

**ESHB 1371** - S COMM AMD

By Committee on Business, Financial Services, Gaming & Trade

**NOT CONSIDERED 05/17/2023**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that railroads play  
4 a crucial role in economic development, serving nearly every  
5 industrial, wholesale, retail, and resource-based sector in  
6 Washington's economy. The legislature further finds that freight  
7 railroad infrastructure is an essential link in the supply chain and  
8 provides an efficient way to connect Washington's economy to national  
9 and international markets. The legislature further finds that  
10 maintenance and improvements to the railroad system are needed to  
11 support modern 286,000 pound railcars, foster economic development,  
12 increase infrastructure resiliency, avoid supply chain disturbances,  
13 and meet carbon reduction goals for transportation greenhouse gases.  
14 The legislature intends to provide incentives to the rail industry  
15 that can lead to a more effective short line rail system.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04  
17 RCW to read as follows:

18 (1) A credit is allowed against taxes due under this chapter for  
19 expenditures made by an eligible taxpayer pursuant to subsection (2)  
20 of this section.

21 (2) Qualified expenditures incurred by an eligible taxpayer may  
22 be used to generate a credit for the following amounts:

23 (a) For qualified short line railroad maintenance expenditures, a  
24 credit is allowed against the taxes due under this chapter in an  
25 amount equal to 50 percent of the qualified short line railroad  
26 maintenance expenditures. The amount of the credit may not exceed an  
27 amount equal to \$5,000 multiplied by the number of miles of railroad  
28 track owned or leased in the state by the eligible taxpayer as of the  
29 close of the calendar year.

1 (b) For qualified new rail development expenditures, a credit is  
2 allowed against the taxes due under this chapter in an amount equal  
3 to 50 percent of the new rail development expenditures of an eligible  
4 taxpayer.

5 (c) For qualified railroad modernization and rehabilitation  
6 expenditures, a credit is allowed against the taxes due under this  
7 chapter in an amount equal to 50 percent of the qualified railroad  
8 modernization and rehabilitation expenditures by an eligible  
9 taxpayer.

10 (3) The total credit amount earned under subsection (2)(b) and  
11 (c) of this section may not exceed \$1,000,000 for each eligible  
12 taxpayer in a calendar year. Credits are available on a first-in-time  
13 basis. The department must disallow any credits, or portions thereof,  
14 that would cause the total amount of credits claimed under subsection  
15 (2)(b) and (c) of this section and section 6 of this act to exceed  
16 \$15,000,000 during any calendar year.

17 (4) The credit claimed may not exceed the tax that would  
18 otherwise be due under this chapter. Refunds may not be granted in  
19 the place of credits. Any amount of credit earned under this section  
20 not claimed by the person in one calendar year may be carried forward  
21 for no more than five calendar years immediately following the year  
22 that the credit was earned.

23 (5)(a) An eligible taxpayer may assign distribution of all or a  
24 portion of the unused credit earned under this section to any  
25 taxpayer subject to the tax imposed under this chapter at any time  
26 during the year in which the credit is earned and five years  
27 following the year that the credit is earned.

28 (b) To transfer all or any portion of an unused credit earned,  
29 the taxpayer originally allowed the credit, and the subsequent  
30 transferee must jointly file a credit transfer application with the  
31 department. The application must include:

32 (i) The names, addresses, and taxpayer identification numbers of  
33 the parties to the transfer;

34 (ii) The amount of the credit being transferred;

35 (iii) The year the credit was originally earned by the  
36 transferring taxpayer;

37 (iv) The tax year or years for which the credit may be claimed;  
38 and

39 (v) Any other information or documents the department may  
40 require.

1 (c) No credit transfer applications under (b) of this subsection  
2 (5) may be submitted after January 1, 2035.

3 (6) The department shall administer the credit. The department  
4 shall provide a simple credit application form that the department  
5 shall post on its website.

6 (7) No new credits may be earned for qualifying expenditures  
7 after January 1, 2035.

8 (8) For the purposes of this section, the following definitions  
9 apply:

10 (a) "Class I railroad" means a railroad that is classified by the  
11 United States surface transportation board as a class I railroad, as  
12 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
13 2023.

14 (b) "Eligible taxpayer" means:

15 (i) Any railroad subject to the tax under this chapter that is  
16 classified by the United States surface transportation board as a  
17 class II or class III railroad, as defined in 49 C.F.R. Sec.  
18 1201.1-1(a), as in effect on January 1, 2023;

19 (ii) Any railroad owned by a port, city, or county in the state  
20 of Washington; or

21 (iii) Any owner or lessee of rail siding, industrial spur, or  
22 industry track located on or adjacent to a class II or class III  
23 railroad in the state of Washington.

24 (c) "Industrial spur" means a secondary track used by railroads  
25 and customers at a location to load and unload railcars without  
26 interfering with other railroad operations.

27 (d) "Qualified new rail development expenditures" means  
28 expenditures for new rail development by an eligible taxpayer, which  
29 includes the construction of new track, industrial leads, switches,  
30 industrial spurs, sidings, rail loading docks, and transloading  
31 structures involved with providing rail services to new customer  
32 locations or existing customer expansions in the state by an eligible  
33 taxpayer.

34 (e) "Qualified railroad modernization and rehabilitation  
35 expenditures" means expenditures by an eligible taxpayer to upgrade  
36 less than 90 pound rail and switches, 286,000 capacity rail upgrades  
37 to the mainline track, rail and tie replacement projects, track  
38 capacity enhancements, bridge rehabilitation or bridge replacement  
39 projects, or other track-related projects determined to enhance or

1 modernize the existing track infrastructure in the state by an  
2 eligible taxpayer.

3 (f) "Qualified short line railroad maintenance expenditures"  
4 means expenditures for railroad infrastructure including, but not  
5 limited to, rail, ties, tie plates, joint bars, fasteners, switches,  
6 ballast, subgrade, roadbed, bridges, industrial leads, sidings,  
7 signs, safety barriers, crossing signals and gates, and related track  
8 structures owned or leased by a class II or class III railroad.

9 (g) "Siding" means a short section of track, distinct from a  
10 mainline, branch line, or spur, connected by switches to a main track  
11 and used for storage, passing, or other purposes.

12 (9) Qualified expenditures, as defined in subsection (8)(d), (e),  
13 and (f) of this section, do not include expenditures used to generate  
14 a federal tax credit or expenditures funded by a state or federal  
15 grant.

16 (10) This section does not apply to class I railroads or short  
17 line railroads owned by a class I railroad or any of its  
18 subsidiaries.

19 (11) No person may claim a credit against taxes due under both  
20 this chapter and chapter 82.16 RCW for the same qualified  
21 expenditures.

22 (12) This section expires January 1, 2040.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04  
24 RCW to read as follows:

25 (1) Any owner or operator of a class I railroad, or owner of a  
26 company that recycles railroad material, is eligible for an exemption  
27 from the tax under this chapter in the form of a credit as provided  
28 in this section if:

29 (a) The class I railroad transfers to an eligible taxpayer rail,  
30 ties, tie plates, joint bars, fasteners, switches, ballast, or other  
31 equipment or materials that are part of the rail infrastructure it  
32 has removed from use on the main railroad line to be installed on  
33 tracks used by class II and class III railroads; or

34 (b) The owner of a company that recycles railroad materials  
35 transfers to an eligible taxpayer rail, ties, tie plates, joint bars,  
36 fasteners, switches, ballast, or other equipment or materials that  
37 are part of the rail infrastructure to be installed on tracks used by  
38 class II and class III railroads.

1 (2) The credit is equal to 50 percent of the fair market value of  
2 the donated materials used for track maintenance, expansion, or  
3 modernization. Materials must be given to a qualifying recipient  
4 without consideration to receive a credit. The department must  
5 provide in rule a standard for determining the fair market value of  
6 donated materials under this section.

7 (3) (a) An owner or operator of a class I railroad, or owner of a  
8 company that recycles railroad material, may assign distribution of  
9 all or a portion of the unused credit earned under this section to  
10 any taxpayer subject to the tax imposed under this chapter at any  
11 time during the year in which the credit is earned and five years  
12 following the year that the credit is earned.

13 (b) To transfer all or any portion of an unused credit earned,  
14 the taxpayer originally allowed the credit and the subsequent  
15 transferee must jointly file a credit transfer application with the  
16 department. The application must include:

17 (i) The names, addresses, and taxpayer identification numbers of  
18 the parties to the transfer;

19 (ii) The amount of the credit being transferred;

20 (iii) The year the credit was originally earned by the  
21 transferring taxpayer;

22 (iv) The tax year or years for which the credit may be claimed;  
23 and

24 (v) Any other information or documents the department may  
25 require.

26 (c) No credit transfer applications under (b) of this subsection  
27 (3) may be submitted after January 1, 2035.

28 (4) The department shall administer the credit. The department  
29 shall provide a simple credit application form that the department  
30 shall post on its website.

31 (5) The credit claimed may not exceed the tax that would  
32 otherwise be due under this chapter. Refunds may not be granted in  
33 the place of credits. Any amount of credit earned under this section  
34 not claimed by the person in one calendar year may be carried forward  
35 for no more than five calendar years immediately following the year  
36 that the credit was earned.

37 (6) No new credits may be earned for qualifying expenditures  
38 after January 1, 2035.

39 (7) For purposes of this section, the following definitions  
40 apply:

1 (a) "Class I railroad" means a railroad that is classified by the  
2 United States surface transportation board as a class I railroad, as  
3 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
4 2023.

5 (b) "Eligible taxpayer" means:

6 (i) Any railroad subject to the tax under this chapter that is  
7 classified by the United States surface transportation board as a  
8 class II or class III railroad, as defined in 49 C.F.R. Sec.  
9 1201.1-1(a), as in effect on January 1, 2023;

10 (ii) Any railroad owned by a port, city, or county in the state  
11 of Washington; or

12 (iii) Any owner or lessee of rail siding, industrial spur, or  
13 industry track located on or adjacent to a class II or class III  
14 railroad in the state of Washington.

15 (c) "Industrial spur" means a secondary track used by railroads  
16 and customers at a location to load and unload railcars without  
17 interfering with other railroad operations.

18 (d) "Siding" means a short section of track, distinct from a  
19 mainline, branch line, or spur, connected by switches to a main track  
20 and used for storage, passing, or other purposes.

21 (8) This section does not apply to short line railroads owned by  
22 a class I railroad or any of its subsidiaries.

23 (9) No person may claim a credit against taxes due under both  
24 this chapter and chapter 82.16 RCW for the same donated materials.

25 (10) This section expires January 1, 2040.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08  
27 RCW to read as follows:

28 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
29 materials required for track maintenance to:

30 (a) Owners and operators of class II or class III railroads;

31 (b) Any railroad or freight rail facility owned by a port, city,  
32 or county in the state of Washington; or

33 (c) Any owner or lessee of a rail siding, industrial spur, or  
34 industry track located on or adjacent to a class II or class III  
35 railroad in the state of Washington.

36 (2) For the purposes of this section, the following definitions  
37 apply:

38 (a) "Class I railroad" means a railroad that is classified by the  
39 United States surface transportation board as a class I railroad, as

1 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
2 2023.

3 (b) "Class II or class III railroad" means railroads that are  
4 classified by the United States surface transportation board as a  
5 class II or class III railroad, as defined in 49 C.F.R. Sec.  
6 1201.1-1(a), as in effect on January 1, 2023.

7 (c) "Freight rail facilities" means the infrastructure used to  
8 transport freight by rail, specifically to rail yards, terminals,  
9 sidings, and marshalling yards that play an important role in the  
10 transportation and distribution and shipping of goods over long  
11 distances.

12 (d) "Industrial spur" means a secondary track used by railroads  
13 and customers at a location to load and unload railcars without  
14 interfering with other railroad operations.

15 (e) "Materials required for track maintenance" means rail, ties,  
16 tie plates, joint bars, fasteners, switches, ballast, subgrade,  
17 roadbed, bridges, industrial leads, sidings, signs, safety barriers,  
18 crossing signals and gates, and track.

19 (f) "Siding" means a short section of track, distinct from a  
20 mainline, branch line, or spur, connected by switches to a main track  
21 and used for storage, passing, or other purposes.

22 (3) This section does not apply to class I railroads or short  
23 line railroads owned by a class I railroad or any of its  
24 subsidiaries.

25 (4) This section expires January 1, 2035.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12  
27 RCW to read as follows:

28 (1) The provisions of this chapter do not apply with respect to  
29 materials required for track maintenance to:

30 (a) Owners and operators of class II or class III railroads;

31 (b) Any railroad or freight rail facility owned by a port, city,  
32 or county in the state of Washington; or

33 (c) Any owner or lessee of a rail siding, industrial spur, or  
34 industry track located on or adjacent to a class II or class III  
35 railroad in the state of Washington.

36 (2) For purposes of this section, the following definitions  
37 apply:

38 (a) "Class I railroad" means a railroad that is classified by the  
39 United States surface transportation board as a class I railroad, as

1 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
2 2023.

3 (b) "Class II or class III railroad" means railroads that are  
4 classified by the United States surface transportation board as a  
5 class II or class III railroad, as defined in 49 C.F.R. Sec.  
6 1201.1-1(a), as in effect on January 1, 2023.

7 (c) "Freight rail facilities" means the infrastructure used to  
8 transport freight by rail, specifically to rail yards, terminals,  
9 sidings, and marshalling yards that play an important role in the  
10 transportation and distribution and shipping of goods over long  
11 distances.

12 (d) "Industrial spur" means a secondary track used by railroads  
13 and customers at a location to load and unload railcars without  
14 interfering with other railroad operations.

15 (e) "Materials required for track maintenance" has the same  
16 meaning as in section 4 of this act.

17 (f) "Siding" means a short section of track, distinct from a  
18 mainline, branch line, or spur, connected by switches to a main track  
19 and used for storage, passing, or other purposes.

20 (3) This section does not apply to class I railroads or short  
21 line railroads owned by a class I railroad or any of its  
22 subsidiaries.

23 (4) This section expires January 1, 2035.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.16  
25 RCW to read as follows:

26 (1) A credit is allowed against taxes due under this chapter for  
27 expenditures made by an eligible taxpayer pursuant to subsection (2)  
28 of this section.

29 (2) Qualified expenditures incurred by an eligible taxpayer may  
30 be used to generate a credit for the following amounts:

31 (a) For qualified short line railroad maintenance expenditures, a  
32 credit is allowed against the taxes due under this chapter in an  
33 amount equal to 50 percent of the qualified short line railroad  
34 maintenance expenditures. The amount of the credit may not exceed an  
35 amount equal to \$5,000 multiplied by the number of miles of railroad  
36 track owned or leased in the state by the eligible taxpayer as of the  
37 close of the calendar year.

38 (b) For qualified new rail development expenditures, a credit is  
39 allowed against the taxes due under this chapter in an amount equal



1 to 50 percent of the new rail development expenditures of an eligible  
2 taxpayer.

3 (c) For qualified railroad modernization and rehabilitation  
4 expenditures, a credit is allowed against the taxes due under this  
5 chapter in an amount equal to 50 percent of the qualified railroad  
6 modernization and rehabilitation expenditures by an eligible  
7 taxpayer.

8 (3) The total credit amount earned under subsection (2)(b) and  
9 (c) of this section may not exceed \$1,000,000 for each eligible  
10 taxpayer in a calendar year. Credits are available on a first-in-time  
11 basis. The department must disallow any credits, or portions thereof,  
12 that would cause the total amount of credits claimed under subsection  
13 (2)(b) and (c) of this section and section 2 of this act, to exceed  
14 \$15,000,000 during any calendar year.

15 (4) The credit claimed may not exceed the tax that would  
16 otherwise be due under this chapter. Refunds may not be granted in  
17 the place of credits. Any amount of credit earned under this section  
18 not claimed by the person in one calendar year may be carried forward  
19 for no more than five calendar years immediately following the year  
20 that the credit was earned.

21 (5)(a) An eligible taxpayer may assign distribution of all or a  
22 portion of the unused credit earned under this section to any  
23 taxpayer subject to the tax imposed under this chapter at any time  
24 during the year in which the credit is earned and five years  
25 following the year that the credit is earned.

26 (b) To transfer all or any portion of an unused credit earned,  
27 the taxpayer originally allowed the credit and the subsequent  
28 transferee must jointly file a credit transfer application with the  
29 department. The application must include:

30 (i) The names, addresses, and taxpayer identification numbers of  
31 the parties to the transfer;

32 (ii) The amount of the credit being transferred;

33 (iii) The year the credit was originally earned by the  
34 transferring taxpayer;

35 (iv) The tax year or years for which the credit may be claimed;  
36 and

37 (v) Any other information or documents the department may  
38 require.

39 (c) No credit transfer applications under (b) of this subsection  
40 (5) may be submitted after January 1, 2035.

1 (6) The department shall administer the credit. The department  
2 shall provide a simple credit application form that the department  
3 shall post on its website.

4 (7) No new credits may be earned for qualifying expenditures  
5 after January 1, 2035.

6 (8) For the purposes of this section, the following definitions  
7 apply:

8 (a) "Class I railroad" means a railroad that is classified by the  
9 United States surface transportation board as a class I railroad, as  
10 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
11 2023.

12 (b) "Eligible taxpayer" means:

13 (i) Any railroad subject to the tax under this chapter that is  
14 classified by the United States surface transportation board as a  
15 class II or class III railroad, as defined in 49 C.F.R. Sec.  
16 1201.1-1(a), as in effect on January 1, 2023;

17 (ii) Any railroad owned by a port, city, or county in the state  
18 of Washington; or

19 (iii) Any owner or lessee of rail siding, industrial spur, or  
20 industry track located on or adjacent to a class II or class III  
21 railroad in the state of Washington.

22 (c) "Industrial spur" means a secondary track used by railroads  
23 and customers at a location to load and unload railcars without  
24 interfering with other railroad operations.

25 (d) "Qualified new rail development expenditures" means  
26 expenditures for new rail development by an eligible taxpayer, which  
27 includes the construction of new track, industrial leads, switches,  
28 industrial spurs, sidings, rail loading docks, and transloading  
29 structures involved with providing rail services to new customer  
30 locations or existing customer expansions in the state by an eligible  
31 taxpayer.

32 (e) "Qualified railroad modernization and rehabilitation  
33 expenditures" means expenditures by an eligible taxpayer to upgrade  
34 less than 90 pound rail and switches, 286,000 capacity rail upgrades  
35 to the mainline track, rail and tie replacement projects, track  
36 capacity enhancements, bridge rehabilitation or bridge replacement  
37 projects, or other track-related projects determined to enhance or  
38 modernize the existing track infrastructure in the state by an  
39 eligible taxpayer.

1 (f) "Qualified short line railroad maintenance expenditures"  
2 means expenditures for railroad infrastructure including, but not  
3 limited to, rail, ties, tie plates, joint bars, fasteners, switches,  
4 ballast, subgrade, roadbed, bridges, industrial leads, sidings,  
5 signs, safety barriers, crossing signals and gates, and related track  
6 structures owned or leased by a class II or class III railroad.

7 (g) "Siding" means a short section of track, distinct from a  
8 mainline, branch line, or spur, connected by switches to a main track  
9 and used for storage, passing, or other purposes.

10 (9) Qualified expenditures, as defined in subsection (8)(d), (e),  
11 and (f) of this section, do not include expenditures used to generate  
12 a federal tax credit or expenditures funded by a state or federal  
13 grant.

14 (10) This section does not apply to class I railroads or short  
15 line railroads owned by a class I railroad or any of its  
16 subsidiaries.

17 (11) No person may claim a credit against taxes due under both  
18 this chapter and chapter 82.04 RCW for the same qualified  
19 expenditures.

20 (12) This section expires January 1, 2040.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.16  
22 RCW to read as follows:

23 (1) Any owner or operator of a class I railroad, or owner of a  
24 company that recycles railroad material, is eligible for an exemption  
25 from the tax under this chapter in the form of a credit as provided  
26 in this section if:

27 (a) The class I railroad transfers to an eligible taxpayer rail,  
28 ties, tie plates, joint bars, fasteners, switches, ballast, or other  
29 equipment or materials that are part of the rail infrastructure it  
30 has removed from use on the main railroad line to be installed on  
31 tracks used by class II and class III railroads; or

32 (b) The owner of a company that recycles railroad materials  
33 transfers to an eligible taxpayer rail, ties, tie plates, joint bars,  
34 fasteners, switches, ballast, or other equipment or materials that  
35 are part of the rail infrastructure to be installed on tracks used by  
36 class II and class III railroads.

37 (2) The credit is equal to 50 percent of the fair market value of  
38 the donated materials used for track maintenance, expansion, or  
39 modernization. Materials must be given to a qualifying recipient

1 without consideration to receive a credit. The department must  
2 provide in rule a standard for determining the fair market value of  
3 donated materials under this section.

4 (3) (a) An owner or operator of a class I railroad, or owner of a  
5 company that recycles railroad material, may assign distribution of  
6 all or a portion of the unused credit earned under this section to  
7 any taxpayer subject to the tax imposed under this chapter at any  
8 time during the year in which the credit is earned and five years  
9 following the year that the credit is earned.

10 (b) To transfer all or any portion of an unused credit earned,  
11 the taxpayer originally allowed the credit, and the subsequent  
12 transferee must jointly file a credit transfer application with the  
13 department. The application must include:

14 (i) The names, addresses, and taxpayer identification numbers of  
15 the parties to the transfer;

16 (ii) The amount of the credit being transferred;

17 (iii) The year the credit was originally earned by the  
18 transferring taxpayer;

19 (iv) The tax year or years for which the credit may be claimed;  
20 and

21 (v) Any other information or documents the department may  
22 require.

23 (c) No credit transfer applications under (b) of this subsection  
24 (3) may be submitted after January 1, 2035.

25 (4) The department shall administer the credit. The department  
26 shall provide a simple credit application form that the department  
27 shall post on its website.

28 (5) The credit claimed may not exceed the tax that would  
29 otherwise be due under this chapter. Refunds may not be granted in  
30 the place of credits. Any amount of credit earned under this section  
31 not claimed by the person in one calendar year may be carried forward  
32 for no more than five calendar years immediately following the year  
33 that the credit was earned.

34 (6) No new credits may be earned for qualifying expenditures  
35 after January 1, 2035.

36 (7) For purposes of this section, the following definitions  
37 apply:

38 (a) "Class I railroad" means a railroad that is classified by the  
39 United States surface transportation board as a class I railroad, as

1 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
2 2023.

3 (b) "Eligible taxpayer" means:

4 (i) Any railroad subject to the tax under this chapter that is  
5 classified by the United States surface transportation board as a  
6 class II or class III railroad, as defined in 49 C.F.R. Sec.  
7 1201.1-1(a), as in effect on January 1, 2023;

8 (ii) Any railroad owned by a port, city, or county in the state  
9 of Washington; or

10 (iii) Any owner or lessee of rail siding, industrial spur, or  
11 industry track located on or adjacent to a class II or class III  
12 railroad in the state of Washington.

13 (c) "Industrial spur" means a secondary track used by railroads  
14 and customers at a location to load and unload railcars without  
15 interfering with other railroad operations.

16 (d) "Siding" means a short section of track, distinct from a  
17 mainline, branch line, or spur, connected by switches to a main track  
18 and used for storage, passing, or other purposes.

19 (8) This section does not apply to short line railroads owned by  
20 a class I railroad or any of its subsidiaries.

21 (9) No person may claim a credit against taxes due under both  
22 this chapter and chapter 82.04 RCW for the same donated materials.

23 (10) This section expires January 1, 2040.

24 NEW SECTION. **Sec. 8.** (1) This section is the tax preference  
25 performance statement for the tax preferences contained in  
26 chapter . . . , Laws of 2023 (this act). This performance statement is  
27 only intended to be used for subsequent evaluation of the tax  
28 preferences. It is not intended to create a private right of action  
29 by any party or be used to determine eligibility for preferential tax  
30 treatment.

31 (2) The legislature categorizes the tax preferences in this act  
32 as ones intended to accomplish a general purpose, as indicated in RCW  
33 82.32.808(2)(f).

34 (3) It is the legislature's specific public policy objective to  
35 promote economic development and reduce impacts of freight  
36 transportation on roads and the environment.

37 (4) In conducting its review under this section, the joint  
38 legislative audit and review committee should consider, among other  
39 measures:

- 1 (a) The total miles capable of transporting 286,000-pound  
2 railcars;
- 3 (b) The number of miles of track rehabilitated to 90-pound rail  
4 or greater;
- 5 (c) The number of ties replaced;
- 6 (d) The amount of ballast replaced;
- 7 (e) The number of bridges returned from out of service or able to  
8 operate heavier loaded equipment;
- 9 (f) The number of switches installed;
- 10 (g) Any related safety benefits of addressing at-grade crossings;
- 11 (h) The number of rail cars from increased economic activity;
- 12 (i) Any improvement in federal railroad administration track  
13 classification designation up to and including class II track and the  
14 ability to operate at greater speeds;
- 15 (j) The amount of steel or ties made obsolete pursuant to section  
16 2 of this act that are reused by a class II or class III railroad, as  
17 defined in section 5 of this act, within Washington;
- 18 (k) The number of prevailing wage jobs associated with new rail  
19 development, modernization, and rehabilitation projects by taxpayers  
20 using the tax preferences under this act; and
- 21 (l) The number of additional rail cars utilizing the class I  
22 railroads as a result of new development, modernization, and  
23 rehabilitation projects by taxpayers using the tax preferences under  
24 of this act.
- 25 (5) In order to obtain the data necessary to perform a review in  
26 subsection (4) of this section, the joint legislative audit and  
27 review committee may refer to any data collected by the state.

28 NEW SECTION. **Sec. 9.** Sections 4, 5, and 8 of this act take  
29 effect August 1, 2023.

30 NEW SECTION. **Sec. 10.** Sections 3 and 7 of this act take effect  
31 July 1, 2024.

32 NEW SECTION. **Sec. 11.** Sections 2 and 6 of this act take effect  
33 January 1, 2025."

**NOT CONSIDERED 05/17/2023**

1        On page 1, line 2 of the title, after "infrastructure;" strike  
2 the remainder of the title and insert "adding new sections to chapter  
3 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new  
4 section to chapter 82.12 RCW; adding new sections to chapter 82.16  
5 RCW; creating new sections; providing effective dates; and providing  
6 expiration dates."

EFFECT: • Reduces the business and occupation and public utility tax credit amounts from 100 percent to 50 percent of qualifying expenditures for new rail development and rail modernization and rehabilitation projects;

• Limits credits for new rail development and rail modernization and rehabilitation projects to \$1,000,000 for each taxpayer each calendar year, and not to exceed a total credit amount of \$15,000,000 each calendar year;

• Provides that qualifying expenditures do not include expenditures used to generate a federal tax credit or expenditures funded by a state or federal grant;

• Reduces the business and occupation and public utility tax credit amounts for rail materials donated from a class I railroad, or railroad material recycling company, to a class II or III railroad from 100 percent to 50 percent of the fair market value of such materials;

• Requires the department of revenue to provide in rule a standard for determining the fair market value of donated materials; and

• Revises the tax preference performance statement, including adding review metrics to include the amount of prevailing wage jobs and additional rail cars used by class I railroads resulting from new rail development, modernization, and rehabilitation projects.

--- END ---