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To: Finance

SENATE BILL NO. 3163

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

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

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

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

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

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



22 and track-related structures owned or leased by a Class II or
23 Class III railroad in Mississippi as of January 1, 2022.

24 (d) "Qualified new rail infrastructure expenditures"
25 means gross expenditures for new construction of industrial leads,
26 switches, spurs and sidings and extensions of existing sidings,
27 for serving new customer locations or expansions in Mississippi,
28 by a Class II or Class III railroad located in Mississippi.

29 (2) Subject to the provisions of this section, an eligible
30 taxpayer making qualified railroad reconstruction or replacement
31 expenditures shall be allowed a credit against the taxes imposed
32 under this chapter. The credit shall be for an amount equal to
33 the lesser of fifty percent (50%) of an eligible taxpayer's
34 qualified railroad reconstruction or replacement expenditures for
35 the taxable year or the product of Five Thousand Dollars
36 (\$5,000.00) multiplied by the number of miles of railroad track
37 owned or leased within the State of Mississippi by the eligible
38 taxpayer as of the close of the taxable year. For qualified new
39 rail infrastructure expenditures, the credit shall be for an
40 amount equal to the lesser of fifty percent (50%) of an eligible
41 taxpayer's qualified new rail infrastructure expenditures for the
42 taxable year, capped at One Million Dollars (\$1,000,000.00) per
43 new rail-served customer project. However, the tax credit shall
44 not exceed the amount of tax imposed upon the taxpayer for the
45 taxable year reduced by the sum of all other credits allowable to
46 the taxpayer under this chapter, except credit for tax payments



47 made by or on behalf of the taxpayer. Any tax credit claimed
48 under this section but not used in any taxable year may be carried
49 forward for five (5) consecutive years from the close of the
50 taxable year in which the credit was earned. The aggregate amount
51 of credits that may be claimed by all taxpayers claiming a credit
52 under this section during a calendar year shall not exceed Eight
53 Million Dollars (\$8,000,000.00). In addition, an eligible
54 taxpayer may transfer by written agreement any unused tax credit
55 to an eligible transferee at any time during the year in which the
56 credit is earned and the five (5) years following the taxable year
57 in which the qualified railroad reconstruction or replacement
58 expenditures or the qualified new rail infrastructure expenditures
59 are made. The eligible taxpayer and the eligible transferee must
60 jointly file a copy of the written transfer agreement with the
61 Department of Revenue within thirty (30) days of the transfer.
62 The written agreement must contain the: (a) name, address, and
63 taxpayer identification number of the parties to the transfer; (b)
64 taxable year the eligible taxpayer incurred the qualified railroad
65 reconstruction or replacement expenditures or the qualified new
66 rail infrastructure expenditures; (c) amount of credit being
67 transferred; and (d) taxable year or years for which the credit
68 may be claimed by the eligible transferee.

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



71 **SECTION 3.** Nothing in this act shall affect or defeat any
72 claim, assessment, appeal, suit, right or cause of action for
73 taxes due or accrued under the income tax laws before the date on
74 which this act becomes effective, whether such claims,
75 assessments, appeals, suits or actions have been begun before the
76 date on which this act becomes effective or are begun thereafter;
77 and the provisions of the income tax laws are expressly continued
78 in full force, effect and operation for the purpose of the
79 assessment, collection and enrollment of liens for any taxes due
80 or accrued and the execution of any warrant under such laws before
81 the date on which this act becomes effective, and for the
82 imposition of any penalties, forfeitures or claims for failure to
83 comply with such laws.

84 **SECTION 4.** This act shall take effect and be in force from
85 and after January 1, 2022, and shall stand repealed on December
86 31, 2021.

