

SECOND REGULAR SESSION

SENATE BILL NO. 1461

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

6292S.01I

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 short line railroad company located wholly or
11 partly in the state of Missouri that is classified by the
12 United States Surface Transportation Board as a Class II or
13 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 a
36 Class II or Class III railroad as of the close of the tax
37 year; and

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

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

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

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

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

71 2. For all tax years beginning on or after January 1,
72 2027, an eligible taxpayer shall be allowed to claim a
73 nonrefundable tax credit for qualified railroad track
74 expenditures in Missouri or for qualified new rail
75 infrastructure expenditures in Missouri against the
76 taxpayer's state tax liability in an amount equal to the
77 taxpayer's qualified amount.

78 3. An eligible taxpayer who seeks to claim a tax
79 credit under this section shall submit a certificate of
80 eligibility to the Missouri department of economic

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

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

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

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

112 6. Any unused portion of a tax credit allowed under
113 this section may be carried forward for up to five
114 subsequent tax years immediately following the tax year the
115 credit was allowed.

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

141 (2) In the event that after the transfer the
142 department of revenue determines that the amount of credit
143 properly available under this section is less than the

144 amount claimed by the transferor of the credit or that the
145 credit is subject to recapture, the department shall assess
146 the amount of overstated or recaptured credit as taxes due
147 from the transferor and not the transferee. The assessment
148 shall be made in the manner provided for a deficiency in
149 taxes under state law.

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

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

175 10. The department of revenue and the department of
176 economic development shall promulgate all necessary rules
177 and regulations for the administration of this section
178 including, but not limited to, rules relating to the
179 verification of a taxpayer's qualified amount. Any rule or
180 portion of a rule, as that term is defined in section
181 536.010, that is created under the authority delegated in
182 this section shall become effective only if it complies with
183 and is subject to all of the provisions of chapter 536 and,
184 if applicable, section 536.028. This section and chapter
185 536 are nonseverable and if any of the powers vested with
186 the general assembly pursuant to chapter 536 to review, to
187 delay the effective date, or to disapprove and annul a rule
188 are subsequently held unconstitutional, then the grant of
189 rulemaking authority and any rule proposed or adopted after
190 August 28, 2026, shall be invalid and void.

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

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

196 (2) If such program is reauthorized, the program
197 authorized under this section shall automatically sunset
198 December thirty-first twelve years after the effective date
199 of the reauthorization of this section; and

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

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