

108TH CONGRESS
1ST SESSION

S. 1548

To amend the Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. FRIST, Mr. DASCHLE, Mr. DOMENICI, Mr. BINGAMAN, Mr. INHOFE, Mr. JEFFORDS, Mr. THOMAS, Mr. VOINOVICH, Mr. CONRAD, Mrs. LINCOLN, Mr. COLEMAN, Mr. DORGAN, Mr. BOND, Mr. HARKIN, Mr. DAYTON, Mr. DURBIN, Mr. TALENT, Mr. NELSON of Nebraska, and Mr. BROWNBACK) 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 provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, 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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Volumetric Ethanol Excise Tax Credit (VEETC) Act of
6 2003”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. INCENTIVES FOR BIODIESEL.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
 9 chapter A of chapter 1 (relating to business related cred-
 10 its), as amended by this Act, is amended by inserting after
 11 section 40A the following new section:

12 **“SEC. 40B. BIODIESEL USED AS FUEL.**

13 “(a) GENERAL RULE.—For purposes of section 38,
 14 the biodiesel fuels credit determined under this section for
 15 the taxable year is an amount equal to the sum of—

16 “(1) the biodiesel mixture credit, plus

17 “(2) the biodiesel credit.

18 “(b) DEFINITION OF BIODIESEL MIXTURE CREDIT
 19 AND BIODIESEL CREDIT.—For purposes of this section—

20 “(1) BIODIESEL MIXTURE CREDIT.—

21 “(A) IN GENERAL.—The biodiesel mixture
 22 credit of any taxpayer for any taxable year is
 23 50 cents for each gallon of biodiesel used by the
 24 taxpayer in the production of a qualified bio-
 25 diesel mixture.

1 “(B) QUALIFIED BIODIESEL MIXTURE.—

2 The term ‘qualified biodiesel mixture’ means a
3 mixture of biodiesel and diesel fuel which—

4 “(i) is sold by the taxpayer producing
5 such mixture to any person for use as a
6 fuel, or

7 “(ii) is used as a fuel by the taxpayer
8 producing such mixture.

9 “(C) SALE OR USE MUST BE IN TRADE OR
10 BUSINESS, ETC.—Biodiesel used in the produc-
11 tion of a qualified biodiesel mixture shall be
12 taken into account—

13 “(i) only if the sale or use described
14 in subparagraph (B) is in a trade or busi-
15 ness of the taxpayer, and

16 “(ii) for the taxable year in which
17 such sale or use occurs.

18 “(D) CASUAL OFF-FARM PRODUCTION NOT
19 ELIGIBLE.—No credit shall be allowed under
20 this section with respect to any casual off-farm
21 production of a qualified biodiesel mixture.

22 “(2) BIODIESEL CREDIT.—

23 “(A) IN GENERAL.—The biodiesel credit of
24 any taxpayer for any taxable year is 50 cents
25 for each gallon of biodiesel which is not in a

1 mixture with diesel fuel and which during the
2 taxable year—

3 “(i) is used by the taxpayer as a fuel
4 in a trade or business, or

5 “(ii) is sold by the taxpayer at retail
6 to a person and placed in the fuel tank of
7 such person’s vehicle.

8 “(B) USER CREDIT NOT TO APPLY TO BIO-
9 DIESEL SOLD AT RETAIL.—No credit shall be
10 allowed under subparagraph (A)(i) with respect
11 to any biodiesel which was sold in a retail sale
12 described in subparagraph (A)(ii).

13 “(3) CREDIT FOR AGRI-BIODIESEL.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), in the case of any biodiesel which is
16 agri-biodiesel, paragraphs (1)(A) and (2)(A)
17 shall be applied by substituting ‘\$1.00’ for ‘50
18 cents’.

19 “(B) CERTIFICATION FOR AGRI-BIO-
20 DIESEL.—Subparagraph (A) shall apply only if
21 the taxpayer described in paragraph (1)(A) or
22 (2)(A) obtains a certification (in such form and
23 manner as prescribed by the Secretary) from
24 the producer of the agri-biodiesel which identi-
25 fies the product produced.

1 “(c) COORDINATION WITH CREDIT AGAINST EXCISE
2 TAX.—The amount of the credit determined under this
3 section with respect to any agri-biodiesel shall, under regu-
4 lations prescribed by the Secretary, be properly reduced
5 to take into account any benefit provided with respect to
6 such agri-biodiesel solely by reason of the application of
7 section 6426 or 6427(e).

8 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
9 poses of this section—

10 “(1) BIODIESEL.—The term ‘biodiesel’ means
11 the monoalkyl esters of long chain fatty acids de-
12 rived from plant or animal matter for use in diesel-
13 powered engines which meet—

14 “(A) the registration requirements for
15 fuels and fuel additives established by the Envi-
16 ronmental Protection Agency under section 211
17 of the Clean Air Act (42 U.S.C. 7545), and

18 “(B) the requirements of the American So-
19 ciety of Testing and Materials D6751.

20 “(2) AGRI-BIODIESEL.—The term ‘agri-bio-
21 diesel’ means biodiesel derived solely from virgin oils.
22 Such term shall include esters derived from vege-
23 table oils from corn, soybeans, sunflower seeds, cot-
24 tonseeds, canola, crambe, rapeseeds, safflowers,

1 flaxseeds, rice bran, and mustard seeds, and from
2 animal fats.

3 “(3) BIODIESEL MIXTURE NOT USED AS A
4 FUEL, ETC.—

5 “(A) IMPOSITION OF TAX.—If—

6 “(i) any credit was determined under
7 this section with respect to biodiesel used
8 in the production of any qualified biodiesel
9 mixture, and

10 “(ii) any person—

11 “(I) separates such biodiesel
12 from the mixture, or

13 “(II) without separation, uses the
14 mixture other than as a fuel,

15 then there is hereby imposed on such per-
16 son a tax equal to the product of the rate
17 applicable under subsection (b)(1)(A) and
18 the number of gallons of the mixture.

19 “(B) APPLICABLE LAWS.—All provisions of
20 law, including penalties, shall, insofar as appli-
21 cable and not inconsistent with this section,
22 apply in respect of any tax imposed under sub-
23 paragraph (A) as if such tax were imposed by
24 section 4081 and not by this chapter.

1 “(4) PASS-THRU IN THE CASE OF ESTATES AND
2 TRUSTS.—Under regulations prescribed by the Sec-
3 retary, rules similar to the rules of subsection (d) of
4 section 52 shall apply.

5 “(e) TERMINATION.—This section shall not apply to
6 any fuel sold after December 31, 2005.”.

7 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
8 NESS CREDIT.—Section 38(b) (relating to current year
9 business credit), as amended by this Act, is amended by
10 striking “plus” at the end of paragraph (15), by striking
11 the period at the end of paragraph (16) and inserting “,
12 plus”, and by adding at the end the following new para-
13 graph:

14 “(17) the biodiesel fuels credit determined
15 under section 40B(a).”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Section 39(d), as amended by this Act, is
18 amended by adding at the end the following new
19 paragraph:

20 “(12) NO CARRYBACK OF BIODIESEL FUELS
21 CREDIT BEFORE EFFECTIVE DATE.—No portion of
22 the unused business credit for any taxable year
23 which is attributable to the biodiesel fuels credit de-
24 termined under section 40B may be carried back to

1 a taxable year ending on or before the date of the
2 enactment of section 40B.”.

3 (2)(A) Section 87, as amended by this Act, is
4 amended—

5 (i) by striking “and” at the end of para-
6 graph (1),

7 (ii) by striking the period at the end of
8 paragraph (2) and inserting “, and”,

9 (iii) by adding at the end the following new
10 paragraph:

11 “(3) the biodiesel fuels credit determined with
12 respect to the taxpayer for the taxable year under
13 section 40B(a).”, and

14 (iv) by striking “**FUEL CREDIT**” in the head-
15 ing and inserting “**AND BIODIESEL FUELS CRED-
16 ITS**”.

17 (B) The item relating to section 87 in the table
18 of sections for part II of subchapter B of chapter 1
19 is amended by striking “fuel credit” and inserting
20 “and biodiesel fuels credits”.

21 (3) Section 196(c) is amended by striking
22 “and” at the end of paragraph (9), by striking the
23 period at the end of paragraph (10) and inserting “,
24 and”, and by adding at the end the following new
25 paragraph:

1 “(11) the biodiesel fuels credit determined
2 under section 40B(a).”.

3 (4) The table of sections for subpart D of part
4 IV of subchapter A of chapter 1, as amended by this
5 Act, is amended by adding after the item relating to
6 section 40A the following new item:

 “Sec. 40B. Biodiesel used as fuel.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to fuel sold after the date of the
9 enactment of this Act, in taxable years ending after such
10 date.

11 **SEC. 3. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE**

12 **TAX CREDIT.**

13 (a) IN GENERAL.—Subchapter B of chapter 65 (re-
14 lating to rules of special application) is amended by insert-
15 ing after section 6425 the following new section:

16 **“SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL**
17 **MIXTURES.**

18 “(a) ALLOWANCE OF CREDITS.—There shall be al-
19 lowed as a credit against the tax imposed by section 4081
20 an amount equal to the sum of—

21 “(1) the alcohol fuel mixture credit, plus

22 “(2) the biodiesel mixture credit.

23 “(b) ALCOHOL FUEL MIXTURE CREDIT.—

24 “(1) IN GENERAL.—For purposes of this sec-
25 tion, the alcohol fuel mixture credit is the applicable

1 amount for each gallon of alcohol used by the tax-
2 payer in producing an alcohol fuel mixture.

3 “(2) APPLICABLE AMOUNT.—For purposes of
4 this subsection—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the applicable amount is 52
7 cents (51 cents in the case of any sale or use
8 after 2004).

9 “(B) MIXTURES NOT CONTAINING ETH-
10 ANOL.—In the case of an alcohol fuel mixture
11 in which none of the alcohol consists of ethanol,
12 the applicable amount is 60 cents.

13 “(3) ALCOHOL FUEL MIXTURE.—For purposes
14 of this subsection, the term ‘alcohol fuel mixture’ is
15 a mixture which—

16 “(A) consists of alcohol and a taxable fuel,
17 and

18 “(B) is sold for use or used as a fuel by
19 the taxpayer producing the mixture.

20 “(4) OTHER DEFINITIONS.—For purposes of
21 this subsection—

22 “(A) ALCOHOL.—The term ‘alcohol’ in-
23 cludes methanol and ethanol but does not in-
24 clude—

1 “(i) alcohol produced from petroleum,
2 natural gas, or coal (including peat), or

3 “(ii) alcohol with a proof of less than
4 190 (determined without regard to any
5 added denaturants).

6 Such term also includes an alcohol gallon equiv-
7 alent of ethyl tertiary butyl ether or other
8 ethers produced from such alcohol.

9 “(B) TAXABLE FUEL.—The term ‘taxable
10 fuel’ has the meaning given such term by sec-
11 tion 4083(a)(1).

12 “(5) TERMINATION.—This subsection shall not
13 apply to any sale or use for any period after Decem-
14 ber 31, 2010.

15 “(c) BIODIESEL MIXTURE CREDIT.—

16 “(1) IN GENERAL.—For purposes of this sec-
17 tion, the biodiesel mixture credit is the product of
18 the applicable amount and the number of gallons of
19 biodiesel used by the taxpayer in producing any
20 qualified biodiesel mixture.

21 “(2) APPLICABLE AMOUNT.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), the applicable amount is 50
24 cents.

25 “(B) AMOUNT FOR AGRI-BIODIESEL.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii), in the case of any biodiesel which is
3 agri-biodiesel, the applicable amount is
4 \$1.00.

5 “(ii) CERTIFICATION FOR AGRI-BIO-
6 DIESEL.—Clause (i) shall apply only if the
7 taxpayer described in paragraph (1) ob-
8 tains a certification (in such form and
9 manner as prescribed by the Secretary)
10 from the producer of the agri-biodiesel
11 which identifies the product produced.

12 “(3) DEFINITIONS.—Any term used in this sub-
13 section which is also used in section 40B shall have
14 the meaning given such term by section 40B.

15 “(4) TERMINATION.—This subsection shall not
16 apply to any sale or use for any period after Decem-
17 ber 31, 2005.

18 “(d) MIXTURE NOT USED AS A FUEL, ETC.—

19 “(1) IMPOSITION OF TAX.—If—

20 “(A) any credit was determined under this
21 section with respect to alcohol or biodiesel used
22 in the production of any alcohol fuel mixture or
23 qualified biodiesel mixture, respectively, and

24 “(B) any person—

1 “(i) separates such alcohol or biodiesel
2 from the mixture, or

3 “(ii) without separation, uses the mix-
4 ture other than as a fuel,

5 then there is hereby imposed on such person a
6 tax equal to the product of the applicable
7 amount and the number of gallons of such alco-
8 hol or biodiesel.

9 “(2) APPLICABLE LAWS.—All provisions of law,
10 including penalties, shall, insofar as applicable and
11 not inconsistent with this section, apply in respect of
12 any tax imposed under paragraph (1) as if such tax
13 were imposed by section 4081 and not by this sec-
14 tion.”.

15 (b) REGISTRATION REQUIREMENT.—Section 4101(a)
16 (relating to registration) is amended by inserting “and
17 every person producing biodiesel (as defined in section
18 40B(d)(1)) or alcohol (as defined in section
19 6426(b)(4)(A))” after “4091”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 40(c) is amended by striking “sec-
22 tion 4081(c), or section 4091(c)” and inserting “sec-
23 tion 4091(c), section 6426, section 6427(e), or sec-
24 tion 6427(f)”.

1 (2) Section 40(d)(4)(B) is amended by striking
2 “or 4081(e)”.

3 (3) Section 40(e)(1) is amended—

4 (A) by striking “2007” in subparagraph
5 (A) and inserting “2010”, and

6 (B) by striking “2008” in subparagraph
7 (B) and inserting “2011”.

8 (4) Section 40(h) is amended—

9 (A) by striking “2007” in paragraph (1)
10 and inserting “2010”, and

11 (B) by striking “, 2006, or 2007” in the
12 table contained in paragraph (2) and inserting
13 “through 2010”.

14 (5) Section 4041(b)(2)(B) is amended by strik-
15 ing “a substance other than petroleum or natural
16 gas” and inserting “coal (including peat)”.

17 (6) Paragraph (1) of section 4041(k) is amend-
18 ed to read as follows:

19 “(1) IN GENERAL.—Under regulations pre-
20 scribed by the Secretary, in the case of the sale or
21 use of any liquid at least 10 percent of which con-
22 sists of alcohol (as defined in section
23 6426(b)(4)(A)), the rate of the tax imposed by sub-
24 section (c)(1) shall be the comparable rate under
25 section 4091(c).”.

1 (7) Section 4081 is amended by striking sub-
2 section (c).

3 (8) Paragraph (2) of section 4083(a) is amend-
4 ed to read as follows:

5 “(2) GASOLINE.—The term ‘gasoline’—

6 “(A) includes any gasoline blend, other
7 than qualified methanol or ethanol fuel (as de-
8 fined in section 4041(b)(2)(B)) or a denaturant
9 of alcohol (as defined in section 6426(b)(4)(A)),
10 and

11 “(B) includes, to the extent prescribed in
12 regulations—

13 “(i) any gasoline blend stock, and

14 “(ii) any product commonly used as
15 an additive in gasoline.

16 For purposes of subparagraph (B)(i), the term ‘gas-
17 oline blend stock’ means any petroleum product
18 component of gasoline.”.

19 (9) Section 6427 is amended by inserting after
20 subsection (d) the following new subsection:

21 “(e) ALCOHOL OR BIODIESEL USED TO PRODUCE
22 ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS
23 FUELS.—Except as provided in subsection (k)—

24 “(1) USED TO PRODUCE A MIXTURE.—If any
25 person produces a mixture described in section 6426

1 in such person's trade or business, the Secretary
2 shall pay (without interest) to such person an
3 amount equal to the alcohol fuel mixture credit or
4 the biodiesel mixture credit with respect to such mix-
5 ture.

6 “(2) USED AS FUEL.—If alcohol (as defined in
7 section 40(d)(1)) or biodiesel (as defined in section
8 40B(d)(1)) or agri-biodiesel (as defined in section
9 40B(d)(2)) which is not in a mixture with a taxable
10 fuel (as defined in section 4083(a)(1))—

11 “(A) is used by any person as a fuel in a
12 trade or business, or

13 “(B) is sold by any person at retail to an-
14 other person and placed in the fuel tank of such
15 person's vehicle,

16 the Secretary shall pay (without interest) to such
17 person an amount equal to the alcohol credit (as de-
18 termined under section 40(b)(2)) or the biodiesel
19 credit (as determined under section 40B(b)(2)) with
20 respect to such fuel.

21 “(3) COORDINATION WITH OTHER REPAYMENT
22 PROVISIONS.—No amount shall be payable under
23 paragraph (1) with respect to any mixture with re-
24 spect to which an amount is allowed as a credit
25 under section 6426.

1 “(4) TERMINATION.—This subsection shall not
2 apply with respect to—

3 “(A) any alcohol fuel mixture (as defined
4 in section 6426(b)(3)) or alcohol (as so defined)
5 sold or used after December 31, 2010, and

6 “(B) any qualified biodiesel mixture (with-
7 in the meaning of section 6426(c)(1)) or bio-
8 diesel (as so defined) or agri-biodiesel (as so de-
9 fined) sold or used after December 31, 2005.”.

10 (10) Subsection (f) of section 6427 is amended
11 to read as follows:

12 “(f) AVIATION FUEL USED TO PRODUCE CERTAIN
13 ALCOHOL FUELS.—

14 “(1) IN GENERAL.—Except as provided in sub-
15 section (k), if any aviation fuel on which tax was im-
16 posed by section 4091 at the regular tax rate is used
17 by any person in producing a mixture described in
18 section 4091(c)(1)(A) which is sold or used in such
19 person’s trade or business, the Secretary shall pay
20 (without interest) to such person an amount equal to
21 the excess of the regular tax rate over the incentive
22 tax rate with respect to such fuel.

23 “(2) DEFINITIONS.—For purposes of paragraph
24 (1)—

1 “(A) REGULAR TAX RATE.—The term ‘reg-
2 ular tax rate’ means the aggregate rate of tax
3 imposed by section 4091 determined without re-
4 gard to subsection (c) thereof.

5 “(B) INCENTIVE TAX RATE.—The term
6 ‘incentive tax rate’ means the aggregate rate of
7 tax imposed by section 4091 with respect to
8 fuel described in subsection (e)(2) thereof.

9 “(3) COORDINATION WITH OTHER REPAYMENT
10 PROVISIONS.—No amount shall be payable under
11 paragraph (1) with respect to any aviation fuel with
12 respect to which an amount is payable under sub-
13 section (d) or (l).

14 “(4) TERMINATION.—This subsection shall not
15 apply with respect to any mixture sold or used after
16 September 30, 2007.”.

17 (11) Paragraphs (1) and (2) of section 6427(i)
18 are amended by inserting “(f),” after “(d),”.

19 (12) Section 6427(i)(3) is amended—

20 (A) by striking “subsection (f)” both
21 places it appears in subparagraph (A) and in-
22 serting “subsection (e)(1),”

23 (B) by striking “gasoline, diesel fuel, or
24 kerosene used to produce a qualified alcohol
25 mixture (as defined in section 4081(c)(3))” in

1 subparagraph (A) and inserting “a mixture de-
2 scribed in section 6426”,

3 (C) by striking “subsection (f)(1)” in sub-
4 paragraph (B) and inserting “subsection
5 (e)(1)”,

6 (D) by striking “20 days of the date of the
7 filing of such claim” in subparagraph (B) and
8 inserting “45 days of the date of the filing of
9 such claim (20 days in the case of an electronic
10 claim)”, and

11 (E) by striking “ALCOHOL MIXTURE” in
12 the heading and inserting “ALCOHOL FUEL AND
13 BIODIESEL MIXTURE”.

14 (13) Section 6427(o) is amended—

15 (A) by striking paragraph (1) and insert-
16 ing the following new paragraph:

17 “(1) any tax is imposed by section 4081, and”,

18 (B) by striking “such gasohol” in para-
19 graph (2) and inserting “the alcohol fuel mix-
20 ture (as defined in section 6426(b)(3))”,

21 (C) by striking “gasohol” both places it
22 appears in the matter following paragraph (2)
23 and inserting “alcohol fuel mixture”, and

24 (D) by striking “GASOHOL” in the heading
25 and inserting “ALCOHOL FUEL MIXTURE”.

1 (14) Section 9503(b)(1) is amended by adding
2 at the end the following new flush sentence:

3 “For purposes of this paragraph, taxes received
4 under sections 4041 and 4081 shall be determined
5 without reduction for credits under section 6426.”.

6 (15) Section 9503(b)(4) is amended—

7 (A) by adding “or” at the end of subpara-
8 graph (C),

9 (B) by striking the comma at the end of
10 subparagraph (D)(iii) and inserting a period,
11 and

12 (C) by striking subparagraphs (E) and
13 (F).

14 (16) Section 9503(c)(2)(A)(i)(III) is amended
15 by inserting “(other than subsection (e) thereof)”
16 after “section 6427”.

17 (17) Section 9503(e)(2) is amended by striking
18 subparagraph (B) and by redesignating subpara-
19 graphs (C), (D), and (E) as subparagraphs (B), (C),
20 and (D), respectively.

21 (18) The table of sections for subchapter B of
22 chapter 65 is amended by inserting after the item
23 relating to section 6425 the following new item:

“Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to fuel sold or used after Sep-
3 tember 30, 2003.

4 (e) FORMAT FOR FILING.—The Secretary of the
5 Treasury shall describe the electronic format for filing
6 claims described in section 6427(i)(3)(B) of the Internal
7 Revenue Code of 1986 (as amended by subsection
8 (b)(12)(D)) not later than September 30, 2003.

○