

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 876
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 taxpayer":

4 (a) Any railroad company located wholly or partly in
5 the state of Missouri that is classified by the United
6 States Surface Transportation board as a Class II or Class
7 III railroad and that is subject to the tax imposed pursuant
8 to chapter 143 or 148, excluding withholding tax imposed
9 pursuant to sections 143.191 to 143.265, who made qualified
10 railroad expenditures or qualified new rail infrastructure
11 expenditures in Missouri during the tax year for which a
12 credit is claimed pursuant to this section; or

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

20 (c) Any port authority existing pursuant to chapter 68
21 and any city-owned railroad that is not subject to the tax
22 imposed pursuant to chapter 143 or 148, excluding
23 withholding tax imposed pursuant to sections 143.191 to
24 143.265, and that made qualified railroad expenditures or
25 qualified new rail infrastructure expenditures in Missouri
26 during the tax year for which a credit is claimed pursuant
27 to this section;

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

33 (a) For qualified railroad expenditures, the amount of
34 tax credit shall not exceed an amount equal to the product
35 of five thousand dollars multiplied by the number of miles
36 of railroad track owned or leased in the state by any
37 railroad as of the close of the tax 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 (3) "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 or existing customer
48 locations or expansions by any railroad located in Missouri;

49 (4) "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 any railroad located in
54 Missouri. "Qualified railroad expenditures" does not
55 include expenditures used to generate a federal tax credit
56 or expenditures funded by a state or federal grant;

57 (5) "Tax credit", a credit against the tax otherwise
58 due under chapter 143 or 148.

59 2. For all tax years beginning on or after January 1,
60 2025, an eligible taxpayer shall be allowed to claim a
61 nonrefundable tax credit for qualified railroad expenditures
62 in Missouri or for qualified new rail infrastructure
63 expenditures in Missouri against the taxpayer's state tax
64 liability in an amount equal to the taxpayer's qualified
65 amount.

66 3. An eligible taxpayer who seeks to claim a tax
67 credit under this section shall submit a certificate of
68 eligibility to the Missouri department of economic
69 development after completion of the qualified railroad
70 expenditures or qualified new rail infrastructure
71 expenditures. The certificate shall include the number of
72 miles of railroad track owned or leased in this state and a
73 description of the amount of qualified railroad expenditures
74 or qualified new rail infrastructure expenditures
75 completed. The certificate shall be made on forms and in
76 the manner prescribed by the department and considered in
77 the order received.

78 4. If the department of economic development
79 determines that the taxpayer meets the requirements to claim
80 a tax credit under this section, the department may issue a
81 certificate of eligibility to the eligible taxpayer. The
82 certificate shall be numbered for identification and declare
83 its date of issuance and the amount of the tax credit
84 allowed under this section.

85 5. (1) The cumulative amount of tax credits under
86 this section authorized for qualified railroad expenditures
87 in this state shall not exceed four million five hundred
88 thousand dollars per tax year. If the amount of tax credits
89 claimed in a tax year under this section exceeds four
90 million five hundred thousand dollars, tax credits shall be
91 allowed based on the order in which they are claimed.

92 (2) The cumulative amount of tax credits under this
93 section authorized for qualified new rail infrastructure
94 expenditures in this state shall not exceed ten million
95 dollars per tax year. If the amount of tax credits claimed
96 in a tax year under this section exceeds ten million
97 dollars, tax credits shall be allowed based on the order in
98 which they are claimed.

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

103 7. (1) Subject to the requirements of this
104 subsection, an eligible taxpayer who earns and is entitled
105 to the credit or to an unused portion of the credit allowed
106 by this section may transfer all or a portion of the unused
107 credit by written agreement to any taxpayer subject to tax
108 imposed under chapter 143 or 148, excluding withholding tax
109 imposed under sections 143.191 to 143.265, at any time
110 during the year in which the credit is earned and the five
111 years following the year of the qualified expenditures. The
112 taxpayer originally allowed the tax credit and the
113 subsequent transferee shall jointly file a copy of the
114 written credit transfer agreement with the department of
115 revenue and the department of economic development. The
116 agreement shall include the name, address, and taxpayer
117 identification number of the parties to the transfer; the

118 amount of the credit being transferred; the year the credit
119 was originally allowed to the transferring taxpayer; and the
120 tax year or years for which the credit may be claimed. In
121 the event of such a transfer, the transferee may claim the
122 credit on the transferee's tax return originally due during
123 the calendar year in which the transfer takes place and in
124 the case of carryover of the credit, on the transferee's
125 returns for the number of years of carryover available to
126 the transferor at the time of the transfer unless earlier
127 exhausted.

128 (2) In the event that after the transfer the
129 department of revenue determines that the amount of credit
130 properly available under this section is less than the
131 amount claimed by the transferor of the credit or that the
132 credit is subject to recapture, the department shall assess
133 the amount of overstated or recaptured credit as taxes due
134 from the transferor and not the transferee. The assessment
135 shall be made in the manner provided for a deficiency in
136 taxes under state law.

137 8. Notwithstanding the provisions of section 32.057 to
138 the contrary, the department of economic development shall
139 prepare an annual report for the general assembly outlining
140 tax credit transfers that take place each calendar year,
141 listing the qualified railroad expenditures and qualified
142 new rail infrastructure expenditures for each eligible
143 taxpayer and a statement summarizing the investments made by
144 the eligible taxpayer.

145 9. The department of economic development may
146 promulgate rules governing the allowance of the income tax
147 credit provided for in this section, including provisions
148 for the verification of the timeliness of a claim, the
149 process and documentation required for the department of
150 economic development to approve an income tax credit for

151 qualified railroad expenditures or qualified new rail
152 infrastructure expenditures, and any documentation that the
153 department of economic development shall require in order to
154 determine that an eligible taxpayer meets the requirements
155 of this section. A tax credit issued or transferred
156 pursuant to this section to an estate or trust may be used
157 by the relevant fiduciary against the fiduciary income tax
158 imposed pursuant to section 143.061.

159 10. The tax credit authorized by this section shall be
160 considered a redevelopment tax credit, as defined in section
161 135.800, and shall be subject to the provisions of sections
162 135.800 to 135.830.

163 11. The department of revenue and the department of
164 economic development shall promulgate all necessary rules
165 and regulations for the administration of this section
166 including, but not limited to, rules relating to the
167 verification of a taxpayer's qualified amount. Any rule or
168 portion of a rule, as that term is defined in section
169 536.010, that is created under the authority delegated in
170 this section shall become effective only if it complies with
171 and is subject to all of the provisions of chapter 536 and,
172 if applicable, section 536.028. This section and chapter
173 536 are nonseverable and if any of the powers vested with
174 the general assembly pursuant to chapter 536 to review, to
175 delay the effective date, or to disapprove and annul a rule
176 are subsequently held unconstitutional, then the grant of
177 rulemaking authority and any rule proposed or adopted after
178 August 28, 2024, shall be invalid and void.

179 12. Under section 23.253 of the Missouri sunset act:
180 (1) The provisions of the new program authorized under
181 this section shall automatically sunset December thirty-
182 first, six years after the effective date unless
183 reauthorized by an act of the general assembly;

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

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