

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

446C0312

## HOUSE BILL NO. 1106

Introduced by: Representatives Wetz, Brown (Jarvis), Cutler, Diedtrich (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 That § 10-28-21.1 be repealed.

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~~  
16 ~~which the railroad or railway corporation has certified as having been expended in the~~

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