

As Amended by House Committee

As Amended by Senate Committee

Session of 2022

SENATE BILL No. 326

By Committee on Assessment and Taxation

1-12

1 AN ACT concerning income taxation; relating to credits; providing a
2 credit for qualified railroad track maintenance expenditures of short
3 line railroads and associated rail siding owners or lessees.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) For taxable years 2022 through 2031, there shall be
7 allowed a credit against the tax liability imposed under the Kansas income
8 tax act in an amount equal to 50% of an eligible taxpayer's qualified
9 railroad track maintenance expenditures paid or incurred during the
10 taxable year.

11 (b) The amount of the credit allowed each taxable year under this
12 section shall not exceed the product of \$5,000 and the number of miles of
13 railroad track owned or leased within the state of Kansas by the eligible
14 taxpayer as of the close of the taxable year. For rail siding located on or
15 adjacent to a class II or class III railroad in the state of Kansas, the amount
16 of the credit allowed for each taxable year under this section shall not
17 exceed \$5,000 per rail siding owned or leased within the state of Kansas
18 by the eligible taxpayer as of the close of the taxable year. A mile of
19 railroad track may be taken into account only once in each taxable year.
20 The total amount of credits allowed under this section for each taxable
21 year shall not exceed \$8,720,000.

22 (c) The credits allowed pursuant to this section that are not used by
23 the eligible taxpayer are transferable by written agreement from the
24 eligible taxpayer to ~~subsequent transferees~~ ***any eligible customer or***
25 ***eligible vendor*** at any time during the five years immediately following
26 the taxable year for which the credits were allowed. The eligible taxpayer
27 originally allowed the credit and the subsequent transferee must jointly file
28 a copy of the written transfer agreement with the Kansas department of
29 revenue within 30 days of the transfer. The written agreement must contain
30 the name, address and taxpayer identification number of the parties to the
31 transfer, the amount of unused credit being transferred, the taxable year the
32 credit was originally allowed to the eligible taxpayer and the taxable year
33 or years for which the credit may be claimed. The eligible taxpayer and
34 subsequent transferee shall also provide any information pertaining to the

1 transfer as may be required by the secretary of revenue to administer and
2 carry out the provisions of this section.

3 (d) Any unused credit amounts may be carried forward for up to five
4 taxable years immediately following the taxable year for which the credits
5 were allowed. The credit shall not be refundable.

6 (e) As used in this section:

7 (1) (A) *"Eligible customer" means a business that:*

8 ~~(A)(i)~~ *Uses class II or class III short line railroads or railroad-*
9 *related property, facilities or structures located wholly or partly within*
10 *the state of Kansas to directly or indirectly transport property,*
11 *commodities or goods;*

12 ~~(B)(ii)~~ *is served by a class II or class III short line railroad; or*

13 ~~(C)(iii)~~ *stores railcars on the class II or class III short line railroad.*

14 (B) **"Eligible customer" does not include a class I railroad, as**
15 **defined in 49 C.F.R. § 1201.1-1(a), as in effect on January 1, 2022.**

16 (2) "Eligible taxpayer" means:

17 (A) Any railroad subject to the Kansas income tax act that is
18 classified by the United States surface transportation board as a class II or
19 class III railroad, as defined in 49 C.F.R. § 1201.1-1(a), as in effect on
20 January 1, 2022; or

21 (B) any owner or lessee of rail siding located on or adjacent to a class
22 II or class III railroad in the state of Kansas.

23 (3) (A) *"Eligible vendor" means a person who provides railroad-*
24 *related services directly to an eligible taxpayer. "Railroad-related*
25 *services" includes, but is not limited to: Transport of freight by rail;*
26 *loading and unloading of freight transported by rail; railroad bridge*
27 *services; railroad track construction; provision of railroad track*
28 *material or equipment; locomotive or freight train car leasing or rental;*
29 *maintenance of a railroad's right-of-way, including vegetation control;*
30 *and freight train car repair, rehabilitation or remanufacturing repair*
31 *services.*

32 (B) **"Eligible vendor" does not include a class I railroad, as**
33 **defined in 49 C.F.R. § 1201.1-1(a), as in effect on January 1, 2022.**

34 ~~(2)(4)~~ (A) "Qualified railroad track maintenance expenditures" means
35 gross expenditures for maintenance, reconstruction or replacement of
36 railroad track, including roadbed, bridges, industrial leads and side track,
37 and related track structures to the extent the expenditures are on track
38 located in the state of Kansas and the track was owned or leased by an
39 eligible taxpayer as of January 1, 2022.

40 (B) "Qualified railroad track maintenance expenditures" does not
41 include expenditures used to generate a federal tax credit or expenditures
42 funded by a state or federal grant.

43 (f) The secretary of revenue shall annually certify the tax credit

1 amount allowed for each eligible taxpayer. The secretary of revenue may
2 adopt rules and regulations necessary to administer the provisions of this
3 section.

4 (g) The secretary of transportation may adopt rules and regulations to
5 permit verification of the eligibility of an eligible taxpayer's expenditures
6 for purposes of the credit.

7 Sec. 2. This act shall take effect and be in force from and after its
8 publication in the statute book.