

HOUSE BILL No. 2469

By Committee on Taxation

Requested by Riley Scott on behalf of Watco and Cimarron Valley Railroad

1-16

1 AN ACT concerning taxation; relating to credits; expanding the income
2 tax credit for qualified railroad track maintenance expenditures to
3 include credits against certain premium taxes, privilege fees and
4 privilege taxes; allowing the transfer of unused credits to any individual
5 or entity subject to such taxes; amending K.S.A. 2025 Supp. 79-32,297
6 and repealing the existing section.
7

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

9 Section 1. K.S.A. 2025 Supp. 79-32,297 is hereby amended to read as
10 follows: 79-32,297. (a) For taxable years 2022 through 2031, there shall be
11 allowed a credit against the tax liability imposed under the Kansas income
12 tax act, *the premium tax or privilege fees imposed pursuant to K.S.A. 40-*
13 *252, and amendments thereto, or the privilege tax as measured by the net*
14 *income of financial institutions imposed pursuant to article 11 of chapter*
15 *79 of the Kansas Statutes Annotated, and amendments thereto*, in an
16 amount equal to 50% of an eligible taxpayer's qualified railroad track
17 maintenance expenditures paid or incurred during the taxable year.

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

29 (c) The credits allowed pursuant to this section that are not used by
30 the eligible taxpayer are transferable by written agreement from the
31 eligible taxpayer to any ~~eligible customer or eligible vendor~~ *individual or*
32 *entity subject to the Kansas income tax act, the premium tax or privilege*
33 *fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the*
34 *privilege tax as measured by the net income of financial institutions*
35 *imposed pursuant to article 11 of chapter 79 of the Kansas Statutes*

1 *Annotated, and amendments thereto*, at any time during the five years
2 immediately following the taxable year for which the credits were allowed.
3 The eligible taxpayer originally allowed the credit and the subsequent
4 transferee ~~must~~ shall jointly file a copy of the written transfer agreement
5 with the Kansas department of revenue within 30 days of the transfer. The
6 written agreement ~~must~~ shall contain the name, address and taxpayer
7 identification number of the parties to the transfer, the amount of unused
8 credit being transferred, the taxable year *for which* the credit was
9 originally allowed to the eligible taxpayer and the taxable year or years for
10 which the credit may be claimed. The eligible taxpayer and subsequent
11 transferee shall also provide any information pertaining to the transfer as
12 may be required by the secretary of revenue to administer and carry out the
13 provisions of this section.

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

17 (e) As used in this section:

18 (1) ~~(A)~~ "Eligible customer" means a business that:
19 (i) ~~Uses class II or class III short line railroads or railroad-related~~
20 ~~property, facilities or structures located wholly or partly within the state of~~
21 ~~Kansas to directly or indirectly transport property, commodities or goods;~~
22 (ii) ~~is served by a class II or class III short line railroad; or~~
23 (iii) ~~stores railcars on the class II or class III short line railroad.~~
24 (B) "Eligible customer" does not include a class I railroad, as defined
25 in 49 C.F.R. § 1201.1-1(a), as in effect on January 1, 2022.

26 (2) "Eligible taxpayer" means:

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

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

33 (3) ~~(A)~~ "Eligible vendor" means a person who provides railroad-
34 related services directly to an eligible taxpayer. "Railroad-related services"
35 includes, but is not limited to: Transport of freight by rail; loading and
36 unloading of freight transported by rail; railroad bridge services; railroad
37 track construction; provision of railroad track material or equipment;
38 locomotive or freight train car leasing or rental; maintenance of a railroad's
39 right of way, including vegetation control; and freight train car repair,
40 rehabilitation or remanufacturing repair services.

41 (B) "Eligible vendor" does not include a class I railroad, as defined in
42 49 C.F.R. § 1201.1-1(a), as in effect on January 1, 2022.

43 (4) (2) (A) "Qualified railroad track maintenance expenditures" means

1 gross expenditures for maintenance, reconstruction or replacement of
2 railroad track, including roadbed, bridges, industrial leads and side track,
3 and related track structures to the extent the expenditures are on track
4 located in the state of Kansas and the track was owned or leased by an
5 eligible taxpayer as of January 1, 2022.

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

9 (f) The secretary of revenue shall annually certify the tax credit
10 amount allowed for each eligible taxpayer. The secretary of revenue may
11 adopt rules and regulations necessary to administer the provisions of this
12 section.

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

16 Sec. 2. K.S.A. 2025 Supp. 79-32,297 is hereby repealed.

17 Sec. 3. This act shall take effect and be in force from and after its
18 publication in the statute book.