To amend the Internal Revenue Code of 1986 to establish the infrastructure foundation for the hydrogen economy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2008

Mr. Larson of Connecticut (for himself, Mr. Dent, Mr. Wynn, Mr. Inglis of South Carolina, Ms. Delauro, Mr. Doyle, Mr. Holden, Mr. Wamp, Mr. Terry, Mr. McNulty, and Mr. Butterfield) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to establish the infrastructure foundation for the hydrogen economy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hydrogen Tax Incentives Act of 2008”.

SEC. 2. HYDROGEN INFRASTRUCTURE AND FUEL COSTS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of
1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30D. HYDROGEN INFRASTRUCTURE AND FUEL COSTS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the hydrogen infrastructure costs credit determined under subsection (b), and

"(2) the hydrogen fuel costs credit determined under subsection (c).

"(b) HYDROGEN INFRASTRUCTURE COSTS CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the hydrogen infrastructure costs credit determined under this subsection with respect to each eligible hydrogen production and distribution facility of the taxpayer is an amount equal to 30 percent of so much of the infrastructure costs for the taxable year as does not exceed $200,000 with respect to such facility.

"(2) ELIGIBLE HYDROGEN PRODUCTION AND DISTRIBUTION FACILITY.—For purposes of this subsection, the term 'eligible hydrogen production and distribution facility' means a hydrogen production
and distribution facility which is placed in service after December 31, 2007.

“(c) HYDROGEN FUEL COSTS CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the hydrogen fuel costs credit determined under this subsection with respect to each eligible hydrogen device of the taxpayer is an amount equal to the qualified hydrogen expenditure amounts with respect to such device.

“(2) QUALIFIED HYDROGEN EXPENDITURE AMOUNT.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified hydrogen expenditure amount’ means, with respect to each eligible hydrogen energy conversion device of the taxpayer with a production capacity of not more than 25 kilowatts of electricity, the lesser of—

“(i) 30 percent of the amount paid or incurred by the taxpayer during the taxable year for hydrogen which is consumed by such device, and

“(ii) $2,000.

In the case of any device which is not owned by the taxpayer at all times during the taxable year, the $2,000 amount in clause (ii) shall be
reduced by an amount which bears the same ratio to $2,000 as the portion of the year which such device is not owned by the taxpayer bears to the entire year.

“(B) Higher limitation for devices with more production capacity.—In the case of any eligible hydrogen energy conversion device with a production capacity of—

“(i) more than 25 but less than 100 kilowatts of electricity, subparagraph (A) shall be applied by substituting ‘$4,000’ for ‘$2,000’ each place it appears, and

“(ii) not less than 100 kilowatts of electricity, subparagraph (A) shall be applied by substituting ‘$6,000’ for ‘$2,000’ each place it appears.

“(3) Eligible hydrogen energy conversion devices.—For purposes of this subsection—

“(A) In general.—The term ‘eligible hydrogen energy conversion device’ means, with respect to any taxpayer, any hydrogen energy conversion device which—

“(i) is placed in service after December 31, 2004, and
“(ii) is wholly owned by the taxpayer during the taxable year.

If an owner of a device (determined without regard to this subparagraph) provides to the primary user of such device a written statement that such user shall be treated as the owner of such device for purposes of this section, then such user (and not such owner) shall be so treated.

“(B) HYDROGEN ENERGY CONVERSION DEVICE.—The term ‘hydrogen energy conversion device’ means—

“(i) any electrochemical device which converts hydrogen into electricity, and

“(ii) any combustion engine which burns hydrogen as a fuel.

“(d) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(e) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit
which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to amounts which (but for subsection (g) would be allowed as a deduction under section 162) shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C, over

“(B) the tentative minimum tax for the taxable year.

“(f) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in determining the amount of the credit under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

“(g) RECAPTURE.—The Secretary shall, by regulations, provided for recapturing the benefit of any credit
allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

“(h) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

“(j) TERMINATION.—This section shall not apply to any costs paid or incurred after the end of the 3-year period beginning on the date of the enactment of this section.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “plus”, and by adding at the end the following new paragraph:

“(32) the portion of the hydrogen infrastructure and fuel credit to which section 30D(e)(1) applies.”.

(2) Section 55(c)(3) of such Code is amended by inserting “30D(e)(2),” after “30C(d)(2),”.

•HR 5746 IH
(3) Section 1016(a) of such Code is amended by striking “and” at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting “, and”, and by adding at the end the following new paragraph:

“(38) to the extent provided in section 30D(d).”.

(4) Section 6501(m) of such Code is amended by inserting “30D(h),” after “30C(e)(5),”.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

“Sec. 30D. Hydrogen infrastructure and fuel costs.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007, in taxable years ending after such date.