

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3840

To amend the Internal Revenue Code of 1986 to provide a tax incentive to produce ethanol in high-consumption, low-production States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 5, 2006

Mr. SCHUMER 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 provide a tax incentive to produce ethanol in high-consumption, low-production States, 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 Stimulus Act  
5 of 2006”.

6 **SEC. 2. ETHANOL PRODUCTION TAX INCENTIVES IN HIGH-**  
7 **CONSUMPTION, LOW-PRODUCTION STATES.**

8 (a) IN GENERAL.—Section 40(b)(4) of the Internal  
9 Revenue Code of 1986 (relating to small ethanol producer

1 credit) is amended by adding at the end the following new  
 2 subparagraph:

3                   “(E) CREDIT FOR ETHANOL PRODUCTION  
 4                   IN TWO-TWO STATES.—

5                   “(i) IN GENERAL.—In the case of  
 6                   qualified ethanol production by any eligible  
 7                   small ethanol producer in all eligible eth-  
 8                   anol production facilities of such pro-  
 9                   ducer—

10                   “(I) subparagraph (A) shall be  
 11                   applied by substituting ‘20 cents’ for  
 12                   ‘10 cents’, and

13                   “(II) subparagraph (C) shall be  
 14                   applied by substituting ‘50,000,000  
 15                   gallons’ for ‘15,000,000 gallons’.

16                   “(ii) 5-YEAR PER FACILITY LIMITA-  
 17                   TION ON CREDIT AMOUNT.—With respect  
 18                   to each eligible ethanol production facility,  
 19                   the credit determined under this section by  
 20                   reason of this subparagraph shall apply to  
 21                   production from such facility for the pe-  
 22                   riod—

23                   “(I) beginning with the taxable  
 24                   year during which production from  
 25                   such facility begins, and

1 “(II) ending on the last day of  
2 the fourth taxable year following the  
3 taxable year described in subclause  
4 (I).

5 “(iii) ELIGIBLE ETHANOL PRODUC-  
6 TION FACILITY.—For purposes of this sub-  
7 paragraph, the term ‘eligible ethanol pro-  
8 duction facility’ means any ethanol produc-  
9 tion facility the original use of which com-  
10 mences with the taxpayer and—

11 “(I) which is acquired by pur-  
12 chase (as defined in section  
13 179(d)(2)) by the taxpayer after Au-  
14 gust 8, 2005, and before August 9,  
15 2010, but only if no written binding  
16 contract for the acquisition was in ef-  
17 fect before August 9, 2005,

18 “(II) which is acquired by the  
19 taxpayer pursuant to a written bind-  
20 ing contract which was entered into  
21 after August 8, 2005, and before Au-  
22 gust 9, 2010, or

23 “(III) in the case of a taxpayer  
24 constructing property for the tax-  
25 payer’s own use, the construction of

1                   which begins after August 8, 2005,  
 2                   and before August 9, 2010,  
 3                   in a State which is a two-two State on the  
 4                   date of such purchase under subclause (I),  
 5                   of such written binding contract under  
 6                   subclause (II), or the beginning of such  
 7                   construction under subclause (III).

8                   “(iv) TWO-TWO STATE.—For purposes  
 9                   of this subparagraph, the term ‘two-two  
 10                  State’ means for any period any State (as  
 11                  determined by the Energy Information Ad-  
 12                  ministration) within which—

13                   “(I) is consumed more than 2  
 14                   percent of the aggregate amount of  
 15                   gasoline consumed in all States during  
 16                   such period, and

17                   “(II) is produced less than 2 per-  
 18                   cent of the aggregate amount of eth-  
 19                   anol produced in all States during  
 20                   such period.”.

21                  (b) ELIGIBLE SMALL ETHANOL PRODUCER.—Sec-  
 22                  tion 40(g)(1) of the Internal Revenue Code of 1986 (defin-  
 23                  ing eligible small ethanol producer) is amended by insert-  
 24                  ing “(150,000,000 gallons in the case of such productive

1 capacity in all two-two States (as defined in subsection  
2 (b)(4)(E)(iv))” after “60,000,000 gallons”.

3 (c) CONFORMING AMENDMENT.—Section 40(g)(2) of  
4 the Internal Revenue Code of 1986 is amended by striking  
5 “For purposes of the 15,000,000 gallon limitation under  
6 subsection (b)(4)(C) and the 60,000,000 gallon limitation  
7 under paragraph (1)” and inserting “For purposes of each  
8 gallon limitation under subsection (b)(4) and paragraph  
9 (1)”.

10 (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to ethanol produced in taxable  
12 years ending after the date of the enactment of this Act.

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