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## DIGEST

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HB 289 Reengrossed

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 \$4.5 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 \$4,500.

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.

Proposed law provides that any Class II or Class III railroad receiving a credit pursuant to proposed law shall charge a broadband provider only the actual costs directly incurred by the railroad related to the installation of broadband infrastructure if such infrastructure is required to crossover track qualified for this tax credit.

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

Effective Jan. 1, 2022.

(Adds R.S. 47:6042)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the total amount of credits granted in a calendar year from \$7.5 million to \$4.5 million.
2. Change the total amount of credits available for each taxpayer in a year from 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 \$7,500 to the total number of miles of track owned, operated or leased within La. multiplied by \$4,500.

The House Floor Amendments to the engrossed bill:

1. Require Class II or III railroads receiving the tax credit authorized pursuant to proposed law to charge broadband providers an amount equal to the actual costs incurred by the railroad for installation of broadband infrastructure if it is required to cross over certain railroad track.