

117TH CONGRESS  
2D SESSION

# H. R. 7902

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Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.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

MAY 27, 2022

Mr. SCHNEIDER (for himself, Mr. LAHOOD, Mr. BACON, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BOST, Mr. CRAWFORD, Mr. RODNEY DAVIS of Illinois, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. GOHMERT, Mr. TONY GONZALES of Texas, Ms. GRANGER, Ms. HERRERA BEUTLER, Mr. HUDSON, Mr. HUFFMAN, Mr. KILDEE, Mr. MCCAUL, Mr. MCKINLEY, Mr. MELJER, Mr. NEHLS, Mr. PANETTA, Mr. PAYNE, Mr. ROGERS of Alabama, Ms. SÁNCHEZ, Ms. SEWELL, Mrs. WALORSKI, Mr. WEBER of Texas, and Mr. WILLIAMS of Texas) 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the Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.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

1 and Recovery Act of 2022” or the “Freight RAILCAR  
2 Act of 2022”.

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

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
5 chapter A of chapter 1 of the Internal Revenue Code of  
6 1986 is amended by adding at the end the following new  
7 section:

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

9 “(a) IN GENERAL.—For purposes of section 38, the  
10 freight railcar modernization credit determined under this  
11 section for the taxable year is an amount equal to 10 per-  
12 cent of the taxpayer’s freight railcar fleet modernization  
13 expenses.

14 “(b) LIMITATION.—No more than 2,000 qualified  
15 freight railcars per taxpayer may be taken into account  
16 for purposes of determining the credit under subsection  
17 (a) with respect to a taxable year.

18 “(c) DEFINITIONS.—For purposes of this section—

19 “(1) FREIGHT RAILCAR FLEET MODERNIZATION  
20 EXPENSES.—The term ‘freight railcar fleet mod-  
21 ernization expenses’ means the sum of the qualifying  
22 railcar replacement and modernization amount.

23 “(2) QUALIFYING RAILCAR REPLACEMENT AND  
24 MODERNIZATION AMOUNT.—The term ‘qualifying

1 railcar replacement and modernization amount’  
2 means—

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

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

9 “(3) QUALIFIED NEWLY BUILT REPLACEMENT  
10 RAILCAR.—The term ‘qualified newly built replace-  
11 ment railcar’ means a qualified freight railcar  
12 which—

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

15 “(B) is ordered or originally placed in serv-  
16 ice before January 1, 2024, and

17 “(C) replaces two freight railcars owned by  
18 the taxpayer that—

19 “(i) were in service within the 48  
20 months preceding the beginning of the tax-  
21 able year, and

22 “(ii) which were both scrapped and  
23 permanently removed from the AAR Umler  
24 System master file during such taxable  
25 year.

1 “(4) 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) was built in a qualified facility,  
12 and

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

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

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

24 “(ii) in the case of performance, the  
25 qualified freight railcar meets the require-

1           ments of the Association of American Rail-  
2           roads Standard S-286 or is modernized to  
3           meet the design standards set forth in final  
4           rule HM-251 of the Pipeline and Haz-  
5           ardous Materials Safety Administration (as  
6           amended by HM-251C).

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

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

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          “(6) QUALIFIED FACILITY.—The term ‘quali-  
21          fied facility’ means a facility that is not owned or  
22          leased by an entity that would be ineligible for an  
23          award of a contract or subcontract under 49 U.S.C.  
24          5323(u).

25          “(d) 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) BASIS ADJUSTMENT.—For purposes of  
6 this subtitle, if a credit is allowed under subsection  
7 (a) with respect to any qualified freight railcar, the  
8 basis of such railcar shall be reduced by the amount  
9 of the credit so allowed.

10           “(3) SALE-LEASEBACK.—For purposes of sub-  
11 section (a), if any qualified freight railcar is—

12                   “(A) originally placed in service by a per-  
13 son after the date of the enactment of this sec-  
14 tion, and

15                   “(B) sold and leased back by such person  
16 within 3 months after such railcar is originally  
17 placed in service (or, in the case of more than  
18 one railcar subject to the same lease, within 3  
19 months after the date the final railcar is placed  
20 in service, so long as the period between the  
21 time the first railcar is placed in service and the  
22 time the last railcar is placed in service does  
23 not exceed 24 months), such railcar shall be  
24 treated as originally placed in service not earlier  
25 than the date on which such railcar is used

1 under the leaseback referred to in this para-  
2 graph.

3 “(4) SYNDICATION.—For purposes of sub-  
4 section (a), if—

5 “(A) any qualified freight railcar is origi-  
6 nally placed in service after the date of enact-  
7 ment of this section by the lessor of such rail-  
8 car,

9 “(B) such railcar is sold by such lessor or  
10 any subsequent purchaser within 3 months  
11 after the date such railcar was originally placed  
12 in service (or, in the case of more than one rail-  
13 car subject to the same lease, within 3 months  
14 after the date the final railcar is placed in serv-  
15 ice and the time the last railcar is placed in  
16 service does not exceed 12 months), and

17 “(C) the user of such railcar after the last  
18 sale during such 3-month period remains the  
19 same as when such railcar was originally placed  
20 in service, such railcars shall be treated as  
21 originally placed in service not earlier than the  
22 date of such last sale.

23 “(5) ENTITIES OWNED OR CONTROLLED BY  
24 STATE-OWNED ENTERPRISES INELIGIBLE.—No cred-  
25 it under subsection (a) shall be allowed to any tax-

1 payer that would be ineligible for an award of a con-  
2 tract or subcontract under 49 U.S.C. 5323(u).

3 “(e) TERMINATION.—This section shall not apply to  
4 any qualifying railcar replacement and modernization  
5 amount after December 31, 2024.”.

6 (b) CREDIT ALLOWED AS BUSINESS CREDIT.—Sec-  
7 tion 38(b) of the Internal Revenue Code of 1986 (relating  
8 to current year business credit) is amended by striking  
9 “plus” at the end of paragraph (32), by striking the period  
10 at the end of paragraph (33) and inserting “, plus” and  
11 by inserting at the end thereof the following new para-  
12 graph:

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

15 (c) COORDINATION WITH SECTION 55.—Section  
16 38(c)(4)(B) of the Internal Revenue Code of 1986 is  
17 amended by redesignating clauses (x), (xi), and (xii) as  
18 clauses (xi), (xii), and (xiii) respectively, and by inserting  
19 after clause (ix) the following new clause:

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

22 (d) CLERICAL AMENDMENT.—The table of sections  
23 for subpart D of part IV of subchapter A of chapter 1  
24 of the Internal Revenue Code of 1986 is amended by in-



1   serting after the item relating to section 45T the following  
2   new item:

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

3       (e) **EFFECTIVE DATE.**—The amendments made by  
4   this section shall apply to property placed in service, and  
5   amounts paid or incurred, after December 31, 2021.

6   **SEC. 3. REPORT ON THE FREIGHT RAILCAR MODERNIZA-**  
7                                   **TION CREDIT.**

8       (a) **IN GENERAL.**—Not later than 3 years after the  
9   date of the enactment of this Act, the Secretary of the  
10   Treasury (or the Secretary’s delegate), shall submit to the  
11   Committee on Ways and Means of the House of Rep-  
12   resentatives and the Committee on Finance of the Senate  
13   a report on activity with respect to the qualified freight  
14   railcar credit under section 45U of the Internal Revenue  
15   Code of 1986.

16       (b) **REPORT CONTENTS.**—The report submitted  
17   under subsection (a) shall contain information with re-  
18   spect to the following:

19           (1) The number of times the credit was  
20       claimed.

21           (2) The number of railcars scrapped as a result  
22       of the credit.

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

- 1 (4) The number of new railcars built as a result
- 2 of the credit.

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