

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 657
102ND GENERAL ASSEMBLY

1263H.03P

DANA RADEMAN MILLER, Chief Clerk

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 one new section, to be
2 known as section 135.1210, to read as follows:

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

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

6 **(2) "Eligible taxpayer":**

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

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

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

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

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

51 2. For all tax years beginning on or after January 1, 2024, an eligible taxpayer
52 shall be allowed to claim a nonrefundable tax credit for qualified railroad track
53 expenditures in Missouri or for qualified new rail infrastructure expenditures in

54 **Missouri against the taxpayer's state tax liability in an amount equal to the taxpayer's**
55 **qualified amount.**

56 **3. An eligible taxpayer who seeks to claim a tax credit under this section shall**
57 **submit a certificate of eligibility to the Missouri department of economic development**
58 **after completion of the qualified railroad expenditures or qualified new rail**
59 **infrastructure expenditures. The certificate shall include the number of miles of**
60 **railroad track owned or leased in this state and a description of the amount of qualified**
61 **railroad expenditures or qualified new rail infrastructure expenditures completed. The**
62 **certificate shall be made on forms and in the manner prescribed by the department and**
63 **considered in the order received.**

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

69 **5. (1) The cumulative amount of tax credits under this section authorized for**
70 **qualified railroad track expenditures in this state shall not exceed four million five**
71 **hundred thousand dollars per tax year. If the amount of tax credits claimed in a tax**
72 **year under this section exceeds four million five hundred thousand dollars, tax credits**
73 **shall be allowed based on the order in which they are claimed.**

74 **(2) The cumulative amount of tax credits under this section authorized for**
75 **qualified new rail infrastructure expenditures in this state shall not exceed ten million**
76 **dollars per tax year. If the amount of tax credits claimed in a tax year under this section**
77 **exceeds ten million dollars, tax credits shall be allowed based on the order in which they**
78 **are claimed.**

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

82 **7. (1) Subject to the requirements of this subsection, an eligible taxpayer who**
83 **earns and is entitled to the credit or to an unused portion of the credit allowed by this**
84 **section may transfer all or a portion of the unused credit by written agreement to any**
85 **eligible customer, eligible vendor, or any taxpayer subject to tax imposed under chapter**
86 **143, 147, or 148, excluding withholding tax imposed under 143.191 to 143.265, at any**
87 **time during the year in which the credit is earned and the five years following the year**
88 **of the qualified expenditures. The taxpayer originally allowed the tax credit and the**
89 **subsequent transferee shall jointly file a copy of the written credit transfer agreement**
90 **with the department of revenue. The agreement shall include the name, address, and**

91 taxpayer identification number of the parties to the transfer; the amount of the credit
92 being transferred; the year the credit was originally allowed to the transferring
93 taxpayer; and the tax year or years for which the credit may be claimed. In the event of
94 such a transfer, the transferee may claim the credit on the transferee's income tax
95 return originally filed during the calendar year in which the transfer takes place and in
96 the case of carryover of the credit, on the transferee's returns for the number of years of
97 carryover available to the transferor at the time of the transfer unless earlier exhausted.

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

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

109 9. The department of economic development may promulgate rules governing
110 the allowance of the income tax credit provided for in this section, including provisions
111 for the verification of the timeliness of a claim, the process and documentation required
112 for the department of economic development to approve an income tax credit for
113 qualified railroad expenditures or qualified new rail infrastructure expenditures, and
114 any documentation that the department of economic development shall require in order
115 to determine that an eligible taxpayer, eligible customer, or eligible vendor meets the
116 requirements of this section. In addition to other needed rules, the department of
117 economic development may promulgate rules prescribing, in the case of S corporations,
118 partnerships, trusts, or estates, a method of attributing the credit under this section to
119 the shareholders, partners, or beneficiaries in proportion to their share of the income
120 from the S corporation, partnership, trust, or estate.

121 10. The department of revenue and the department of economic development
122 shall promulgate all necessary rules and regulations for the administration of this
123 section including, but not limited to, rules relating to the verification of a taxpayer's
124 qualified amount. Any rule or portion of a rule, as that term is defined in section
125 536.010, that is created under the authority delegated in this section shall become
126 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
127 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any

128 of the powers vested with the general assembly pursuant to chapter 536 to review, to
129 delay the effective date, or to disapprove and annul a rule are subsequently held
130 unconstitutional, then the grant of rulemaking authority and any rule proposed or
131 adopted after August 28, 2023, shall be invalid and void.

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

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

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

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

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