

SENATE BILL NO. 876

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

4131S.01H

KRISTINA MARTIN, Secretary

AN ACT

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

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 I, Class II,
13 or Class III railroad; or

14 (b) Any owner or lessee of a rail siding, industrial
15 spur, or industry track located on or adjacent to any
16 railroad in the state of Missouri;

17 and subject to the state income tax imposed under chapter
18 143, 147, or 148, excluding the withholding tax imposed
19 under sections 143.191 to 143.265, who made qualified
20 railroad track expenditures in Missouri or qualified new
21 rail infrastructure expenditures in Missouri during the tax
22 year for which a credit under this section is claimed;

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

25 (4) "Person", the same meaning as defined under
26 section 1.020;

27 (5) "Qualified amount", for any eligible taxpayer in a
28 given tax year, an amount equal to fifty percent of an
29 eligible taxpayer's qualified railroad track expenditures or
30 qualified new rail infrastructure expenditures; provided
31 that:

32 (a) For qualified railroad track expenditures, the
33 amount of tax credit shall not exceed an amount equal to the
34 product of five thousand dollars multiplied by the number of
35 miles of railroad track owned or leased in the state by any
36 railroad as of the close of the tax year; and

37 (b) For qualified new rail infrastructure
38 expenditures, the amount of tax credit shall not exceed one
39 million dollars for each new rail-served customer project of
40 an eligible taxpayer;

41 (6) "Qualified new rail infrastructure expenditures",
42 gross expenditures for new rail infrastructure by an
43 eligible taxpayer, which includes the construction of new
44 track infrastructure such as industrial leads, switches,
45 spurs, sidings, rail loading docks, and transloading
46 structures involved with servicing new customer locations or
47 expansions by any railroad located in Missouri;

48 (7) "Qualified railroad expenditures", gross
49 expenditures for maintenance, reconstruction, or replacement
50 of railroad infrastructure, including track, roadbed,
51 bridges, industrial leads and sidings, and track-related
52 structures owned or leased by any railroad located in
53 Missouri. "Qualified railroad expenditures" does not
54 include expenditures used to generate a federal tax credit
55 or expenditures funded by a state or federal grant;

56 (8) "Railroad-related services", includes, but is not
57 limited to, the following: transport of freight by rail;
58 loading and unloading of freight transported by rail;
59 railroad bridge services; railroad track construction;
60 provision of railroad track material or equipment;
61 locomotive or freight train car leasing or rental; provision
62 of railroad financial services, including banking or
63 insurance; maintenance of a railroad's right-of-way,
64 including vegetation control; and freight train car repair,
65 rehabilitation, or remanufacturing repair services;

66 (9) "Tax credit", a credit against the tax otherwise
67 due under chapter 143, 147, or 148, excluding withholding
68 tax imposed under sections 143.191 to 143.265.

69 2. For all tax years beginning on or after January 1,
70 2025, an eligible taxpayer shall be allowed to claim a
71 nonrefundable tax credit for qualified railroad track
72 expenditures in Missouri or for qualified new rail
73 infrastructure expenditures in Missouri against the
74 taxpayer's state tax liability in an amount equal to the
75 taxpayer's qualified amount.

76 3. An eligible taxpayer who seeks to claim a tax
77 credit under this section shall submit a certificate of
78 eligibility to the Missouri department of economic
79 development after completion of the qualified railroad

80 expenditures or qualified new rail infrastructure
81 expenditures. The certificate shall include the number of
82 miles of railroad track owned or leased in this state and a
83 description of the amount of qualified railroad expenditures
84 or qualified new rail infrastructure expenditures
85 completed. The certificate shall be made on forms and in
86 the manner prescribed by the department and considered in
87 the order received.

88 4. If the department of economic development
89 determines that the taxpayer meets the requirements to claim
90 a tax credit under this section, the department may issue a
91 certificate of eligibility to the eligible taxpayer. The
92 certificate shall be numbered for identification and declare
93 its date of issuance and the amount of the tax credit
94 allowed under this section.

95 5. (1) The cumulative amount of tax credits under
96 this section authorized for qualified railroad track
97 expenditures in this state shall not exceed four million
98 five hundred thousand dollars per tax year. If the amount
99 of tax credits claimed in a tax year under this section
100 exceeds four million five hundred thousand dollars, tax
101 credits shall be allowed based on the order in which they
102 are claimed.

103 (2) The cumulative amount of tax credits under this
104 section authorized for qualified new rail infrastructure
105 expenditures in this state shall not exceed ten million
106 dollars per tax year. If the amount of tax credits claimed
107 in a tax year under this section exceeds ten million
108 dollars, tax credits shall be allowed based on the order in
109 which they are claimed.

110 6. Any unused portion of a tax credit allowed under
111 this section may be carried forward for up to five

112 subsequent tax years immediately following the tax year the
113 credit was allowed.

114 7. (1) Subject to the requirements of this
115 subsection, an eligible taxpayer who earns and is entitled
116 to the credit or to an unused portion of the credit allowed
117 by this section may transfer all or a portion of the unused
118 credit by written agreement to any eligible customer,
119 eligible vendor, or any taxpayer subject to tax imposed
120 under chapter 143, 147, or 148, excluding withholding tax
121 imposed under sections 143.191 to 143.265, at any time
122 during the year in which the credit is earned and the five
123 years following the year of the qualified expenditures. The
124 taxpayer originally allowed the tax credit and the
125 subsequent transferee shall jointly file a copy of the
126 written credit transfer agreement with the department of
127 revenue. The agreement shall include the name, address, and
128 taxpayer identification number of the parties to the
129 transfer; the amount of the credit being transferred; the
130 year the credit was originally allowed to the transferring
131 taxpayer; and the tax year or years for which the credit may
132 be claimed. In the event of such a transfer, the transferee
133 may claim the credit on the transferee's income tax return
134 originally filed during the calendar year in which the
135 transfer takes place and in the case of carryover of the
136 credit, on the transferee's returns for the number of years
137 of carryover available to the transferor at the time of the
138 transfer unless earlier exhausted.

139 (2) In the event that after the transfer the
140 department of revenue determines that the amount of credit
141 properly available under this section is less than the
142 amount claimed by the transferor of the credit or that the
143 credit is subject to recapture, the department shall assess

144 the amount of overstated or recaptured credit as taxes due
145 from the transferor and not the transferee. The assessment
146 shall be made in the manner provided for a deficiency in
147 taxes under state law.

148 8. The department of economic development shall
149 prepare an annual report for the general assembly outlining
150 tax credit transfers that take place each calendar year,
151 listing the qualified railroad expenditures and qualified
152 new rail infrastructure expenditures for each eligible
153 taxpayer and a statement summarizing the investments made by
154 the eligible taxpayer.

155 9. The department of economic development may
156 promulgate rules governing the allowance of the income tax
157 credit provided for in this section, including provisions
158 for the verification of the timeliness of a claim, the
159 process and documentation required for the department of
160 economic development to approve an income tax credit for
161 qualified railroad expenditures or qualified new rail
162 infrastructure expenditures, and any documentation that the
163 department of economic development shall require in order to
164 determine that an eligible taxpayer, eligible customer, or
165 eligible vendor meets the requirements of this section. In
166 addition to other needed rules, the department of economic
167 development may promulgate rules prescribing, in the case of
168 S corporations, partnerships, trusts, or estates, a method
169 of attributing the credit under this section to the
170 shareholders, partners, or beneficiaries in proportion to
171 their share of the income from the S corporation,
172 partnership, trust, or estate.

173 10. The department of revenue and the department of
174 economic development shall promulgate all necessary rules
175 and regulations for the administration of this section

176 including, but not limited to, rules relating to the
177 verification of a taxpayer's qualified amount. Any rule or
178 portion of a rule, as that term is defined in section
179 536.010, that is created under the authority delegated in
180 this section shall become effective only if it complies with
181 and is subject to all of the provisions of chapter 536 and,
182 if applicable, section 536.028. This section and chapter
183 536 are nonseverable and if any of the powers vested with
184 the general assembly pursuant to chapter 536 to review, to
185 delay the effective date, or to disapprove and annul a rule
186 are subsequently held unconstitutional, then the grant of
187 rulemaking authority and any rule proposed or adopted after
188 August 28, 2024, shall be invalid and void.

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

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

194 (2) If such program is reauthorized, the program
195 authorized under this section shall automatically sunset
196 twelve years after the effective date of the reauthorization
197 of this section; and

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

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