

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 876

102ND GENERAL ASSEMBLY

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KRISTINA MARTIN, Secretary

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## AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for qualified railroad infrastructure investments.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 135, RSMo, is amended by adding thereto  
2 one new section, to be known as section 135.1210, to read as  
3 follows:

135.1210. 1. As used in this section, the following  
2 terms mean:

3 (1) "Eligible customer", a person who uses any  
4 railroad or railroad-related property, facilities, or  
5 structures located wholly or partly within the state of  
6 Missouri to directly or indirectly transport property,  
7 commodities, or goods, or who is served by any railroad, or  
8 who stores railcars on any railroad in Missouri;

9 (2) "Eligible taxpayer":

10 (a) Any railroad company located wholly or partly in  
11 the state of Missouri that is classified by the United  
12 States Surface Transportation board as a Class II or Class  
13 III railroad and that is subject to the tax imposed pursuant  
14 to chapter 143 or 148, excluding withholding tax imposed  
15 pursuant to sections 143.191 to 143.265, who made qualified  
16 railroad expenditures or qualified new rail infrastructure

17 expenditures in Missouri during the tax year for which a  
18 credit is claimed pursuant to this section; or

19 (b) Any owner or lessee of a rail siding, industrial  
20 spur, or industry track located on or adjacent to any  
21 railroad in the state of Missouri who is subject to the tax  
22 imposed pursuant to chapter 143 or 148, excluding  
23 withholding tax imposed pursuant to sections 143.191 to  
24 143.265, and who made qualified railroad expenditures or  
25 qualified new rail infrastructure expenditures in Missouri  
26 during the tax year for which a credit is claimed pursuant  
27 to this section;

28 (c) Any port authority existing pursuant to chapter 68  
29 and any city-owned railroad that is not subject to the tax  
30 imposed pursuant to chapter 143 or 148, excluding  
31 withholding tax imposed pursuant to sections 143.191 to  
32 143.265, and that made qualified railroad expenditures or  
33 qualified new rail infrastructure expenditures in Missouri  
34 during the tax year for which a credit is claimed pursuant  
35 to this section;

36 (3) "Eligible vendor", a person who provides railroad-  
37 related services directly to an eligible taxpayer;

38 (4) "Person", the same meaning as defined under  
39 section 1.020;

40 (5) "Qualified amount", for any eligible taxpayer in a  
41 given tax year, an amount equal to fifty percent of an  
42 eligible taxpayer's qualified railroad expenditures or  
43 qualified new rail infrastructure expenditures; provided  
44 that:

45 (a) For qualified railroad expenditures, the amount of  
46 tax credit shall not exceed an amount equal to the product  
47 of five thousand dollars multiplied by the number of miles

48 of railroad track owned or leased in the state by any  
49 railroad as of the close of the tax year; and

50 (b) For qualified new rail infrastructure  
51 expenditures, the amount of tax credit shall not exceed one  
52 million dollars for each new rail-served customer project of  
53 an eligible taxpayer;

54 (6) "Qualified new rail infrastructure expenditures",  
55 gross expenditures for new rail infrastructure by an  
56 eligible taxpayer, which includes the construction of new  
57 track infrastructure such as industrial leads, switches,  
58 spurs, sidings, rail loading docks, and transloading  
59 structures involved with servicing new or existing customer  
60 locations or expansions by any railroad located in Missouri;

61 (7) "Qualified railroad expenditures", gross  
62 expenditures for maintenance, reconstruction, or replacement  
63 of railroad infrastructure, including track, roadbed,  
64 bridges, industrial leads and sidings, and track-related  
65 structures owned or leased by any railroad located in  
66 Missouri. "Qualified railroad expenditures" does not  
67 include expenditures used to generate a federal tax credit  
68 or expenditures funded by a state or federal grant;

69 (8) "Railroad-related services", includes, but is not  
70 limited to, the following: transport of freight by rail;  
71 loading and unloading of freight transported by rail;  
72 railroad bridge services; railroad track construction;  
73 provision of railroad track material or equipment;  
74 locomotive or freight train car leasing or rental; provision  
75 of railroad financial services, including banking or  
76 insurance; maintenance of a railroad's right-of-way,  
77 including vegetation control; and freight train car repair,  
78 rehabilitation, or remanufacturing repair services;

79           (9) "Tax credit", a credit against the tax otherwise  
80 due under chapter 143 or 148, excluding withholding tax  
81 imposed under sections 143.191 to 143.265.

82           2. For all tax years beginning on or after January 1,  
83 2025, an eligible taxpayer shall be allowed to claim a  
84 nonrefundable tax credit for qualified railroad expenditures  
85 in Missouri or for qualified new rail infrastructure  
86 expenditures in Missouri against the taxpayer's state tax  
87 liability in an amount equal to the taxpayer's qualified  
88 amount.

89           3. An eligible taxpayer who seeks to claim a tax  
90 credit under this section shall submit a certificate of  
91 eligibility to the Missouri department of economic  
92 development after completion of the qualified railroad  
93 expenditures or qualified new rail infrastructure  
94 expenditures. The certificate shall include the number of  
95 miles of railroad track owned or leased in this state and a  
96 description of the amount of qualified railroad expenditures  
97 or qualified new rail infrastructure expenditures  
98 completed. The certificate shall be made on forms and in  
99 the manner prescribed by the department and considered in  
100 the order received.

101           4. If the department of economic development  
102 determines that the taxpayer meets the requirements to claim  
103 a tax credit under this section, the department may issue a  
104 certificate of eligibility to the eligible taxpayer. The  
105 certificate shall be numbered for identification and declare  
106 its date of issuance and the amount of the tax credit  
107 allowed under this section.

108           5. (1) The cumulative amount of tax credits under  
109 this section authorized for qualified railroad expenditures  
110 in this state shall not exceed four million five hundred

111 thousand dollars per tax year. If the amount of tax credits  
112 claimed in a tax year under this section exceeds four  
113 million five hundred thousand dollars, tax credits shall be  
114 allowed based on the order in which they are claimed.

115 (2) The cumulative amount of tax credits under this  
116 section authorized for qualified new rail infrastructure  
117 expenditures in this state shall not exceed ten million  
118 dollars per tax year. If the amount of tax credits claimed  
119 in a tax year under this section exceeds ten million  
120 dollars, tax credits shall be allowed based on the order in  
121 which they are claimed.

122 6. Any unused portion of a tax credit allowed under  
123 this section may be carried forward for up to five  
124 subsequent tax years immediately following the tax year the  
125 credit was allowed.

126 7. (1) Subject to the requirements of this  
127 subsection, an eligible taxpayer who earns and is entitled  
128 to the credit or to an unused portion of the credit allowed  
129 by this section may transfer all or a portion of the unused  
130 credit by written agreement to any eligible customer,  
131 eligible vendor, or any taxpayer subject to tax imposed  
132 under chapter 143, 147, or 148, excluding withholding tax  
133 imposed under sections 143.191 to 143.265, at any time  
134 during the year in which the credit is earned and the five  
135 years following the year of the qualified expenditures. The  
136 taxpayer originally allowed the tax credit and the  
137 subsequent transferee shall jointly file a copy of the  
138 written credit transfer agreement with the department of  
139 revenue. The agreement shall include the name, address, and  
140 taxpayer identification number of the parties to the  
141 transfer; the amount of the credit being transferred; the  
142 year the credit was originally allowed to the transferring

143 taxpayer; and the tax year or years for which the credit may  
144 be claimed. In the event of such a transfer, the transferee  
145 may claim the credit on the transferee's income tax return  
146 originally filed during the calendar year in which the  
147 transfer takes place and in the case of carryover of the  
148 credit, on the transferee's returns for the number of years  
149 of carryover available to the transferor at the time of the  
150 transfer unless earlier exhausted.

151 (2) In the event that after the transfer the  
152 department of revenue determines that the amount of credit  
153 properly available under this section is less than the  
154 amount claimed by the transferor of the credit or that the  
155 credit is subject to recapture, the department shall assess  
156 the amount of overstated or recaptured credit as taxes due  
157 from the transferor and not the transferee. The assessment  
158 shall be made in the manner provided for a deficiency in  
159 taxes under state law.

160 8. The department of economic development shall  
161 prepare an annual report for the general assembly outlining  
162 tax credit transfers that take place each calendar year,  
163 listing the qualified railroad expenditures and qualified  
164 new rail infrastructure expenditures for each eligible  
165 taxpayer and a statement summarizing the investments made by  
166 the eligible taxpayer.

167 9. The department of economic development may  
168 promulgate rules governing the allowance of the income tax  
169 credit provided for in this section, including provisions  
170 for the verification of the timeliness of a claim, the  
171 process and documentation required for the department of  
172 economic development to approve an income tax credit for  
173 qualified railroad expenditures or qualified new rail  
174 infrastructure expenditures, and any documentation that the

175 department of economic development shall require in order to  
176 determine that an eligible taxpayer, eligible customer, or  
177 eligible vendor meets the requirements of this section. In  
178 addition to other needed rules, the department of economic  
179 development may promulgate rules prescribing, in the case of  
180 S corporations, partnerships, trusts, or estates, a method  
181 of attributing the credit under this section to the  
182 shareholders, partners, or beneficiaries in proportion to  
183 their share of the income from the S corporation,  
184 partnership, trust, or estate.

185 10. The department of revenue and the department of  
186 economic development shall promulgate all necessary rules  
187 and regulations for the administration of this section  
188 including, but not limited to, rules relating to the  
189 verification of a taxpayer's qualified amount. Any rule or  
190 portion of a rule, as that term is defined in section  
191 536.010, that is created under the authority delegated in  
192 this section shall become effective only if it complies with  
193 and is subject to all of the provisions of chapter 536 and,  
194 if applicable, section 536.028. This section and chapter  
195 536 are nonseverable and if any of the powers vested with  
196 the general assembly pursuant to chapter 536 to review, to  
197 delay the effective date, or to disapprove and annul a rule  
198 are subsequently held unconstitutional, then the grant of  
199 rulemaking authority and any rule proposed or adopted after  
200 August 28, 2024, shall be invalid and void.

201 11. Under section 23.253 of the Missouri sunset act:

202 (1) The provisions of the new program authorized under  
203 this section shall automatically sunset December thirty-  
204 first, six years after the effective date unless  
205 reauthorized by an act of the general assembly;

206           (2) If such program is reauthorized, the program  
207 authorized under this section shall automatically sunset  
208 twelve years after the effective date of the reauthorization  
209 of this section; and

210           (3) This section shall terminate on September first of  
211 the calendar year immediately following the calendar year in  
212 which the program authorized under this section is sunset.

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