

118TH CONGRESS
1ST SESSION

S. 2962

To repeal tax incentives relating to electric vehicles, and to establish a tax credit to promote automobile manufacturing in the United States.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 22), 2023

Mr. VANCE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To repeal tax incentives relating to electric vehicles, and to establish a tax credit to promote automobile manufacturing in the United States.

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 “Drive American Act”.

5 **SEC. 2. AMENDMENT OF 1986 CODE.**

6 Except as otherwise expressly provided, whenever in
7 this Act an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **TITLE I—REPEAL OF ELECTRIC**
4 **VEHICLE INCENTIVES**

5 **SEC. 101. REPEAL OF CLEAN VEHICLE CREDIT.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-
7 chapter A of chapter 1 is amended by striking section 30D
8 (and by striking the item relating to such section in the
9 table of sections for such subpart).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 30B(d)(3) is amended by striking
12 subparagraph (D).

13 (2) Section 38(b) is amended by striking para-
14 graph (30).

15 (3) Section 179D(d)(3)(B)(ii) is amended by in-
16 sserting “, as in effect on the day before the date of
17 the enactment of the Drive American Act” after
18 “section 30D(g)(9)”.

19 (4) Section 1016(a) is amended—

20 (A) in paragraph (36), by adding “and” at
21 the end,

22 (B) by striking paragraph (37), and

23 (C) by redesignating paragraph (38) as
24 paragraph (37).

1 (5) Section 6213(g)(2) is amended by striking
2 subparagraph (T).

3 (6) Section 6417(d)(1)(A)(iv) is amended by in-
4 sserting “, as in effect on the day before the date of
5 the enactment of the Drive American Act” after
6 “section 30D(g)(9)”.

7 (7) Section 6501(m) is amended by striking
8 “30D(f)(6),”.

9 (8) Section 166(b)(5)(A)(ii) of title 23, United
10 States Code, is amended by inserting “, as in effect
11 on the day before the date of the enactment of the
12 Drive American Act” after “section 30D(d)(1) of
13 the Internal Revenue Code of 1986”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to vehicle placed in service after
16 December 31, 2022.

17 **SEC. 102. REPEAL OF CREDIT FOR PREVIOUSLY-OWNED**
18 **CLEAN VEHICLES.**

19 (a) IN GENERAL.—Subpart A of part IV of sub-
20 chapter A of chapter 1 is amended by striking section 25E
21 (and by striking the item relating to such section in the
22 table of sections for such subpart).

23 (b) CONFORMING AMENDMENT.—Section 6213(g)(2)
24 is amended by striking subparagraph (U).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to vehicles acquired after Decem-
3 ber 31, 2022.

4 **SEC. 103. REPEAL OF CREDIT FOR QUALIFIED COMMER-**
5 **CIAL CLEAN VEHICLES.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 is amended by striking section 45W
8 (and by striking the item relating to such section in the
9 table of sections for such subpart).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 38(b) is amended by striking para-
12 graph (37).

13 (2) Section 6213(g)(2) is amended by striking
14 subparagraph (V).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to vehicles acquired after Decem-
17 ber 31, 2022.

18 **SEC. 104. ALTERNATIVE FUEL REFUELING PROPERTY**
19 **CREDIT.**

20 (a) IN GENERAL.—Subpart B of part IV of sub-
21 chapter A of chapter 1 is amended by striking section 30C
22 (and by striking the item relating to such section in the
23 table of sections for such subpart).

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 38(b) is amended by striking para-
2 graph (25).

3 (2) Section 55(c)(3) is amended by striking
4 “sections 30C(d)(2) and 38(c)” and inserting “sec-
5 tion 38(e)”.

6 (3) Section 1016(a), as amended by section
7 101, is amended—

8 (A) in paragraph (35), by adding “and” at
9 the end,

10 (B) by striking paragraph (36), and

11 (C) by redesignating paragraph (37) as
12 paragraph (36).

13 (4) Section 6417(b) is amended by striking
14 paragraph (1).

15 (5) Section 6418(f)(1)(A) is amended by strik-
16 ing clause (i).

17 (6) Section 6501(m) is amended by striking
18 “30C(e)(4),”.

19 (7) Section 244(b) of the Energy Independence
20 and Security Act of 2007 (42 U.S.C. 17052(b)) is
21 amended by striking paragraph (6).

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service after
24 December 31, 2021.

1 **TITLE II—CREDIT FOR AUTO-**
2 **MOBILES MADE IN THE**
3 **UNITED STATES**

4 **SEC. 201. ESTABLISHMENT OF AMERICA FIRST VEHICLE**
5 **CREDIT.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-
7 chapter A of chapter 1 is amended by adding at the end
8 the following new section:

9 **“SEC. 30E. AMERICA FIRST VEHICLE CREDIT.**

10 “(a) ALLOWANCE OF CREDIT.—There shall be al-
11 lowed as a credit against the tax imposed by this chapter
12 for the taxable year an amount equal to the sum of the
13 credit amounts determined under subsection (b) with re-
14 spect to each new vehicle placed in service by the taxpayer
15 during the taxable year.

16 “(b) PER VEHICLE DOLLAR LIMITATION.—

17 “(1) IN GENERAL.—The amount determined
18 under this subsection with respect to any new vehicle
19 is the sum of the amounts determined under para-
20 graphs (2) and (3) with respect to such vehicle.

21 “(2) BASE AMOUNT.—The amount determined
22 under this paragraph is \$2,500.

23 “(3) VEHICLE CAPACITY.—

24 “(A) IN GENERAL.—The amount deter-
25 mined under this paragraph is the greater of—

1 “(i) the payload capacity adjustment,
2 or

3 “(ii) the seating capacity adjustment.

4 “(B) PAYLOAD CAPACITY ADJUSTMENT.—

5 “(i) IN GENERAL.—For purposes of
6 subparagraph (A)(i), the payload capacity
7 adjustment is \$500 for every 250 pounds
8 of payload capacity in excess of 1,000
9 pounds.

10 “(ii) PAYLOAD CAPACITY.—For pur-
11 poses of clause (i), the payload capacity of
12 any new vehicle shall be an amount equal
13 to the difference between—

14 “(I) the vehicle curb weight (as
15 such term is defined in section 216 of
16 the Clean Air Act (42 U.S.C. 7550))
17 of such vehicle, and

18 “(II) the gross vehicle weight rat-
19 ing of such vehicle.

20 “(C) SEATING CAPACITY ADJUSTMENT.—

21 “(i) IN GENERAL.—For purposes of
22 subparagraph (A)(ii), the seating capacity
23 adjustment is \$1,000 for each passenger
24 by which the seating capacity of the new
25 vehicle is in excess of 4 passengers.

1 “(ii) SEATING CAPACITY.—For pur-
2 poses of clause (i), the seating capacity of
3 any new vehicle shall be the maximum
4 number of passengers (including the driv-
5 er) which such vehicle can safely transport
6 (as determined pursuant to applicable Fed-
7 eral laws and regulations).

8 “(D) LIMITATION.—The amount deter-
9 mined under this paragraph shall not exceed
10 \$5,000.

11 “(c) APPLICATION WITH OTHER CREDITS.—

12 “(1) BUSINESS CREDIT TREATED AS PART OF
13 GENERAL BUSINESS CREDIT.—So much of the credit
14 which would be allowed under subsection (a) for any
15 taxable year (determined without regard to this sub-
16 section) that is attributable to property of a char-
17 acter subject to an allowance for depreciation shall
18 be treated as a credit listed in section 38(b) for such
19 taxable year (and not allowed under subsection (a)).

20 “(2) PERSONAL CREDIT.—For purposes of this
21 title, the credit allowed under subsection (a) for any
22 taxable year (determined after application of para-
23 graph (1)) shall be treated as a credit allowable
24 under subpart A for such taxable year.

25 “(d) NEW VEHICLE.—

1 “(1) IN GENERAL.—The term ‘new vehicle’
2 means a motor vehicle—

3 “(A) the original use of which commences
4 with the taxpayer,

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

7 “(C) which is made by a qualified manu-
8 facturer,

9 “(D) which satisfies each of the require-
10 ments under paragraphs (1) and (2) of sub-
11 section (e),

12 “(E) which has a gross vehicle weight rat-
13 ing of less than 14,000 pounds,

14 “(F) which is propelled to a significant ex-
15 tent by a gasoline or diesel internal combustion
16 engine,

17 “(G) the final assembly of which occurs
18 within the United States, and

19 “(H) for which the person who sells any
20 vehicle to the taxpayer furnishes a report to the
21 taxpayer and to the Secretary, at such time and
22 in such manner as the Secretary shall provide,
23 containing—

24 “(i) the name and taxpayer identifica-
25 tion number of the taxpayer,

1 “(ii) the vehicle identification number
2 of the vehicle, unless, in accordance with
3 any applicable rules promulgated by the
4 Secretary of Transportation, the vehicle is
5 not assigned such a number,

6 “(iii) verification that original use of
7 the vehicle commences with the taxpayer,
8 and

9 “(iv) the maximum credit under this
10 section allowable to the taxpayer with re-
11 spect to the vehicle.

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

17 “(3) QUALIFIED MANUFACTURER.—The term
18 ‘qualified manufacturer’ means any manufacturer
19 (as defined in section 30102(a)(6) of title 49, United
20 States Code, but not including any importer de-
21 scribed in subparagraph (B) of that section) which
22 enters into a written agreement with the Secretary
23 under which such manufacturer agrees to make peri-
24 odic written reports to the Secretary (at such times
25 and in such manner as the Secretary may provide)

1 providing vehicle identification numbers and such
2 other information related to each vehicle manufac-
3 tured by such manufacturer as the Secretary may
4 require.

5 “(4) FINAL ASSEMBLY.—For purposes of para-
6 graph (1)(G), the term ‘final assembly’ means the
7 process by which a manufacturer produces a new ve-
8 hicle at, or through the use of, a plant, factory, or
9 other place from which the vehicle is delivered to a
10 dealer or importer with all component parts nec-
11 essary for the mechanical operation of the vehicle in-
12 cluded with the vehicle, whether or not the compo-
13 nent parts are permanently installed in or on the ve-
14 hicle.

15 “(e) CONTENT REQUIREMENTS.—

16 “(1) REGIONAL VALUE CONTENT.—

17 “(A) IN GENERAL.—The requirement de-
18 scribed in this paragraph with respect to a vehi-
19 cle is that the regional value content is not less
20 than 60 percent (as certified by the qualified
21 manufacturer, in such form or manner as pre-
22 scribed by the Secretary).

23 “(B) REGIONAL VALUE CONTENT.—The
24 regional value content is the amount (expressed
25 as a percentage) equal to the quotient of—

1 “(i) the net cost of the vehicle minus
2 the value of any non-originating materials
3 used in the production of the vehicle, di-
4 vided by

5 “(ii) the net cost of the vehicle.

6 “(C) VALUE OF NON-ORIGINATING MATE-
7 RIALS.—

8 “(i) IN GENERAL.—For purposes of
9 subparagraph (B)(i), the value of any non-
10 originating materials shall include any ma-
11 terials of indeterminate origin which are
12 used by the producer in the production of
13 the vehicle.

14 “(ii) EXCLUSION.—For purposes of
15 subparagraph (B)(i), the value of any non-
16 originating materials used in the produc-
17 tion of the vehicle shall not include the
18 value of any non-originating materials used
19 or consumed to produce originating mate-
20 rials which are subsequently used or con-
21 sumed in the production of the vehicle.

22 “(2) LABOR VALUE CONTENT.—

23 “(A) IN GENERAL.—The requirement de-
24 scribed in this paragraph with respect to a vehi-
25 cle is that the labor value content is not less

1 than 25 percent (as certified by the qualified
2 manufacturer, in such form or manner as pre-
3 scribed by the Secretary).

4 “(B) LABOR VALUE CONTENT.—The labor
5 value content is the amount (expressed as a
6 percentage) equal to the quotient of—

7 “(i) the sum of—

8 “(I) the value of high-wage mate-
9 rial contained in the vehicle, plus

10 “(II) the value of high-wage
11 labor costs associated with production
12 of the vehicle, divided by

13 “(ii) the net cost of the vehicle.

14 “(3) DEFINITIONS.—For purposes of this sub-
15 section—

16 “(A) HIGH-WAGE LABOR COSTS.—The
17 term ‘high-wage labor costs’ means an amount
18 equal to the sum of wage expenditures (not in-
19 cluding benefits) incurred in the assembly of
20 the vehicle for workers who perform direct pro-
21 duction work at a qualifying wage-rate assem-
22 bly plant.

23 “(B) HIGH-WAGE MATERIAL.—The term
24 ‘high-wage material’ means the net cost of ma-
25 terial that undergoes production in a qualifying

1 wage-rate production plant and that is used in
2 the production of the vehicle.

3 “(C) NET COST.—The term ‘net cost’
4 means total cost minus sales promotion, mar-
5 keting, and after-sales service costs, royalties,
6 shipping and packing costs, and nonallowable
7 interest costs that are included in the total cost.

8 “(D) NON-ORIGINATING MATERIAL.—The
9 term ‘non-originating material’ means a mate-
10 rial which is not an originating material.

11 “(E) ORIGINATING MATERIAL.—The term
12 ‘originating material’ means a material which
13 is—

14 “(i) wholly obtained or produced en-
15 tirely in the United States or Canada, or

16 “(ii) substantially transformed in the
17 United States or Canada from a material
18 which is not wholly grown, produced, or
19 manufactured in the United States or Can-
20 ada.

21 “(F) QUALIFYING WAGE-RATE ASSEMBLY
22 PLANT.—The term ‘qualifying wage-rate pro-
23 duction plant’ means a facility which—

24 “(i) assembles passenger vehicles,
25 light trucks, or heavy trucks,

1 “(ii) is located in the United States,
2 and

3 “(iii) has an average hourly produc-
4 tion wage rate for employees working in
5 such facility which is not less than \$44 per
6 hour.

7 “(G) QUALIFYING WAGE-RATE PRODUC-
8 TION PLANT.—The term ‘qualifying wage-rate
9 production plant’ means a facility which—

10 “(i) produces materials for passenger
11 vehicles, light trucks, or heavy trucks,

12 “(ii) is located in the United States,
13 and

14 “(iii) has an average hourly produc-
15 tion wage rate for employees working in
16 such facility which is not less than \$35 per
17 hour.

18 “(4) INFLATION ADJUSTMENT.—

19 “(A) IN GENERAL.—In the case of any cal-
20 endar year beginning after 2025, the dollar
21 amounts in subparagraphs (F)(iii) and (G)(iii)
22 of paragraph (3) shall be increased by an
23 amount equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year in which the taxable year be-
4 gins, determined by substituting in sub-
5 paragraph (A)(ii) thereof ‘calendar year
6 2024’ for ‘calendar year 2016’.

7 “(B) ROUNDING.—If any amount as ad-
8 justed under subparagraph (A) is not a multiple
9 of \$1, such dollar amount shall be rounded to
10 the next lowest multiple of \$1.

11 “(5) REGULATIONS AND GUIDANCE.—

12 “(A) IN GENERAL.—The Secretary shall,
13 in consultation with the Secretary of Commerce
14 and the Secretary of Labor, issue such regula-
15 tions or other guidance as the Secretary deter-
16 mines necessary to carry out the purposes of
17 this subsection, including regulations or other
18 guidance which provides for requirements for
19 recordkeeping or information reporting for pur-
20 poses of administering the requirements of this
21 subsection.

22 “(B) DEADLINE FOR PROPOSED GUID-
23 ANCE.—Not later than December 31, 2024, the
24 Secretary shall issue proposed guidance with re-
25 spect to the requirements under this subsection.

1 “(f) SPECIAL RULES.—

2 “(1) BASIS REDUCTION.—For purposes of this
3 subtitle, the basis of any property for which a credit
4 is allowable under subsection (a) shall be reduced by
5 the amount of such credit so allowed (determined
6 without regard to subsection (c)).

7 “(2) NO DOUBLE BENEFIT.—The amount of
8 any deduction or other credit allowable under this
9 chapter for a vehicle for which a credit is allowable
10 under subsection (a) shall be reduced by the amount
11 of credit allowed under such subsection for such ve-
12 hicle (determined without regard to subsection (c)).

13 “(3) PROPERTY USED BY TAX-EXEMPT ENTI-
14 TY.—In the case of a vehicle the use of which is de-
15 scribed in paragraph (3) or (4) of section 50(b) and
16 which is not subject to a lease, the person who sold
17 such vehicle to the person or entity using such vehi-
18 cle shall be treated as the taxpayer that placed such
19 vehicle in service, but only if such person clearly dis-
20 closes to such person or entity in a document the
21 amount of any credit allowable under subsection (a)
22 with respect to such vehicle (determined without re-
23 gard to subsection (c)). For purposes of subsection
24 (c), property to which this paragraph applies shall

1 be treated as of a character subject to an allowance
2 for depreciation.

3 “(4) PROPERTY USED OUTSIDE UNITED STATES
4 NOT QUALIFIED.—No credit shall be allowable under
5 subsection (a) with respect to any property referred
6 to in section 50(b)(1).

7 “(5) RECAPTURE.—The Secretary shall, by reg-
8 ulations, provide for recapturing the benefit of any
9 credit allowable under subsection (a) with respect to
10 any property which ceases to be property eligible for
11 such credit.

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

16 “(7) INTERACTION WITH MOTOR VEHICLE
17 SAFETY STANDARDS.—A vehicle shall not be consid-
18 ered eligible for a credit under this section unless
19 such vehicle is in compliance with the motor vehicle
20 safety provisions of sections 30101 through 30169
21 of title 49, United States Code.

22 “(8) ONE CREDIT PER VEHICLE.—In the case
23 of any vehicle, the credit described in subsection (a)
24 shall only be allowed once with respect to such vehi-

1 cle, as determined based upon the vehicle identifica-
2 tion number of such vehicle.

3 “(9) VIN REQUIREMENT.—No credit shall be
4 allowed under this section with respect to any vehicle
5 unless the taxpayer includes the vehicle identification
6 number of such vehicle on the return of tax for the
7 taxable year.

8 “(10) LIMITATION BASED ON MODIFIED AD-
9 JUSTED GROSS INCOME.—

10 “(A) IN GENERAL.—No credit shall be al-
11 lowed under subsection (a) for any taxable year
12 if—

13 “(i) the lesser of—

14 “(I) the modified adjusted gross
15 income of the taxpayer for such tax-
16 able year, or

17 “(II) the modified adjusted gross
18 income of the taxpayer for the pre-
19 ceding taxable year, exceeds

20 “(ii) the threshold amount.

21 “(B) THRESHOLD AMOUNT.—For purposes
22 of subparagraph (A)(ii), the threshold amount
23 shall be—

1 “(i) in the case of a joint return or a
2 surviving spouse (as defined in section
3 2(a)), \$300,000,

4 “(ii) in the case of a head of house-
5 hold (as defined in section 2(b)),
6 \$225,000, and

7 “(iii) in the case of a taxpayer not de-
8 scribed in clause (i) or (ii), \$150,000.

9 “(C) MODIFIED ADJUSTED GROSS IN-
10 COME.—For purposes of this paragraph, the
11 term ‘modified adjusted gross income’ means
12 adjusted gross income increased by any amount
13 excluded from gross income under section 911,
14 931, or 933.

15 “(11) MANUFACTURER’S SUGGESTED RETAIL
16 PRICE LIMITATION.—

17 “(A) IN GENERAL.—No credit shall be al-
18 lowed under subsection (a) for a vehicle with a
19 manufacturer’s suggested retail price in excess
20 of the applicable limitation.

21 “(B) APPLICABLE LIMITATION.—For pur-
22 poses of subparagraph (A), the applicable limi-
23 tation for each vehicle classification is as fol-
24 lows:

1 “(i) VANS.—In the case of a van,
2 \$80,000.

3 “(ii) SPORT UTILITY VEHICLES.—In
4 the case of a sport utility vehicle, \$80,000.

5 “(iii) PICKUP TRUCKS.—In the case of
6 a pickup truck, \$80,000.

7 “(iv) OTHER.—In the case of any
8 other vehicle, \$55,000.

9 “(C) REGULATIONS AND GUIDANCE.—For
10 purposes of this paragraph, the Secretary shall
11 prescribe such regulations or other guidance as
12 the Secretary determines necessary for deter-
13 mining vehicle classifications using criteria
14 similar to the criteria described in part 523 of
15 title 49, Code of Federal Regulations (as in ef-
16 fect on the date of enactment of the Drive
17 American Act).

18 “(g) TERMINATION.—No credit shall be allowed
19 under this section with respect to any vehicle placed in
20 service after December 31, 2033.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 38(b), as amended by section 103,
23 is amended by inserting after paragraph (36) the
24 following:

1 “(37) the portion of the America First vehicle
2 credit to which section 30E(c)(1) applies,”.

3 (2) Section 1016(a) is amended—

4 (A) in paragraph (37), by striking “and”
5 at the end,

6 (B) by redesignating paragraph (38) as
7 paragraph (39), and

8 (C) by inserting after paragraph (37) the
9 following:

10 “(38) to the extent provided in section
11 30E(f)(1), and”.

12 (3) Section 6213(g)(2), as amended by sections
13 101, 102, and 103, is amended by inserting after
14 subparagraph (S) the following:

15 “(T) an omission of a correct vehicle iden-
16 tification number required under section
17 30E(f)(9) (relating to credit for new vehicles)
18 to be included on a return.”.

19 (4) Section 6501(m), as amended by section
20 101, is amended by inserting “30E(f)(6),” after
21 “30D(e)(4),”.

22 (5) The table of sections for subpart B of part
23 IV of subchapter A of chapter 1 is amended by add-
24 ing at the end the following new item:

“Sec. 30E. America First Vehicle Credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to vehicles placed in service after
3 December 31, 2024.

○