

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 326**

As Amended by House Committee on Taxation

**Brief\***

SB 326, as amended, would create an income tax credit for any Class II or Class III railroad or any owner or lessee of rail siding located on or adjacent to a Class II or Class III railroad for tax years 2022 through 2031 equal to 50 percent of the qualified track maintenance expenditures paid or incurred during the taxable year for track located in the state of Kansas. Expenditures used to generate a federal tax credit or funded by a state or federal grant would not result in a credit.

The bill would limit the credit to \$5,000 per mile of track or per rail siding owned or leased within the state as of the close of the taxable year. A mile of track could be taken into account only once in each taxable year, and the total amount of statewide credits allowed for each taxable year would be limited to \$8.72 million.

Any unused credit could be carried forward for up to five taxable years. For the five taxable years immediately following the year for which the credits were allowed, the taxpayer earning the credits would be permitted to transfer the credits to any eligible customer or eligible vendor. The bill would require any transfer of credit to be made by written agreement and would require the agreement to be filed with the Department of Revenue within 30 days of the transfer.

The bill would define an eligible customer as a business that uses short-line railroads or railroad-related property within Kansas, that is served by a short-line railroad, or stores

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

railcars on the short-line railroad. An eligible vendor would be defined as a person providing railroad-related services to the taxpayer earning the credits. Eligible customers and eligible vendors could not include Class I railroads.

The bill would prohibit the credit from being refundable.

The bill would require the Secretary of Revenue to annually certify the tax credit amount allowed for each eligible taxpayer and would authorize the Secretary of Revenue and Secretary of Transportation to adopt rules and regulations to administer the credit and verify the eligibility of taxpayer expenditures for purposes of the credit.

### **Background**

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Watco.

### ***Senate Committee on Assessment and Taxation***

In the Senate Committee hearing, **proponent** testimony was provided by representatives of Watco, the Cimarron Valley Railroad, and Mickelson & Company. The proponents stated enactment of the bill would result in increased investment in short-line railroad infrastructure and safer and more efficient rail service to rural rail customers.

Written-only proponent testimony was provided by representatives of the Kansas Agribusiness Retailers Association, Kansas Cooperative Council, Kansas Grain and Feed Association, and Western Kansas Development Organization.

No other testimony was provided.

The Senate Committee amended the bill to limit the recipients of transferred tax credits to eligible customers and eligible vendors.

### ***House Committee on Taxation***

In the House Committee hearing, **proponent** testimony was provided by representatives of Watco and Mickelson & Company. Written-only proponent testimony was provided by representatives of the Cimarron Valley Railroad, Kansas Agribusiness Retailers Association, the Kansas Cooperative Council, the Kansas Grain and Feed Association, and the Western Kansas Development Organization.

**Opponent** testimony was provided by a representative of the International Association of Sheet Metal, Air, Rail, and Transportation Workers, stating the bill would add to railroad profits without ensuring the most important infrastructure projects are completed and could result in tax credits going to Class I railroads or foreign sovereign wealth funds.

No other testimony was provided.

The House Committee amended the bill to exclude Class I railroads from eligible customers and vendors who could receive transferred credits.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue estimates enactment of the bill would result in an annual reduction of \$8.72 million in State General Fund revenue. The Department also indicates implementation of the bill would require the addition of 1.0 FTE position. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Taxation; income tax; tax credit; short-line railroad; infrastructure