

116TH CONGRESS  
2D SESSION

# H. R. 8082

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Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 21, 2020

Mr. SCHNEIDER (for himself, Mr. LAHOOD, Mr. LIPINSKI, Mr. CRAWFORD, Mr. BLUMENAUER, and Mr. FERGUSON) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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the Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.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 2020” or the “Freight RAILCAR  
7 Act of 2020”.

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

7 “(a) GENERAL RULE.—For purposes of section 38,  
8 the qualified freight railcar credit determined under this  
9 section for the taxable year is an amount equal to 50 per-  
10 cent of the sum of—

11 “(1) the qualifying replacement or moderniza-  
12 tion amount,

13 “(2) the qualifying scrap amount, and

14 “(3) the qualifying railcar facility and tech-  
15 nology modernization amount.

16 “(b) DEFINITIONS.—In this section—

17 “(1) QUALIFYING REPLACEMENT OR MOD-  
18 ERNIZATION AMOUNT.—The term ‘qualifying re-  
19 placement or modernization amount’ means—

20 “(A) the basis of any newly built qualified  
21 freight railcar placed in service by the taxpayer  
22 during the taxable year, plus

23 “(B) the qualified freight railcar mod-  
24 ernization expenditures of the taxpayer for the  
25 taxable year.

1           “(2) QUALIFYING SCRAP AMOUNT.—The term  
2           ‘qualifying scrap amount’ means—

3                   “(A) the depreciated value of a qualified  
4                   freight railcar, as such value is defined and cal-  
5                   culated in accordance with the Association of  
6                   American Railroads Interchange Rules, less

7                   “(B) the sum of scrap and part out net  
8                   proceeds received by the taxpayer for such  
9                   qualified freight railcar.

10           “(3) QUALIFYING RAILCAR FACILITY AND  
11           TECHNOLOGY MODERNIZATION AMOUNT.—The term  
12           ‘qualifying railcar facility equipment and technology  
13           modernization amount’ means total expenditures  
14           chargeable to capital account by a qualified railway  
15           supply company—

16                   “(A) for re-equipping and enhancing the  
17                   infrastructure of an existing qualified facility  
18                   for the manufacture, repair, or modernization  
19                   of railcars, which—

20                   “(i) enables such facility, after such  
21                   improvements, to modernize railcars such  
22                   that they will meet the requirements of the  
23                   Association of American Railroads Stand-  
24                   ard S-286 or the design standards set  
25                   forth in the Pipeline and Hazardous Mate-

1            rials Safety Administration’s HM–251  
2            final rule (as amended by HM–251C), or

3            “(ii) enables such facility to imple-  
4            ment enhanced controls to meet environ-  
5            mental standards including emissions lim-  
6            its under the Clean Air Act or wastewater  
7            standards under the Clean Water Act and  
8            corresponding state/local requirements, or

9            “(B) is associated with the deployment of  
10           technology, including equipment, used by any  
11           owner of a qualified freight railcar or an exist-  
12           ing qualified facility to manufacture, repair, or  
13           modernize railcars or to manufacture railcar  
14           components that improves the efficiency, qual-  
15           ity, or safety of railcar or railcar component  
16           manufacturing, repair, modernization or fleet  
17           management operations.

18           “(4) NEWLY BUILT REPLACEMENT RAILCAR.—

19           The term ‘newly built replacement railcar’ means a  
20           qualified freight railcar which—

21           “(A) is built after the date of the enact-  
22           ment of this section, and

23           “(B) is ordered or originally placed in serv-  
24           ice before January 1, 2025.

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

8           “(6) QUALIFIED RAILWAY SUPPLY COMPANY.—  
9           The term ‘qualified railway supply company’ means  
10          an entity that manufactures, repairs, modernizes or  
11          owns a qualified freight railcar or manufactures  
12          components for qualified freight railcars, that is not  
13          an entity that would be ineligible for an award of a  
14          contract or subcontract under 49 U.S.C. 5323(u).

15          “(7) QUALIFIED FREIGHT RAILCAR.—

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

18                         “(i) is either acquired or modernized  
19                         by the taxpayer after the date of the enact-  
20                         ment of this section,

21                         “(ii) meets the significant improve-  
22                         ment requirements for capacity, fuel effi-  
23                         ciency, or performance of subparagraph  
24                         (B),

1 “(iii) originates from a qualified rail-  
2 way supply company and was built in a  
3 qualified facility, and

4 “(iv) with respect to which no credit  
5 under this section has been previously  
6 claimed by any taxpayer.

7 “(B) SIGNIFICANT IMPROVEMENT RE-  
8 QUIREMENTS.—

9 “(i) IN GENERAL.—A freight railcar  
10 shall be treated as meeting significant im-  
11 provement requirements for capacity, fuel  
12 efficiency, or performance if—

13 “(I) in the case of a newly built  
14 replacement railcar, the taxpayer cer-  
15 tifies—

16 “(aa) such railcar is owned  
17 by the taxpayer, and

18 “(bb) that—

19 “(AA) such railcar re-  
20 places two freight railcars  
21 owned by the taxpayer that  
22 were in service within the 48  
23 months preceding the tax-  
24 able year, and

1                   “(BB) such freight rail-  
2                   cars were scrapped and per-  
3                   manently removed from the  
4                   AAR Umler System master  
5                   file during the taxable year,  
6                   and

7                   “(II) in the case of a freight rail-  
8                   car that is modernized, the taxpayer  
9                   certifies that the modernization has  
10                  resulted in a significant improvement  
11                  in capacity, fuel efficiency or perform-  
12                  ance.

13                  “(ii) SIGNIFICANT IMPROVEMENT.—  
14                  For purposes of this paragraph, an im-  
15                  provement in capacity or fuel efficiency  
16                  and performance with respect to a modern-  
17                  ized freight railcar shall be treated as a  
18                  significant improvement if—

19                         “(I) such capacity or fuel effi-  
20                         ciency, as the case may be, is in-  
21                         creased by at least 8 percent, or

22                         “(II) in the case of performance,  
23                         the qualified freight railcar meets the  
24                         requirements of the Association of  
25                         American Railroads Standard S-286

1 or is modernized to meet the design  
2 standards set forth in final rule HM-  
3 251 of the Pipeline and Hazardous  
4 Materials Safety Administration (as  
5 amended by HM-251C).

6 “(C) MODERNIZED.—The term ‘modern-  
7 ized’ means a modification, retrofit, conversion  
8 or rebuild for the purpose of meeting capacity,  
9 fuel efficiency, or performance criteria identified  
10 in subparagraph (B)(ii).

11 “(8) QUALIFIED FREIGHT RAILCAR MOD-  
12 ERNIZATION EXPENDITURE.—The term ‘qualified  
13 freight railcar significant improvement expenditure’  
14 means any amount paid or incurred—

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

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

20 “(9) QUALIFIED FACILITY.—The term ‘quali-  
21 fied facility’ means a facility that is not owned by  
22 an entity that would be ineligible for an award of a  
23 contract or subcontract under 49 U.S.C. 5323(u).

24 “(c) SPECIAL RULES.—



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

5           “(2) CREDIT TREATED AS REFUNDABLE.—In  
6 the case of any taxable year in which the taxpayer  
7 is allowed a credit under subsection (a)(1) and is  
8 unable to utilize such credit as an offset to their reg-  
9 ular tax liability, the taxpayer may elect to have  
10 such credit treated as an overpayment and refunded  
11 to the taxpayer for such year.

12           “(3) BASIS ADJUSTMENT.—For purposes of  
13 this subtitle, if a credit is allowed under subsection  
14 (a)(1) with respect to any qualified freight railcar,  
15 the basis of such railcar shall be reduced by the  
16 amount of the credit so allowed.

17           “(4) SALE-LEASEBACK.—For purposes of sub-  
18 section (a)(1), if any qualified freight railcar is—

19                   “(A) originally placed in service by a per-  
20 son after the date of the enactment of this sec-  
21 tion, and

22                   “(B) sold and leased back by such person  
23 within 3 months after the railcars are originally  
24 placed in service (or, in the case of more than  
25 one railcar subject to the same lease, within 3

1 months after the date the final railcar is placed  
2 in service, so long as the period between the  
3 time the first railcar is placed in service and the  
4 time the last railcar is placed in service does  
5 not exceed 24 months),

6 such railcar shall be treated as originally placed in  
7 service not earlier than the date on which such rail-  
8 car is used under the leaseback referred to in this  
9 paragraph.

10 “(5) SYNDICATION.—For purposes of sub-  
11 section (a)(1), if—

12 “(A) any qualified freight railcar is origi-  
13 nally placed in service after the date of enact-  
14 ment of this section by the lessor of such rail-  
15 car,

16 “(B) such railcar is sold by such lessor or  
17 any subsequent purchaser within 3 months  
18 after the date such railcar was originally placed  
19 in service (or, in the case of more than one rail-  
20 car subject to the same lease, within 3 months  
21 after the date the final railcar is placed in serv-  
22 ice and the time the last railcar is placed in  
23 service does not exceed 12 months), and

24 “(C) the user of such railcar after the last  
25 sale during such 3-month period remains the

1 same as when such railcar was originally placed  
2 in service, such railcars shall be treated as  
3 originally placed in service not earlier than the  
4 date of such last sale.

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

10 “(d) TERMINATION.—This section shall not apply to  
11 any qualifying railcar facility equipment and technology  
12 modernization amount after December 31, 2023, or to any  
13 qualifying replacement or modernization amount, or any  
14 qualifying scrap amount after December 31, 2024.”.

15 (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-  
16 tion 38(b) of the Internal Revenue Code of 1986 (relating  
17 to current year business credit) is amended by striking  
18 “plus” at the end of paragraph (32), by striking the period  
19 at the end of paragraph (33) and inserting “, plus” and  
20 by inserting at the end thereof the following new para-  
21 graph:

22 “(34) the qualified freight railcar credit deter-  
23 mined under section 45U.”.

24 (c) COORDINATION WITH SECTION 55.—Section  
25 38(c)(4)(B) of the Internal Revenue Code of 1986 is

1 amended by redesignating clauses (x), (xi), and (xii) as  
2 clauses (xi), (xii), and (xiii) respectively, and by inserting  
3 after clause (ix) the following new clause:

4                                   “(x) the qualified freight railcar credit  
5                                   determined under section 45U,”.

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

“Sec. 45U. Qualified freight railcar credit.”.

11           (e) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to property placed in service, and  
13 amounts paid or incurred, after April 30, 2020.

14 **SEC. 3. REPORT ON THE QUALIFIED FREIGHT RAILCAR**  
15 **CREDIT.**

16           (a) IN GENERAL.—Not later than 3 years after the  
17 date of the enactment of this Act, the Secretary of the  
18 Treasury (or the Secretary’s delegate), shall submit to the  
19 Committee on Ways and Means of the House of Rep-  
20 resentatives and the Committee on Finance of the Senate  
21 a report on activity with respect to the qualified freight  
22 railcar credit under section 36D of the Internal Revenue  
23 Code of 1986.

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

4           (1) The number of times the credit was  
5 claimed.

6           (2) The number of railcars scrapped as a result  
7 of the credit.

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

10          (4) The number of new railcars built as a result  
11 of the credit.

12          (5) The number of facilities modified as a result  
13 of the credit.

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