H. R. _____

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Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.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

Mr. SCHNEIDER introduced the following bill; which was referred to the Committee on

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Internal Revenue Code of 1986 to provide a tax credit to encourage the replacement or modernization of inefficient, outdated freight railcars, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Freight Rail Assistance and Investment to Launch Coronavirus-Era Activity and Recovery Act” or the “FREIGHT RAILCAR Act of 2020”.
SEC. 2. QUALIFIED FREIGHT RAILCAR CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 45U. QUALIFIED FREIGHT RAILCAR CREDIT.

“(a) General Rule.—For purposes of section 38, the qualified freight railcar credit determined under this section for the taxable year is an amount equal to 50 percent of the sum of—

“(1) the qualifying replacement or modernization amount,

“(2) the qualifying scrap amount, and

“(3) the qualifying railcar facility and technology modernization amount.

“(b) Definitions.—In this section—

“(1) Qualifying Replacement or Modernization Amount.—The term ‘qualifying replacement or modernization amount’ means—

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

“(B) the qualified freight railcar modernization expenditures of the taxpayer for the taxable year.
“(2) QUALIFYING SCRAP AMOUNT.—The term ‘qualifying scrap amount’ means—

“(A) the depreciated value of a qualified freight railcar, as such value is defined and calculated in accordance with the Association of American Railroads Interchange Rules, less

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

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

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

“(i) enables such facility, after such improvements, to modernize railcars such that they will meet the requirements of the Association of American Railroads Standard S–286 or the design standards set forth in the Pipeline and Hazardous Mater-
The term ‘newly built replacement railcar’ means a qualified freight railcar which—

“(A) is built after the date of the enactment of this section, and

“(B) is ordered or originally placed in service before January 1, 2025.
“(5) ORIGINATES.—The term ‘originates’ refers to the country of origin of a part, component, sub-
assembly or finished product, as described in the Rules of Origin of Article 4.2 of the United States–
Mexico–Canada Agreement (19 U.S.C. 4531(c)) or any subsequent free trade agreement between the United States, Mexico, and Canada.

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

“(7) QUALIFIED FREIGHT RAILCAR.—

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

“(i) is either acquired or modernized by the taxpayer after the date of the enactment of this section,

“(ii) meets the significant improvement requirements for capacity, fuel efficiency, or performance of subparagraph (B),
“(iii) originates from a qualified rail-
way supply company and was built in a
qualified facility, and

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

“(B) Significant Improvement Re-
quirements.—

“(i) In general.—A freight railcar
shall be treated as meeting significant im-
provement requirements for capacity, fuel
efficiency, or performance if—

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

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

“(bb) that—

“(AA) such railcar re-
places two freight railcars
owned by the taxpayer that
were in service within the 48
months preceding the tax-
able year, and
“(BB) such freight rail-cars were scrapped and permanently removed from the AAR Umler System master file during the taxable year, and

“(II) in the case of a freight railcar that is modernized, the taxpayer certifies that the modernization has resulted in a significant improvement in capacity, fuel efficiency or performance.

“(ii) SIGNIFICANT IMPROVEMENT.—

For purposes of this paragraph, an improvement in capacity or fuel efficiency and performance with respect to a modernized freight railcar shall be treated as a significant improvement if—

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

“(II) in the case of performance, the qualified freight railcar meets the requirements of the Association of American Railroads Standard S–286
or is modernized to meet the design standards set forth in final rule HM–251 of the Pipeline and Hazardous Materials Safety Administration (as amended by HM–251C).

“(C) MODERNIZED.—The term ‘modernized’ means a modification, retrofit, conversion or rebuild for the purpose of meeting capacity, fuel efficiency, or performance criteria identified in subparagraph (B)(ii).

“(8) QUALIFIED FREIGHT RAILCAR MODERNIZATION EXPENDITURE.—The term ‘qualified freight railcar significant improvement expenditure’ means any amount paid or incurred—

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

“(B) which is properly chargeable to a capital account with respect to such freight railcar.

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

“(c) SPECIAL RULES.—
“(1) Denial of Double Benefit.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

“(2) Credit Treated as Refundable.—In the case of any taxable year in which the taxpayer is allowed a credit under subsection (a)(1) and is unable to utilize such credit as an offset to their regular tax liability, the taxpayer may elect to have such credit treated as an overpayment and refunded to the taxpayer for such year.

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

“(4) Sale-Leaseback.—For purposes of subsection (a)(1), if any qualified freight railcar is—

“(A) originally placed in service by a person after the date of the enactment of this section, and

“(B) sold and leased back by such person within 3 months after the railcars are originally placed in service (or, in the case of more than one railcar subject to the same lease, within 3
months after the date the final railcar is placed in service, so long as the period between the time the first railcar is placed in service and the time the last railcar is placed in service does not exceed 24 months), such railcar shall be treated as originally placed in service not earlier than the date on which such railcar is used under the leaseback referred to in this paragraph.

“(5) SYNDICATION.—For purposes of subsection (a)(1), if—

“(A) any qualified freight railcar is originally placed in service after the date of enactment of this section by the lessor of such railcar,

“(B) such railcar is sold by such lessor or any subsequent purchaser within 3 months after the date such railcar was originally placed in service (or, in the case of more than one railcar subject to the same lease, within 3 months after the date the final railcar is placed in service and the time the last railcar is placed in service does not exceed 12 months), and

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

“(6) Entities owned or controlled by state-owned enterprises ineligible.—No credit under subsection (a) shall be allowed to any taxpayer that would be ineligible for an award of a contract or subcontract under 49 U.S.C. 5323(u).

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

(b) Credit Allowed as Business Credit.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus” and by inserting at the end thereof the following new paragraph:

“(34) the qualified freight railcar credit determined under section 45U.”.

(c) Coordination With Section 55.—Section 38(c)(4)(B) of the Internal Revenue Code of 1986 is
amended by redesignating clauses (x), (xi), and (xii) as clauses (xi), (xii), and (xiii) respectively, and by inserting after clause (ix) the following new clause:

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

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

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

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

SEC. 3. REPORT ON THE QUALIFIED FREIGHT RAILCAR CREDIT.

(a) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary’s delegate), shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on activity with respect to the qualified freight railcar credit under section 36D of the Internal Revenue Code of 1986.
(b) REPORT CONTENTS.—The report submitted under subsection (a) shall contain information with respect to the following:

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

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

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

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

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