

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0444

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 42** - 01/27/2004

Introduced by: The Committee on Transportation at the request of the Department of
Transportation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding railroad tax credits
2 and to provide a process for administrating the 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 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 rail lines. Only those expenses of a capital nature may be certified as an expense eligible
10 for a credit pursuant to this section. The certification required by this section shall be on forms
11 provided by the Department of Revenue and Regulation. The labor and material expenses
12 certified pursuant to this section shall be itemized separately by rail line and mile post locations.
13 The credit provided in this section shall be applied proportionally across the railroad's entire
14 mainline within this state. The credit shall be applied to tax liability over a three-year period in
15 an amount equal to thirty-three and one-third percent the first year following certification;



1 thirty-three and one-third percent of such an amount shall carry forward into the second year
2 following certification; and thirty-three and one-third percent shall carry forward into the third
3 year following certification. Each year's carryover shall be accumulated as a tax credit with other
4 years' annual tax credits. No credit may be given for the repair or replacement of railway line
5 necessitated by washout, fire, or train derailment. No credit may be given for that portion of a
6 project that is funded with state or federal grant funds or paid for by any third party. If any rail
7 line goes over ten million gross ton miles of revenue freight per mile annually in a calendar year,
8 the rail line may not receive a credit pursuant to this section in the following calendar year.

9 Section 2. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as
10 follows:

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

15 Section 3. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Each year the railroad or railroad corporation requesting tax credits shall prepare a capital
18 improvement plan detailing the proposed mainline and secondary line capital improvement
19 projects including the project scope, estimated value, approximate scheduling of the projects,
20 and the current category of the line on the railroad's system diagram map as provided in 49 CFR
21 § 1152.10 as of January 1, 2004. The plan shall be presented to the Department of
22 Transportation by March first of each year for any capital improvement project for which a tax
23 credit will be requested.

24 Section 4. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as

1 follows:

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

15 Section 5. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The State Railroad Board shall, in accordance with chapter 1-26, promulgate rules
18 establishing the form upon which a railroad shall submit verification information for capital
19 expenses being claimed as tax credits authorized by § 10-28-21.2, when the information is to
20 be submitted, and the manner in which the certification is submitted.