

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

861R0507

## HOUSE BILL NO. 1197

Introduced by: Representatives Feickert, Burg, Cronin, Feinstein, Frerichs, Gibson, Hunhoff (Bernie), Kirkeby, Kirschman, Lange, Lederman, Street, and Thompson and Senators Hundstad, Abdallah, Adelstein, Bartling, Kloucek, and Peterson

1 FOR AN ACT ENTITLED, An Act to provide for the repeal of the railroad tax credits.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 10-28-21.2 be repealed.

4 ~~— 10-28-21.2. Any publicly operated railroad or railway corporation operating over rail lines~~  
5 ~~owned by the publicly operated railroad or railway corporation located within this state may~~  
6 ~~claim a credit against the tax levied on such rail lines for amounts that the railroad or railway~~  
7 ~~corporation has certified as having been expended in the replacement, improvement, and repair~~  
8 ~~of such rail lines. Only those expenses of a capital nature may be certified as an expense eligible~~  
9 ~~for a credit pursuant to this section. The certification required by this section shall be on forms~~  
10 ~~provided by the Department of Revenue and Regulation. The labor and material expenses~~  
11 ~~certified pursuant to this section shall be itemized separately by rail line and mile post locations~~  
12 ~~. The credit provided in this section shall be applied proportionally across the railroad's entire~~  
13 ~~mainline within this state. The credit shall be applied to tax liability over a three-year period in~~  
14 ~~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 § 10-28-21.3 be repealed.

10 ~~—10-28-21.3. Expenses of a capital nature contained in § 10-28-21.2 are as defined in CFR~~  
11 ~~49 Parts 1200 through 1219 Subpart A Uniform Systems of Accounts for Railroad Companies,~~  
12 ~~as amended through January 1, 2004, for Class 1 railroads or as defined in accordance with~~  
13 ~~generally accepted accounting principles for regulated industries for Class 2 and Class 3~~  
14 ~~railroads.~~

15 Section 3. That § 10-28-21.4 be repealed.

16 ~~—10-28-21.4. Each year the railroad or railroad corporation requesting tax credits shall prepare~~  
17 ~~a capital improvement plan detailing the proposed mainline and secondary line capital~~  
18 ~~improvement projects including the project scope, estimated value, approximate scheduling of~~  
19 ~~the projects, and the current category of the line on the railroad's system diagram map as~~  
20 ~~provided in 49 CFR § 1152.10 as of January 1, 2004. The plan shall be presented to the~~  
21 ~~Department of Transportation by March first of each year for any capital improvement project~~  
22 ~~for which a tax credit will be requested.~~

23 Section 4. That § 10-28-21.5 be repealed.

24 ~~—10-28-21.5. The railroad shall annually notify the Department of Transportation of~~

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

13 Section 5. That § 10-28-21.6 be repealed.

14 ~~—10-28-21.6. The State Railroad Board shall, in accordance with chapter 1-26, promulgate~~  
15 ~~rules establishing the form upon which a railroad shall submit verification information for~~  
16 ~~capital expenses being claimed as tax credits authorized by § 10-28-21.2, when the information~~  
17 ~~is to be submitted, and the manner in which the certification is submitted.~~

18 Section 6. The provisions of §§ 10-28-21.2 to 10-28-21.6, inclusive, continue to apply to any  
19 any credits that were certified prior to January 30, 2010.