be
12 applied ~~proportionally across the railroad's entire mainline within this state~~ to the lines on which
13 the replacement or repair took place. The credit shall be applied to tax liability over a three-year
14 period in an amount equal to thirty-three and one-third percent the first year following
15 certification; thirty-three and one-third percent of such an amount shall carry forward into the
16 second year following certification; and thirty-three and one-third percent shall carry forward
17 into the third year following certification. Each year's carryover shall be accumulated as a tax
18 credit with other years' annual tax credits. No credit may be given for the repair or replacement
19 of railway line necessitated by washout, fire, or train derailment. ~~No rail line carrying over ten~~
20 ~~million gross ton miles per mile annually may receive a credit pursuant to this section. Any rail~~
21 ~~line which carries between five million and ten million gross ton miles per mile annually shall~~
22 ~~receive a credit for only one-half of the expenses certified pursuant to this section. The~~
23 ~~provisions of this section do not affect credits certified prior to January 30, 1994.~~

24 Section 3. That § 10-28-21.1 be amended to read as follows:

25 10-28-21.1. Any publicly operated railroad or railway corporation operating over rail lines

1 located within this state may claim a credit against the tax levied on such rail lines for amounts
2 which the railroad or railway corporation has certified as having been expended in the
3 replacement and repair of such rail lines. Only those expenses of a capital nature may be certified
4 as an expense eligible for a credit pursuant to this section. The certification required by this
5 section shall be on forms provided by the Department of Revenue. The labor and material
6 expenses certified pursuant to this section shall be itemized separately. Any rail line which carries
7 five million gross ton miles per mile annually or less shall receive a credit for one-half of the
8 expenses certified pursuant to this section. No rail line carrying ten million gross ton miles per
9 mile or more annually may receive a credit pursuant to this section. For any rail line which carries
10 between five million and ten million gross ton miles per mile annually, the credit available at five
11 million gross ton miles per mile shall be reduced pro rata as the amount carried increases, until
12 no credit is given at ten million gross tons per mile. The credit provided in this section shall be
13 applied ~~proportionally across the railroad's entire mainline within this state~~ to the lines on which
14 the replacement or repair took place. The credit shall be applied to the tax liability ~~over a~~
15 ~~three-year period in an amount equal to thirty-three and one-third percent the first~~ the year
16 following certification; ~~thirty-three and one-third percent of such an amount shall carry forward~~
17 ~~into the second year following certification; and thirty-three and one-third percent shall carry~~
18 ~~forward into the third year following certification. Each year's carryover shall be accumulated~~
19 ~~as a tax credit with other years' annual tax credits.~~ No credit may be given for the repair or
20 replacement of railway line necessitated by washout, fire, or train derailment. ~~No rail line~~
21 ~~carrying over ten million gross ton miles per mile annually may receive a credit pursuant to this~~
22 ~~section. Any rail line which carries between five million and ten million gross ton miles per mile~~
23 ~~annually shall receive a credit for only one-half of the expenses certified pursuant to this section.~~
24 ~~The provisions of this section do not affect credits certified prior to January 30, 1994.~~

25 Section 4. The effective date of section 3 of this Act is January 2, 2002.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to State Affairs. H.J. 110

3 2/1/99 Scheduled for Committee hearing on this date.

4 2/1/99 State Affairs Do Pass, Passed, AYES 7, NAYS 5. H.J. 277

5 2/2/99 House of Representatives Do Pass, Failed, AYES 26, NAYS 43. H.J. 329

6 2/2/99 Intent to reconsider. H.J. 330

7 2/3/99 House of Representatives Reconsidered, AYES 40, NAYS 27. H.J. 346

8 2/3/99 House of Representatives Deferred to another day. H.J. 347

9 2/9/99 Motion to Amend, Passed. H.J. 440

10 2/9/99 House of Representatives Do Pass Amended, Passed, AYES 42, NAYS 26. H.J. 441