

**AMENDMENT TO H.R. 3221**  
**OFFERED BY MR. WYNN OF MARYLAND**

In title IX, add at the end the following:

1       **Subtitle G—Hydrogen Supply**

2       **SEC. 9601. HYDROGEN INSTALLATION, INFRASTRUCTURE,**  
3                                   **AND FUEL COSTS.**

4           (a) IN GENERAL.—Subpart B of part IV of sub-  
5 chapter A of chapter 1 of the Internal Revenue Code of  
6 1986 (relating to foreign tax credit, etc.) is amended by  
7 adding at the end the following new section:

8       **“SEC. 30E. HYDROGEN INSTALLATION, INFRASTRUCTURE,**  
9                                   **AND FUEL COSTS.**

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—

13                   “(1) the hydrogen installation and infrastruc-  
14           ture costs credit determined under subsection (b),  
15           and

16                   “(2) the hydrogen fuel costs credit determined  
17           under subsection (c).

18           “(b) HYDROGEN INSTALLATION AND INFRASTRUC-  
19           TURE COSTS CREDIT.—

1           “(1) IN GENERAL.—For purposes of subsection  
2           (a), the hydrogen installation and infrastructure  
3           costs credit determined under this subsection with  
4           respect to each eligible hydrogen production and dis-  
5           tribution facility of the taxpayer is an amount equal  
6           to—

7                   “(A) 50 percent of so much of the installa-  
8                   tion costs which when added to such costs  
9                   taken into account with respect to such facility  
10                  for all preceding taxable years under this sub-  
11                  paragraph does not exceed \$200,000, plus

12                   “(B) 30 percent of so much of the infra-  
13                   structure costs for the taxable year as does not  
14                   exceed \$200,000 with respect to such facility,  
15                   and which when added to such costs taken into  
16                   account with respect to such facility for all pre-  
17                   ceding taxable years under this subparagraph  
18                   does not exceed \$600,000.

19           Nothing in this section shall permit the same cost to  
20           be taken into account more than once.

21           “(2) ELIGIBLE HYDROGEN PRODUCTION AND  
22           DISTRIBUTION FACILITY.—For purposes of this sub-  
23           section, the term ‘eligible hydrogen production and  
24           distribution facility’ means a hydrogen production  
25           and distribution facility which has received from the

1 Secretary an allocation from the national hydrogen  
2 installation, infrastructure, and fuel credit limita-  
3 tion.

4 “(c) HYDROGEN FUEL COSTS CREDIT.—

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

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

13 “(A) IN GENERAL.—The term ‘qualified  
14 hydrogen expenditure amount’ means, with re-  
15 spect to each eligible hydrogen energy conver-  
16 sion device of the taxpayer with a production  
17 capacity of not more than 25 kilowatts of elec-  
18 tricity per year, the lesser of—

19 “(i) 30 percent of the amount paid or  
20 incurred by the taxpayer during the tax-  
21 able year for hydrogen which is consumed  
22 by such device, and

23 “(ii) \$2,000.

24 In the case of any device which is not owned by  
25 the taxpayer at all times during the taxable

1 year, the \$2,000 amount in subparagraph (B)  
2 shall be reduced by an amount which bears the  
3 same ratio to \$2,000 as the portion of the year  
4 which such device is not owned by the taxpayer  
5 bears to the entire year.

6 “(B) HIGHER LIMITATION FOR DEVICES  
7 WITH MORE PRODUCTION CAPACITY.—In the  
8 case of any eligible hydrogen energy conversion  
9 device with a production capacity of—

10 “(i) more than 25 but less than 100  
11 kilowatts of electricity per year, subpara-  
12 graph (A) shall be applied by substituting  
13 ‘\$4,000’ for ‘\$2,000’ each place it appears,  
14 and

15 “(ii) not less than 100 kilowatts of  
16 electricity per year, subparagraph (A) shall  
17 be applied by substituting ‘\$6,000’ for  
18 ‘\$2,000’ each place it appears.

19 “(3) ELIGIBLE HYDROGEN ENERGY CONVER-  
20 SION DEVICES.—For purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘eligible hy-  
22 drogen energy conversion device’ means, with  
23 respect to any taxpayer, any hydrogen energy  
24 conversion device which—

1                   “(i) is placed in service after Decem-  
2                   ber 31, 2004,

3                   “(ii) is wholly owned by the taxpayer  
4                   during the taxable year, and

5                   “(iii) has received from the Secretary  
6                   an allocation from the national hydrogen  
7                   installation, infrastructure, and fuel credit  
8                   limitation.

9                   If an owner of a device (determined without re-  
10                  gard to this subparagraph) provides to the pri-  
11                  mary user of such device a written statement  
12                  that such user shall be treated as the owner of  
13                  such device for purposes of this section, then  
14                  such user (and not such owner) shall be so  
15                  treated.

16                  “(B) HYDROGEN ENERGY CONVERSION  
17                  DEVICE.—The term ‘hydrogen energy conver-  
18                  sion device’ means—

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

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

23                  “(d) NATIONAL HYDROGEN INSTALLATION, INFRA-  
24                  STRUCTURE, AND FUEL CREDIT LIMITATION.—

1           “(1) IN GENERAL.—There is a national hydro-  
2           gen installation, infrastructure, and fuel credit limi-  
3           tation for each fiscal year. Such limitation is  
4           \$15,000,000 for fiscal year 2008, \$30,000,000 for  
5           fiscal year 2009, and \$40,000,000 for fiscal year  
6           2010.

7           “(2) ALLOCATION.—Not later than 90 days  
8           after the date of the enactment of this section, the  
9           Secretary, in consultation with the Secretary of En-  
10          ergy, shall establish a hydrogen installation, infra-  
11          structure, and fuel credit allocation program.

12          “(e) REDUCTION IN BASIS.—For purposes of this  
13          subtitle, if a credit is allowed under this section for any  
14          expenditure with respect to any property, the increase in  
15          the basis of such property which would (but for this para-  
16          graph) result from such expenditure shall be reduced by  
17          the amount of the credit so allowed.

18          “(f) APPLICATION WITH OTHER CREDITS.—

19                 “(1) BUSINESS CREDIT TREATED AS PART OF  
20                 GENERAL BUSINESS CREDIT.—So much of the credit  
21                 which would be allowed under subsection (a) for any  
22                 taxable year (determined without regard to this sub-  
23                 section) that is attributable to amounts which (but  
24                 for subsection (g) would be allowed as a deduction  
25                 under section 162 shall be treated as a credit listed

1 in section 38(b) for such taxable year (and not al-  
2 lowed under subsection (a)).

3 “(2) PERSONAL CREDIT.—The credit allowed  
4 under subsection (a) (after the application of para-  
5 graph (1)) for any taxable year shall not exceed the  
6 excess (if any) of—

7 “(A) the regular tax liability (as defined in  
8 section 26(b)) reduced by the sum of the credits  
9 allowable under subpart A and sections 27, 30,  
10 30B, and 30C, over

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

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

18 “(h) RECAPTURE.—The Secretary shall, by regula-  
19 tions, provided for recapturing the benefit of any credit  
20 allowable under subsection (a) with respect to any prop-  
21 erty which ceases to be property eligible for such credit.

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

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

4       “(k) TERMINATION.—This section shall not apply to  
5 any costs after the earlier of—

6           “(1) December 31, 2010, or

7           “(2) the date on which the Secretary estimates  
8 that at least 5 percent of all registered passenger  
9 motor vehicles are powered by hydrogen.”.

10       (b) CONFORMING AMENDMENTS.—

11           (1) Section 38(b) of such Code is amended by  
12 striking “plus” at the end of paragraph (31), by  
13 striking the period at the end of paragraph (32) and  
14 inserting “, plus”, and by adding at the end the fol-  
15 lowing new paragraph:

16           “(33) the portion of the hydrogen installation,  
17 infrastructure, and fuel credit to which section  
18 30E(f)(1) applies.”.

19           (2) Section 55(c)(3) of such Code is amended  
20 by inserting “30E(f)(2),” after “30C(d)(2),”.

21           (3) Section 1016(a) of such Code is amended  
22 by striking “and” at the end of paragraph (37), by  
23 striking the period at the end of paragraph (38) and  
24 inserting “, and”, and by adding at the end the fol-  
25 lowing new paragraph:



1           “(39) to the extent provided in section  
2           30E(e).”.

3           (4) Section 6501(m) of such Code is amended  
4           by inserting “30E(i),” after “30D(f)(4),”.

5           (5) The table of sections for subpart B of part  
6           IV of subchapter A of chapter 1 of such Code is  
7           amended by inserting after the item relating to sec-  
8           tion 30D the following new item:

          “Sec. 30E. Hydrogen installation, infrastructure, and fuel costs.”.

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