

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.

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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

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## 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

1 such credit shown on the return of the coopera-  
 2 tive organization for such year, an amount  
 3 equal to the excess of—

4 “(i) such reduction, over

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

8 shall be treated as an increase in tax imposed  
 9 by this chapter on the organization. Such in-  
 10 crease shall not be treated as tax imposed by  
 11 this chapter for purposes of determining the  
 12 amount of any credit under this subpart or sub-  
 13 part A, B, E, or G.”.

14 (b) DEFINITION OF SMALL ETHANOL PRODUCER;  
 15 IMPROVEMENTS TO SMALL ETHANOL PRODUCER CRED-  
 16 IT.—

17 (1) DEFINITION OF SMALL ETHANOL PRO-  
 18 DUCER.—Section 40(g)(1) of the Internal Revenue  
 19 Code of 1986 (relating to eligible small ethanol pro-  
 20 ducer) is amended by striking “30,000,000” and in-  
 21 serting “60,000,000”.

22 (2) SMALL ETHANOL PRODUCER CREDIT NOT A  
 23 PASSIVE ACTIVITY CREDIT.—Clause (i) of section  
 24 469(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 (e) of sec-  
6       tion 38 of such Code (relating to limitation  
7       based on amount of tax) is amended by redesignig-  
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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