



**House Ways and Means Education Reported Substitute
for HB190**

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5 A BILL

6 TO BE ENTITLED

7 AN ACT

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9 Relating to the Railroad Modernization Act of 2019; to
10 amend Sections 37-11C-4 and 37-11C-6, Code of Alabama 1975, to
11 **extend the current** per mile credit amount; to **extend the**
12 **current** annual cap on income tax credits; and to extend the
13 sunset date.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§37-11C-4

18 (a) For tax years beginning after December 31, 2019,
19 through December 31, 2022, there is a credit allowed against
20 the state income tax levied by Section 40-18-2 equal to 50
21 percent of an eligible taxpayer's qualified railroad
22 rehabilitation expenditures. The tax credit allowed under this
23 section may not exceed three thousand five hundred dollars
24 (\$3,500) multiplied by the number of miles of railroad track
25 owned or leased within the state by the eligible taxpayer at
26 the close of the taxable year.

27 (b) For tax years beginning after December 31, 2022,
28 through December 31, 2027, there is a credit allowed against



**House Ways and Means Education Reported Substitute
for HB190**

29 the state income tax levied by Section 40-18-2 equal to 50
30 percent of an eligible taxpayer's qualified railroad
31 rehabilitation expenditures. The tax credit allowed under this
32 section may not exceed four thousand one hundred dollars
33 (\$4,100) multiplied by the number of miles of railroad track
34 owned or leased within the state by the eligible taxpayer at
35 the close of the taxable year.

36 (c) For tax years beginning after December 31, 2027,
37 through December 31, 2032, there is a credit allowed against
38 the state income tax levied by Section 40-18-2 equal to 50
39 percent of an eligible taxpayer's qualified railroad
40 rehabilitation expenditures. The tax credit allowed under this
41 section may not exceed four thousand one hundred dollars
42 (\$4,100) multiplied by the number of miles of railroad track
43 owned or leased within the state by the eligible taxpayer at
44 the close of the taxable year.

45 ~~(e)~~ (d) There is created within the Education Trust Fund
46 a separate account named the Railroad Rehabilitation Income
47 Tax Credit Account. The Commissioner of Revenue shall certify
48 to the state Comptroller the amount of income tax credits
49 under this section, and the state Comptroller shall transfer
50 into the Railroad Rehabilitation Income Tax Credit Account
51 only the amount from sales tax revenues within the Education
52 Trust Fund that is sufficient for the Department of Revenue to
53 use to cover the income tax credits for the applicable tax
54 year. The commissioner shall distribute the funds in the
55 Railroad Rehabilitation Income Tax Credit Account pursuant to
56 this section.



House Ways and Means Education Reported Substitute for HB190

57 ~~(d)~~ (e) The entire tax credit may be claimed by the
58 taxpayer in the taxable year in which the qualified railroad
59 rehabilitation expenditures are completed and placed into
60 service. Where the taxes owed by the eligible taxpayer are
61 less than the tax credit, the eligible taxpayer may be
62 entitled to claim a refund for the difference.

63 ~~(e)~~ (f) For the calendar years 2020, 2021, and 2022, the
64 aggregate amount of all tax credits that may be reserved in
65 any one of such years by the department upon certification of
66 rehabilitation plans shall not exceed three million seven
67 hundred thousand dollars (\$3,700,000) plus any amount of
68 previous reservations of tax credits that were rescinded
69 during the tax year. However, if all of the allowable tax
70 credit amount for any tax year is not requested and reserved,
71 any unreserved tax credits may be utilized by the department
72 in awarding tax credits in subsequent years, ~~is~~ provided,
73 ~~however,~~ that in no event shall a total of more than eleven
74 million one hundred thousand dollars (\$11,100,000) be reserved
75 by the department during the period of August 1, 2019, through
76 August 1, 2022. For purposes of this chapter, "tax year" shall
77 mean the calendar year.

78 ~~(f)~~ (g) For the calendar years 2023 through 2027, the
79 aggregate amount of all tax credits that may be reserved in
80 any one of such years by the department upon certification of
81 rehabilitation plans shall not exceed four million five
82 hundred thousand dollars (\$4,500,000) plus any amount of
83 previous reservations of tax credits that were rescinded
84 during the tax year. However, if all of the allowable tax



**House Ways and Means Education Reported Substitute
for HB190**

85 credit amount for any tax year is not requested and reserved,
 86 any unreserved tax credits may be utilized by the department
 87 in awarding tax credits in subsequent years~~+,~~ provided~~,~~
 88 ~~however,~~ that in no event shall a total of more than
 89 twenty-two million five hundred thousand dollars (\$22,500,000)
 90 be reserved by the department during the period of August 1,
 91 2022, through August 1, 2027. For the purposes of this chapter
 92 "tax year" shall mean the calendar year.

93 (h) For the calendar years 2028 through 2032, the
 94 aggregate amount of all tax credits that may be reserved in
 95 any one of such years by the department upon certification of
 96 rehabilitation plans shall not exceed four million five
 97 hundred thousand dollars (\$4,500,000) plus any amount of
 98 previous reservations of tax credits that were rescinded
 99 during the tax year. However, if all of the allowable tax
 100 credit amount for any tax year is not requested and reserved,
 101 any unreserved tax credits may be utilized by the department
 102 in awarding tax credits in subsequent years, provided that in
 103 no event shall a total of more than twenty-two million five
 104 hundred thousand dollars (\$22,500,000) be reserved by the
 105 department during the period of August 1, 2027, through August
 106 1, 2032. For the purposes of this chapter "tax year" shall
 107 mean the calendar year.

108 ~~(g)~~(i) Tax credits granted to a partnership, a limited
 109 liability company, S Corporations, trusts, or estates shall be
 110 claimed at the entity level and shall not pass through to the
 111 partners, members, or owners.

112 ~~(h)~~(j) All or any portion of the income tax credit



**House Ways and Means Education Reported Substitute
for HB190**

113 authorized under this section may be transferable and
114 assignable by written transfer agreement and subject to any
115 notice and verification requirements to be determined by the
116 Department of Revenue. Any tax credits transferred shall be at
117 a value of at least ~~eighty-five~~⁸⁵ percent~~-(85%)~~ of the present
118 value of the credits. However, once a credit is transferred,
119 only the transferee may utilize the credit and the credit may
120 not be transferred again. An eligible transferee of the credit
121 may use the amount of credits transferred to offset any income
122 tax due under Chapter 18 of Title 40. The department, by rule,
123 shall adopt a written transfer agreement form. The transfer
124 statement form shall include the name and federal taxpayer
125 identification number of the transferor and each transferee
126 listed therein along with the amount of the tax credit to be
127 transferred to each transferee listed on the form. The
128 transfer statement form shall also contain such other
129 information as the department may from time to time reasonably
130 require. For each transfer, the transferor shall file with the
131 department: (1) a completed transfer statement form; (2) a
132 copy of the executed written transfer agreement; and (3) a
133 transfer fee payable to the department in the amount of one
134 thousand dollars (\$1,000) per transferee listed on the
135 transfer statement form. Within 30 days after the department's
136 receipt of the fully executed written transfer agreement, the
137 department shall issue a tax credit certificate to each
138 transferee listed in the agreement in the amount of the tax
139 credit so transferred. ~~Such~~^{The} certificate shall be used by
140 the transferee in claiming the tax credit. The department may



**House Ways and Means Education Reported Substitute
for HB190**

141 adopt ~~such~~ additional rules as are necessary to permit
142 verification of the ownership of the tax credits but shall not
143 adopt any rules that unduly restrict or hinder the transfer of
144 the tax credits."

145 "§37-11C-6

146 The tax credit allowed under this chapter shall be
147 effective for the 2020 tax year and shall continue through the
148 20272032 tax year, ~~unless extended by act of the Legislature.~~"

149 Section 2. This act shall become effective on June 1,
150 2026.