

SECOND REGULAR SESSION

HOUSE BILL NO. 2716

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

6030H.01I

JOSEPH ENGLER, 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 known as section 135.1210, to read as follows:

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

(1) "Eligible taxpayer":

(a) Any short line railroad company located wholly or partly in the state of Missouri that is classified by the United States Surface Transportation board as a Class II or Class III railroad and subject to the tax imposed under chapter 143 or 148 who made qualified railroad expenditures in Missouri or qualified new rail infrastructure expenditures in Missouri during the tax year for which a state tax credit is claimed under this section;

(b) Any owner or lessee of a rail siding, industrial spur, or industry track located on or adjacent to any railroad in the state of Missouri and subject to the tax imposed under chapter 143 or 148 who made qualified railroad expenditures in Missouri or qualified new rail infrastructure expenditures in Missouri during the tax year for which a state tax credit is claimed under this section; or

(c) Any port authority existing under chapter 68 or any city-owned railroad that is not subject to the tax imposed under chapter 143 or 148 who made qualified railroad expenditures in Missouri or qualified new rail infrastructure expenditures in Missouri during the tax year for which a state tax credit is claimed under this section;

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 (2) "Qualified amount", for any eligible taxpayer in a given tax year, an amount
19 equal to fifty percent of an eligible taxpayer's qualified railroad expenditures or
20 qualified new rail infrastructure expenditures, provided that:

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

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

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

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

39 (5) "State tax credit", a credit against the tax otherwise due under chapter 143
40 or 148, excluding withholding tax imposed under sections 143.191 to 143.265.

41 2. For all tax years beginning on or after January 1, 2027, an eligible taxpayer
42 shall be allowed to claim a nonrefundable state tax credit for qualified railroad
43 expenditures in Missouri or for qualified new rail infrastructure expenditures in
44 Missouri against the taxpayer's state tax liability in an amount equal to the taxpayer's
45 qualified amount.

46 3. An eligible taxpayer who seeks to claim a state tax credit under this section
47 shall submit a certificate of eligibility to the Missouri department of economic
48 development after completion of the qualified railroad expenditures or qualified new
49 rail infrastructure expenditures. The certificate shall include the number of miles of
50 railroad track owned or leased in this state and a description of the amount of qualified
51 railroad expenditures or qualified new rail infrastructure expenditures completed. The
52 certificate shall be made on forms and in the manner prescribed by the department and
53 considered in the order received.

54 **4. If the department of economic development determines that the taxpayer**
55 **meets the requirements to claim a state tax credit under this section, the department**
56 **may issue a certificate of eligibility to the eligible taxpayer. The certificate shall be**
57 **numbered for identification and declare its date of issuance and the amount of the state**
58 **tax credit allowed under this section.**

59 **5. (1) The cumulative amount of state tax credits under this section authorized**
60 **for qualified railroad expenditures in this state shall not exceed four million five**
61 **hundred thousand dollars per calendar year. If the amount of state tax credits claimed**
62 **in a calendar year under this section for qualified railroad expenditures exceeds four**
63 **million five hundred thousand dollars, state tax credits shall be allowed based on the**
64 **order in which they are claimed.**

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

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

73 **7. (1) Subject to the requirements of this subsection, an eligible taxpayer who**
74 **earns and is entitled to the state tax credit or to an unused portion of the state tax credit**
75 **allowed by this section may transfer all or a portion of the unused state tax credit by**
76 **written agreement to any taxpayer subject to tax imposed under chapter 143 or 148, at**
77 **any time during the year in which the state tax credit is earned and the five years**
78 **following the year of the qualified expenditures. The taxpayer originally allowed the**
79 **state tax credit and the subsequent transferee shall jointly file a copy of the written state**
80 **tax credit transfer agreement with the department of revenue. The agreement shall**
81 **include the name, address, and taxpayer identification number of the parties to the**
82 **transfer; the amount of the state tax credit being transferred; the year the state tax**
83 **credit was originally allowed to the transferring taxpayer; and the tax year or years for**
84 **which the state tax credit may be claimed. In the event of such a transfer, the transferee**
85 **may claim the state tax credit on the transferee's income tax return originally due**
86 **during the calendar year in which the transfer takes place only for tax years that begin**
87 **on or after January 1, 2027, and in the case of carryover of the state tax credit, on the**
88 **transferee's returns for the number of years of carryover available to the transferor at**
89 **the time of the transfer unless earlier exhausted.**

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

96 8. The department of economic development shall prepare an annual report for
97 the general assembly outlining the qualified railroad expenditures and qualified new rail
98 infrastructure expenditures for each eligible taxpayer and a statement summarizing the
99 investments made by the eligible taxpayer.

100 9. The department of economic development may promulgate rules governing
101 the allowance of the state tax credit provided for in this section, including provisions for
102 the verification of the timeliness of a claim, the process and documentation required for
103 the department of economic development to approve a state tax credit for qualified
104 railroad expenditures or qualified new rail infrastructure expenditures, and any
105 documentation that the department of economic development requires in order to
106 determine that an eligible taxpayer meets the requirements of this section. In addition
107 to other needed rules, the department of economic development may promulgate rules
108 prescribing, in the case of S corporations or partnerships, a method of attributing the
109 state tax credit under this section to the shareholders or partners in proportion to their
110 share of the income from the S corporation or partnership. A state tax credit issued or
111 transferred under this section to an estate or trust may be used by the relevant fiduciary
112 against the fiduciary income tax imposed under section 143.061.

113 10. The department of revenue and the department of economic development
114 shall promulgate all necessary rules and regulations for the administration of this
115 section including, but not limited to, rules relating to the verification of a taxpayer's
116 qualified amount. Any rule or portion of a rule, as that term is defined in section
117 536.010, that is created under the authority delegated in this section shall become
118 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
119 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
120 of the powers vested with the general assembly pursuant to chapter 536 to review, to
121 delay the effective date, or to disapprove and annul a rule are subsequently held
122 unconstitutional, then the grant of rulemaking authority and any rule proposed or
123 adopted after August 28, 2026, shall be invalid and void.

124 11. The state tax credit authorized under this section shall be considered a
125 redevelopment tax credit, as defined under section 135.800, and shall be subject to the
126 provisions of section 135.800 to 135.830.

127 **12. Under section 23.253 of the Missouri sunset act:**

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

131 **(2) If such program is reauthorized, the program authorized under this section**
132 **shall automatically sunset December thirty-first twelve years after the effective date of**
133 **the reauthorization of this section; and**

134 **(3) This section shall terminate on September first of the calendar year**
135 **immediately following the calendar year in which the program authorized under this**
136 **section is sunset.**

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