AN ACT

ENTITLED, An Act to revise certain provisions regarding railroad tax credits and to provide a process for administrating the tax credits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-28-21.2 be amended to read as follows:

10-28-21.2. Any publicly operated railroad or railway corporation operating over rail lines owned by the publicly operated railroad or railway corporation located within this state may claim a credit against the tax levied on such rail lines for amounts that the railroad or railway corporation has certified as having been expended in the replacement, improvement, and repair of such rail lines. Only those expenses of a capital nature may be certified as an expense eligible for a credit pursuant to this section. The certification required by this section shall be on forms provided by the Department of Revenue and Regulation. The labor and material expenses certified pursuant to this section shall be itemized separately by rail line and mile post locations. The credit provided in this section shall be applied proportionally across the railroad's entire mainline within this state. The credit shall be applied to tax liability over a three-year period in an amount equal to thirty-three and one-third percent the first year following certification; thirty-three and one-third percent of such an amount shall carry forward into the second year following certification; and thirty-three and one-third percent shall carry forward into the third year following certification. Each year's carryover shall be accumulated as a tax credit with other years' annual tax credits. No credit may be given for the repair or replacement of railway line necessitated by washout, fire, or train derailment. No credit may be given for that portion of a project that is funded with state or federal grant funds or paid for by any third party. If any rail line goes over ten million gross ton miles of revenue freight per mile annually in a calendar year, the rail line may not receive a credit pursuant to this section in the following calendar year.

Section 2. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as follows:

Expenses of a capital nature contained in § 10-28-21.2 are as defined in CFR 49 Parts 1200 through 1219 Subpart A Uniform Systems of Accounts for Railroad Companies, as amended through January 1, 2004, for Class 1 railroads or as defined in accordance with generally accepted accounting principles for regulated industries for Class 2 and Class 3 railroads.

Section 3. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as follows:

Each year the railroad or railroad corporation requesting tax credits shall prepare a capital improvement plan detailing the proposed mainline and secondary line capital improvement projects including the project scope, estimated value, approximate scheduling of the projects, and the current category of the line on the railroad's system diagram map as provided in 49 CFR § 1152.10 as of January 1, 2004. The plan shall be presented to the Department of Transportation by March first of each year for any capital improvement project for which a tax credit will be requested.

Section 4. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as follows:

The railroad shall annually notify the Department of Transportation of completion of any capital project. However, if the cost of the capital project exceeds three hundred thousand dollars, the railroad shall notify the department immediately upon completion. The department may conduct a verification inspection of capital improvement project completion and may audit the capital improvement project according to South Dakota Department of Transportation Audit guidelines and the Federal-Aid Policy Guide 23 CFR Chapter 1, Subchapter B, Part 140, Subpart 1, as amended through January 1, 2004, to determine project value. The department shall report its findings to each county where the railroad has requested a tax credit. Only those capital expenses that have been

claimed on the railroad's certification and verified by the department are eligible for a credit pursuant to § 10-28-21.2. Any railroad aggrieved by the decision of the department concerning the eligibility of a claimed capital expenditure for the tax credit authorized by § 10-28-21.2 is entitled to an administrative hearing conducted in accordance with the provisions of chapter 1-26.

Section 5. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as follows:

The State Railroad Board shall, in accordance with chapter 1-26, promulgate rules establishing the form upon which a railroad shall submit verification information for capital expenses being claimed as tax credits authorized by § 10-28-21.2, when the information is to be submitted, and the manner in which the certification is submitted.

An Act to revise certain provisions regarding railroad tax credits and to provide a process for administrating the tax credits.

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I certify that the attached Act originated in the

SENATE as Bill No. 42

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Secretary of the Senate

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President of the Senate

Attest:

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Secretary of the Senate

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Speaker of the House

Attest:

_____
Chief Clerk

Senate Bill No. 42
File No. ____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State