



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

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§37-11C-4

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

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



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

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

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



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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,    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



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

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

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

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



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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



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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 ~~2027~~2032 tax year, ~~unless extended by act of the Legislature.~~"

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