

Office of the Governor
State of Louisiana

JOHN BEL EDWARDS
GOVERNOR



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June 29, 2021

VIA HAND DELIVERY

Honorable Clay J. Schexnayder
Speaker of the House
Louisiana House of Representatives
Post Office Box 94062
Baton Rouge, Louisiana 70804-9062

RE: Veto of House Bill 289 of the 2021 Regular Session

Dear Speaker Schexnayder:

Please be advised that I have vetoed House Bill 289 of the 2021 Regular Session.

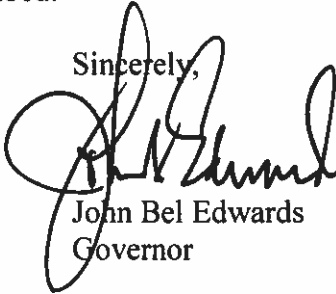
House Bill 289 creates a new state income and franchise tax credit for qualified railroad track repairs, maintenance, reconstruction, or replacement by Class II and Class III railroads, or short line railroads. According to the information provided by the proponents of the bill, the existing backlog for privately-owned short line rail infrastructure funding is estimated to be \$260 million. In contrast, the existing backlog for public transportation infrastructure is \$14.8 billion. With legislators seeking additional general fund revenues to dedicate to transportation infrastructure, the reluctance to move legislation increasing the gas tax, and the looming sunset of the additional 0.45% of state sales tax in June 2025, the creation of a new tax credit to fund privately owned infrastructure only serves to exacerbate the state's transportation funding dilemma.

Further, there is an existing federal tax credit for short line rail infrastructure investments. The Section 45G federal credit, effective since 2005, is currently a 50% credit for the same investment in track repairs, maintenance, reconstruction or replacement by short line railroads addressed in House Bill 289. In 2023, the Section 45G federal credit will decrease to a 40% credit. The provisions of House Bill 289 include no corresponding reduction in the proposed 50% state tax credit to 40% in 2023. A short line railroad would be eligible for a federal tax credit equal to 50% of the investment on repairs made to privately owned railroad track in Louisiana and a separate 50% state tax credit on that same investment. Even with a cap on the amount of tax credits allowed each year, the state can ill afford to spend limited general fund revenue on privately owned infrastructure when the outstanding public infrastructure needs exceed the amount of annual general fund revenue collections.

Honorable Clay J. Schexnayder
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For these reasons, House Bill 289 is vetoed.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bel Edwards". The signature is stylized with large, flowing loops and is positioned over the printed name and title.

John Bel Edwards
Governor

cc: Honorable Patrick Page Cortez
Louisiana Senate President

2021 Regular Session

HOUSE BILL NO. 289

BY REPRESENTATIVES MCFARLAND AND BISHOP AND SENATORS BERNARD,
FOIL, LUNEAU, ROBERT MILLS, AND MORRIS

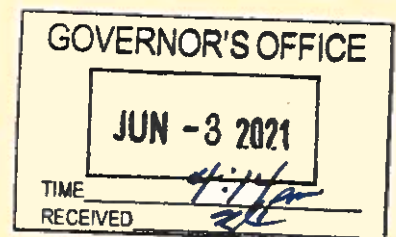
AN ACT

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

ORIGINATED

IN THE

House of Representatives



Michelle D. Linder
Clerk of the House of Representatives

2021 Regular Session

HOUSE BILL NO. 289

BY REPRESENTATIVES MCFARLAND AND BISHOP AND SENATORS BERNARD,
FOIL, LUNEAU, ROBERT MILLS, AND MORRIS

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 carried 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 two million dollars. The total amount
16 of tax credits available to be claimed by an eligible taxpayer in a calendar year shall
17 be the lesser of fifty percent of the eligible taxpayer's qualified expenditures for the
18 taxable year or the total number of miles of railroad track owned, operated, or leased
19 within Louisiana by the taxpayer at the end of the previous taxable year multiplied
20 by four thousand five hundred dollars. For purposes of the calculation provided for
21 in this Subsection, one mile of single railroad track shall equal one mile, and one
22 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 granted 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) Transferors and transferees shall submit a written transfer notification to
18 the department of any transfer of tax credits within ten business days after the
19 transfer of the credits. A "transfer" for purposes of this Paragraph means an
20 assignment, disposition, transfer, or allocation of tax credits. The transfer notification
21 shall include the transferor's tax credit balance prior to transfer, the remaining
22 balance after transfer, all federal and Louisiana tax identification numbers for both
23 transferor and transferee, the date of transfer, the amount of credit transferred, and
24 any other information required by the department. The transfer notification shall be
25 accompanied by a tax credit transfer processing fee in the amount of two hundred
26 dollars payable to the department. Failure to comply with any provision of this
27 Paragraph shall result in the disallowance of the tax credit until the parties are in full
28 compliance.

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E. No credits shall be granted pursuant to the provisions of this Section on or after January 1, 2032.

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


SPEAKER OF THE HOUSE OF REPRESENTATIVES


PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: 

06/23/2021

