

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 939, Page 1, Section A, Line 3, by
2 inserting after all of said section and line the following:

3
4 "135.1210. 1. As used in this section, the following terms mean:

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

9 (2) "Eligible taxpayer":

10 (a) Any short line railroad company located wholly or partly in the state of Missouri that is
11 classified by the United States Surface Transportation board as a Class II or Class III railroad; or

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

14
15 and subject to the state income tax imposed under chapter 143, 147, or 148, excluding the
16 withholding tax imposed under sections 143.191 to 143.265, who made qualified railroad track
17 expenditures in Missouri or qualified new rail infrastructure expenditures in Missouri during the tax
18 year for which a credit under this section is claimed;

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

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

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

25 (a) For qualified railroad track expenditures, the amount of tax credit shall not exceed an
26 amount equal to the product of five thousand dollars multiplied by the number of miles of railroad
27 track owned or leased in the state by a Class II or Class III railroad as of the close of the tax year;
28 and

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

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

5 (7) "Qualified railroad expenditures", gross expenditures for maintenance, reconstruction, or
6 replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings,
7 and track-related structures owned or leased by a Class II or Class III railroad located in Missouri.
8 "Qualified railroad expenditures" does not include expenditures used to generate a federal tax credit
9 or expenditures funded by a state or federal grant;

10 (8) "Railroad-related services", includes, but is not limited to, the following: transport of
11 freight by rail; loading and unloading of freight transported by rail; railroad bridge services; railroad
12 track construction; provision of railroad track material or equipment; locomotive or freight train car
13 leasing or rental; provision of railroad financial services, including banking or insurance;
14 maintenance of a railroad's right-of-way, including vegetation control; and freight train car repair,
15 rehabilitation, or remanufacturing repair services;

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

18 2. For all tax years beginning on or after January 1, 2024, an eligible taxpayer shall be
19 allowed to claim a nonrefundable tax credit for qualified railroad track expenditures in Missouri or
20 for qualified new rail infrastructure expenditures in Missouri against the taxpayer's state tax liability
21 in an amount equal to the taxpayer's qualified amount.

22 3. An eligible taxpayer who seeks to claim a tax credit under this section shall submit a
23 certificate of eligibility to the Missouri department of economic development after completion of the
24 qualified railroad expenditures or qualified new rail infrastructure expenditures. The certificate
25 shall include the number of miles of railroad track owned or leased in this state and a description of
26 the amount of qualified railroad expenditures or qualified new rail infrastructure expenditures
27 completed. The certificate shall be made on forms and in the manner prescribed by the department
28 and considered in the order received.

29 4. If the department of economic development determines that the taxpayer meets the
30 requirements to claim a tax credit under this section, the department may issue a certificate of
31 eligibility to the eligible taxpayer. The certificate shall be numbered for identification and declare
32 its date of issuance and the amount of the tax credit allowed under this section.

33 5. (1) The cumulative amount of tax credits under this section authorized for qualified
34 railroad track expenditures in this state shall not exceed four million five hundred thousand dollars
35 per tax year. If the amount of tax credits claimed in a tax year under this section exceeds four
36 million five hundred thousand dollars, tax credits shall be allowed based on the order in which they
37 are claimed.

38 (2) The cumulative amount of tax credits under this section authorized for qualified new rail
39 infrastructure expenditures in this state shall not exceed ten million dollars per tax year. If the

1 amount of tax credits claimed in a tax year under this section exceeds ten million dollars, tax credits
2 shall be allowed based on the order in which they are claimed.

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

5 7. (1) Subject to the requirements of this subsection, an eligible taxpayer who earns and is
6 entitled to the credit or to an unused portion of the credit allowed by this section may transfer all or
7 a portion of the unused credit by written agreement to any eligible customer, eligible vendor, or any
8 taxpayer subject to tax imposed under chapter 143, 147, or 148, excluding withholding tax imposed
9 under 143.191 to 143.265, at any time during the year in which the credit is earned and the five
10 years following the year of the qualified expenditures. The taxpayer originally allowed the tax
11 credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement
12 with the department of revenue. The agreement shall include the name, address, and taxpayer
13 identification number of the parties to the transfer; the amount of the credit being transferred; the
14 year the credit was originally allowed to the transferring taxpayer; and the tax year or years for
15 which the credit may be claimed. In the event of such a transfer, the transferee may claim the credit
16 on the transferee's income tax return originally filed during the calendar year in which the transfer
17 takes place and in the case of carryover of the credit, on the transferee's returns for the number of
18 years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

19 (2) In the event that after the transfer the department of revenue determines that the amount
20 of credit properly available under this section is less than the amount claimed by the transferor of
21 the credit or that the credit is subject to recapture, the department shall assess the amount of
22 overstated or recaptured credit as taxes due from the transferor and not the transferee. The
23 assessment shall be made in the manner provided for a deficiency in taxes under state law.

24 8. The department of economic development shall prepare an annual report for the general
25 assembly outlining tax credit transfers that take place each calendar year, listing the qualified
26 railroad expenditures and qualified new rail infrastructure expenditures for each eligible taxpayer
27 and a statement summarizing the investments made by the eligible taxpayer.

28 9. The department of economic development may promulgate rules governing the allowance
29 of the income tax credit provided for in this section, including provisions for the verification of the
30 timeliness of a claim, the process and documentation required for the department of economic
31 development to approve an income tax credit for qualified railroad expenditures or qualified new
32 rail infrastructure expenditures, and any documentation that the department of economic
33 development shall require in order to determine that an eligible taxpayer, eligible customer, or
34 eligible vendor meets the requirements of this section. In addition to other needed rules, the
35 department of economic development may promulgate rules prescribing, in the case of S
36 corporations, partnerships, trusts, or estates, a method of attributing the credit under this section to
37 the shareholders, partners, or beneficiaries in proportion to their share of the income from the S
38 corporation, partnership, trust, or estate.

1 10. The department of revenue and the department of economic development shall
2 promulgate all necessary rules and regulations for the administration of this section including, but
3 not limited to, rules relating to the verification of a taxpayer's qualified amount. Any rule or portion
4 of a rule, as that term is defined in section 536.010, that is created under the authority delegated in
5 this section shall become effective only if it complies with and is subject to all of the provisions of
6 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and
7 if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
8 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
9 grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be
10 invalid and void.

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

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

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

17 (3) This section shall terminate on September first of the calendar year immediately
18 following the calendar year in which the program authorized under this section is sunset."; and
19

20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.