

111TH CONGRESS
1ST SESSION

S. 1620

To amend the Internal Revenue Code of 1986 to provide tax incentives and fees for increasing motor vehicle fuel economy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2009

Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. KERRY, and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives and fees for increasing motor vehicle fuel economy, 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Efficient Vehicle Leadership Act of 2009”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHI-**
 4 **CLES.**

5 (a) IN GENERAL.—Subpart B of part IV of sub-
 6 chapter A of chapter 1 (relating to other credits) is
 7 amended by inserting after section 30D the following new
 8 section:

9 **“SEC. 30E. FUEL PERFORMANCE REBATE.**

10 “(a) ALLOWANCE OF CREDIT.—

11 “(1) IN GENERAL.—There shall be allowed as a
 12 credit against the tax imposed by this chapter for
 13 the taxable year an amount equal to the amount de-
 14 termined under paragraph (2) with respect to any
 15 new qualified fuel-efficient motor vehicle placed in
 16 service by the taxpayer during the taxable year.

17 “(2) CREDIT AMOUNT.—With respect to each
 18 new qualified fuel-efficient motor vehicle, the amount
 19 determined under this paragraph shall be equal to
 20 the product of—

21 “(A) the absolute value of the difference
 22 between the fuel-economy rating and the ref-
 23 erence fuel-economy rating for such motor vehi-
 24 cle for the model year, and

25 “(B) 100, and

1 “(C) the applicable amount.

2 “(3) APPLICABLE AMOUNT.—For purposes of
3 paragraph (2)(C), the applicable amount is equal
4 to—

5 “(A) in the case of model year 2011—

6 “(i) \$1,000, or

7 “(ii) \$2,000, if the fuel-economy rat-
8 ing for such motor vehicle is at least 50
9 percent more efficient than the reference
10 fuel-economy rating for such motor vehicle
11 as determined under paragraph (2)(A),
12 and

13 “(B) in the case of any succeeding model
14 year—

15 “(i) \$1,500, or

16 “(ii) \$2,500, if the fuel-economy rat-
17 ing for such motor vehicle is at least 50
18 percent more efficient than the reference
19 fuel-economy rating for such motor vehicle
20 as determined under paragraph (2)(A), or

21 “(iii) \$3,500, if the fuel-economy rat-
22 ing for such motor vehicle is at least 75
23 percent more efficient than the reference
24 fuel-economy rating for such motor vehicle
25 as determined under paragraph (2)(A).

1 “(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VE-
 2 HICLE.—For purposes of this section, the term ‘new quali-
 3 fied fuel-efficient motor vehicle’ means a passenger auto-
 4 mobile or light truck—

5 “(1) which is treated as a motor vehicle for
 6 purposes of title II of the Clean Air Act,

7 “(2) which achieves a fuel-economy rating that
 8 is more efficient than the reference fuel-economy
 9 rating for such motor vehicle for the model year,

10 “(3) for which standards are prescribed pursu-
 11 ant to section 32902 of title 49, United States Code,

12 “(4) the original use of which commences with
 13 the taxpayer,

14 “(5) which is acquired for use or lease by the
 15 taxpayer and not for resale,

16 “(6) the purchase price of which, less the
 17 amount allowable under subsection (a) with respect
 18 to such vehicle, does not exceed \$50,000, and

19 “(7) which is made by a manufacturer begin-
 20 ning with model year 2011.

21 “(c) APPLICATION WITH OTHER CREDITS.—

22 “(1) BUSINESS CREDIT TREATED AS PART OF
 23 GENERAL BUSINESS CREDIT.—So much of the credit
 24 which would be allowed under subsection (a) for any
 25 taxable year (determined without regard to this sub-

section) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) REFUNDABLE PERSONAL CREDIT.—

“(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart C for such taxable year (and not allowed under subsection (a)).

“(B) REFUNDABLE CREDIT MAY BE TRANSFERRED.—

“(i) IN GENERAL.—A taxpayer may, in connection with the purchase of a new qualified fuel-efficient motor vehicle, transfer any refundable credit described in subparagraph (A) to any person who is in the trade or business of selling new qualified fuel-efficient motor vehicles and who sold such vehicle to the taxpayer, but only if such person clearly discloses to such taxpayer, through the use of a window sticker attached to the new qualified fuel-efficient vehicle—

1 “(I) the amount of the refund-
2 able credit described in subparagraph
3 (A) with respect to such vehicle, and

4 “(II) a notification that the tax-
5 payer will not be eligible for any cred-
6 it under section 30, 30B, or 30D with
7 respect to such vehicle unless the tax-
8 payer elects not to have this section
9 apply with respect to such vehicle.

10 “(ii) CERTIFICATION.—A transferee
11 of a refundable credit described in sub-
12 paragraph (A) may not claim such credit
13 unless such claim is accompanied by a cer-
14 tification to the Secretary that the trans-
15 feree reduced the price the taxpayer paid
16 for the new qualified fuel-efficient motor
17 vehicle by the entire amount of such re-
18 fundable credit.

19 “(iii) CONSENT REQUIRED FOR REV-
20 OCATION.—Any transfer under clause (i)
21 may be revoked only with the consent of
22 the Secretary.

23 “(iv) REGULATIONS.—The Secretary
24 may prescribe such regulations as nec-
25 essary to ensure that any refundable credit

1 described in clause (i) is claimed once and
2 not retransferred by a transferee.

3 “(d) OTHER DEFINITIONS.—For purposes of this
4 section—

5 “(1) FUEL-ECONOMY RATING.—The term ‘fuel-
6 economy rating’ means, with respect to any motor
7 vehicle, the combined fuel-economy rating for such
8 motor vehicle, expressed in gallons per mile, deter-
9 mined in accordance with section 32904 of title 49,
10 United States Code.

11 “(2) MODEL YEAR.—The term ‘model year’ has
12 the meaning given such term under section 32901(a)
13 of such title 49.

14 “(3) MOTOR VEHICLE.—The term ‘motor vehi-
15 cle’ means any vehicle which is manufactured pri-
16 marily for use on public streets, roads, and highways
17 (not including a vehicle operated exclusively on a rail
18 or rails) and which has at least 4 wheels.

19 “(4) REFERENCE FUEL-ECONOMY RATING.—
20 The term ‘reference fuel-economy rating’ means,
21 with respect to any motor vehicle, the fuel economy
22 standard for such motor vehicle, expressed in gallons
23 per mile, calculated by applying the relevant vehicle
24 attributes to the mathematical function published

1 pursuant to section 32902(b)(3)(A) of title 49,
2 United States Code.

3 “(5) OTHER TERMS.—The terms ‘automobile’,
4 ‘passenger automobile’, ‘light truck’, and ‘manufac-
5 turer’ have the meanings given such terms in regula-
6 tions prescribed by the Administrator of the Envi-
7 ronmental Protection Agency for purposes of the ad-
8 ministration of title II of the Clean Air Act (42
9 U.S.C. 7521 et seq.).

10 “(e) SPECIAL RULES.—

11 “(1) BASIS REDUCTION.—For purposes of this
12 subtitle, the basis of any property for which a credit
13 is allowable under subsection (a) shall be reduced by
14 the amount of such credit so allowed (determined
15 without regard to subsection (c)).

16 “(2) NO DOUBLE BENEFIT.—No other credit
17 shall be allowable under this chapter for a new
18 qualified fuel-efficient motor vehicle with respect to
19 which a credit is allowed under this section.

20 “(3) PROPERTY USED BY TAX-EXEMPT ENTI-
21 TY.—In the case of a vehicle whose use is described
22 in paragraph (3) or (4) of section 50(b) and which
23 is not subject to a lease, the person who sold such
24 vehicle to the person or entity using such vehicle
25 shall be treated as the taxpayer that placed such ve-

hicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)). For purposes of subsection (c), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.

“(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

“(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

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

1 “(7) INTERACTION WITH AIR QUALITY AND
 2 MOTOR VEHICLE SAFETY STANDARDS.—A motor ve-
 3 hicle shall not be considered eligible for a credit
 4 under this section unless such vehicle is in compli-
 5 ance with—

6 “(A) the applicable provisions of the Clean
 7 Air Act for the applicable make and model year
 8 of the vehicle (or applicable air quality provi-
 9 sions of State law in the case of a State which
 10 has adopted such provisions under a waiver
 11 under section 209(b) of the Clean Air Act), and

12 “(B) the motor vehicle safety provisions of
 13 sections 30101 through 30169 of title 49,
 14 United States Code.

15 “(8) INFLATION ADJUSTMENT.—In the case of
 16 any model year beginning in a calendar year after
 17 2010, each dollar amount in subsection (a)(3)(B)
 18 shall be increased by an amount equal to—

19 “(A) such dollar amount, multiplied by

20 “(B) the cost-of-living adjustment deter-
 21 mined under section 1(f)(3) for the calendar
 22 year in which the model year begins, deter-
 23 mined by substituting ‘2009’ for ‘1992’ in sub-
 24 paragraph (B) thereof.

1 Any increase determined under the preceding sen-
 2 tence shall be rounded to the nearest multiple of
 3 \$100.

4 “(f) REGULATIONS.—

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

9 “(2) COORDINATION IN PRESCRIPTION OF CER-
 10 TAIN REGULATIONS.—The Secretary of the Treas-
 11 ury, in coordination with the Secretary of Transpor-
 12 tation and the Administrator of the Environmental
 13 Protection Agency, shall prescribe such regulations
 14 as necessary to determine whether a motor vehicle
 15 meets the requirements to be eligible for a credit
 16 under this section.”.

17 (b) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
 18 IMUM TAX.—

19 (1) BUSINESS CREDIT.—Section 38(c)(4)(B) is
 20 amended by redesignating clauses (i) through (viii)
 21 as clauses (ii) through (ix), respectively, and by in-
 22 serting before clause (ii) (as so redesignated) the fol-
 23 lowing new clause:

24 “(i) the credit determined under sec-
 25 tion 30E,”.

1 (2) PERSONAL CREDIT.—

2 (A) Section 24(b)(3)(B) is amended by
3 striking “and 30D” and inserting “30D, and
4 30E”.

5 (B) Section 25(e)(1)(C)(ii) is amended by
6 inserting “30E,” after “30D,”.

7 (C) Section 25B(g)(2) is amended by strik-
8 ing “and 30D” and inserting “30D, and 30E”.

9 (D) Section 26(a)(1) is amended by strik-
10 ing “ and 30D” and inserting “30D, and 30E”.

11 (E) Section 904(i) is amended by striking
12 “and 30D” and inserting “30D, and 30E”.

13 (c) DISPLAY OF CREDIT.—Section 32908(b)(1) of
14 title 49, United States Code, is amended—

15 (1) by redesignating subparagraphs (E) and
16 (F) as subparagraphs (F) and (G), nad

17 (2) by inserting after subparagraph (D) the fol-
18 lowing new subparagraph:

19 “(E) the amount of the fuel-efficient motor
20 vehicle credit allowable with respect to the sale
21 of the automobile under section 30E of the In-
22 ternal Revenue Code of 1986 (26 U.S.C.
23 30E).”.

24 (d) CONFORMING AMENDMENTS.—

1 (1) Section 38(a) is amended by striking “plus”
 2 at the end of paragraph (34), by striking the period
 3 at the end of paragraph (35) and inserting “, plus”,
 4 and by adding at the end the following new para-
 5 graph:

6 “(36) the portion of the fuel performance re-
 7 bate to which section 30E(c)(1) applies.”.

8 (2) Section 1016(a) is amended by striking
 9 “and” at the end of paragraph (36), by striking the
 10 period at the end of paragraph (37) and inserting “,
 11 and”, and by adding at the end the following new
 12 paragraph:

13 “(38) to the extent provided in section
 14 30E(e)(1).”.

15 (3) Section 6501(m) is amended by inserting
 16 “30E(e)(6),” after “30D(e)(4),”.

17 (4) The table of section for subpart C of part
 18 IV of subchapter A of chapter 1 is amended by in-
 19 serting after the item relating to section 30D the
 20 following new item:

“Sec. 30E. Fuel performance rebate.”.

21 (e) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to property placed in service after
 23 the date of the enactment of this Act.

1 **SEC. 3. FUEL PERFORMANCE FEE.**

2 (a) IN GENERAL.—Section 4064 is amended to read
3 as follows:

4 **“SEC. 4064. FUEL PERFORMANCE FEE.**

5 “(a) IMPOSITION OF TAX.—

6 “(1) IN GENERAL.—There is hereby imposed on
7 the sale by the manufacturer of each fuel guzzler
8 motor vehicle a tax equal to the product of—

9 “(A) the absolute value of the difference
10 between the fuel-economy rating and the ref-
11 erence fuel-economy rating for such motor vehi-
12 cle for the model year, and

13 “(B) 100, and

14 “(C) the applicable amount.

15 “(2) APPLICABLE AMOUNT.—For purposes of
16 paragraph (1)(C), the applicable amount is equal
17 to—

18 “(A) \$1,500, or

19 “(B) \$2,500, if the fuel-economy rating for
20 such motor vehicle is more than 50 percent less
21 efficient than the reference fuel-economy rating
22 for such motor vehicle as determined under
23 paragraph (1)(A), or

24 “(C) \$3,500, if the fuel-economy rating for
25 such motor vehicle is more than 75 percent less
26 efficient than the reference fuel-economy rating

1 for such motor vehicle as determined under
2 paragraph (1)(A).

3 “(b) FUEL GUZZLER MOTOR VEHICLE.—For pur-
4 poses of this section—

5 “(1) IN GENERAL.—The term ‘fuel guzzler
6 motor vehicle’ means a passenger automobile or light
7 truck—

8 “(A) which is treated as a motor vehicle
9 for purposes of title II of the Clean Air Act,

10 “(B) which achieves a fuel-economy rating
11 that is less efficient than the reference fuel-
12 economy rating for such motor vehicle for the
13 model year,

14 “(C) which has a gross vehicle weight rat-
15 ing of not more than 8,500 pounds, and

16 “(D) which is made by a manufacturer be-
17 ginning with model year 2013.

18 “(2) EXCEPTION FOR EMERGENCY VEHICLES.—
19 The term ‘fuel guzzler motor vehicle’ does not in-
20 clude any vehicle sold for use and used—

21 “(A) as an ambulance or combination am-
22 bulance-hearse,

23 “(B) by the United States or by a State or
24 local government for police or other law en-
25 forcement purposes, or

1 “(C) for other emergency uses prescribed
2 by the Secretary by regulations.

3 “(c) OTHER DEFINITIONS.—For purposes of this
4 section—

5 “(1) FUEL-ECONOMY RATING.—The term ‘fuel-
6 economy rating’ means, with respect to any motor
7 vehicle, the combined fuel-economy rating for such
8 motor vehicle, expressed in gallons per mile, deter-
9 mined in accordance with section 32904 of title 49,
10 United States Code.

11 “(2) MODEL YEAR.—The term ‘model year’ has
12 the meaning given such term under section 32901(a)
13 of such title 49.

14 “(3) MOTOR VEHICLE.—The term ‘motor vehi-
15 cle’ means any vehicle which is manufactured pri-
16 marily for use on public streets, roads, and highways
17 (not including a vehicle operated exclusively on a rail
18 or rails) and which has at least 4 wheels.

19 “(4) REFERENCE FUEL-ECONOMY RATING.—
20 The term ‘reference fuel-economy rating’ means,
21 with respect to any motor vehicle, the fuel economy
22 standard for such motor vehicle, expressed in gallons
23 per mile, calculated by applying the relevant vehicle
24 attributes to the mathematical function published

1 pursuant to section 32902(b)(3)(A) of title 49,
2 United States Code.

3 “(5) OTHER TERMS.—The terms ‘automobile’,
4 ‘passenger automobile’, ‘light truck’, and ‘manufac-
5 turer’ have the meanings given such terms in regula-
6 tions prescribed by the Administrator of the Envi-
7 ronmental Protection Agency for purposes of the ad-
8 ministration of title II of the Clean Air Act (42
9 U.S.C. 7521 et seq.).

10 “(d) INFLATION ADJUSTMENT.—In the case of any
11 model year beginning in a calendar year after 2010, each
12 dollar amount in subsection (a)(2) shall be increased by
13 an amount equal to—

14 “(1) such dollar amount, multiplied by

15 “(2) the cost-of-living adjustment determined
16 under section 1(f)(3) for the calendar year in which
17 the model year begins, determined by substituting
18 ‘2009’ for ‘1992’ in subparagraph (B) thereof.

19 Any increase determined under the preceding sentence
20 shall be rounded to the nearest multiple of \$100.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The heading for part I of subchapter A of
23 chapter 32 is amended by striking “**GAS**” and in-
24 serting “**FUEL**”.

1 (2) The table of parts for subchapter A of chap-
 2 ter 32 is amended by striking “Gas” in the item re-
 3 lating to part I and inserting “Fuel”.

4 (3) The table of sections for part I of sub-
 5 chapter A of chapter 32 is amended by striking
 6 “Gas” in the item relating to section 4064 and in-
 7 serting “Fuel”.

8 (4) The heading for subsection (d) of section
 9 1016 is amended by striking “GAS GUZZLER TAX”
 10 and inserting “FUEL PERFORMANCE FEE”.

11 (5) The heading for subsection (e) of section
 12 4217 is amended by striking “GAS GUZZLER TAX”
 13 and inserting “FUEL PERFORMANCE FEE”.

14 (6) The heading for subparagraph (B) of sec-
 15 tion 4217(e)(3) is amended by striking “GAS GUZ-
 16 ZLER TAX” and inserting “FUEL PERFORMANCE
 17 FEE”.

18 (7) Section 4217(e) is amended by striking
 19 “gas guzzler tax” each place it appears and insert-
 20 ing “fuel performance fee”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to sales of vehicles beginning with
 23 model year 2013.

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