

2021 Regular Session

HOUSE BILL NO. 289

BY REPRESENTATIVES MCFARLAND AND BISHOP AND SENATOR FOIL

TAX CREDITS: Establishes an income and corporate franchise tax credit for Class II and Class III railroads

1 AN ACT

2 To enact R.S. 47:6042, relative to income and corporate franchise tax credits; to provide for  
3 an income and corporate franchise tax credit for certain railroads; to provide for  
4 definitions; to provide for the maximum amount of credits that can be issued  
5 annually; to provide for the maximum amount of credits an individual taxpayer can  
6 be issued annually; to provide for taxpayer eligibility; to authorize unclaimed  
7 portions of a credit to be carry forward or transferred; to provide for the  
8 administration of the tax credit; to provide for effectiveness; and to provide for  
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:6042 is hereby enacted to read as follows:

12 §6042. Tax credit for certain railroads

13 A. Beginning January 1, 2022, there is hereby authorized a credit against  
14 individual income tax, corporation income tax, and corporation franchise tax for  
15 Class II or Class III railroads operating in Louisiana.

16 B. For the purposes of this Section the following terms shall have the  
17 following meanings:

18 (1) "Department" shall mean the Department of Revenue.

1           (2) "Eligible taxpayer" or "taxpayer" shall mean any railroad that owns,  
2           operates, or leases railroad tracks in Louisiana and is classified by the United States  
3           Surface Transportation Board as a Class II or Class III railroad.

4           (3) "Eligible transferee" shall mean any taxpayer subject to Louisiana  
5           individual income tax, corporation income tax, or corporation franchise tax.

6           (4) "Qualified railroad track maintenance expenditures" or "expenditures"  
7           shall mean gross expenditures made on or after January 1, 2022, by an eligible  
8           taxpayer for repairs, maintenance, reconstruction, or replacement of railroad track,  
9           including roadbed, bridges, industrial leads, side track, yard tracks, related track  
10          structures, or for the new construction of industrial leads, switches, spurs, sidings,  
11          or the extension of existing sidings if the expenditures are made on track located in  
12          Louisiana and the applicable track is owned, operated, or leased by the eligible  
13          taxpayer.

14          C. (1) The total amount of tax credits granted by the department pursuant to  
15          this Section in a calendar year shall not exceed seven million five hundred thousand  
16          dollars. The total amount of tax credits available to be claimed by an eligible  
17          taxpayer in a calendar year shall be the lesser of fifty percent of the eligible  
18          taxpayer's qualified expenditures for the taxable year or the total number of miles of  
19          railroad track owned, operated, or leased within Louisiana by the taxpayer at the end  
20          of the previous taxable year multiplied by seven thousand dollars. For purposes of  
21          the calculation provided for in this Subsection, one mile of single railroad track shall  
22          equal one mile, and one mile of double railroad track shall equal two miles.

23          (2) If the amount of the tax credit authorized pursuant to the provisions of  
24          this Section exceeds the amount of the eligible taxpayer's tax liability in the year in  
25          which the credit is earned, the excess credit amount may be carried forward by the  
26          taxpayer as a credit against subsequent Louisiana income tax or corporation  
27          franchise tax liability for a period not to exceed seven years from the year in which  
28          the credit was earned.

1           (3) An eligible taxpayer claiming the credit provided for in this Section shall  
2           submit a tax credit application to the department identifying the amount of the tax  
3           credit expected to be claimed in a taxable year. The application shall provide the  
4           amount of the eligible taxpayer's expenditures for the applicable taxable year and the  
5           number of miles of railroad track owned, operated, or leased by the eligible taxpayer  
6           within Louisiana prior to the end of the applicable taxable year. The application  
7           shall be submitted to the department no later than thirty days prior to the end of the  
8           taxable year in which the eligible taxpayer intends to claim the credit. The tax credit  
9           awarded to the eligible taxpayer shall not exceed the amount set forth in the credit  
10           application submitted to the department pursuant to the provisions of this Paragraph.

11           D. (1) Any tax credit earned pursuant to this Section that has not previously  
12           been claimed by an eligible taxpayer against Louisiana income tax or corporation  
13           franchise tax may be transferred or sold to an eligible transferee within five years of  
14           the taxable year in which the credit was earned. No transfer or sale of tax credits  
15           shall be effective until recorded in the tax credit registry pursuant to the provisions  
16           of R.S. 47:1524. Any transfer of credits shall be evidenced in a written agreement.

17           (2) The eligible taxpayer that earned the tax credit and the eligible transferee  
18           receiving the credit shall submit to the department a copy of the written transfer  
19           agreement within thirty days of the transfer or sale. The written agreement shall  
20           contain the name, address, and taxpayer identification number of the parties to the  
21           transfer or sale. The agreement shall also include the date of the transfer, the amount  
22           of credit being transferred or sold, the year in which the credit was originally earned,  
23           and the taxable year or years in which the credit may be claimed.

24           Section 2. This Act shall become effective on January 1, 2022, and shall be  
25           applicable to taxing periods occurring on or after January 1, 2022.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 289 Original

2021 Regular Session

McFarland

**Abstract:** Authorizes an income and corporate franchise tax credit for certain Class II and Class III railroads.

Beginning Jan. 1, 2022, proposed law authorizes an income tax and corporate franchise tax credit for eligible taxpayers.

Proposed law defines eligible taxpayer as any railroad that owns, operates, or leases railroad track in La. and is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

Proposed law provides the total amount of credits granted in a calendar year shall not exceed \$7.5 million. Further provides the total amount of credits available for each taxpayer each year shall be the lesser of 50% of the taxpayer's qualified expenditures or the total number of miles of track owned, operated, or leased within La. multiplied by \$7,000.

Proposed law provides that if the amount of the tax credit exceeds the taxpayer's liability in the year the credit is earned, the excess credit may be carried forward for a period not to exceed seven years from when the credit was earned.

Proposed law requires a taxpayer claiming the credit to submit an application for the credit to the Department of Revenue (Dept.) identifying the amount the taxpayer expects to claim as a credit in a taxable year. Further provides the application shall provide for the taxpayer's amount of eligible expenditures, and the number of miles of track owned, operated, or leased by the taxpayer.

Proposed law provides the application shall be submitted to the Dept. no later than 30 days prior to the end of the applicable taxable year.

Proposed law provides the tax credit awarded to the taxpayer shall not exceed the amount set forth in the credit application.

Proposed law provides that any tax credit that has not been claimed may be transferred or sold within five years to an eligible transferee, beginning the year in which the credit was earned. Further provides that the transfer or sale may only take place if the credit is recorded in the tax registry pursuant to present law (R.S. 47:1524).

Proposed law provides that a transfer or sale of a credit shall be evidenced in a written agreement. Further provides that a copy of the written agreement shall be submitted to the Dept. within 30 days of the transfer or sale.

Proposed law defines "eligible transferee" as any taxpayer subject to La. income tax or corporate franchise tax.

Proposed law defines "qualified railroad track maintenance expenditures" as the gross expenditures made on or after Jan. 1, 2022, by an eligible taxpayer for repairs, maintenance, reconstruction or replacement of railroad track or for new construction of industrial leads, switches, spurs, sidings or for the extension of existing sidings if the expenditures are made on track located in La. and the track is owned, operated, or leased by the eligible taxpayer.

Applicable to taxable years occurring on or after Jan. 1, 2022.

Effective Jan. 1, 2022.

(Adds R.S. 47:6042)