

106TH CONGRESS
2D SESSION

S. 2884

To amend the Internal Revenue Code of 1986 to allow allocation of small ethanol producer credit to patrons of cooperative, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2000

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

A BILL

To amend the Internal Revenue Code of 1986 to allow allocation of small ethanol producer credit to patrons of cooperative, 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. SMALL ETHANOL PRODUCER CREDIT.**

4 (a) ALLOCATION OF ALCOHOL FUELS CREDIT TO
5 PATRONS OF A COOPERATIVE.—Section 40(g) Internal
6 Revenue Code of 1986 (relating to definitions and special
7 rules for eligible small ethanol producer credit) is amended
8 by adding at the end the following:

9 “(6) ALLOCATION OF SMALL ETHANOL PRO-
10 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

1 “(A) ELECTION TO ALLOCATE.—

2 “(i) IN GENERAL.—Notwithstanding
3 paragraph (4), in the case of a cooperative
4 organization described in section 1381(a),
5 any portion of the credit determined under
6 subsection (a)(3) for the taxable year may,
7 at the election of the organization, be ap-
8 portioned pro rata among patrons of the
9 organization on the basis of the quantity
10 or value of business done with or for such
11 patrons for the taxable year.

12 “(ii) FORM AND EFFECT OF ELEC-
13 TION.—An election under clause (i) for any
14 taxable year shall be made on a timely
15 filed return for such year. Such election,
16 once made, shall be irrevocable for such
17 taxable year.

18 “(iii) SPECIAL RULE FOR 1998 AND
19 1999.—Notwithstanding clause (ii), an elec-
20 tion for any taxable year ending prior to
21 the date of the enactment of this para-
22 graph may be made at any time before the
23 expiration of the 3-year period beginning
24 on the last date prescribed by law for filing
25 the return of the taxpayer for such taxable

1 year (determined without regard to exten-
 2 sions) by filing an amended return for
 3 such year.

4 “(B) TREATMENT OF ORGANIZATIONS AND
 5 PATRONS.—The amount of the credit appor-
 6 tioned to patrons under subparagraph (A)—

7 “(i) shall not be included in the
 8 amount determined under subsection (a)
 9 with respect to the organization for the
 10 taxable year,

11 “(ii) shall be included in the amount
 12 determined under subsection (a) for the
 13 taxable year of each patron for which the
 14 patronage dividends for the taxable year
 15 described in subparagraph (A) are included
 16 in gross income, and

17 “(iii) shall be included in gross income
 18 of such patrons for the taxable year in the
 19 manner and to the extent provided in sec-
 20 tion 87.

21 “(C) SPECIAL RULES FOR DECREASE IN
 22 CREDITS FOR TAXABLE YEAR.—If the amount
 23 of the credit of a cooperative organization (as
 24 so defined) determined under subsection (a)(3)
 25 for a taxable year is less than the amount of

such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(i) such reduction, over

“(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.”.

(b) DEFINITION OF SMALL ETHANOL PRODUCER;

IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g)(1) of the Internal Revenue Code of 1986 (relating to eligible small ethanol producer) is amended by striking “30,000,000” and inserting “60,000,000”.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) of such Code (relating to passive activ-

1 ity credit) is amended by striking “subpart D” and
 2 inserting “subpart D, other than section 40(a)(3),”.

3 (3) ALLOWING CREDIT AGAINST MINIMUM
 4 TAX.—

5 (A) IN GENERAL.—Subsection (c) of sec-
 6 tion 38 of such Code (relating to limitation
 7 based on amount of tax) is amended by redesign-
 8 nating paragraph (3) as paragraph (4) and by
 9 inserting after paragraph (2) the following:

10 “(3) SPECIAL RULES FOR SMALL ETHANOL
 11 PRODUCER CREDIT.—

12 “(A) IN GENERAL.—In the case of the
 13 small ethanol producer credit—

14 “(i) this section and section 39 shall
 15 be applied separately with respect to the
 16 credit, and

17 “(ii) in applying paragraph (1) to the
 18 credit—

19 “(I) subparagraphs (A) and (B)
 20 thereof shall not apply, and

21 “(II) the limitation under para-
 22 graph (1) (as modified by subclause
 23 (I)) shall be reduced by the credit al-
 24 lowed under subsection (a) for the

1 taxable year (other than the small
2 ethanol producer credit).

3 “(B) SMALL ETHANOL PRODUCER CRED-
4 IT.—For purposes of this subsection, the term
5 ‘small ethanol producer credit’ means the credit
6 allowable under subsection (a) by reason of sec-
7 tion 40(a)(3).”.

8 (B) CONFORMING AMENDMENT.—Sub-
9 clause (II) of section 38(c)(2)(A)(ii) of such
10 Code is amended by inserting “or the small eth-
11 anol producer credit” after “employment
12 credit”.

13 (4) SMALL ETHANOL PRODUCER CREDIT NOT
14 ADDED BACK TO INCOME UNDER SECTION 87.—Sec-
15 tion 87 of such Code (relating to income inclusion
16 of alcohol fuel credit is amended to read as follows:

17 **“SEC. 87. ALCOHOL FUEL CREDIT.**

18 “Gross income includes an amount equal to the sum
19 of—

20 “(1) the amount of the alcohol mixture credit
21 determined with respect to the taxpayer for the tax-
22 able year under section 40(a)(1), and

23 “(2) the alcohol credit determined with respect
24 to the taxpayer for the taxable year under section
25 40(a)(2).”.

1 (c) CONFORMING AMENDMENT.—Section 1388 of the
 2 Internal Revenue Code of 1986 (relating to definitions and
 3 special rules for cooperative organizations) is amended by
 4 adding at the end the following:

5 “(k) CROSS REFERENCE.—For provisions relating to
 6 the apportionment of the alcohol fuels credit between coop-
 7 erative organizations and their patrons, see section 40(d)
 8 (6).”

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as provided in para-
 11 graph (2), the amendments made by this section
 12 shall apply to taxable years beginning after Decem-
 13 ber 31, 1997.

14 (2) CERTAIN PROVISIONS.—The amendments
 15 made by paragraphs (1) and (4) of subsection (b)
 16 shall apply to taxable years ending after the date of
 17 the enactment of this Act.

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