

# HOUSE BILL NO. 2941

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOBE.

6454H.011

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

(2) "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; or

(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;

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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 credit under this section is claimed;

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

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

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

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

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

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

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

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

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

49 2. For all tax years beginning on or after January 1, 2027, an eligible taxpayer  
50 shall be allowed to claim a nonrefundable state tax credit for qualified railroad track  
51 expenditures in Missouri or for qualified new rail infrastructure expenditures in  
52 Missouri against the taxpayer's state tax liability in an amount equal to the taxpayer's  
53 qualified amount.

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

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

67           **5. (1) The cumulative amount of state tax credits under this section authorized**  
68 **for qualified railroad expenditures in this state shall not exceed four million five**  
69 **hundred thousand dollars per calendar year. If the amount of state tax credits claimed**  
70 **in a calendar year under this section for qualified railroad expenditures exceeds four**  
71 **million five hundred thousand dollars, state tax credits shall be allowed based on the**  
72 **order in which they are claimed.**

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

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

81           **7. (1) Subject to the requirements of this subsection, an eligible taxpayer who**  
82 **earns and is entitled to the state tax credit or to an unused portion of the state tax credit**  
83 **allowed by this section may transfer all or a portion of the unused state tax credit by**  
84 **written agreement to any eligible customer, eligible vendor, or any taxpayer subject to**  
85 **the tax imposed under chapter 143 or 148, at any time during the year in which the state**  
86 **tax credit is earned and the five years following the year of the qualified expenditures.**  
87 **The taxpayer originally allowed the state tax credit and the subsequent transferee shall**  
88 **jointly file a copy of the written state tax credit transfer agreement with the department**  
89 **of revenue and the department of economic development. The agreement shall include**  
90 **the name, address, and taxpayer identification number of the parties to the transfer; the**

91 amount of the state tax credit being transferred; the year the state tax credit was  
92 originally allowed to the transferring taxpayer; and the tax year or years for which the  
93 state tax credit may be claimed. In the event of such a transfer, the transferee may claim  
94 the state tax credit on the transferee's tax return originally due during the calendar year  
95 in which the transfer takes place only for tax years that begin on or after January 1,  
96 2027, and in the case of carryover of the state tax credit, on the transferee's returns for  
97 the number of years of carryover available to the transferor at the time of the transfer  
98 unless earlier exhausted.

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

105 8. Notwithstanding section 32.057 or any other confidentiality law, the  
106 department of economic development shall prepare an annual report for the general  
107 assembly outlining the state tax credit transfers that take place each calendar year,  
108 listing the qualified railroad expenditures and qualified new rail infrastructure  
109 expenditures for each eligible taxpayer and a statement summarizing the investments  
110 made by the eligible taxpayer.

111 9. The department of economic development may promulgate rules governing  
112 the allowance of the state tax credit provided for in this section, including provisions for  
113 the verification of the timeliness of a claim, the process and documentation required for  
114 the department of economic development to approve a state tax credit for qualified  
115 railroad expenditures or qualified new rail infrastructure expenditures, and any  
116 documentation that the department of economic development requires in order to  
117 determine that an eligible taxpayer, eligible customer, or eligible vendor meets the  
118 requirements of this section. In addition to other needed rules, the department of  
119 economic development may promulgate rules prescribing, in the case of S corporations  
120 or partnerships, a method of attributing the state tax credit under this section to the  
121 shareholders or partners in proportion to their share of the income from the S  
122 corporation or partnership. A state tax credit issued or transferred under this section to  
123 an estate or trust may be used by the relevant fiduciary against the fiduciary income tax  
124 imposed under section 143.061.

125 10. The department of revenue and the department of economic development  
126 shall promulgate all necessary rules and regulations for the administration of this  
127 section including, but not limited to, rules relating to the verification of a taxpayer's

128 **qualified amount. Any rule or portion of a rule, as that term is defined in section**  
129 **536.010, that is created under the authority delegated in this section shall become**  
130 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
131 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any**  
132 **of the powers vested with the general assembly pursuant to chapter 536 to review, to**  
133 **delay the effective date, or to disapprove and annul a rule are subsequently held**  
134 **unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
135 **adopted after August 28, 2026, shall be invalid and void.**

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

137 **(1) The provisions of the new program authorized under this section shall sunset**  
138 **six years after the effective date of this section, unless reauthorized by an act of the**  
139 **general assembly;**

140 **(2) This section shall terminate on September first of the calendar year**  
141 **immediately following the calendar year in which the program authorized under this**  
142 **section is sunset; and**

143 **(3) Nothing in this subsection shall prevent a taxpayer from claiming a state tax**  
144 **credit properly issued before this program was sunset in a tax year after the program is**  
145 **sunset.**

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