

SENATE BILL No. 250

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-37.

Synopsis: Short line railroad tax credit. Allows a taxpayer to claim a credit against state income tax liability for certain qualified railroad expenditures and qualified new rail infrastructure expenditures. Specifies the amount of the credit. Limits the total amount of credits that may be allowed in a state fiscal year to: (1) \$9,500,000 for qualified railroad expenditures; and (2) \$10,000,000 for qualified new rail infrastructure expenditures.

Effective: January 1, 2023 (retroactive).

Doriot

January 11, 2023, read first time and referred to Committee on Appropriations.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 250

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-37 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2023 (RETROACTIVE)];

4 **Chapter 37. Railroad Tax Credit for Qualified Infrastructure**
5 **Investment**

6 **Sec. 1. As used in this chapter, "pass through entity" means:**

- 7 (1) a corporation that is exempt from the adjusted gross
- 8 income tax under IC 6-3-2-2.8(2);
- 9 (2) a partnership;
- 10 (3) a limited liability company; or
- 11 (4) a limited liability partnership.

12 **Sec. 2. As used in this chapter, "qualified applicant" means:**

- 13 (1) a short line rail company located in whole or in part in
- 14 Indiana that is classified by the United States Surface
- 15 Transportation Board as a Class II or Class III railroad that
- 16 makes qualified railroad expenditures; or
- 17 (2) an owner or lessee of a rail siding, industrial spur, or



1 industry track located:

2 (A) on or adjacent to a Class II or Class III railroad in
3 Indiana; or

4 (B) in a qualified rural county;

5 that makes qualified new rail infrastructure expenditures.

6 Sec. 3. As used in this chapter, "qualified new rail infrastructure
7 expenditures" means gross expenditures for new rail
8 infrastructure, including:

9 (1) construction of new track infrastructure such as industrial
10 leads, switches, spurs, sidings, rail loading docks, and
11 transloading structures, and engineering and site preparation
12 involved with servicing new customer locations;

13 (2) the expansion by a Class II or Class III railroad; or

14 (3) construction of new track infrastructure involved with
15 servicing new customer locations located in a qualified rural
16 county.

17 Sec. 4. As used in this chapter, "qualified railroad expenditures"
18 means gross expenditures for maintenance, reconstruction, or
19 replacement of railroad infrastructure, including track, roadbed,
20 bridges, crossings, signals, industrial leads and sidings, and track
21 related structures, owned or leased by a Class II or Class III
22 railroad located in Indiana. The term does not include
23 expenditures used to generate a federal tax credit or expenditures
24 funded by a state or federal grant.

25 Sec. 5. As used in this chapter, "qualified rural county" means
26 a county in Indiana with a population of not more than three
27 hundred thousand (300,000).

28 Sec. 6. As used in this chapter, "state tax liability" means a
29 taxpayer's total tax liability incurred under IC 6-3-1 through
30 IC 6-3-7 (the adjusted gross income tax), as computed after the
31 application of all credits that under IC 6-3.1-1-2 are to be applied
32 before the credit provided by this chapter.

33 Sec. 7. As used in this chapter, "taxpayer" means a qualified
34 applicant that has any state tax liability, or a qualified applicant
35 that is considered a tax exempt entity (owned by a port or
36 governmental entity).

37 Sec. 8. (a) A taxpayer wishing to claim a tax credit under this
38 chapter must apply to the department after completion of the
39 project for which qualified railroad expenditures or qualified new
40 rail infrastructure expenditures were incurred. The department
41 shall prescribe the form and manner of the application, which must
42 include:



- 1 (1) the number of miles of railroad track owned or leased in
2 Indiana; and
- 3 (2) a description and certification of the amount of the
4 taxpayer's qualified railroad expenditures or qualified new
5 rail infrastructure expenditures.
- 6 (b) The department shall evaluate a taxpayer's eligibility for a
7 tax credit under this chapter.
- 8 (c) The department shall certify the eligibility of a taxpayer that
9 meets the requirements for a tax credit under this chapter.
- 10 Sec. 9. (a) Subject to subsection (b), if the department certifies
11 a taxpayer under section 8 of this chapter, the taxpayer is entitled
12 to a tax credit against the taxpayer's state tax liability equal to:
- 13 (1) the taxpayer's:
- 14 (A) qualified railroad expenditures; or
- 15 (B) qualified new rail infrastructure expenditures;
16 multiplied by
- 17 (2) fifty percent (50%).
- 18 (b) The amount of a tax credit allowed under subsection (a) shall
19 not exceed the following:
- 20 (1) For qualified railroad expenditures, the product of:
- 21 (A) the number of miles of Class II or Class III railroad
22 track owned or leased by the taxpayer in Indiana at the
23 close of the taxable year; multiplied by
- 24 (B) five thousand dollars (\$5,000).
- 25 (2) For qualified new rail infrastructure expenditures, the
26 lesser of:
- 27 (A) fifty percent (50%) of the qualified new rail
28 expenditures for each new rail served customer project
29 completed by the taxpayer in the taxable year; or
- 30 (B) five hundred thousand dollars (\$500,000) per rail
31 served customer project.
- 32 Sec. 10. (a) If a pass through entity is entitled to a credit under
33 section 9 of this chapter but does not have state tax liability against
34 which the credit may be applied, a shareholder, partner, or
35 member of the pass through entity is entitled to a credit equal to:
- 36 (1) the credit determined for the pass through entity for the
37 taxable year; multiplied by
- 38 (2) the percentage of the pass through entity's distributive
39 income to which the shareholder, partner, or member is
40 entitled.
- 41 (b) The credit provided under subsection (a) is in addition to a
42 credit to which a shareholder, partner, or member of a pass



1 through entity is otherwise entitled under this chapter. However,
2 a pass through entity and a shareholder, partner, or member of the
3 pass through entity may not claim more than one (1) credit for the
4 same qualified railroad expenditure or qualified new rail
5 infrastructure expenditure.

6 **Sec. 11.** To obtain a credit under this chapter, a taxpayer must
7 claim the credit on the taxpayer's annual state tax return or
8 returns in the manner prescribed by the department. The taxpayer
9 shall submit to the department all information that the department
10 determines is necessary for the allowance of the credit provided by
11 this chapter.

12 **Sec. 12. (a)** If the credit provided by this chapter exceeds a
13 taxpayer's state tax liability for the taxable year for which the
14 credit is first claimed, the excess may be carried over to succeeding
15 taxable years and used as a credit against the tax otherwise due
16 and payable by the taxpayer under IC 6-3 during those taxable
17 years. Each time that the credit is carried over to a succeeding
18 taxable year, the credit is to be reduced by the amount that was
19 used as a credit during the immediately preceding taxable year.
20 The credit provided by this chapter may be carried forward and
21 applied to succeeding taxable years for five (5) taxable years
22 following the unused credit year.

23 **(b)** A taxpayer is not entitled to any carryback or refund of any
24 unused credit.

25 **Sec. 13. (a)** A taxpayer may assign any part of the credit that the
26 taxpayer may claim under this chapter. A credit that is assigned
27 under this section remains subject to this chapter. If a taxpayer
28 assigns a part of a credit during a taxable year, the assignee may
29 not subsequently assign all or part of the credit to another
30 taxpayer. A taxpayer may make only one (1) assignment of a
31 credit.

32 **(b)** An assignment of a credit must be in writing, and both the
33 taxpayer and assignee shall report the assignment on the
34 taxpayer's and assignee's state tax returns for the year in which the
35 assignment is made, in the manner prescribed by the department.
36 A taxpayer may not receive value in connection with an assignment
37 under this section that exceeds the value of the part of the credit
38 assigned.

39 **(c)** If the transferor is a tax exempt entity, the transfer must be
40 completed on or before the date that is one (1) year after the close
41 of the tax year for which the credit was certified. As used in this
42 subsection, "tax exempt entity" means a government agency or an



1 organization that is recognized as exempt under section 501(c)(3)
2 of the Internal Revenue Code.

3 **Sec. 14. For each state fiscal year beginning after June 30, 2023,**
4 **the aggregate amount of state tax credits permitted:**

5 (1) for qualified railroad expenditures allowed under this
6 chapter may not exceed nine million five hundred thousand
7 dollars (\$9,500,000); and

8 (2) for qualified new rail infrastructure expenditures allowed
9 under this chapter may not exceed ten million dollars
10 (\$10,000,000).

11 **Sec. 15. The department may adopt rules under IC 4-22-2,**
12 **including emergency rules under IC 4-22-2-37.1, to carry out this**
13 **chapter.**

14 **SECTION 2. An emergency is declared for this act.**

