

**ESHB 1371 - H AMD 783**

By Representative Barkis

**ADOPTED 02/08/2024**

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. The credit is subject to a maximum annual credit  
21 amount set forth in subsection (3) of this section.

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

24 (a) For qualified short line railroad maintenance expenditures, a  
25 credit is allowed against the taxes due under this chapter in an  
26 amount equal to 50 percent of the qualified short line railroad  
27 maintenance expenditures. The amount of the credit earned in a  
28 calendar year may not exceed an amount equal to \$3,500 multiplied by  
29 the number of miles of railroad track owned or leased in the state by  
30 the eligible taxpayer as of the 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 approved under subsection (2) of this  
11 section and section 6(2) of this act may not exceed \$1,000,000 for  
12 each eligible taxpayer in a calendar year. Credits are available on a  
13 first-in-time basis. The department must disallow any credits, or  
14 portions thereof, that would cause the total amount of credits  
15 approved under subsection (2) of this section and section 6(2) of  
16 this act to exceed \$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 taxpayer in one calendar year may be carried  
21 forward for no more than five calendar years immediately following  
22 the year that the credit was earned.

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

28 (b) To transfer all or any portion of an approved credit, the  
29 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 approved by the  
36 department for use by the 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 or portion thereof may be transferred more than  
2 once.

3 (6) The department must administer the credit. To claim or  
4 transfer a credit under this section, the taxpayer applying must  
5 complete an application for credit based on qualified expenditures  
6 incurred by the eligible taxpayer the previous calendar year. The  
7 department must rule on applications within 60 days of receipt. The  
8 department may extend the time of processing an application upon  
9 notice to the taxpayer and by providing the taxpayer an explanation  
10 on why the application processing cannot be completed on time.

11 (7) For purposes of this section, the following definitions  
12 apply:

13 (a) "Class I railroad" means a railroad that is classified by the  
14 United States surface transportation board as a class I railroad, as  
15 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
16 2024.

17 (b) "Eligible taxpayer" means:

18 (i) Any railroad subject to the tax under this chapter that is  
19 classified by the United States surface transportation board as a  
20 class II or class III railroad, as defined in 49 C.F.R. Sec.  
21 1201.1-1(a), as in effect on January 1, 2024;

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

24 (iii) Any owner or lessee of rail siding, industrial spur, or  
25 industry track, if the rail siding, industrial spur, or industry  
26 track is located on or adjacent to a class II or class III railroad  
27 in the state of Washington.

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

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

38 (e) "Qualified railroad modernization and rehabilitation  
39 expenditures" means expenditures by an eligible taxpayer to upgrade  
40 less than 90 pound rail and switches, 286,000 pound capacity rail

1 upgrades to the mainline track, rail and tie replacement projects,  
2 track capacity enhancements, bridge rehabilitation or bridge  
3 replacement projects, natural disaster projects, or other track-  
4 related projects determined to enhance or modernize the existing  
5 track infrastructure in the state by an eligible taxpayer.

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

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

16 (8) Qualified expenditures, as defined in subsection (7)(d), (e),  
17 and (f) of this section, do not include expenditures used to generate  
18 a federal tax credit or expenditures funded by a state or federal  
19 grant.

20 (9) 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 (10) No person may claim a credit against taxes due under both  
24 this chapter and chapter 82.16 RCW for the same qualified  
25 expenditures.

26 (11) To claim a credit under this chapter, a taxpayer must  
27 electronically file with the department all returns, forms, and other  
28 information the department requires in an electronic format as  
29 provided and approved by the department. Any return, form, or  
30 information required to be filed in an electronic format under this  
31 section is not filed until received by the department in an  
32 electronic format. For purposes of this subsection, "returns" has the  
33 same meaning as "return" in RCW 82.32.050.

34 (12) The ability to earn credits for qualifying expenditures  
35 under this section expires January 1, 2036. No credit may be claimed  
36 on tax returns filed for reporting periods beginning on or after  
37 January 1, 2042.

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

1 (1) Any company that recycles railroad material is eligible for a  
2 credit as provided in this section if, on or after the effective date  
3 of this section, the company transfers to an eligible taxpayer rail,  
4 ties, tie plates, joint bars, fasteners, switches, ballast, or other  
5 equipment or materials that are part of the rail infrastructure to be  
6 installed on tracks used by class II and class III railroads.

7 (2) The credit is equal to the fair market value of the donated  
8 materials used for track maintenance, expansion, or modernization.  
9 Materials must be given to a qualifying recipient without  
10 consideration to receive a credit. The department must provide in  
11 rule a standard for determining the fair market value of donated  
12 materials under this section.

13 (3) (a) A company that recycles railroad material may transfer all  
14 or a portion of the credit earned under this section to any taxpayer  
15 subject to the tax imposed under this chapter at any time during the  
16 year in which the credit is earned and five years following the year  
17 that the credit is earned.

18 (b) To transfer all or any portion of a credit earned, the  
19 taxpayer originally allowed the credit and the subsequent transferee  
20 must jointly file a credit transfer application with the department.  
21 The application must include:

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

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

25 (iii) The year the credit was originally earned by the  
26 transferring taxpayer;

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

29 (v) Any other information or documents the department may  
30 require.

31 (c) No credit or portion thereof may be transferred more than  
32 once.

33 (d) No credit transfer applications under (b) of this subsection  
34 (3) may be submitted for qualifying materials donated after December  
35 31, 2036.

36 (4) The department must administer the credit.

37 (5) The credit claimed may not exceed the tax that would  
38 otherwise be due under this chapter. Refunds may not be granted in  
39 the place of credits. Any amount of credit earned under this section  
40 not claimed by the person in one calendar year may be carried forward

1 for no more than five calendar years immediately following the year  
2 that the credit was earned.

3 (6) For purposes of this section, the following definitions  
4 apply:

5 (a) "Class I railroad" means a railroad that is classified by the  
6 United States surface transportation board as a class I railroad, as  
7 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
8 2024.

9 (b) "Eligible taxpayer" means:

10 (i) Any railroad subject to the tax under this chapter that is  
11 classified by the United States surface transportation board as a  
12 class II or class III railroad, as defined in 49 C.F.R. Sec.  
13 1201.1-1(a), as in effect on January 1, 2024;

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

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

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

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

26 (7) Credit under this section may not be earned for donations to  
27 short line railroads owned by a class I railroad or any of its  
28 subsidiaries.

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

31 (9) To claim a credit under this chapter, a person must  
32 electronically file with the department all returns, forms, and other  
33 information the department requires in an electronic format as  
34 provided and approved by the department. Any return, form, or  
35 information required to be filed in an electronic format under this  
36 section is not filed until received by the department in an  
37 electronic format. For purposes of this subsection, "returns" has the  
38 same meaning as "return" in RCW 82.32.050.

39 (10) The ability to earn credits for qualifying expenditures  
40 under this section expires January 1, 2036. No credit may be claimed

1 on tax returns filed for reporting periods beginning on or after  
2 January 1, 2042.

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

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

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

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

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

14 (2) Sellers making tax-exempt sales under this section must  
15 obtain an exemption certificate from the buyer in a form and manner  
16 prescribed by the department. The seller must retain a copy of the  
17 exemption certificate for the seller's files. Instead of an exemption  
18 certificate, a seller may capture the relevant data elements as  
19 allowed under the streamlined sales and use tax agreement.

20 (3) For the purposes of this section, the following definitions  
21 apply:

22 (a) "Class I railroad" means a railroad that is classified by the  
23 United States surface transportation board as a class I railroad, as  
24 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
25 2024.

26 (b) "Class II or class III railroad" means railroads that are  
27 classified by the United States surface transportation board as a  
28 class II or class III railroad, as defined in 49 C.F.R. Sec.  
29 1201.1-1(a), as in effect on January 1, 2024.

30 (c) "Freight rail facilities" means the infrastructure used to  
31 transport freight by rail, specifically to rail yards, terminals,  
32 sidings, and marshalling yards that play an important role in the  
33 transportation and distribution and shipping of goods over long  
34 distances.

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

38 (e) "Materials required for track maintenance" means the  
39 following items when used for purposes of track maintenance: Rail,

1 ties, tie plates, joint bars, fasteners, switches, ballast, subgrade,  
2 roadbed, bridges, industrial leads, sidings, signs, safety barriers,  
3 crossing signals and gates, and track.

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

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

10 (5) This section expires January 1, 2036.

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

13 (1) The provisions of this chapter do not apply to the use of  
14 materials required for track maintenance by:

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

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

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

22 (2) For purposes of this section, the following definitions  
23 apply:

24 (a) "Class I railroad" means a railroad that is classified by the  
25 United States surface transportation board as a class I railroad, as  
26 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
27 2024.

28 (b) "Class II or class III railroad" means railroads that are  
29 classified by the United States surface transportation board as a  
30 class II or class III railroad, as defined in 49 C.F.R. Sec.  
31 1201.1-1(a), as in effect on January 1, 2024.

32 (c) "Freight rail facilities" means the infrastructure used to  
33 transport freight by rail, specifically to rail yards, terminals,  
34 sidings, and marshalling yards that play an important role in the  
35 transportation and distribution and shipping of goods over long  
36 distances.

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



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

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

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

9 (4) This section expires January 1, 2036.

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

12 (1) A credit is allowed against taxes due under this chapter for  
13 expenditures made by an eligible taxpayer pursuant to subsection (2)  
14 of this section. The credit is subject to a maximum annual credit  
15 amount set forth in subsection (3) of this section.

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

18 (a) For qualified short line railroad maintenance expenditures, a  
19 credit is allowed against the taxes due under this chapter in an  
20 amount equal to 50 percent of the qualified short line railroad  
21 maintenance expenditures. The amount of the credit earned in a  
22 calendar year may not exceed an amount equal to \$3,500 multiplied by  
23 the number of miles of railroad track owned or leased in the state by  
24 the eligible taxpayer as of the close of the calendar year.

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

29 (c) For qualified railroad modernization and rehabilitation  
30 expenditures, a credit is allowed against the taxes due under this  
31 chapter in an amount equal to 50 percent of the qualified railroad  
32 modernization and rehabilitation expenditures by an eligible  
33 taxpayer.

34 (3) The total credit amount approved under subsection (2) of this  
35 section and section 2(2) of this act may not exceed \$1,000,000 for  
36 each eligible taxpayer in a calendar year. Credits are available on a  
37 first-in-time basis. The department must disallow any credits, or  
38 portions thereof, that would cause the total amount of credits

1 approved under subsection (2) of this section and section 2(2) of  
2 this act to exceed \$15,000,000 during any calendar year.

3 (4) The credit claimed may not exceed the tax that would  
4 otherwise be due under this chapter. Refunds may not be granted in  
5 the place of credits. Any amount of credit earned under this section  
6 not claimed by the taxpayer in one calendar year may be carried  
7 forward for no more than five calendar years immediately following  
8 the year that the credit was earned.

9 (5) (a) An eligible taxpayer may transfer all or a portion of the  
10 credit approved under this section to any taxpayer subject to the tax  
11 imposed under this chapter at any time during the calendar year in  
12 which the credit is approved by the department and five calendar  
13 years following the year that the credit is approved.

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

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

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

21 (iii) The year the credit was originally approved by the  
22 department for use by the transferring taxpayer;

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

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

27 (c) No credit or portion thereof may be transferred more than  
28 once.

29 (6) The department must administer the credit. To claim or  
30 transfer a credit under this section, the taxpayer applying must  
31 complete an application for credit based on qualified expenditures  
32 incurred by the eligible taxpayer the previous calendar year. The  
33 department must rule on applications within 60 days of receipt. The  
34 department may extend the time of processing any application upon  
35 notice to the taxpayer and by providing the taxpayer an explanation  
36 on why the application processing cannot be completed on time.

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

39 (a) "Class I railroad" means a railroad that is classified by the  
40 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 2024.

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, 2024;

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, if the rail siding, industrial spur, or industry  
12 track is located on or adjacent to a class II or class III railroad  
13 in the state of Washington.

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

17 (d) "Qualified new rail development expenditures" means  
18 expenditures for new rail development by an eligible taxpayer, which  
19 includes the construction of new track, industrial leads, switches,  
20 industrial spurs, sidings, rail loading docks, and transloading  
21 structures involved with providing rail services to new customer  
22 locations or existing customer expansions in the state by an eligible  
23 taxpayer.

24 (e) "Qualified railroad modernization and rehabilitation  
25 expenditures" means expenditures by an eligible taxpayer to upgrade  
26 less than 90 pound rail and switches, 286,000 pound capacity rail  
27 upgrades to the mainline track, rail and tie replacement projects,  
28 track capacity enhancements, bridge rehabilitation or bridge  
29 replacement projects, natural disaster projects, or other track-  
30 related projects determined to enhance or modernize the existing  
31 track infrastructure in the state by an eligible taxpayer.

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

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

4 (8) Qualified expenditures, as defined in subsection (7)(d), (e),  
5 and (f) of this section, do not include expenditures used to generate  
6 a federal tax credit or expenditures funded by a state or federal  
7 grant.

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

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

14 (11) To claim a credit under this chapter, a taxpayer must  
15 electronically file with the department all returns, forms, and other  
16 information the department requires in an electronic format as  
17 provided and approved by the department. Any return, form, or  
18 information required to be filed in an electronic format under this  
19 section is not filed until received by the department in an  
20 electronic format. For purposes of this subsection, "returns" has the  
21 same meaning as "return" in RCW 82.32.050.

22 (12) The ability to earn credits for qualifying expenditures  
23 under this section expires January 1, 2036. No credit may be claimed  
24 on tax returns filed for reporting periods beginning on or after  
25 January 1, 2042.

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

28 (1) Any company that recycles railroad material is eligible for a  
29 credit as provided in this section if, on or after the effective date  
30 of this section, the company transfers to an eligible taxpayer rail,  
31 ties, tie plates, joint bars, fasteners, switches, ballast, or other  
32 equipment or materials that are part of the rail infrastructure to be  
33 installed on tracks used by class II and class III railroads.

34 (2) The credit is equal to the fair market value of the donated  
35 materials used for track maintenance, expansion, or modernization.  
36 Materials must be given to a qualifying recipient without  
37 consideration to receive a credit. The department must provide in  
38 rule a standard for determining the fair market value of donated  
39 materials under this section.

1 (3) (a) A company that recycles railroad material may transfer all  
2 or a portion of the credit earned under this section to any taxpayer  
3 subject to the tax imposed under this chapter at any time during the  
4 year in which the credit is earned and five years following the year  
5 that the credit is earned.

6 (b) To transfer all or any portion of a credit earned, the  
7 taxpayer originally allowed the credit and the subsequent transferee  
8 must jointly file a credit transfer application with the department.  
9 The application must include:

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

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

13 (iii) The year the credit was originally earned by the  
14 transferring taxpayer;

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

17 (v) Any other information or documents the department may  
18 require.

19 (c) No credit or portion thereof may be transferred more than  
20 once.

21 (d) No credit transfer applications under (b) of this subsection  
22 (3) may be submitted for qualifying materials donated after December  
23 31, 2036.

24 (4) The department must administer the credit.

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

31 (6) For purposes of this section, the following definitions  
32 apply:

33 (a) "Class I railroad" means a railroad that is classified by the  
34 United States surface transportation board as a class I railroad, as  
35 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,  
36 2024.

37 (b) "Eligible taxpayer" means:

38 (i) Any railroad subject to the tax under this chapter that is  
39 classified by the United States surface transportation board as a

1 class II or class III railroad, as defined in 49 C.F.R. Sec.  
2 1201.1-1(a), as in effect on January 1, 2024;

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

5 (iii) Any owner or lessee of rail siding, industrial spur, or  
6 industry track, if the rail siding, industrial spur, or industry  
7 track is located on or adjacent to a class II or class III railroad  
8 in the state of Washington.

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

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

15 (7) Credit under this section may not be earned for donations to  
16 short line railroads owned by a class I railroad or any of its  
17 subsidiaries.

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

20 (9) To claim a credit under this chapter, a person must  
21 electronically file with the department all returns, forms, and other  
22 information the department requires in an electronic format as  
23 provided and approved by the department. Any return, form, or  
24 information required to be filed in an electronic format under this  
25 section is not filed until received by the department in an  
26 electronic format. For purposes of this subsection, "returns" has the  
27 same meaning as "return" in RCW 82.32.050.

28 (10) The ability to earn credits for qualifying expenditures  
29 under this section expires January 1, 2036. No credit may be claimed  
30 on tax returns filed for reporting periods beginning on or after  
31 January 1, 2042.

32 NEW SECTION. **Sec. 8.** (1) This section is the tax preference  
33 performance statement for the tax preferences contained in  
34 chapter . . . , Laws of 2024 (this act). This performance statement is  
35 only intended to be used for subsequent evaluation of the tax  
36 preferences. It is not intended to create a private right of action  
37 by any party or be used to determine eligibility for preferential tax  
38 treatment.

1 (2) The legislature categorizes the tax preferences in this act  
2 as ones intended to accomplish a general purpose, as indicated in RCW  
3 82.32.808(2)(f).

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

7 (4) In conducting its review under this section, the joint  
8 legislative audit and review committee should consider, among other  
9 measures:

10 (a) The total miles capable of transporting 286,000 pound  
11 railcars;

12 (b) The number of miles of track rehabilitated to 90 pound rail  
13 or greater;

14 (c) The number of ties replaced;

15 (d) The amount of ballast replaced;

16 (e) The number of bridges returned from out of service or able to  
17 operate heavier loaded equipment;

18 (f) The number of switches installed;

19 (g) Any related safety benefits of addressing at-grade crossings;

20 (h) The number of rail cars from increased economic activity;

21 (i) Any improvement in federal railroad administration track  
22 classification designation up to and including class II track and the  
23 ability to operate at greater speeds;

24 (j) The amount of steel or ties made obsolete pursuant to section  
25 2 of this act that are reused by a class II or class III railroad, as  
26 defined in section 5 of this act, within Washington;

27 (k) The number of prevailing wage jobs associated with new rail  
28 development, modernization, and rehabilitation projects by taxpayers  
29 using the tax preferences under this act; and

30 (l) The number of additional rail cars utilizing class I  
31 railroads as a result of new development, modernization, and  
32 rehabilitation projects by taxpayers using the tax preferences under  
33 this act.

34 (5) In order to obtain the data necessary to perform the review  
35 in subsection (4) of this section, the joint legislative audit and  
36 review committee may refer to any data collected by the state.

37 NEW SECTION. **Sec. 9.** If specific funding for the purposes of  
38 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2024, in the omnibus appropriations act, this  
2 act is null and void.

3 NEW SECTION. **Sec. 10.** Sections 4, 5, and 8 of this act take  
4 effect August 1, 2024.

5 NEW SECTION. **Sec. 11.** Sections 3 and 7 of this act take effect  
6 July 1, 2025.

7 NEW SECTION. **Sec. 12.** Sections 2 and 6 of this act take effect  
8 January 1, 2025."

9 Correct the title.

EFFECT: (1) Changes the maximum amount of the business and occupation and public utility credits for qualified short line railroad maintenance expenditures that may be earned in a calendar year to \$3,500 multiplied by the number of miles of railroad track owned or leased in the state by the eligible taxpayer.

(2) Changes the business and occupation and public utility credits from 100 percent to 50 percent for qualified new rail development, modernization, and rehabilitation expenditures.

(3) Creates a total credit cap for all business and occupation and public utility credits for qualifying expenditures to \$1 million per taxpayer and \$15 million for all taxpayers per calendar year.

(4) Changes the expiration date for claiming the business and occupation and public utility credits for qualifying expenditures from January 1, 2040, to January 1, 2036.

(5) Adds that the business and occupation and public utility credits for qualifying expenditures may be carried over until January 1, 2042.

(6) Defines the materials that can be recycled and donated to qualify for the business and occupation tax and public utility credits for the fair market value of donated materials.

(7) Adds administrative procedures for the application, use, and transfer of tax credits.

(8) Modifies definitions.

(9) Adds a null and void clause.

(10) Updates effective and expiration dates.

(11) Makes other clarifying and technical changes.

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