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S.L.C.

PENDING

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency, and for other purposes.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

S. 14

To **AMENDMENT No. 1385** nd

By *Durbin*

To: *S. 14*

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AMENDMENT intended to be proposed by _____

Viz: *At the appropriate place insert the following:*

1 ~~At the end of title II of division B, add the following:~~

2 **SEC. ____ . MODIFICATIONS TO GAS GUZZLERS TAX TO EN-**
3 **COURAGE GREATER AUTO FUEL EFFICIENCY.**

4 (a) INCREASE IN TAX RATE.—Subsection (a) of sec-
5 tion 4064 (relating to gas guzzlers tax) is amended to read
6 as follows:

7 “(a) IMPOSITION OF TAX.—

8 “(1) IN GENERAL.—There is hereby imposed on
9 the sale by the manufacturer of each automobile a

1 tax determined in accordance with the following
2 table:

If the fuel economy for the model year of the model type in which the automobile falls is:	The tax is:
Less than 5 mpg below the applicable fuel economy standard	\$0
At least 5 but less than 6 mpg below such standard	1,000
At least 6 but less than 7 mpg below such standard	1,500
At least 7 but less than 8 mpg below such standard	2,000
At least 8 but less than 9 mpg below such standard	2,500
At least 9 but less than 10 mpg below such standard	3,100
At least 10 but less than 11 mpg below such standard	3,800
At least 11 but less than 12 mpg below such standard	4,600
At least 12 but less than 13 mpg below such standard	5,500
At least 13 but less than 14 mpg below such standard	6,500
At least 14 mpg below such standard	7,700.

3 “(2) INFLATION ADJUSTMENT.—

4 “(A) IN GENERAL.—In the case of any
5 taxable year beginning after 2005, each dollar
6 amount referred to in paragraph (1) shall be in-
7 creased by an amount equal to—

8 “(i) such dollar amount, multiplied by
9 “(ii) the cost-of-living adjustment de-
10 termined under section (1)(f)(3) for the
11 calendar year in which the taxable year be-
12 gins, by substituting ‘2004’ for ‘1992’.

13 “(B) ROUNDING.—If any amount as ad-
14 justed under subparagraph (A) is not a multiple
15 of \$100, such amount shall be rounded to the
16 next lowest multiple of \$50.”.

17 (b) EXPANSION OF DEFINITION OF AUTOMOBILE.—

18 (1) INCREASE IN WEIGHT.—Section
19 4064(b)(1)(A)(ii) (defining automobile) is amended

1 by striking “6,000 pounds” and inserting “12,000
2 pounds”.

3 (2) EXCEPTION FOR CERTAIN VEHICLES.—Sub-
4 paragraph (B) of section 4064(b)(1) is amended to
5 read as follows:

6 “(B) EXCEPTION FOR CERTAIN VEHI-
7 CLES.—The term ‘automobile’ does not
8 include—

9 “(i) a vehicle which has a primary
10 load carrying device or container attached,

11 “(ii) a vehicle which has a seating ca-
12 pacity of more than 12 persons,

13 “(iii) a vehicle which has a seating ca-
14 pacity of more than 9 persons behind the
15 driver’s seat, or

16 “(iv) a vehicle which is equipped with
17 a cargo area of at least 6 feet in interior
18 length which is an open area or is designed
19 for use as an open area but is enclosed by
20 a cap and is not readily accessible directly
21 from the passenger compartment.”.

22 (c) ADDITIONAL DEFINITIONS.—Section 4064(b) (re-
23 lating to definitions) is amended by adding at the end the
24 following new paragraphs:

1 “(8) APPLICABLE FUEL ECONOMY STAND-
2 ARD.—The term ‘applicable fuel economy standard’
3 means, with respect to any model year, the average
4 fuel economy standard as defined in section 32902
5 of title 49, United States Code, for passenger auto-
6 mobiles for such model year.

7 “(9) MPG.—The term ‘mpg’ means miles per
8 gallon.”.

9 (d) EFFECTIVE DATE.—The amendments made by this
10 section shall apply to sales after October 31, 2005.

11 **SEC. ____ . HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.**

12 (a) IN GENERAL.—Subpart C of part IV of sub-
13 chapter A of chapter 1 (relating to refundable credits) is
14 amended by redesignating section 36 as section 37 and
15 by inserting after section 35 the following new section:

16 **“SEC. 36. HIGHLY FUEL-EFFICIENT AUTOMOBILE CREDIT.**

17 “(a) ALLOWANCE OF CREDIT.—There shall be al-
18 lowed as a credit against the tax imposed by this subtitle
19 for the taxable year an amount equal to the new highly
20 fuel-efficient automobile credit determined under sub-
21 section (b).

22 “(b) NEW HIGHLY FUEL-EFFICIENT AUTOMOBILE
23 CREDIT.—For purposes of subsection (a), the new highly
24 fuel-efficient automobile credit with respect to any new
25 automobile placed in service by the taxpayer during the

1 taxable year is determined in accordance with the fol-
2 lowing tables:

**If the fuel economy for the model year
of the model type in which the
passenger automobile falls is:**

	The credit is:
Less than 5 mpg above the applicable fuel economy standard	\$0
At least 5 but less than 6 mpg above such standard	770
At least 6 but less than 7 mpg above such standard	1,540
At least 7 but less than 8 mpg above such standard	2,310
At least 8 but less than 9 mpg above such standard	3,080
At least 9 but less than 10 mpg above such standard	3,850
At least 10 but less than 11 mpg above such standard	4,620
At least 11 but less than 12 mpg above such standard	5,390
At least 12 but less than 13 mpg above such standard	6,160
At least 13 but less than 14 mpg above such standard	6,930
At least 14 mpg above such standard	7,700.

**If the fuel economy for the model year
of the model type in which the
non-passenger automobile falls is:**

	The credit is:
Less than 5 mpg above the applicable fuel economy standard	\$0
At least 5 but less than 6 mpg above such standard	770
At least 6 but less than 7 mpg above such standard	1,540
At least 7 but less than 8 mpg above such standard	2,310
At least 8 but less than 9 mpg above such standard	3,080
At least 9 but less than 10 mpg above such standard	3,850
At least 10 but less than 11 mpg above such standard	4,620
At least 11 but less than 12 mpg above such standard	5,390
At least 12 but less than 13 mpg above such standard	6,160
At least 13 but less than 14 mpg above such standard	6,930
At least 14 mpg above such standard	7,700.

3 “(c) NEW AUTOMOBILE.—For purposes of this sec-
4 tion, the term ‘new automobile’ means a passenger auto-
5 mobile or non-passenger automobile—

6 “(1) the original use of which commences with
7 the taxpayer,

8 “(2) which is acquired for use or lease by the
9 taxpayer and not for resale, and

10 “(3) which is made by a manufacturer.

11 “(d) PASSENGER AUTOMOBILE; NON-PASSENGER
12 AUTOMOBILE.—For purposes of this section—

1 “(1) PASSENGER AUTOMOBILE.—The term
2 ‘passenger automobile’ has the meaning given the
3 term ‘automobile’ by section 4064(b)(1).

4 “(2) NON-PASSENGER AUTOMOBILE.—

5 “(A) IN GENERAL.—The term ‘non-pas-
6 senger automobile’ means any automobile (as
7 defined in section 4064(b)(1)(A)), but only if
8 such automobile is described in subparagraph
9 (B).

10 “(B) NON-PASSENGER AUTOMOBILES DE-
11 SCRIBED.—An automobile is described in this
12 subparagraph if such automobile is—

13 “(i) a vehicle which has a primary
14 load carrying device or container attached,

15 “(ii) a vehicle which has a seating ca-
16 pacity of more than 12 persons,

17 “(iii) a vehicle which has a seating ca-
18 pacity of more than 9 persons behind the
19 driver’s seat, or

20 “(iv) a vehicle which is equipped with
21 a cargo area of at least 6 feet in interior
22 length which does not extend beyond the
23 frame of the vehicle and which is an open
24 area or is designed for use as an open area
25 but is enclosed by a cap and is not readily

1 accessible directly from the passenger com-
2 partment.

3 “(e) OTHER DEFINITIONS.—Except as provided in
4 subsection (d), for purposes of this section, any term used
5 in this section and also in section 4064 shall have the
6 meaning given such term by section 4064.

7 “(f) SPECIAL RULES.—For purposes of this
8 section—

9 “(1) REDUCTION IN BASIS.—For purposes of
10 this subtitle, the basis of any property for which a
11 credit is allowable under subsection (a) shall be re-
12 duced by the amount of such credit so allowed.

13 “(2) NO DOUBLE BENEFIT.—The amount of
14 any deduction or other credit allowable under this
15 chapter with respect to an automobile described
16 under subsection (b), shall be reduced by the
17 amount of credit allowed under subsection (a) for
18 such automobile for the taxable year.

19 “(3) PROPERTY USED BY TAX-EXEMPT ENTI-
20 TIES.—In the case of a credit amount which is al-
21 lowable with respect to an automobile which is ac-
22 quired by an entity exempt from tax under this
23 chapter, the person which sells or leases such auto-
24 mobile to the entity shall be treated as the taxpayer
25 with respect to the automobile for purposes of this

1 section and the credit shall be allowed to such per-
2 son, but only if the person clearly discloses to the
3 entity at the time of any sale or lease the specific
4 amount of any credit otherwise allowable to the enti-
5 ty under this section.

6 “(4) RECAPTURE.—The Secretary shall, by reg-
7 ulations, provide for recapturing the benefit of any
8 credit allowable under subsection (a) with respect to
9 any property which ceases to be property eligible for
10 such credit (including recapture in the case of a
11 lease period of less than the economic life of an
12 automobile).

13 “(5) PROPERTY USED OUTSIDE UNITED
14 STATES, ETC., NOT QUALIFIED.—No credit shall be
15 allowed under subsection (a) with respect to any
16 property referred to in section 50(b) or with respect
17 to the portion of the cost of any property taken into
18 account under section 179.

19 “(6) ELECTION TO NOT TAKE CREDIT.—No
20 credit shall be allowed under subsection (a) for any
21 automobile if the taxpayer elects to not have this
22 section apply to such automobile.

23 “(7) INTERACTION WITH AIR QUALITY AND
24 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
25 erwise provided in this section, an automobile shall

1 not be considered eligible for a credit under this sec-
2 tion unless such automobile is in compliance with—

3 “(A) the applicable provisions of the Clean
4 Air Act for the applicable make and model year
5 of the automobile (or applicable air quality pro-
6 visions of State law in the case of a State which
7 has adopted such provision under a waiver
8 under section 209(b) of the Clean Air Act), and

9 “(B) the motor vehicle safety provisions of
10 sections 30101 through 30169 of title 49,
11 United States Code.

12 “(g) REGULATIONS.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the Secretary shall promulgate such regu-
15 lations as necessary to carry out the provisions of
16 this section.

17 “(2) COORDINATION IN PRESCRIPTION OF CER-
18 TAIN REGULATIONS.—The Secretary of the Treas-
19 ury, in coordination with the Secretary of Transpor-
20 tation and the Administrator of the Environmental
21 Protection Agency, shall prescribe such regulations
22 as necessary to determine whether an automobile
23 meets the requirements to be eligible for a credit
24 under this section.”

25 (b) CONFORMING AMENDMENTS.—