

116TH CONGRESS  
1ST SESSION

# S. 343

To amend the Internal Revenue Code of 1986 to terminate the credit for new qualified plug-in electric drive motor vehicles and to provide for a Federal highway user fee on alternative fuel vehicles.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. BARRASSO (for himself, Mr. ROBERTS, and Mr. ENZI) 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 terminate the credit for new qualified plug-in electric drive motor vehicles and to provide for a Federal highway user fee on alternative fuel vehicles.

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 “Fairness for Every  
5       Driver Act”.

1 **SEC. 2. TERMINATION AND REPEAL OF CREDIT FOR NEW**  
 2 **QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR**  
 3 **VEHICLES.**

4 (a) **TERMINATION.**—Section 30D of the Internal Rev-  
 5 enue Code of 1986 is amended by adding at the end the  
 6 following new subsection:

7 “(h) **TERMINATION.**—Notwithstanding any of the  
 8 preceding provisions of this section, this section shall not  
 9 apply to vehicles placed in service after the date that is  
 10 30 days after the date of the enactment of this sub-  
 11 section.”.

12 (b) **REPEAL.**—

13 (1) **IN GENERAL.**—Subpart B of part IV of  
 14 subchapter A of chapter 1 of the Internal Revenue  
 15 Code of 1986 is amended by striking section 30D  
 16 (and by striking the item relating to such section in  
 17 the table of sections for such subpart).

18 (2) **CONFORMING AMENDMENTS.**—

19 (A) Section 38(b) of the Internal Revenue  
 20 Code of 1986 is amended by striking paragraph  
 21 (30).

22 (B) Section 1016(a) of such Code is  
 23 amended by striking paragraph (37).

24 (C) Section 6501(m) of such Code is  
 25 amended by striking “30D(e)(4),”.

1           (3) EFFECTIVE DATE.—The amendments made  
 2           by this subsection shall apply to taxable years begin-  
 3           ning after the date that is 1 year and 30 days after  
 4           the date of the enactment of this Act.

5   **SEC. 3. FEDERAL HIGHWAY USER FEE ON ALTERNATIVE**  
 6           **FUEL VEHICLES.**

7           (a) IMPOSITION OF FEE.—

8           (1) IN GENERAL.—Subtitle D of the Internal  
 9           Revenue Code of 1986 is amended by adding at the  
 10          end the following new chapter:

11       **“CHAPTER 50A—ALTERNATIVE FUEL**  
 12       **VEHICLE HIGHWAY USER FEE**

“Sec. 5000D. Alternative fuel vehicle highway user fee.

13   **“SEC. 5000D. ALTERNATIVE FUEL VEHICLE HIGHWAY USER**  
 14       **FEE.**

15       “(a) IN GENERAL.—There is imposed a user fee on  
 16       any alternative fuel vehicle used in the United States dur-  
 17       ing the taxable year.

18       “(b) RATE OF FEE.—

19           “(1) IN GENERAL.—The fee imposed under  
 20       subsection (a) with respect to any alternative fuel  
 21       vehicle shall be the product of—

22           “(A) the average gallons of fuel consump-  
 23       tion per vehicle for motor vehicles in the same

category as such alternative fuel vehicle, multiplied by

“(B)(i) in the case of an alternative fuel vehicle in a category of vehicles which are ordinarily powered by gasoline, the rate of tax under section 4081(a)(2)(A)(i) in effect for the first day of the calendar year, and

“(ii) in the case of an alternative fuel vehicle in a category of vehicles which are ordinarily powered by diesel fuel, the rate of tax under section 4081(a)(2)(A)(iii) in effect for the first day of the calendar year.

“(2) CATEGORIES OF VEHICLES.—

“(A) IN GENERAL.—For purposes of this subsection, the Secretary, in consultation with the Secretary of Transportation, shall—

“(i) establish categories of similar motor vehicles for purposes of administering this section, and

“(ii) assign all motor vehicles that are commonly sold in the United States to one of the categories established under clause (i).

“(B) CRITERIA.—In establishing the categories under subparagraph (A)(i) and assign-

ing motor vehicles to such categories under subparagraph (A)(ii), the Secretary shall consider—

“(i) gross vehicle weight rating,

“(ii) the number of wheels of the vehicle,

“(iii) the common use of the vehicle,

“(iv) whether comparable vehicles are ordinarily powered by gasoline or diesel fuel, and

“(v) such other factors as the Secretary, in consultation with the Secretary of Transportation, deems relevant.

“(3) AVERAGE GALLONS OF FUEL CONSUMPTION.—For purposes of this subsection, the average gallons of fuel consumption for each category of motor vehicles—

“(A) shall be determined by the Secretary, in consultation with the Secretary of Transportation, taking into account only the motor vehicles in such category that are not alternative fuel vehicles, and

“(B) shall be updated annually.

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

“(1) ALTERNATIVE FUEL VEHICLE.—

1           “(A) IN GENERAL.—The term ‘alternative  
2           fuel vehicle’ means any plug-in electric vehicle,  
3           any fuel cell electric vehicle, or any other alter-  
4           native fuel vehicle.

5           “(B) PLUG-IN ELECTRIC VEHICLE.—The  
6           term ‘plug-in electric vehicle’ means a motor ve-  
7           hicle which is propelled to a significant extent  
8           by an electric motor which draws electricity  
9           from a battery which—

10                  “(i) has a capacity of not less than 4  
11                  kilowatt hours, and

12                  “(ii) is capable of being recharged  
13                  from an external source of electricity.

14           “(C) FUEL CELL ELECTRIC VEHICLE.—  
15           The term ‘fuel cell electric vehicle’ means a  
16           motor vehicle which is propelled to a significant  
17           extent by an electric motor which draws elec-  
18           tricity from hydrogen converted to electricity by  
19           a fuel cell.

20           “(D) OTHER ALTERNATIVE FUEL VEHI-  
21           CLE.—The term ‘other alternative fuel vehicle’  
22           means a motor vehicle (other than a plug-in  
23           electric vehicle or a fuel cell electric vehicle)  
24           which is propelled to a significant extent by an  
25           electric motor which draws power from any

1 source that is not subject to tax under section  
 2 4041 or 4081 (determined without regard to  
 3 any exemption for a specific use).

4 “(2) MOTOR VEHICLE.—The term ‘motor vehi-  
 5 cle’ means any vehicle which is manufactured pri-  
 6 marily for use on public streets, roads, and highways  
 7 (not including a vehicle operated exclusively on a rail  
 8 or rails).

9 “(d) LIABILITY.—The fee imposed under this section  
 10 shall be paid by the person who owns the alternative fuel  
 11 vehicle.

12 “(e) ADMINISTRATION AND PROCEDURE.—

13 “(1) IN GENERAL.—The fee imposed under this  
 14 section shall be paid upon notice and demand by the  
 15 Secretary, and shall be assessed and collected in the  
 16 same manner as taxes. Except as otherwise pro-  
 17 vided, any reference in this title to ‘tax’ imposed by  
 18 this title shall be deemed also to refer to the fee pro-  
 19 vided by this section.

20 “(2) TIME AT WHICH FEE COLLECTED.—Any  
 21 fee due under this section shall be included with a  
 22 taxpayer’s return under chapter 1 for the taxable  
 23 year.”.

24 (2) CLERICAL AMENDMENT.—The table of  
 25 chapters for subtitle D of the Internal Revenue Code

1 of 1986 is amended by adding at the end the fol-  
 2 lowing new item:

“CHAPTER 50A—ALTERNATIVE FUEL VEHICLE HIGHWAY USER FEE”.

3 (b) TRANSFERS OF FEES TO HIGHWAY TRUST  
 4 FUND.—Section 9503(b)(1) of the Internal Revenue Code  
 5 of 1986 is amended—

6 (1) by inserting “and fees” after “the taxes”,  
 7 and

8 (2) by striking “and” at the end of subpara-  
 9 graph (D), by striking the period at the end of sub-  
 10 paragraph (E) and inserting “, and”, and by insert-  
 11 ing after subparagraph (E) the following new sub-  
 12 paragraph:

13 “(F) section 5000D (relating to alternative  
 14 fuel vehicle highway user fee).”.

15 (c) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to taxable years beginning after  
 17 the date of the enactment of this section.

○