

1 HB297
2 216949-1
3 By Representative Scott
4 RFD: Ways and Means Education
5 First Read: 08-FEB-22

SYNOPSIS: This bill would amend the Railroad Modernization Act of 2019 to increase the annual cap on income tax credits and extend the sunset date for five years through tax year 2027.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Railroad Modernization Act of 2019; to amend Sections 37-11C-4 and 37-11C-6, Code of Alabama 1975, to increase the annual cap on income tax credits and extend the sunset date for five years through tax year 2027.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 37-11C-4 and 37-11C-6, Code of Alabama 1975, are amended to read as follows:

"§37-11C-4.

"(a) For tax years beginning after December 31, 2019 through December 31, 2022, there is a credit allowed against the state income tax levied by Section 40-18-2 equal to 50

1 percent of an eligible taxpayer's qualified railroad
2 rehabilitation expenditures. The tax credit allowed under this
3 section may not exceed three thousand five hundred dollars
4 (\$3,500) multiplied by the number of miles of railroad track
5 owned or leased within the state by the eligible taxpayer at
6 the close of the taxable year.

7 (b) For tax years beginning after December 31, 2022
8 through December 31, 2027, there is a credit allowed against
9 the state income tax levied by Section 40-18-2 equal to 50
10 percent of an eligible taxpayer's qualified railroad
11 rehabilitation expenditures. The tax credit allowed under this
12 section may not exceed five thousand dollars (\$5,000)
13 multiplied by the number of miles of railroad track owned or
14 leased within the state by the eligible taxpayer at the close
15 of the taxable year.

16 ~~"(b)~~ (c) There is created within the Education Trust
17 Fund a separate account named the Railroad Rehabilitation
18 Income Tax Credit Account. The Commissioner of Revenue shall
19 certify to the state Comptroller the amount of income tax
20 credits under this section and the state Comptroller shall
21 transfer into the Railroad Rehabilitation Income Tax Credit
22 Account only the amount from sales tax revenues within the
23 Education Trust Fund that is sufficient for the Department of
24 Revenue to use to cover the income tax credits for the
25 applicable tax year. The Commissioner of Revenue shall
26 distribute the funds in the Railroad Rehabilitation Income Tax
27 Credit Account pursuant to this section.

1 "~~(c)~~ (d) The entire tax credit may be claimed by the
2 taxpayer in the taxable year in which the qualified railroad
3 rehabilitation expenditures are completed and placed into
4 service. Where the taxes owed by the eligible taxpayer are
5 less than the tax credit, the eligible taxpayer may be
6 entitled to claim a refund for the difference.

7 "~~(d)~~ (e) For the calendar years 2020, 2021, and
8 2022, the aggregate amount of all tax credits that may be
9 reserved in any one of such years by the department upon
10 certification of rehabilitation plans shall not exceed three
11 million seven hundred thousand dollars (\$3,700,000) plus any
12 amount of previous reservations of tax credits that were
13 rescinded during the tax year. However, if all of the
14 allowable tax credit amount for any tax year is not requested
15 and reserved, any unreserved tax credits may be utilized by
16 the department in awarding tax credits in subsequent years;
17 provided, however, that in no event shall a total of more than
18 eleven million one hundred thousand dollars (\$11,100,000) be
19 reserved by the department during the period of August 1, 2019
20 through August 1, 2022. For purposes of this chapter, "tax
21 year" shall mean the calendar year.

22 "(f) For the calendar years 2023, through 2027 the
23 aggregate amount of all tax credits that may be reserved in
24 any one of such years by the department upon certification of
25 rehabilitation plans shall not exceed five million five
26 hundred thousand dollars (\$5,500,000) plus any amount of
27 previous reservations of tax credits that were rescinded

1 during the tax year. However, if all of the allowable tax
2 credit amount for any tax year is not requested and reserved,
3 any unreserved tax credits may be utilized by the department
4 in awarding tax credits in subsequent years; provided,
5 however, that in no event shall a total of more than
6 twenty-seven million five hundred thousand dollars
7 (\$27,500,000) be reserved by the department during the period
8 of August 1, 2022 through August 1, 2027.

9 ~~"(e)~~ (g) Tax credits granted to a partnership, a
10 limited liability company, S Corporations, trusts, or estates
11 shall be claimed at the entity level and shall not pass
12 through to the partners, members, or owners.

13 ~~"(f)~~ (h) All or any portion of the income tax credit
14 authorized under this section may be transferable and
15 assignable by written transfer agreement and subject to any
16 notice and verification requirements to be determined by the
17 Department of Revenue. Any tax credits transferred shall be at
18 a value of at least eighty-five percent (85%) of the present
19 value of the credits. However, once a credit is transferred,
20 only the transferee may utilize the credit and the credit may
21 not be transferred again. An eligible transferee of the credit
22 may use the amount of credits transferred to offset any income
23 tax due under Chapter 18 of Title 40. The Department of
24 Revenue, by rule, shall adopt a written transfer agreement
25 form. The transfer statement form shall include the name and
26 federal taxpayer identification number of the transferor and
27 each transferee listed therein along with the amount of the

1 tax credit to be transferred to each transferee listed on the
2 form. The transfer statement form shall also contain such
3 other information as the Department of Revenue may from time
4 to time reasonably require. For each transfer, the transferor
5 shall file: (1) a completed transfer statement form; (2) a
6 copy of the tax credit certificate issued by the Department of
7 Commerce documenting the amount of tax credits which the
8 transferor intends to transfer; (3) a copy of the proposed
9 written transfer agreement; and (4) a transfer fee payable to
10 the department in the amount of one thousand dollars (\$1,000)
11 per transferee listed on the transfer statement form. The
12 transferor shall file with the Department of Revenue a fully
13 executed copy of the written transfer agreement with each
14 transferee within 30 days after the completed transfer. Filing
15 of the written transfer agreement with the Department of
16 Revenue shall perfect such transfer with respect to such
17 transferee. Within 30 days after the Department of Revenue's
18 receipt of the fully executed written transfer agreement, the
19 Department of Revenue shall issue a tax credit certificate to
20 each transferee listed in the agreement in the amount of the
21 tax credit so transferred. Such certificate shall be used by
22 the transferee in claiming the tax credit. The Department of
23 Revenue may adopt such additional rules as are necessary to
24 permit verification of the ownership of the tax credits but
25 shall not adopt any rules which unduly restrict or hinder the
26 transfer of the tax credits.

27 "§37-11C-6.

1 "The tax credit allowed under this chapter shall be
2 effective for the 2020 tax year and shall continue through the
3 ~~2022~~ 2027 tax year, unless extended by act of the
4 Legislature."

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.