

109TH CONGRESS
1ST SESSION

S. 1022

To amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2005

Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY) 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 allow for an energy efficient appliance credit.

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 “Resource Efficient Ap-
5 pliance Incentives Act of 2005.”.

6 **SEC. 2. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to business-related credits) is amended by
10 adding at the end the following new section:

1 **“SEC. 45J. ENERGY EFFICIENT APPLIANCE CREDIT.**

2 “(a) GENERAL RULE.—

3 “(1) IN GENERAL.—For purposes of section 38,
 4 the energy efficient appliance credit determined
 5 under this section for any taxable year is an amount
 6 equal to the sum of the credit amounts determined
 7 under paragraph (2) for each type of qualified en-
 8 ergy efficient appliance produced by the taxpayer
 9 during the calendar year ending with or within the
 10 taxable year.

11 “(2) CREDIT AMOUNTS.—The credit amount
 12 determined for any type of qualified energy efficient
 13 appliance is—

14 “(A) the applicable amount determined
 15 under subsection (b) with respect to such type,
 16 multiplied by

17 “(B) the eligible production for such type.

18 “(b) APPLICABLE AMOUNT.—

19 “(1) IN GENERAL.—For purposes of subsection
 20 (a)—

21 “(A) DISHWASHERS.—The applicable
 22 amount is the energy savings amount in the
 23 case of a dishwasher which—

24 “(i) is manufactured in calendar year
 25 2006 or 2007, and

1 “(ii) meets the requirements of the
2 Energy Star program which are in effect
3 for dishwashers in 2007.

4 “(B) CLOTHES WASHERS.—The applicable
5 amount is—

6 “(i) \$50, in the case of a clothes
7 washer which—

8 “(I) is manufactured in calendar
9 year 2005, and

10 “(II) has an MEF of at least
11 1.42,

12 “(ii) \$100, in the case of a clothes
13 washer which—

14 “(I) is manufactured in calendar
15 year 2005, 2006, or 2007, and

16 “(II) meets the requirements of
17 the Energy Star program which are in
18 effect for clothes washers in 2007,
19 and

20 “(iii) the energy and water savings
21 amount, in the case of a clothes washer
22 which—

23 “(I) is manufactured in calendar
24 year 2008, 2009, or 2010, and

1 “(II) meets the requirements of
2 the Energy Star program which are in
3 effect for clothes washers in 2010.

4 “(C) REFRIGERATORS.—

5 “(i) 15 PERCENT SAVINGS.—The ap-
6 plicable amount is \$75 in the case of a re-
7 frigerator which—

8 “(I) is manufactured in calendar
9 year 2005 or 2006, and

10 “(II) consumes at least 15 per-
11 cent less kilowatt hours per year than
12 the 2001 energy conservation stand-
13 ard.

14 “(ii) 20 PERCENT SAVINGS.—In the
15 case of a refrigerator which consumes at
16 least 20 percent less kilowatt hours per
17 year than the 2001 energy conservation
18 standards, the applicable amount is—

19 “(I) \$125 for a refrigerator
20 which is manufactured in calendar
21 year 2005, 2006, or 2007, and

22 “(II) \$100 for a refrigerator
23 which is manufactured in calendar
24 year 2008.

1 “(iii) 25 PERCENT SAVINGS.—In the
 2 case of a refrigerator which consumes at
 3 least 25 percent less kilowatt hours per
 4 year than the 2001 energy conservation
 5 standards, the applicable amount is—

6 “(I) \$175 for a refrigerator
 7 which is manufactured in calendar
 8 year 2005, 2006, or 2007, and

9 “(II) \$150 for a refrigerator
 10 which is manufactured in calendar
 11 year 2008, 2009, or 2010.

12 “(2) ENERGY SAVINGS AMOUNT.—For purposes
 13 of paragraph (1)(A)—

14 “(A) IN GENERAL.—The energy savings
 15 amount is the lesser of—

16 “(i) the product of—

17 “(I) \$3, and

18 “(II) 100 multiplied by the en-
 19 ergy savings percentage, or

20 “(ii) \$100.

21 “(B) ENERGY SAVINGS PERCENTAGE.—
 22 For purposes of subparagraph (A), the energy
 23 savings percentage is the ratio of—

24 “(i) the EF required by the Energy
 25 Star program for dishwashers in 2007

1 minus the EF required by the Energy Star
2 program for dishwashers in 2005, to

3 “(ii) the EF required by the Energy
4 Star program for dishwashers in 2007.

5 “(3) ENERGY AND WATER SAVINGS AMOUNT.—
6 For purposes of paragraph (1)(B)(iii)—

7 “(A) IN GENERAL.—The energy and water
8 savings amount is the lesser of—

9 “(i) the product of—

10 “(I) \$10, and

11 “(II) 100 multiplied by the en-
12 ergy and water savings percentage, or

13 “(ii) \$200.

14 “(B) ENERGY AND WATER SAVINGS PER-
15 CENTAGE.—For purposes of subparagraph (A),
16 the energy and water savings percentage is the
17 average of the MEF savings percentage and the
18 WF savings percentage.

19 “(C) MEF SAVINGS PERCENTAGE.—For
20 purposes of this subparagraph, the MEF sav-
21 ings percentage is the ratio of—

22 “(i) the MEF required by the Energy
23 Star program for clothes washers in 2010
24 minus the MEF required by the Energy

1 Star program for clothes washers in 2007,
2 to

3 “(ii) the MEF required by the Energy
4 Star program for clothes washers in 2010.

5 “(D) WF SAVINGS PERCENTAGE.—For
6 purposes of this subparagraph, the WF savings
7 percentage is the ratio of—

8 “(i) the WF required by the Energy
9 Star program for clothes washers in 2010
10 minus the WF required by the Energy
11 Star program for clothes washers in 2007,
12 to

13 “(ii) the WF required by the Energy
14 Star program for clothes washers in 2010.

15 “(c) ELIGIBLE PRODUCTION.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graphs (2) and (3), the eligible production in a cal-
18 endar year with respect to each type of energy effi-
19 cient appliance is the excess of—

20 “(A) the number of appliances of such type
21 which are produced by the taxpayer in the
22 United States during such calendar year, over

23 “(B) the average number of appliances of
24 such type which were produced by the taxpayer

1 (or any predecessor) in the United States dur-
 2 ing the preceding 3-calendar year period.

3 “(2) SPECIAL RULE FOR REFRIGERATORS.—

4 The eligible production in a calendar year with re-
 5 spect to each type of refrigerator described in sub-
 6 section (b)(1)(C) is the excess of—

7 “(A) the number of appliances of such type
 8 which are produced by the taxpayer in the
 9 United States during such calendar year, over

10 “(B) 110 percent of the average number of
 11 appliances of such type which were produced by
 12 the taxpayer (or any predecessor) in the United
 13 States during the preceding 3-calendar year pe-
 14 riod.

15 “(3) SPECIAL RULE FOR 2005 PRODUCTION.—

16 For purposes of determining eligible production for
 17 calendar year 2005—

18 “(A) only production after the date of en-
 19 actment of this section shall be taken into ac-
 20 count under paragraphs (1)(A) and (2)(A), and

21 “(B) the amount taken into account under
 22 paragraphs (1)(B) and (2)(B) shall be an
 23 amount which bears the same ratio to the
 24 amount which would (but for this paragraph)

1 be taken into account under such paragraph
2 as—

3 “(i) the number of days in calendar
4 year 2005 after the date of enactment of
5 this section, bears to

6 “(ii) 365.

7 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
8 For purposes of this section, the types of energy efficient
9 appliances are—

10 “(1) dishwashers described in subsection
11 (b)(1)(A),

12 “(2) clothes washers described in subsection
13 (b)(1)(B)(i),

14 “(3) clothes washers described in subsection
15 (b)(1)(B)(ii),

16 “(4) clothes washers described in subsection
17 (b)(1)(B)(iii),

18 “(5) refrigerators described in subsection
19 (b)(1)(C)(i),

20 “(6) refrigerators described in subsection
21 (b)(1)(C)(ii)(I),

22 “(7) refrigerators described in subsection
23 (b)(1)(C)(ii)(II),

24 “(8) refrigerators described in subsection
25 (b)(1)(C)(iii)(I), and

1 “(9) refrigerators described in subsection
2 (b)(1)(C)(iii)(II).

3 “(e) LIMITATIONS.—

4 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—

5 The aggregate amount of credit allowed under sub-
6 section (a) with respect to a taxpayer for any tax-
7 able year shall not exceed \$75,000,000 reduced by
8 the amount of the credit allowed under subsection
9 (a) to the taxpayer (or any predecessor) for all prior
10 taxable years.

11 “(2) AMOUNT ALLOWED FOR CERTAIN APPLI-
12 ANCES.—

13 “(A) IN GENERAL.—In the case of appli-
14 ances described in subparagraph (C), the aggre-
15 gate amount of the credit allowed under sub-
16 section (a) with respect to a taxpayer for any
17 taxable year shall not exceed \$20,000,000 re-
18 duced by the amount of the credit allowed
19 under subsection (a) to the taxpayer (or any
20 predecessor) for all prior taxable years with re-
21 spect to such appliances.

22 “(B) ELECTION TO INCREASE ALLOWABLE
23 CREDIT.—In the case of any taxpayer who
24 makes an election under this subparagraph—

1 “(i) subparagraph (A) shall be applied
 2 by substituting ‘\$25,000,000’ for
 3 ‘\$20,000,000’, and

4 “(ii) the aggregate amount of the
 5 credit allowed under subsection (a) with re-
 6 spect to such taxpayer for any taxable year
 7 for appliances described in subparagraph
 8 (C) and the additional appliances described
 9 in subparagraph (D) shall not exceed
 10 \$50,000,000 reduced by the amount of the
 11 credit allowed under subsection (a) to the
 12 taxpayer (or any predecessor) for all prior
 13 taxable years with respect to such appli-
 14 ances.

15 “(C) APPLIANCES DESCRIBED.—The appli-
 16 ances described in this subparagraph are—

17 “(i) clothes washers described in sub-
 18 section (b)(1)(B)(i), and

19 “(ii) refrigerators described in sub-
 20 section (b)(1)(C)(i).

21 “(D) ADDITIONAL APPLIANCES.—The ad-
 22 ditional appliances described in this subpara-
 23 graph are—

24 “(i) refrigerators described in sub-
 25 section (b)(1)(C)(ii)(I), and

1 “(ii) refrigerators described in sub-
2 section (b)(1)(C)(ii)(II).

3 “(3) LIMITATION BASED ON GROSS RE-
4 CEIPTS.—The credit allowed under subsection (a)
5 with respect to a taxpayer for the taxable year shall
6 not exceed an amount equal to 2 percent of the aver-
7 age annual gross receipts of the taxpayer for the 3
8 taxable years preceding the taxable year in which
9 the credit is determined.

10 “(4) GROSS RECEIPTS.—For purposes of this
11 subsection, the rules of paragraphs (2) and (3) of
12 section 448(c) shall apply.

13 “(f) DEFINITIONS.—For purposes of this section—

14 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
15 ANCE.—The term ‘qualified energy efficient appli-
16 ance’ means—

17 “(A) any dishwasher described in sub-
18 section (b)(1)(A),

19 “(B) any clothes washer described in sub-
20 section (b)(1)(B), and

21 “(C) any refrigerator described in sub-
22 section (b)(1)(C).

23 “(2) DISHWASHER.—The term ‘dishwasher’
24 means a residential dishwasher subject to the energy

1 conservation standards established by the Depart-
2 ment of Energy.

3 “(3) CLOTHES WASHER.—The term ‘clothes
4 washer’ means a residential model clothes washer,
5 including a residential style coin operated washer.

6 “(4) REFRIGERATOR.—The term ‘refrigerator’
7 means a residential model automatic defrost refrig-
8 erator-freezer which has an internal volume of at
9 least 16.5 cubic feet.

10 “(5) MEF.—The term ‘MEF’ means the modi-
11 fied energy factor established by the Department of
12 Energy for compliance with the Federal energy con-
13 servation standards.

14 “(6) EF.—The term ‘EF’ means the energy
15 factor established by the Department of Energy for
16 compliance with the Federal energy conservation
17 standards.

18 “(7) WF.—The term ‘WF’ means Water Fac-
19 tor (as determined by the Secretary of Energy).

20 “(8) PRODUCED.—The term ‘produced’ in-
21 cludes manufactured.

22 “(9) 2001 ENERGY CONSERVATION STAND-
23 ARD.—The term ‘2001 energy conservation stand-
24 ard’ means the energy conservation standards pro-

1 mulgated by the Department of Energy and effective
 2 July 1, 2001.

3 “(g) SPECIAL RULES.—For purposes of this sec-
 4 tion—

5 “(1) IN GENERAL.—Rules similar to the rules
 6 of subsections (c), (d), and (e) of section 52 shall
 7 apply.

8 “(2) CONTROLLED GROUP.—

9 “(A) IN GENERAL.—All persons treated as
 10 a single employer under subsection (a) or (b) of
 11 section 52 or subsection (m) or (o) of section
 12 414 shall be treated as a single producer.

13 “(B) INCLUSION OF FOREIGN CORPORA-
 14 TIONS.—For purposes of subparagraph (A), in
 15 applying subsections (a) and (b) of section 52
 16 to this section, section 1563 shall be applied
 17 without regard to subsection (b)(2)(C) thereof.

18 “(3) VERIFICATION.—No amount shall be al-
 19 lowed as a credit under subsection (a) with respect
 20 to which the taxpayer has not submitted such infor-
 21 mation or certification as the Secretary, in consulta-
 22 tion with the Secretary of Energy, determines nec-
 23 essary.”.

24 (b) CONFORMING AMENDMENT.—Section 38(b) of
 25 the Internal Revenue Code of 1986 (relating to general

1 business credit) is amended by striking “plus” at the end
 2 of paragraph (18), by striking the period at the end of
 3 paragraph (19) and inserting “, plus”, and by adding at
 4 the end the following new paragraph:

5 “(20) the energy efficient appliance credit de-
 6 termined under section 45J(a).”.

7 (c) CLERICAL AMENDMENT.—The table of sections
 8 for subpart D of part IV of subchapter A of chapter 1
 9 of the Internal Revenue Code of 1986 is amended by add-
 10 ing at the end the following new item:

“Sec. 45J. Energy efficient appliance credit”.

11 (d) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to appliances produced after the
 13 date of the enactment of this Act, in taxable years ending
 14 after such date.

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