

117TH CONGRESS
1ST SESSION

H. R. 2289

To amend the Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2021

Mr. SCHNEIDER (for himself, Mr. LAHOOD, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BONAMICI, Mr. CRAWFORD, Mr. RODNEY DAVIS of Illinois, Mr. GOHMERT, Mr. PAYNE, Ms. SEWELL, Mrs. WALORSKI, and Mr. WEBER of Texas) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Freight Rail Assist-
5 ance and Investment to Launch Coronavirus-era Activity
6 and Recovery Act of 2021” or the “Freight RAILCAR
7 Act of 2021”.

1 **SEC. 2. FREIGHT RAILCAR MODERNIZATION CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 of the Internal Revenue Code of
4 1986 is amended by adding at the end the following new
5 section:

6 **“SEC. 45U. FREIGHT RAILCAR MODERNIZATION CREDIT.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 the freight railcar modernization credit determined under
9 this section for the taxable year is an amount equal to
10 50 percent of the taxpayer’s freight railcar fleet mod-
11 ernization expenses.

12 “(b) DEFINITIONS.—For purposes of this section—

13 “(1) FREIGHT RAILCAR FLEET MODERNIZATION
14 EXPENSES.—The term ‘freight railcar fleet mod-
15 ernization expenses’ means the sum of—

16 “(A) the qualifying railcar replacement
17 and modernization amount,

18 “(B) the qualifying scrap amount, and

19 “(C) the qualifying railcar facility and
20 technology modernization amount.

21 “(2) QUALIFYING RAILCAR REPLACEMENT AND
22 MODERNIZATION AMOUNT.—The term ‘qualifying
23 railcar replacement and modernization amount’
24 means—

1 “(A) the basis of any qualified newly built
2 replacement railcar placed in service by the tax-
3 payer during the taxable year, plus

4 “(B) the qualified railcar modernization
5 expenditures of the taxpayer for the taxable
6 year.

7 “(3) QUALIFYING SCRAP AMOUNT.—The term
8 ‘qualifying scrap amount’ means—

9 “(A) the depreciated value or salvage
10 value, as applicable, of a qualified freight rail-
11 car (as such value is defined and calculated in
12 accordance with the Association of American
13 Railroads Interchange Rules) which is scrapped
14 by the taxpayer and permanently removed from
15 the AAR Umler System master file during the
16 taxable year, less

17 “(B) the sum of scrap and part out net
18 proceeds received by the taxpayer for such
19 qualified freight railcar. For purposes of this
20 subparagraph, scrap proceeds shall be cal-
21 culated by using the Association of American
22 Railroads Office Manual per pound credits for
23 steel, stainless steel, and aluminum (as applica-
24 ble) in effect on the date railcar is scrapped.

1 “(4) QUALIFYING RAILCAR FACILITY AND
2 TECHNOLOGY MODERNIZATION AMOUNT.—The term
3 ‘qualifying railcar facility equipment and technology
4 modernization amount’ means amounts paid or in-
5 curred by the taxpayer for any railcar facility and
6 technology modernization property placed in service
7 during the taxable year.

8 “(A) RAILCAR FACILITY AND TECHNOLOGY
9 MODERNIZATION PROPERTY.—The term ‘railcar
10 facility and technology modernization property’
11 means property—

12 “(i) chargeable to capital account,

13 “(ii) placed in service by a qualified
14 railway supply company,

15 “(iii) the original use of which com-
16 mences with the taxpayer,

17 “(iv) which is used to modernize an
18 existing qualified facility or existing rail-
19 cars, and

20 “(v) is used for modernization pur-
21 poses.

22 “(B) MODERNIZATION OF EXISTING
23 QUALIFIED FACILITIES OR EXISTING RAIL-
24 CARS.—Property is used to modernize an exist-

1 ing qualified facility or an existing railcar if
2 such property—

3 “(i) enables such facility to implement
4 enhanced controls to meet environmental
5 standards, including emissions limits under
6 the Clean Air Act or wastewater standards
7 under the Clean Water Act and cor-
8 responding State/local requirements, or

9 “(ii) is associated with the deployment
10 of technological equipment used by any
11 owner of a freight railcar, or of an existing
12 qualified facility, to manufacture, repair,
13 or modernize railcars, or manufacture rail-
14 car components that improve the effi-
15 ciency, quality, or safety of—

16 “(I) fleet management oper-
17 ations, or

18 “(II) railcar or railcar component
19 manufacturing, repair, or moderniza-
20 tion operations conducted pursuant to
21 activity code certifications under the
22 Association of American Railroads
23 Manual of Standards and Rec-
24 ommended Practice, Section C, Part
25 III, Appendix B (Specification

1 M1002) or Association of American
2 Railroads Manual of Standards and
3 Recommended Practice, Section J,
4 Quality Assurance (Specification M-
5 1003).

6 “(C) MODERNIZATION PURPOSES.—For
7 purposes of this paragraph, the following types
8 of property shall be considered as used for mod-
9 ernization purposes—

10 “(i) testing and reliability equipment
11 that facilitates the development of safer
12 railcars and railcar components by AAR
13 certified manufacturers, including acceler-
14 ated life-cycle testing equipment,

15 “(ii) innovative technological equip-
16 ment that generates data relating to the
17 operating conditions of rolling stock and
18 communicates such data in an efficient
19 manner, with the goal of improving railcar
20 fleet safety, including smart technology on
21 cars to monitor conditions such as leaks,
22 equipment damage, or high acceleration
23 events,

24 “(iii) remote controlled technological
25 equipment that allows for inspections,

1 cleaning or repairs to railcars to be con-
2 ducted remotely,

3 “(iv) equipment which increases the
4 efficiency or capacity of, and enhances en-
5 vironmental controls related to facilities
6 which conduct AAR certified blasting,
7 cleaning, coating, and painting railcar ac-
8 tivities,

9 “(v) regenerative thermal oxidizers of
10 volatile organic compounds or hazardous
11 air pollutants, and

12 “(vi) innovative technological equip-
13 ment or software that will enhance the effi-
14 ciency of a railcar owner’s fleet manage-
15 ment systems, including programs that
16 map timing and routing of railcars to re-
17 pair shops or storage facilities that im-
18 prove efficiency of rail transportation.

19 “(5) QUALIFIED NEWLY BUILT REPLACEMENT
20 RAILCAR.—The term ‘qualified newly built replace-
21 ment railcar’ means a qualified freight railcar
22 which—

23 “(A) is built after the date of the enact-
24 ment of this section,

1 “(B) is ordered or originally placed in serv-
2 ice before January 1, 2025, and

3 “(C) replaces two freight railcars owned by
4 the taxpayer that—

5 “(i) were in service within the 48
6 months preceding the beginning of the tax-
7 able year, and

8 “(ii) which were both scrapped and
9 permanently removed from the AAR Umler
10 System master file during such taxable
11 year.

12 “(6) ORIGINATES.—The term ‘originates’ refers
13 to the country of origin of a part, component, sub-
14 assembly or finished product, as described in the
15 Rules of Origin of Article 4.2 of the United States–
16 Mexico–Canada Agreement (19 U.S.C. 4531(c)) or
17 any subsequent free trade agreement between the
18 United States, Mexico, and Canada.

19 “(7) QUALIFIED RAILWAY SUPPLY COMPANY.—
20 The term ‘qualified railway supply company’ means
21 an entity that manufactures, repairs, modernizes or
22 owns freight railcars or manufactures components
23 for freight railcars, that is not an entity that would
24 be ineligible for an award of a contract or sub-
25 contract under 49 U.S.C. 5323(u).

1 “(8) QUALIFIED FREIGHT RAILCAR.—

2 “(A) IN GENERAL.—The term ‘qualified
3 freight railcar’ means a freight railcar that—

4 “(i) is either acquired or modernized
5 by the taxpayer after the date of the enact-
6 ment of this section,

7 “(ii) meets the significant improve-
8 ment requirements for capacity, fuel effi-
9 ciency, or performance of subparagraph
10 (B),

11 “(iii) originates from a qualified rail-
12 way supply company and was built in a
13 qualified facility, and

14 “(iv) with respect to which no credit
15 under this section was previously claimed
16 by any taxpayer.

17 “(B) SIGNIFICANT IMPROVEMENT.—For
18 purposes of this paragraph, an improvement in
19 capacity or fuel efficiency and performance with
20 respect to a modernized freight railcar is a sig-
21 nificant improvement if—

22 “(i) such capacity or fuel efficiency, as
23 the case may be, is increased by at least 8
24 percent, or

1 “(ii) in the case of performance, the
2 qualified freight railcar meets the require-
3 ments of the Association of American Rail-
4 roads Standard S-286 or is modernized to
5 meet the design standards set forth in final
6 rule HM-251 of the Pipeline and Haz-
7 ardous Materials Safety Administration (as
8 amended by HM-251C).

9 “(C) MODERNIZED.—The term ‘modern-
10 ized’ means modified, retrofitted, converted or
11 rebuilt for the purpose of meeting the signifi-
12 cant improvement criteria of subparagraph (B).

13 “(9) QUALIFIED RAILCAR MODERNIZATION EX-
14 PENDITURE.—The term ‘qualified railcar moderniza-
15 tion expenditure’ means any amount paid or in-
16 curred—

17 “(A) in connection with the modernization
18 of a freight railcar resulting in such railcar
19 being designated a qualified freight railcar, and

20 “(B) which is properly chargeable to a cap-
21 ital account with respect to such freight railcar.

22 “(10) QUALIFIED FACILITY.—The term ‘quali-
23 fied facility’ means a facility that is located within
24 the United States and owned by any entity other
25 than an entity that would be ineligible for an award

1 of a contract or subcontract under 49 U.S.C.
2 5323(u).

3 “(c) SPECIAL RULES.—

4 “(1) DENIAL OF DOUBLE BENEFIT.—No credit
5 shall be allowed under subsection (a) for any ex-
6 pense for which a deduction or credit is allowed
7 under any other provision of this chapter.

8 “(2) CREDIT TREATED AS REFUNDABLE.—In
9 the case of any taxable year in which the taxpayer
10 is allowed a credit under subsection (a) and is un-
11 able to use such credit as an offset to the regular
12 tax liability of such taxpayer, such taxpayer may
13 elect to have such credit treated as an overpayment
14 and refunded to the taxpayer for such year.

15 “(3) BASIS ADJUSTMENT.—For purposes of
16 this subtitle, if a credit is allowed under subsection
17 (a) with respect to any qualified freight railcar, the
18 basis of such railcar shall be reduced by the amount
19 of the credit so allowed.

20 “(4) SALE-LEASEBACK.—For purposes of sub-
21 section (a), if any qualified freight railcar is—

22 “(A) originally placed in service by a per-
23 son after the date of the enactment of this sec-
24 tion, and

1 “(B) sold and leased back by such person
2 within 3 months after such railcar is originally
3 placed in service (or, in the case of more than
4 one railcar subject to the same lease, within 3
5 months after the date the final railcar is placed
6 in service, so long as the period between the
7 time the first railcar is placed in service and the
8 time the last railcar is placed in service does
9 not exceed 24 months), such railcar shall be
10 treated as originally placed in service not earlier
11 than the date on which such railcar is used
12 under the leaseback referred to in this para-
13 graph.

14 “(5) SYNDICATION.—For purposes of sub-
15 section (a), if—

16 “(A) any qualified freight railcar is origi-
17 nally placed in service after the date of enact-
18 ment of this section by the lessor of such rail-
19 car,

20 “(B) such railcar is sold by such lessor or
21 any subsequent purchaser within 3 months
22 after the date such railcar was originally placed
23 in service (or, in the case of more than one rail-
24 car subject to the same lease, within 3 months
25 after the date the final railcar is placed in serv-

1 ice and the time the last railcar is placed in
2 service does not exceed 12 months), and

3 “(C) the user of such railcar after the last
4 sale during such 3-month period remains the
5 same as when such railcar was originally placed
6 in service, such railcars shall be treated as
7 originally placed in service not earlier than the
8 date of such last sale.

9 “(6) ENTITIES OWNED OR CONTROLLED BY
10 STATE-OWNED ENTERPRISES INELIGIBLE.—No cred-
11 it under subsection (a) shall be allowed to any tax-
12 payer that would be ineligible for an award of a con-
13 tract or subcontract under 49 U.S.C. 5323(u).

14 “(d) TERMINATION.—This section shall not apply to
15 any qualifying railcar facility equipment and technology
16 modernization amount after December 31, 2024, or to any
17 qualifying railcar replacement and modernization amount,
18 or any qualifying scrap amount after December 31,
19 2025.”.

20 (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-
21 tion 38(b) of the Internal Revenue Code of 1986 (relating
22 to current year business credit) is amended by striking
23 “plus” at the end of paragraph (32), by striking the period
24 at the end of paragraph (33) and inserting “, plus” and

1 by inserting at the end thereof the following new para-
2 graph:

3 “(34) the freight railcar modernization credit
4 determined under section 45U.”.

5 (c) COORDINATION WITH SECTION 55.—Section
6 38(c)(4)(B) of the Internal Revenue Code of 1986 is
7 amended by redesignating clauses (x), (xi), and (xii) as
8 clauses (xi), (xii), and (xiii) respectively, and by inserting
9 after clause (ix) the following new clause:

10 “(x) the freight railcar modernization
11 credit determined under section 45U,”.

12 (d) CLERICAL AMENDMENT.—The table of sections
13 for subpart D of part IV of subchapter A of chapter 1
14 of the Internal Revenue Code of 1986 is amended by in-
15 serting after the item relating to section 45T the following
16 new item:

“Sec. 45U. Freight railcar modernization credit.”.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service, and
19 amounts paid or incurred, after April 30, 2021.

20 **SEC. 3. REPORT ON THE FREIGHT RAILCAR MODERNIZA-**
21 **TION CREDIT.**

22 (a) IN GENERAL.—Not later than 3 years after the
23 date of the enactment of this Act, the Secretary of the
24 Treasury (or the Secretary’s delegate), shall submit to the
25 Committee on Ways and Means of the House of Rep-

1 representatives and the Committee on Finance of the Senate
2 a report on activity with respect to the qualified freight
3 railcar credit under section 45U of the Internal Revenue
4 Code of 1986.

5 (b) REPORT CONTENTS.—The report submitted
6 under subsection (a) shall contain information with re-
7 spect to the following:

8 (1) The number of times the credit was
9 claimed.

10 (2) The number of railcars scrapped as a result
11 of the credit.

12 (3) The number of new railcars entered into
13 contract as a result of the credit.

14 (4) The number of new railcars built as a result
15 of the credit.

16 (5) The number of facilities modified as a result
17 of the credit.

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