
SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1371

State of Washington

68th Legislature

2023 Regular Session

By House Finance (originally sponsored by Representatives Barkis, Leavitt, Orcutt, Fey, Barnard, Chapman, Low, Connors, Goehner, Chambers, Chandler, Couture, Griffey, Hutchins, Robertson, Volz, Walsh, Christian, Doglio, Schmick, and Gregerson)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to government incentives for improving freight
2 railroad infrastructure; adding new sections to chapter 82.04 RCW;
3 adding a new section to chapter 82.08 RCW; adding a new section to
4 chapter 82.12 RCW; adding new sections to chapter 82.16 RCW; creating
5 new sections; providing effective dates; and providing expiration
6 dates.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

9 (a) For qualified short line railroad maintenance expenditures, a
10 credit is allowed against the taxes due under this chapter in an
11 amount equal to 50 percent of the qualified short line railroad
12 maintenance expenditures. The amount of the credit earned in a
13 calendar year may not exceed an amount equal to \$3,500 multiplied by
14 the number of miles of railroad track owned or leased in the state by
15 the eligible taxpayer as of the close of the calendar year.

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

20 (c) For qualified railroad modernization and rehabilitation
21 expenditures, a credit is allowed against the taxes due under this
22 chapter in an amount equal to 50 percent of the qualified railroad
23 modernization and rehabilitation expenditures by an eligible
24 taxpayer.

25 (3) The total credit amount approved under subsection (2) of this
26 section and section 6(2) of this act may not exceed \$1,000,000 for
27 each eligible taxpayer in a calendar year. Credits are available on a
28 first-in-time basis. The department must disallow any credits, or
29 portions thereof, that would cause the total amount of credits
30 approved under subsection (2) of this section and section 6(2) of
31 this act to exceed \$15,000,000 during any calendar year.

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

38 (5) (a) An eligible taxpayer may transfer all or a portion of the
39 credit approved under this section to any taxpayer subject to the tax
40 imposed under this chapter at any time during the calendar year in

1 which the credit is approved by the department and for five calendar
2 years following the year that the credit is approved.

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

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

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

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

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

14 (v) Any other information or documents the department may
15 require.

16 (c) No credit or portion thereof may be transferred more than
17 once.

18 (6) The department must administer the credit. To claim or
19 transfer a credit under this section, the taxpayer applying must
20 complete an application for credit based on qualified expenditures
21 incurred by the eligible taxpayer the previous calendar year. The
22 department must rule on applications within 60 days of receipt. The
23 department may extend the time of processing an application upon
24 notice to the taxpayer and by providing the taxpayer an explanation
25 on why the application processing cannot be completed on time.

26 (7) For purposes of this section, the following definitions
27 apply:

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

32 (b) "Eligible taxpayer" means:

33 (i) Any railroad subject to the tax under this chapter that is
34 classified by the United States surface transportation board as a
35 class II or class III railroad, as defined in 49 C.F.R. Sec.
36 1201.1-1(a), as in effect on January 1, 2024;

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

39 (iii) Any owner or lessee of rail siding, industrial spur, or
40 industry track, if the rail siding, industrial spur, or industry

1 track is located on or adjacent to a class II or class III railroad
2 in the state of Washington.

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

6 (d) "Qualified new rail development expenditures" means
7 expenditures for new rail development by an eligible taxpayer, which
8 includes the construction of new track, industrial leads, switches,
9 industrial spurs, sidings, rail loading docks, and transloading
10 structures involved with providing rail services to new customer
11 locations or existing customer expansions in the state by an eligible
12 taxpayer.

13 (e) "Qualified railroad modernization and rehabilitation
14 expenditures" means expenditures by an eligible taxpayer to upgrade
15 less than 90 pound rail and switches, 286,000 pound capacity rail
16 upgrades to the mainline track, rail and tie replacement projects,
17 track capacity enhancements, bridge rehabilitation or bridge
18 replacement projects, natural disaster projects, or other track-
19 related projects determined to enhance or modernize the existing
20 track infrastructure in the state by an eligible taxpayer.

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

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

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

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

38 (10) No person may claim a credit against taxes due under both
39 this chapter and chapter 82.16 RCW for the same qualified
40 expenditures.

1 (11) To claim a credit under this chapter, a taxpayer must
2 electronically file with the department all returns, forms, and other
3 information the department requires in an electronic format as
4 provided and approved by the department. Any return, form, or
5 information required to be filed in an electronic format under this
6 section is not filed until received by the department in an
7 electronic format. For purposes of this subsection, "returns" has the
8 same meaning as "return" in RCW 82.32.050.

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

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

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

21 (2) The credit is equal to the fair market value of the donated
22 materials used for track maintenance, expansion, or modernization.
23 Materials must be given to a qualifying recipient without
24 consideration to receive a credit. The department must provide in
25 rule a standard for determining the fair market value of donated
26 materials under this section.

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

32 (b) To transfer all or any portion of a credit earned, the
33 taxpayer originally allowed the credit and the subsequent transferee
34 must jointly file a credit transfer application with the department.
35 The application must include:

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

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

1 (iii) The year the credit was originally earned by the
2 transferring taxpayer;

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

5 (v) Any other information or documents the department may
6 require.

7 (c) No credit or portion thereof may be transferred more than
8 once.

9 (d) No credit transfer applications under (b) of this subsection
10 (3) may be submitted for qualifying materials donated after December
11 31, 2036.

12 (4) The department must administer the credit.

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

19 (6) For purposes of this section, the following definitions
20 apply:

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

25 (b) "Eligible taxpayer" means:

26 (i) Any railroad subject to the tax under this chapter that is
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 (ii) Any railroad owned by a port, city, or county in the state
31 of Washington; or

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

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

1 (d) "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 (7) Credit under this section may not be earned for donations to
5 short line railroads owned by a class I railroad or any of its
6 subsidiaries.

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

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

17 (10) The ability to earn credits under this section expires
18 January 1, 2037. No credit may be claimed on tax returns filed for
19 reporting periods beginning on or after January 1, 2042.

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

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

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

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

27 (c) Any owner or lessee of a rail siding, industrial spur, or
28 industry track, if the rail siding, industrial spur, or industry
29 track is located on or adjacent to a class II or class III railroad
30 in the state of Washington.

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

37 (3) For the purposes of this section, the following definitions
38 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 2024.

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

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

14 (d) "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 (e) "Materials required for track maintenance" means the
18 following items when used for purposes of track maintenance: Rail,
19 ties, tie plates, joint bars, fasteners, switches, ballast, subgrade,
20 roadbed, bridges, industrial leads, sidings, signs, safety barriers,
21 crossing signals and gates, and track.

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

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

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

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

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

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

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

36 (c) Any owner or lessee of a rail siding, industrial spur, or
37 industry track, if the rail siding, industrial spur, or industry
38 track is located on or adjacent to a class II or class III railroad
39 in the state of Washington.

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

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

7 (b) "Class II or class III railroad" means railroads that are
8 classified by the United States surface transportation board as a
9 class II or class III railroad, as defined in 49 C.F.R. Sec.
10 1201.1-1(a), as in effect on January 1, 2024.

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

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

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

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

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

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

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

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

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

36 (a) For qualified short line railroad maintenance expenditures, a
37 credit is allowed against the taxes due under this chapter in an
38 amount equal to 50 percent of the qualified short line railroad
39 maintenance expenditures. The amount of the credit earned in a

1 calendar year may not exceed an amount equal to \$3,500 multiplied by
2 the number of miles of railroad track owned or leased in the state by
3 the eligible taxpayer as of the close of the calendar year.

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

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

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

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

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

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

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

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

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

1 (iv) The tax year or years for which the credit may be claimed;
2 and
3 (v) Any other information or documents the department may
4 require.
5 (c) No credit or portion thereof may be transferred more than
6 once.
7 (6) The department must administer the credit. To claim or
8 transfer a credit under this section, the taxpayer applying must
9 complete an application for credit based on qualified expenditures
10 incurred by the eligible taxpayer the previous calendar year. The
11 department must rule on applications within 60 days of receipt. The
12 department may extend the time of processing any application upon
13 notice to the taxpayer and by providing the taxpayer an explanation
14 on why the application processing cannot be completed on time.
15 (7) For the purposes of this section, the following definitions
16 apply:
17 (a) "Class I railroad" means a railroad that is classified by the
18 United States surface transportation board as a class I railroad, as
19 defined in 49 C.F.R. Sec. 1201.1-1(a), as in effect on January 1,
20 2024.
21 (b) "Eligible taxpayer" means:
22 (i) Any railroad subject to the tax under this chapter that is
23 classified by the United States surface transportation board as a
24 class II or class III railroad, as defined in 49 C.F.R. Sec.
25 1201.1-1(a), as in effect on January 1, 2024;
26 (ii) Any railroad owned by a port, city, or county in the state
27 of Washington; or
28 (iii) Any owner or lessee of rail siding, industrial spur, or
29 industry track, if the rail siding, industrial spur, or industry
30 track is located on or adjacent to a class II or class III railroad
31 in the state of Washington.
32 (c) "Industrial spur" means a secondary track used by railroads
33 and customers at a location to load and unload railcars without
34 interfering with other railroad operations.
35 (d) "Qualified new rail development expenditures" means
36 expenditures for new rail development by an eligible taxpayer, which
37 includes the construction of new track, industrial leads, switches,
38 industrial spurs, sidings, rail loading docks, and transloading
39 structures involved with providing rail services to new customer

1 locations or existing customer expansions in the state by an eligible
2 taxpayer.

3 (e) "Qualified railroad modernization and rehabilitation
4 expenditures" means expenditures by an eligible taxpayer to upgrade
5 less than 90 pound rail and switches, 286,000 pound capacity rail
6 upgrades to the mainline track, rail and tie replacement projects,
7 track capacity enhancements, bridge rehabilitation or bridge
8 replacement projects, natural disaster projects, or other track-
9 related projects determined to enhance or modernize the existing
10 track infrastructure in the state by an eligible taxpayer.

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

18 (g) "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) Qualified expenditures, as defined in subsection (7)(d), (e),
22 and (f) of this section, do not include expenditures used to generate
23 a federal tax credit or expenditures funded by a state or federal
24 grant.

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

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

31 (11) To claim a credit under this chapter, a taxpayer 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 (12) 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. 7.** A new section is added to chapter 82.16
4 RCW to read as follows:

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

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

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

22 (b) To transfer all or any portion of a credit earned, the
23 taxpayer originally allowed the credit and the subsequent transferee
24 must jointly file a credit transfer application with the department.
25 The application must include:

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

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

29 (iii) The year the credit was originally earned by the
30 transferring taxpayer;

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

33 (v) Any other information or documents the department may
34 require.

35 (c) No credit or portion thereof may be transferred more than
36 once.

37 (d) No credit transfer applications under (b) of this subsection
38 (3) may be submitted for qualifying materials donated after December
39 31, 2036.

1 (4) The department must administer the credit.

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

8 (6) For 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 2024.

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, 2024;

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

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

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

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

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

36 (9) To claim a credit under this chapter, a person must
37 electronically file with the department all returns, forms, and other
38 information the department requires in an electronic format as
39 provided and approved by the department. Any return, form, or
40 information required to be filed in an electronic format under this

1 section is not filed until received by the department in an
2 electronic format. For purposes of this subsection, "returns" has the
3 same meaning as "return" in RCW 82.32.050.

4 (10) The ability to earn credits under this section expires
5 January 1, 2037. No credit may be claimed on tax returns filed for
6 reporting periods beginning on or after January 1, 2042.

7 NEW SECTION. **Sec. 8.** (1) This section is the tax preference
8 performance statement for the tax preferences contained in
9 chapter . . ., Laws of 2024 (this act). This performance statement is
10 only intended to be used for subsequent evaluation of the tax
11 preferences. It is not intended to create a private right of action
12 by any party or be used to determine eligibility for preferential tax
13 treatment.

14 (2) The legislature categorizes the tax preferences in this act
15 as ones intended to accomplish a general purpose, as indicated in RCW
16 82.32.808(2)(f).

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

20 (4) In conducting its review under this section, the joint
21 legislative audit and review committee should consider, among other
22 measures:

23 (a) The total miles capable of transporting 286,000 pound
24 railcars;

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

27 (c) The number of ties replaced;

28 (d) The amount of ballast replaced;

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

31 (f) The number of switches installed;

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

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

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

37 (j) The amount of steel or ties made obsolete pursuant to section
38 2 of this act that are reused by a class II or class III railroad, as
39 defined in section 5 of this act, within Washington;

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

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

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

11 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
12 this act, referencing this act by bill or chapter number, is not
13 provided by June 30, 2024, in the omnibus appropriations act, this
14 act is null and void.

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

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

19 NEW SECTION. **Sec. 12.** Sections 2 and 6 of this act take effect
20 January 1, 2025.

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