116TH CONGRESS
1ST SESSION

S.

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

Mr. BARRASSO (for himself, Mr. ROBERTS, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on

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

(a) TERMINATION.—Section 30D of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(h) TERMINATION.—Notwithstanding any of the preceding provisions of this section, this section shall not apply to vehicles placed in service after the date that is 30 days after the date of the enactment of this subsection."

(b) REPEAL.—

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

(2) CONFORMING AMENDMENTS.—

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

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

(C) Section 6501(m) of such Code is amended by striking "30D(e)(4),".
(3) Effective Date.—The amendments made
by this subsection shall apply to taxable years begin-
ing after the date that is 1 year and 30 days after
the date of the enactment of this Act.

SEC. 3. FEDERAL HIGHWAY USER FEE ON ALTERNATIVE
FUEL VEHICLES.

(a) Imposition of Fee.—

(1) In General.—Subtitle D of the Internal
Revenue Code of 1986 is amended by adding at the
end the following new chapter:

"CHAPTER 50A—ALTERNATIVE FUEL
VEHICLE HIGHWAY USER FEE"

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

"SEC. 5000D. ALTERNATIVE FUEL VEHICLE HIGHWAY USER
FEE.

"(a) In General.—There is imposed a user fee on
any alternative fuel vehicle used in the United States dur-
ing the taxable year.

"(b) Rate of Fee.—

"(1) In General.—The fee imposed under
subsection (a) with respect to any alternative fuel
vehicle shall be the product of—

"(A) the average gallons of fuel consump-
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 sub-
paragraph (A)(ii), the Secretary shall con-
sider—

“(i) gross vehicle weight rating,
“(ii) the number of wheels of the vehi-
cle,
“(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 Sec-
retary, in consultation with the Secretary
of Transportation, deems relevant.

“(3) AVERAGE GALLONS OF FUEL CONSUM-
TION.—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 Transpor-
tation, taking into account only the motor vehi-
cles 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.—
"(A) IN GENERAL.—The term 'alternative fuel vehicle' means any plug-in electric vehicle, any fuel cell electric vehicle, or any other alternative fuel vehicle.

"(B) PLUG-IN ELECTRIC VEHICLE.—The term 'plug-in electric vehicle' means a motor vehicle which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

"(i) has a capacity of not less than 4 kilowatt hours, and

"(ii) is capable of being recharged from an external source of electricity.

"(C) FUEL CELL ELECTRIC VEHICLE.—The term ‘fuel cell electric vehicle’ means a motor vehicle which is propelled to a significant extent by an electric motor which draws electricity from hydrogen converted to electricity by a fuel cell.

"(D) OTHER ALTERNATIVE FUEL VEHICLE.—The term 'other alternative fuel vehicle' means a motor vehicle (other than a plug-in electric vehicle or a fuel cell electric vehicle) which is propelled to a significant extent by an electric motor which draws power from any
source that is not subject to tax under section 4041 or 4081 (determined without regard to any exemption for a specific use).

"(2) MOTOR VEHICLE.—The term ‘motor vehicle’ means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails).

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

"(e) ADMINISTRATION AND PROCEDURE.—

"(1) IN GENERAL.—The fee imposed under this section shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this title to ‘tax’ imposed by this title shall be deemed also to refer to the fee provided by this section.

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

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code
of 1986 is amended by adding at the end the following new item:

"Chapter 50A—Alternative Fuel Vehicle Highway User Fee".

(b) Transfers of Fees to Highway Trust Fund.—Section 9503(b)(1) of the Internal Revenue Code of 1986 is amended—

(1) by inserting "and fees" after "the taxes",

and

(2) by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 5000D (relating to alternative fuel vehicle highway user fee).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this section.