

By: Representatives Steverson, Carpenter

To: Ways and Means

HOUSE BILL NO. 1108
(As Passed the House)

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR CERTAIN RAILROAD
2 RECONSTRUCTION OR REPLACEMENT EXPENDITURES MADE BY CLASS II AND
3 CLASS III RAILROADS; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF
4 THIS ACT; TO PROVIDE THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT
5 ANY UNUSED PORTION OF THE TAX CREDIT MAY BE CARRIED FORWARD; TO
6 PROVIDE THAT ANY UNUSED PORTION OF THE TAX CREDIT MAY BE TRANSFERRED
7 TO ANOTHER TAXPAYER; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** (1) The following words and phrases shall have
10 the meanings as defined in this section unless the context clearly
11 indicates otherwise:

12 (a) "Eligible taxpayer" means any railroad that is
13 classified by the United States Surface Transportation Board as a
14 Class II or Class III railroad.

15 (b) "Eligible transferee" means any taxpayer having a
16 liability for taxes under this chapter.

17 (c) "Qualified railroad reconstruction or replacement
18 expenditures" means gross expenditures for maintenance,
19 reconstruction or replacement of railroad infrastructure,
20 including track, roadbed, bridges, industrial leads and sidings,



21 and track-related structures owned or leased by a Class II or
22 Class III railroad in Mississippi as of January 1, 2022.
23 Qualified railroad reconstruction or replacement expenditures also
24 include new construction of industrial leads, switches, spurs and
25 sidings and extensions of existing sidings by a Class II or Class
26 III railroad located in Mississippi.

27 (2) Subject to the provisions of this section, an eligible
28 taxpayer making qualified railroad reconstruction or replacement
29 expenditures shall be allowed a credit against the taxes imposed
30 under this chapter. The credit shall be for an amount equal to
31 the lesser of fifty percent (50%) of an eligible taxpayer's
32 qualified railroad reconstruction or replacement expenditures for
33 the taxable year or the product of Five Thousand Dollars
34 (\$5,000.00) multiplied by the number of miles of railroad track
35 owned or leased within the State of Mississippi by the eligible
36 taxpayer as of the close of the taxable year. However, the tax
37 credit shall not exceed the amount of tax imposed upon the
38 taxpayer for the taxable year reduced by the sum of all other
39 credits allowable to the taxpayer under this chapter, except
40 credit for tax payments made by or on behalf of the taxpayer. Any
41 tax credit claimed under this section but not used in any taxable
42 year may be carried forward for five (5) consecutive years from
43 the close of the taxable year in which the credit was earned. The
44 aggregate amount of credits that may be claimed by all taxpayers
45 claiming a credit under this section during a calendar year shall



not exceed Eight Million Dollars (\$8,000,000.00). In addition, an eligible taxpayer may transfer by written agreement any unused tax credit to an eligible transferee at any time during the five (5) years following the taxable year in which the qualified railroad reconstruction or replacement expenditures are made. The eligible taxpayer and the eligible transferee must jointly file a copy of the written transfer agreement with the Department of Revenue within thirty (30) days of the transfer. The written agreement must contain the: (a) name, address, and taxpayer identification number of the parties to the transfer, (b) taxable year the eligible taxpayer incurred the qualified railroad reconstruction or replacement expenditures, (c) amount of credit being transferred, and (d) taxable year or years for which the credit may be claimed by the eligible transferee.

SECTION 2. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972.

SECTION 3. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due



71 or accrued and the execution of any warrant under such laws before
72 the date on which this act becomes effective, and for the
73 imposition of any penalties, forfeitures or claims for failure to
74 comply with such laws.

75 **SECTION 4.** This act shall take effect and be in force from
76 and after January 1, 2022, and shall stand repealed on December
77 31, 2021.

