

111TH CONGRESS
1ST SESSION

S. 271

To amend the Internal Revenue Code of 1986 to provide incentives to accelerate the production and adoption of plug-in electric vehicles and related component parts.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2009

Ms. CANTWELL (for herself, Mr. HATCH, Mr. KERRY, Mr. ALEXANDER, Ms. STABENOW, and Mr. NELSON of Florida) 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 incentives to accelerate the production and adoption of plug-in electric vehicles and related component parts.

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 “Fuel Reduction using
5 Electrons to End Dependence on the Mid-East (FREE-
6 DOM) Act of 2009”.

1 **SEC. 2. INCENTIVES FOR MANUFACTURING FACILITIES**
 2 **PRODUCING PLUG-IN ELECTRIC DRIVE**
 3 **MOTOR VEHICLE AND COMPONENTS.**

4 (a) DEDUCTION FOR MANUFACTURING FACILI-
 5 TIES.—Part VI of subchapter B of chapter 1 of the Inter-
 6 nal Revenue Code of 1986 (relating to itemized deductions
 7 for individuals and corporations) is amended by inserting
 8 after section 179E the following new section:

9 **“SEC. 179F. ELECTION TO EXPENSE MANUFACTURING FA-**
 10 **CILITIES PRODUCING PLUG-IN ELECTRIC**
 11 **DRIVE MOTOR VEHICLE AND COMPONENTS.**

12 “(a) TREATMENT AS EXPENSES.—A taxpayer may
 13 elect to treat the applicable percentage of the cost of any
 14 qualified plug-in electric drive motor vehicle manufac-
 15 turing facility property as an expense which is not charge-
 16 able to a capital account. Any cost so treated shall be al-
 17 lowed as a deduction for the taxable year in which the
 18 qualified manufacturing facility property is placed in serv-
 19 ice.

20 “(b) APPLICABLE PERCENTAGE.—For purposes of
 21 subsection (a), the applicable percentage is—

22 “(1) 100 percent, in the case of qualified plug-
 23 in electric drive motor vehicle manufacturing facility
 24 property which is placed in service before January 1,
 25 2012, and

1 “(2) 50 percent, in the case of qualified plug-
 2 in electric drive motor vehicle manufacturing facility
 3 property which is placed in service after December
 4 31, 2011, and before January 1, 2015.

5 “(c) ELECTION.—

6 “(1) IN GENERAL.—An election under this sec-
 7 tion for any taxable year shall be made on the tax-
 8 payer’s return of the tax imposed by this chapter for
 9 the taxable year. Such election shall be made in such
 10 manner as the Secretary may by regulations pre-
 11 scribe.

12 “(2) ELECTION IRREVOCABLE.—Any election
 13 made under this section may not be revoked except
 14 with the consent of the Secretary.

15 “(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR
 16 VEHICLE MANUFACTURING FACILITY PROPERTY.—For
 17 purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified plug-in
 19 electric drive motor vehicle manufacturing facility
 20 property’ means any qualified property—

21 “(A) the original use of which commences
 22 with the taxpayer,

23 “(B) which is placed in service by the tax-
 24 payer after the date of the enactment of this
 25 section and before January 1, 2015, and

1 “(C) no written binding contract for the
2 construction of which was in effect on or before
3 the date of the enactment of this section.

4 “(2) QUALIFIED PROPERTY.—

5 “(A) IN GENERAL.—The term ‘qualified
6 property’ means any property which is a facility
7 or a portion of a facility used for the production
8 of—

9 “(i) any new qualified plug-in electric
10 drive motor vehicle (as defined by section
11 30D(c)), or

12 “(ii) any eligible component.

13 “(B) ELIGIBLE COMPONENT.—The term
14 ‘eligible component’ means any battery, any
15 electric motor or generator, or any power con-
16 trol unit which is designed specifically for use
17 with a new qualified plug-in electric drive motor
18 vehicle (as so defined).

19 “(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In
20 the case of any qualified plug-in electric drive motor vehi-
21 cle manufacturing facility property which is used to
22 produce both qualified property and other property which
23 is not qualified property, the amount of costs taken into
24 account under subsection (a) shall be reduced by an
25 amount equal to—

1 “(1) the total amount of such costs (determined
2 before the application of this subsection), multiplied
3 by

4 “(2) the percentage of property expected to be
5 produced which is not qualified property.”.

6 (b) REFUND OF CREDIT FOR PRIOR YEAR MINIMUM
7 TAX LIABILITY.—Section 53 of the Internal Revenue
8 Code of 1986 (relating to credit for prior year minimum
9 tax liability) is amended by adding at the end the following
10 new subsection:

11 “(g) ELECTION TO TREAT AMOUNTS ATTRIBUTABLE
12 TO QUALIFIED MANUFACTURING FACILITY.—

13 “(1) IN GENERAL.—In the case of an eligible
14 taxpayer, the amount determined under subsection
15 (c) for the taxable year (after the application of sub-
16 section (e)) shall be increased by an amount equal
17 to the applicable percentage of any qualified plug-in
18 electric drive motor vehicle manufacturing facility
19 property which is placed in service during the tax-
20 able year.

21 “(2) APPLICABLE PERCENTAGE.—For purposes
22 of paragraph (1), the applicable percentage is—

23 “(A) 35 percent, in the case of qualified
24 plug-in electric drive motor vehicle manufac-

turing facility property which is placed in service before January 1, 2012, and

“(B) 17.5 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

“(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term ‘eligible taxpayer’ means any taxpayer—

“(A) who places in service qualified plug-in electric drive motor vehicle manufacturing facility property during the taxable year,

“(B) who does not make an election under section 179F(c), and

“(C) who makes an election under this subsection.

“(4) OTHER DEFINITIONS AND SPECIAL RULES.—

“(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—The term ‘qualified plug-in electric drive motor vehicle manufacturing facility property’ has the meaning given such term under section 179F(d).

“(B) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property (as defined in section 179F(d)) and other property which is not qualified property, the amount of costs taken into account under paragraph (1) shall be reduced by an amount equal to—

“(i) the total amount of such costs (determined before the application of this subparagraph), multiplied by

“(ii) the percentage of property expected to be produced which is not qualified property.

“(C) ELECTION.—

“(i) IN GENERAL.—An election under this subsection for any taxable year shall be made on the taxpayer’s return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

“(ii) ELECTION IRREVOCABLE.—Any election made under this subsection may

1 not be revoked except with the consent of
2 the Secretary.

3 “(5) CREDIT REFUNDABLE.—For purposes of
4 this title (other than this section), the credit allowed
5 by reason of this subsection shall be treated as if it
6 were allowed under subpart C.”.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for part VI of subchapter B of chapter 1 of the Internal
9 Revenue Code of 1986 is amended by adding at the end
10 the following new item:

“Sec. 179F. Election to expense manufacturing facilities producing plug-in electric drive motor vehicle and components.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 the date of the enactment of this Act.

14 **SEC. 3. CONSUMER INCENTIVES FOR PLUG-IN ELECTRIC**
15 **DRIVE MOTOR VEHICLES.**

16 (a) INCREASE IN NUMBER OF PLUG-IN ELECTRIC
17 DRIVE MOTOR VEHICLES ELIGIBLE FOR TAX CREDIT.—

18 (1) IN GENERAL.—Subparagraph (B) of section
19 30D(b)(2) of the Internal Revenue Code of 1986 is
20 amended by striking “250,000” and inserting
21 “500,000”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by this subsection shall apply to taxable years begin-
24 ning after December 31, 2008.

1 (b) CONVERSION KITS.—

2 (1) IN GENERAL.—Section 30B of the Internal
3 Revenue Code of 1986 (relating to alternative motor
4 vehicle credit) is amended by redesignating sub-
5 sections (i) and (j) as subsections (j) and (k), re-
6 spectively, and by inserting after subsection (h) the
7 following new subsection:

8 “(i) PLUG-IN CONVERSION CREDIT.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a), the plug-in conversion credit determined under
11 this subsection with respect to any motor vehicle
12 which is converted to a qualified plug-in electric
13 drive motor vehicle is the lesser of—

14 “(A) an amount equal to—

15 “(i) \$1,250, plus

16 “(ii) \$100 for each half kilowatt hour
17 of capacity of the plug-in traction battery
18 module installed in such vehicle in excess
19 of 2.5 kilowatt hours, or

20 “(B) 50 percent of the cost of the plug-in
21 traction battery module installed in such vehicle
22 as part of such conversion.

23 “(2) LIMITATIONS.—The amount of the credit
24 allowed under this subsection shall not exceed

1 \$4,000 with respect to the conversion of any motor
2 vehicle.

3 “(3) DEFINITIONS AND SPECIAL RULES.—For
4 purposes of this subsection—

5 “(A) QUALIFIED PLUG-IN ELECTRIC DRIVE
6 MOTOR VEHICLE.—The term ‘qualified plug-in
7 electric drive motor vehicle’ means any new
8 qualified plug-in electric drive motor vehicle (as
9 defined in section 30D(c), determined without
10 regard to paragraphs (4) and (6) thereof).

11 “(B) PLUG-IN TRACTION BATTERY MOD-
12 ULE.—The term ‘plug-in traction battery mod-
13 ule’ means an electro-chemical energy storage
14 device which—

15 “(i) has a traction battery capacity of
16 not less than 2.5 kilowatt hours,

17 “(ii) is equipped with an electrical
18 plug by means of which it can be energized
19 and recharged when plugged into an exter-
20 nal source of electric power,

21 “(iii) consists of a standardized con-
22 figuration and is mass produced,

23 “(iv) has been tested and approved by
24 the National Highway Transportation
25 Safety Administration as compliant with

1 applicable motor vehicle and motor vehicle
2 equipment safety standards when installed
3 by a mechanic with standardized training
4 in protocols established by the battery
5 manufacturer as part of a nationwide dis-
6 tribution program, and

7 “(v) is certified by a battery manufac-
8 turer as meeting the requirements of
9 clauses (i) through (iv).

10 “(C) CREDIT ALLOWED TO LESSOR OF
11 BATTERY MODULE.—In the case of a plug-in
12 traction battery module which is leased to the
13 taxpayer, the credit allowed under this sub-
14 section shall be allowed to the lessor of the
15 plug-in traction battery module.

16 “(D) CREDIT ALLOWED IN ADDITION TO
17 OTHER CREDITS.—The credit allowed under
18 this subsection shall be allowed with respect to
19 a motor vehicle notwithstanding whether a cred-
20 it has been allowed with respect to such motor
21 vehicle under this section (other than this sub-
22 section) in any preceding taxable year.

23 “(4) TERMINATION.—This subsection shall not
24 apply to conversions made after December 31,
25 2012.”.

1 (2) CREDIT TREATED AS PART OF ALTER-
 2 NATIVE MOTOR VEHICLE CREDIT.—Section 30B(a)
 3 of such Code is amended by striking “and” at the
 4 end of paragraph (3), by striking the period at the
 5 end of paragraph (4) and inserting “, and”, and by
 6 adding at the end the following new paragraph:

7 “(5) the plug-in conversion credit determined
 8 under subsection (i).”.

9 (3) NO RECAPTURE FOR VEHICLES CONVERTED
 10 TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VE-
 11 HICLES.—Paragraph (8) of section 30B(h) of such
 12 Code is amended by adding at the end the following:
 13 “, except that no benefit shall be recaptured if such
 14 property ceases to be eligible for such credit by rea-
 15 son of conversion to a qualified plug-in electric drive
 16 motor vehicle.”.

17 (4) EFFECTIVE DATE.—The amendments made
 18 by this subsection shall apply to property placed in
 19 service after December 31, 2008, in taxable years
 20 beginning after such date.

21 (c) CERTAIN 2- OR 3-WHEELED MOTOR VEHICLES
 22 ELIGIBLE FOR CREDIT.—

23 (1) IN GENERAL.—Section 30D of the Internal
 24 Revenue Code of 1986 is amended—

1 (A) by redesignating subsections (f) and
 2 (g) as subsections (g) and (h), respectively, and
 3 (B) by inserting after subsection (e) the
 4 following new subsection:

5 “(f) 2- OR 3-WHEELED MOTOR VEHICLES.—For
 6 purposes of this section—

7 “(1) IN GENERAL.—Except as provided in para-
 8 graph (2), 2- or 3-wheeled motor vehicles shall be
 9 treated in the same manner as motor vehicles.

10 “(2) EXCEPTIONS.—

11 “(A) APPLICABLE AMOUNT.—For purposes
 12 of this subsection, the applicable amount shall
 13 be \$1,250.

14 “(B) OTHER EXCEPTIONS.—

15 “(i) Subparagraph (B) of subsection
 16 (a)(2) shall be applied with respect to 2- or
 17 3-wheeled motor vehicles by substituting
 18 ‘\$100 for each half kilowatt hour’ for
 19 ‘\$417 for each kilowatt hour’.

20 “(ii) Subparagraph (A) of subsection
 21 (b)(1) shall be applied with respect to 2- or
 22 3-wheeled motor vehicles by substituting
 23 ‘\$3,750’ for ‘\$7,500’.

24 “(iii) Subsection (c)(1) shall be ap-
 25 plied with respect to 2- or 3-wheeled motor

1 vehicles by substituting ‘2.5 kilowatt hours’
2 for ‘4 kilowatt hours’.

3 “(iv) Subsection (c)(3) shall not apply
4 with respect to 2- or 3-wheeled motor vehi-
5 cles.

6 “(3) APPLICATION OF LIMITATION.—The limi-
7 tation provided in subsection (b)(2) shall be applied
8 separately with respect to 2- or 3-wheeled vehicles
9 and with respect to other motor vehicles, and in ap-
10 plying such limitation to 2- or 3-wheeled vehicles,
11 ‘50,000’ shall be substituted for ‘500,000’.

12 “(4) 2- OR 3-WHEELED MOTOR VEHICLE.—The
13 term ‘2- or 3-wheeled vehicle’ means any vehicle—

14 “(A) which would be described in section
15 30(c)(2) except that it has 2 or 3 wheels,

16 “(B) with motive power having a seat or
17 saddle for the use of the rider and designed to
18 travel on not more than 3 wheels in contact
19 with the ground,

20 “(C) which has an electric motor that pro-
21 duces in excess of 5-brake horsepower,

22 “(D) which draws propulsion from 1 or
23 more traction batteries, and

24 “(E) which has been certified to the De-
25 partment of Transportation pursuant to section

1 567 of title 49, Code of Federal Regulations, as
 2 conforming to all applicable Federal motor vehi-
 3 cle safety standards in effect on the date of the
 4 manufacture of the vehicle.”.

5 (2) EFFECTIVE DATE.—The amendments made
 6 by this subsection shall apply to property placed in
 7 service after December 31, 2008, in taxable years
 8 beginning after such date.

9 (d) CREDIT WITH RESPECT TO LOW-SPEED VEHI-
 10 CLES.—

11 (1) IN GENERAL.—Subsection (e) of section
 12 30D of the Internal Revenue Code of 1986 is
 13 amended by adding at the end the following new
 14 paragraph:

15 “(11) SPECIAL RULES FOR LOW-SPEED VEHI-
 16 CLES.—In the case of a low-speed vehicle which
 17 meets the requirements of section 571.500 of title
 18 49, Code of Federal Regulations—

19 “(A) subparagraph (A) of subsection
 20 (a)(2) shall be applied with respect low-speed
 21 vehicles by substituting ‘\$1,250’ for ‘\$2,500’,

22 “(B) subparagraph (B) of subsection
 23 (a)(2) shall be applied with respect to low-speed
 24 vehicles by substituting ‘\$100 for each half kilo-
 25 watt hour’ for ‘\$417 for each kilowatt hour’,

1 “(C) subparagraph (A) of subsection (b)(1)
 2 shall be applied with respect to low-speed vehi-
 3 cles by substituting ‘\$3,750’ for ‘\$7,500’,

4 “(D) the limitation provided in subsection
 5 (b)(2) shall be applied separately with respect
 6 to low-speed vehicles and with respect to other
 7 motor vehicles, and in applying such limitation
 8 to low-speed vehicles, ‘50,000’ shall be sub-
 9 stituted for ‘500,000’, and

10 “(E) subsection (c)(3) shall not apply with
 11 respect to low-speed vehicles.”.

12 (2) EFFECTIVE DATE.—The amendment made
 13 by this subsection shall apply to property placed in
 14 service after December 31, 2008, in taxable years
 15 beginning after such date.

16 **SEC. 4. RECOVERY PERIOD FOR DEPRECIATION OF SMART**
 17 **METERS AND SMART GRID SYSTEMS.**

18 (a) 5-YEAR RECOVERY PERIOD.—

19 (1) IN GENERAL.—Subparagraph (B) of section
 20 168(e)(3) of the Internal Revenue Code of 1986 is
 21 amended by striking “and” at the end of clause (vi),
 22 by striking the period at the end of clause (vii) and
 23 inserting “, and”, and by adding at the end the fol-
 24 lowing new clauses:

1 “(viii) any qualified smart electric
2 meter, and

3 “(ix) any qualified smart electric grid
4 system.”.

5 (2) CONFORMING AMENDMENTS.—Subpara-
6 graph (D) of section 168(e)(3) of such Code is
7 amended by inserting “and” at the end of clause (i),
8 by striking the comma at the end of clause (ii) and
9 inserting a period, and by striking clauses (iii) and
10 (iv).

11 (b) TECHNICAL AMENDMENTS.—Paragraphs
12 (18)(A)(ii) and (19)(A)(ii) of section 168(i) of the Internal
13 Revenue Code of 1986 are each amended by striking “16
14 years” and inserting “10 years”.

15 (c) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall apply to property placed in service after the
19 date of the enactment of this Act.

20 (2) TECHNICAL AMENDMENT.—The amend-
21 ments made by subsection (b) shall take effect as if
22 included in section 306 of the Energy Improvement
23 and Extension Act of 2008.

1 **SEC. 5. EXPANSION AND EXTENSION OF ELECTRIC AND AL-**
2 **TERNATIVE FUEL VEHICLE REFUELING**
3 **PROPERTY CREDIT.**

4 (a) IN GENERAL.—Section 30C of the Internal Rev-
5 enue Code of 1986 is amended—

6 (1) by striking “30 percent” in subsection (a)
7 and inserting “50 percent”, and

8 (2) by striking “\$30,000” in subsection (b)(1)
9 and inserting “\$50,000”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to property placed in service after
12 the date of the enactment of this Act, in taxable years
13 ending after such date.

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