

112TH CONGRESS  
1ST SESSION

# H. R. 1659

To amend the Internal Revenue Code of 1986 to modify the credit for qualified fuel cell motor vehicles and to allow the credit for certain off-highway vehicles, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. TONKO (for himself and Mr. GIBSON) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the credit for qualified fuel cell motor vehicles and to allow the credit for certain off-highway vehicles, and for other purposes.

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 Cell Industrial  
5       Vehicle Jobs Act of 2011”.

6       **SEC. 2. MODIFICATIONS OF CREDIT FOR QUALIFIED FUEL**  
7                               **CELL MOTOR VEHICLES.**

8       (a) CREDIT AMOUNTS.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           30B(b) of the Internal Revenue Code of 1986 (relat-  
3           ing to new qualified fuel cell motor vehicle credit) is  
4           amended by redesignating subparagraphs (B)  
5           through (D) as subparagraphs (C) through (E) and  
6           by striking subparagraph (A) and inserting the fol-  
7           lowing:

8                   “(A) \$4,000 if such vehicle is a motor ve-  
9                   hicle as described in subsection (b)(4)(A) and  
10                  has a gross vehicle weight rating of not more  
11                  than 8,500 pounds,

12                   “(B) \$8,000 if such vehicle is a motor ve-  
13                   hicle as described in subsection (h)(1) and has  
14                   a gross vehicle weight rating of not more than  
15                   8,500 pounds.”.

16           (2) CONFORMING AMENDMENT.—Section  
17           30B(b)(2)(A) of such Code is amended by striking  
18           “paragraph (1)(A)” and inserting “paragraph  
19           (1)(B)”.

20           (b) CREDIT FOR CERTAIN OFF-HIGHWAY VEHI-  
21           CLES.—Subsection (b) of section 30B of such Code is  
22           amended by adding at the end the following new para-  
23           graph:

24                   “(4) SPECIAL RULES FOR CERTAIN OFF-HIGH-  
25                   WAY VEHICLES.—For purposes of this subsection—

1           “(A) IN GENERAL.—The term ‘motor vehi-  
2           cle’ includes any vehicle which is manufactured  
3           primarily for use in carrying or towing loads or  
4           materials for commercial or industrial purposes,  
5           whether or not on public streets, roads, and  
6           highways and regardless of the type of load or  
7           material carried or towed. The preceding sen-  
8           tence shall not include any vehicle operated ex-  
9           clusively on a rail or rails and any vehicle oper-  
10          ated primarily for recreational purposes.

11          “(B) ADDITIONAL CREDIT.—

12                 “(i) VEHICLES NOT MORE THAN 8,500  
13                 POUNDS.—In the case of a vehicle which is  
14                 a motor vehicle solely by reason of sub-  
15                 paragraph (A) that has a gross vehicle  
16                 weight rating of not more than 8,500  
17                 pounds, the amount determined under  
18                 paragraph (1) shall be increased by \$1,500  
19                 if such vehicle’s fuel cell system achieves  
20                 an electricity generation efficiency of at  
21                 least 40 percent based on the lower heat-  
22                 ing value of the fuel.

23                 “(ii) OTHER VEHICLES.—In the case  
24                 of a vehicle which is a motor vehicle solely  
25                 by reason of subparagraph (A) that has a

1 gross vehicle weight rating of more than  
2 8,500 pounds, the amount determined  
3 under paragraph (1) shall be increased  
4 by—

5 “(I) \$2,000 if such vehicle’s fuel  
6 cell system achieves an electricity gen-  
7 eration efficiency of at least 40 per-  
8 cent but less than 50 percent based  
9 on the lower heating value of the fuel,  
10 or

11 “(II) \$4,000 if such vehicle’s fuel  
12 cell system achieves an electricity gen-  
13 eration efficiency of at least 50 per-  
14 cent based on the lower heating value  
15 of the fuel.

16 “(C) CERTAIN STANDARDS NOT TO  
17 APPLY.—Subsection (h)(10) shall not apply to a  
18 vehicle which is a motor vehicle solely by reason  
19 of subparagraph (A).

20 “(D) PLACED IN SERVICE DATE.—The  
21 credit determined under this subsection shall  
22 only be available in the case of any vehicle  
23 which is a motor vehicle solely by reason of sub-  
24 paragraph (A) if such vehicle is placed in serv-  
25 ice after December 31, 2010.”.

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to vehicles placed in service after  
3 December 31, 2010, in taxable years ending after such  
4 date.

5 **SEC. 3. ENERGY CREDIT FOR FUEL CELL MOTIVE PROP-**  
6 **ERTY.**

7           (a) IN GENERAL.—Section 48 of the Internal Rev-  
8 enue Code of 1986 is amended by adding at the end the  
9 following new subsection:

10           “(e) NEW QUALIFIED FUEL CELL MOTIVE PROP-  
11 ERTY CREDIT.—

12                   “(1) IN GENERAL.—In the case of new qualified  
13 fuel cell motive property placed in service during the  
14 taxable year, the energy credit for such taxable year  
15 with respect to such property is the sum of—

16                           “(A) \$940 for each 0.5 kilowatt of capacity  
17 of such property if such property has a name-  
18 plate capacity of no more than 5.0 kilowatts of  
19 electricity,

20                           “(B) \$140 for each additional 0.5 kilowatt  
21 of capacity of such property above 5.0 kilowatts  
22 of capacity if such property has a nameplate ca-  
23 pacity of no more than 15.0 kilowatts of elec-  
24 tricity, and

1           “(C) \$50 for each additional 0.5 kilowatt  
2 of capacity of such property above 15.0 kilo-  
3 watts of capacity if such property has a name-  
4 plate capacity of more than 15.0 kilowatts of  
5 electricity.

6           “(2) LIMITATION.—The amount allowed as a  
7 credit under this section by reason of paragraph (1)  
8 shall not exceed \$12,700 for each property placed in  
9 service during the taxable year.

10           “(3) NEW QUALIFIED FUEL CELL MOTIVE  
11 PROPERTY.—For purposes of this subsection—

12           “(A) IN GENERAL.—The term ‘new quali-  
13 fied fuel cell motive property’ means any quali-  
14 fied fuel cell property which is manufactured  
15 for use in powering qualified motive property—

16           “(i) the original use of which com-  
17 mences with the taxpayer, and

18           “(ii) which is acquired by the taxpayer  
19 for use or lease, but not for resale.

20           “(B) QUALIFIED MOTIVE PROPERTY.—The  
21 term ‘qualified motive property’ means any  
22 property which is manufactured primarily for  
23 carrying loads or materials for commercial or  
24 industrial purposes not on public streets, roads,

1 highways, or rails or operated primarily for rec-  
2 reational purposes.

3 “(C) TERMINATION.—Paragraph (1) shall  
4 not apply to any property placed in service after  
5 December 31, 2016.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 48(a)(1) of such Code is amended  
8 by striking “subsection (c),” and inserting “sub-  
9 section (c) and subsection (e),”.

10 (2) Section 48(c)(1)(C) of such Code is amend-  
11 ed to read as follows:

12 “(C) FUEL CELL POWER PLANT.—The  
13 term ‘fuel cell power plant’ means an integrated  
14 system comprised of a fuel cell stack assembly  
15 which converts a fuel into electricity using elec-  
16 trochemical means and the associated balance  
17 of plant components.”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to property placed in service after  
20 December 31, 2010, in taxable years ending after such  
21 date.

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