

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1999

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a fuel additive, to require Federal vehicles to use ethanol fuel, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2001

Mr. NUSSLE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Clean Air Act to prohibit the use of methyl tertiary butyl ether as a fuel additive, to require Federal vehicles to use ethanol fuel, 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 “Ethanol Energy Pro-  
5       motion Act of 2001”.

1 **SEC. 2. PROHIBITION ON USE OF MTBE AS A FUEL ADDI-**  
2 **TIVE**

3 Section 211(c) of the Clean Air Act (42 U.S.C.  
4 7545(c)) is amended by adding the following at the end  
5 of paragraph (1): “Effective on the date of the enactment  
6 of this sentence, the use of methyl tertiary butyl ether  
7 (MTBE) as a fuel additive is prohibited.”. The Adminis-  
8 trator of the Environmental Protection Agency shall  
9 amend the regulations under section 211(c) of the Clean  
10 Air Act (42 U.S.C. 7545(c)) as promptly as practicable  
11 after the enactment of this Act to conform to the amend-  
12 ment made by this section.

13 **SEC. 3. WAIVER OF OXYGEN CONTENT REQUIREMENT RE-**  
14 **PEALED.**

15 Section 211(k) of the Clean Air Act (42 U.S.C.  
16 7545(k)) is amended by striking out the second sentence.

17 **SEC. 4. CREDITS FOR EXCEEDING REDUCTION IN CARBON**  
18 **MONOXIDE AND VOLATILITY REQUIREMENTS.**

19 Section 211(k)(7) of the Clean Air Act (42 U.S.C.  
20 7545(k)(7)) is amended by adding the following at the end  
21 thereof:

22 “(D) In addition to the credits described in  
23 subparagraph (A), the Administrator shall also  
24 promulgate regulations under this paragraph  
25 permitting any person who refines, blends, or  
26 imports and certifies a gasoline or a slate of

1 gasoline with an oxygen content that exceeds  
2 the minimum oxygen content specified in para-  
3 graph (2) to take a volatility credit for such  
4 gasoline. Such credit may be used to offset to  
5 an appropriate extent, the Reid Vapor Pressure  
6 levels requirements of subsection (h). The  
7 amount of the credit that is appropriate shall  
8 be based on the ozone forming potential of the  
9 gasoline concerned to insure that allowance of  
10 such credit will not increase the ozone forming  
11 potential of such gasoline above that of other  
12 gasoline that meets the requirements of this  
13 subsection.”.

14 **SEC. 5. FEDERAL VEHICLES.**

15 Section 248(f) of the Clean Air Act (42 U.S.C.  
16 7588(f)) is amended by inserting the following before the  
17 period at the end thereof: “, and all such vehicles shall  
18 be clean fuel vehicles certified under this part capable of  
19 using ethanol as fuel and shall use ethanol wherever eco-  
20 nomically feasible, as determined by the Administrator”.

21 **SEC. 6. SMALL ETHANOL PRODUCER CREDIT.**

22 (a) ALLOCATION OF ALCOHOL FUELS CREDIT TO  
23 PATRONS OF A COOPERATIVE.—Section 40(g) Internal  
24 Revenue Code of 1986 (relating to definitions and special

1 rules for eligible small ethanol producer credit) is amended  
2 by adding at the end the following:

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

5 “(A) ELECTION TO ALLOCATE.—

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

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

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

1           “(i) shall not be included in the  
2           amount determined under subsection (a)  
3           with respect to the organization for the  
4           taxable year,

5           “(ii) shall be included in the amount  
6           determined under subsection (a) for the  
7           taxable year of each patron for which the  
8           patronage dividends for the taxable year  
9           described in subparagraph (A) are included  
10          in gross income, and

11          “(iii) shall be included in gross income  
12          of such patrons for the taxable year in the  
13          manner and to the extent provided in sec-  
14          tion 87.

15          “(C) SPECIAL RULES FOR DECREASE IN  
16          CREDITS FOR TAXABLE YEAR.—If the amount  
17          of the credit of a cooperative organization (as  
18          so defined) determined under subsection (a)(3)  
19          for a taxable year is less than the amount of  
20          such credit shown on the return of the coopera-  
21          tive organization for such year, an amount  
22          equal to the excess of—

23                 “(i) such reduction, over

1                   “(ii) the amount not apportioned to  
2                   such patrons under subparagraph (A) for  
3                   the taxable year,  
4                   shall be treated as an increase in tax imposed  
5                   by this chapter on the organization. Such in-  
6                   crease shall not be treated as tax imposed by  
7                   this chapter for purposes of determining the  
8                   amount of any credit under this subpart or sub-  
9                   part A, B, E, or G.”.

10           (b) DEFINITION OF SMALL ETHANOL PRODUCER;  
11 IMPROVEMENTS TO SMALL ETHANOL PRODUCER  
12 CREDIT.—

13           (1) DEFINITION OF SMALL ETHANOL PRO-  
14 DUCER.—

15           (A) IN GENERAL.—Section 40(g)(1) of the  
16           Internal Revenue Code of 1986 (relating to eli-  
17           gible small ethanol producer) is amended by  
18           striking “30,000,000” and inserting  
19           “60,000,000”.

20           (B) CONFORMING AMENDMENTS.—Section  
21           40(g) of such Code is amended by striking  
22           “30,000,000” both places it appears in para-  
23           graphs (2) and (5)(A) and inserting  
24           “60,000,000”.

1           (2) SMALL ETHANOL PRODUCER CREDIT NOT A  
2 PASSIVE ACTIVITY CREDIT.—Clause (i) of section  
3 469(d)(2)(A) of such Code (relating to passive activ-  
4 ity credit) is amended by striking “subpart D” and  
5 inserting “subpart D, other than section 40(a)(3),”.

6           (3) ALLOWING CREDIT AGAINST MINIMUM  
7 TAX.—

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

13           “(3) SPECIAL RULES FOR SMALL ETHANOL  
14 PRODUCER CREDIT.—

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

17           “(i) this section and section 39 shall  
18 be applied separately with respect to the  
19 credit, and

20           “(ii) in applying paragraph (1) to the  
21 credit—

22           “(I) subparagraphs (A) and (B)  
23 thereof shall not apply, and

24           “(II) the limitation under para-  
25 graph (1) (as modified by subclause

1 (I) shall be reduced by the credit al-  
2 lowed under subsection (a) for the  
3 taxable year (other than the small  
4 ethanol producer credit).

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

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

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

19 **“SEC. 87. ALCOHOL FUEL CREDIT.**

20 “Gross income includes an amount equal to the sum  
21 of—

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

1           “(2) the alcohol credit determined with respect  
2           to the taxpayer for the taxable year under section  
3           40(a)(2).”.

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

8           “(k) CROSS REFERENCE.—For provisions relating to  
9 the apportionment of the alcohol fuels credit between coop-  
10 erative organizations and their patrons, see section  
11 40(d)(6).”.

12          (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning after  
14 December 31, 2001.

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