

1 HB457  
2 199319-3  
3 By Representatives Scott and Garrett  
4 RFD: Ways and Means Education  
5 First Read: 16-APR-19

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would allow a tax credit against  
9 the state income tax of an eligible taxpayer's  
10 qualified railroad reconstruction or replacement  
11 expenditures, which includes the maintenance,  
12 reconstruction, or replacement of railroad  
13 infrastructure within the state that is owned or  
14 leased by the eligible taxpayer.

15 This bill would allow an eligible taxpayer  
16 who receives the tax credit to transfer the tax  
17 credit under certain conditions and would sunset  
18 the tax credit in five years.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT

23  
24 Relating to tax credits; to create The Railroad  
25 Modernization Act of 2019; to authorize a tax credit against  
26 the state income tax of an eligible taxpayer's qualified

1 railroad reconstruction or replacement expenditures; and to  
2 authorize the transfer of the credit.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as The Railroad Modernization Act of 2019.

6 Section 2. (a) As used in this act, the following  
7 words shall have the following meanings:

8 (1) ELIGIBLE TAXPAYER. A railroad that is classified  
9 by the United States Surface Transportation Board as a Class  
10 II or Class III railroad.

11 (2) ELIGIBLE TRANSFEREE. A taxpayer subject to the  
12 state income tax who is transferred the tax credit allowed  
13 under subsection (b) by an eligible taxpayer.

14 (3) QUALIFIED RAILROAD RECONSTRUCTION OR REPLACEMENT  
15 EXPENDITURES. Expenditures within the taxable year for the  
16 maintenance, reconstruction, or replacement of railroad  
17 infrastructure within the state that is owned or leased by an  
18 eligible taxpayer. The term includes new construction of  
19 industrial leads, switches, spurs, sidings, and extensions of  
20 existing sidings by an eligible taxpayer. The term does not  
21 include expenditures for which an income tax deduction has  
22 been claimed.

23 (4) RAILROAD INFRASTRUCTURE. Includes, but is not  
24 limited to, the track, roadbed, bridges, signaling systems and  
25 train control, industrial leads, and track-related structures  
26 owned or leased by an eligible taxpayer.

1           (b) For tax years beginning after December 31, 2019,  
2 there is a credit allowed against the state income tax equal  
3 to 50 percent of an eligible taxpayer's qualified railroad  
4 reconstruction or replacement expenditures. Where the taxes  
5 owed by the eligible taxpayer are less than the tax credit,  
6 the eligible taxpayer may not be entitled to claim a refund  
7 for the difference.

8           (c) The income tax credit allowed under this section  
9 may not exceed three thousand five hundred dollars (\$3,500)  
10 multiplied by the number of miles of railroad track owned or  
11 leased within the state by the eligible taxpayer at the close  
12 of the taxable year.

13           (d) (1) 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. Once a credit is transferred, only the  
18 transferee may utilize the credit and the credit may not be  
19 transferred again. An eligible transferee of the credit may  
20 use the amount of credits transferred to offset any income  
21 tax.

22           (2) The Department of Revenue, by rule, shall adopt  
23 a written transfer agreement form. The written transfer  
24 agreement form must contain the name, address, and taxpayer  
25 identification number of the parties to the transfer; the  
26 amount of credit being transferred; the year the credit was

1 originally allowed to the eligible taxpayer; and the tax year  
2 or years for which the credit is claimed.

3 (3) The eligible taxpayer allowed the credit under  
4 this section and the subsequent eligible transferee shall  
5 jointly file a copy of the written transfer agreement with the  
6 Department of Revenue within 30 days of the transfer in order  
7 for the agreement to be valid.

8 (4) For each transfer, the transferor shall file  
9 with the Department of Revenue all of the following:

10 a. A completed transfer statement form.

11 b. A copy of the tax credit certificate issued by  
12 the eligible taxpayer documenting the amount of tax credits  
13 which the transferor intends to transfer.

14 c. A copy of the proposed written transfer  
15 agreement.

16 d. A transfer fee payable to the Department of  
17 Revenue in the amount of one thousand dollars (\$1,000).

18 (e) Any portion of the credit allowed under this  
19 section that is not used following the tax year of  
20 qualification may be carried over by the eligible taxpayer to  
21 any of the five tax years subsequent to the year of  
22 qualification.

23 (f) The income tax credit allowed under this section  
24 that is granted to a partnership, limited liability company, S  
25 corporation, trust, or estate, shall be claimed at the entity  
26 level and may pass through to the partners, members, or  
27 owners.

1           (g) (1) Effective for tax years beginning after  
2           December 31, 2019, the Department of Transportation shall  
3           adopt rules to permit verification of the eligibility of an  
4           eligible taxpayer's expenditures for the purpose of claiming  
5           the credit. The rules shall provide for the approval of  
6           qualified railroad or replacement expenditures prior to  
7           commencement of a project and provide a certificate of  
8           verification upon completion of a project that uses qualified  
9           railroad or replacement expenditures. The certificate of  
10          verification shall satisfy all requirements of the Department  
11          of Revenue pertaining to the eligibility of the person  
12          claiming the credit. All information submitted to the  
13          Department of Transportation by taxpayers claiming or seeking  
14          certification of a credit shall be subject to the  
15          confidentiality provisions of Section 40-2A-10, Code of  
16          Alabama 1975.

17                 (2) The information on the reports required by this  
18          subsection shall be consistent with the information required  
19          by the Legislature pursuant to Section 40-1-50, Code of  
20          Alabama 1975, and rules adopted thereunder. Aggregated  
21          information provided pursuant to this section is exempt from  
22          the confidentiality provisions of Section 40-2A-10, Code of  
23          Alabama 1975, and shall be provided by the Department of  
24          Transportation to the Legislature in accordance with Section  
25          40-1-50, Code of Alabama 1975, and rules adopted by the  
26          Department of Revenue.

1                   (h) The tax credit allowed under this section shall  
2 be effective for the 2020 tax year and shall continue through  
3 the 2024 tax year, unless extended by act of the Legislature.

4                   Section 3. This act shall become effective on the  
5 first day of the third month following its passage and  
6 approval by the Governor, or its otherwise becoming law.