

112TH CONGRESS  
1ST SESSION

# S. 884

To amend the Internal Revenue Code of 1986 to provide for a variable VEETC rate based on the price of crude oil, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 4, 2011

Mr. GRASSLEY (for himself, Mr. CONRAD, Mr. JOHANNES, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. JOHNSON of South Dakota, Mr. HARKIN, and Mr. NELSON of Nebraska) 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 for a variable VEETC rate based on the price of crude oil, 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 “Domestic Energy Pro-  
5 motion Act of 2011”.

6 **SEC. 2. VARIABLE VEETC RATE BASED ON PRICE OF CRUDE**

7 **OIL.**

8 (a) EXCISE TAX CREDIT.—

1 (1) IN GENERAL.—Subparagraph (A) of section  
 2 6426(b)(2) of the Internal Revenue Code of 1986 is  
 3 amended—

4 (A) by striking “and” at the end of clause  
 5 (i),

6 (B) by inserting “and before 2012” after  
 7 “2008” in clause (ii),

8 (C) by striking the period at the end of  
 9 clause (ii) and inserting “, and”, and

10 (D) by adding at the end the following new  
 11 clauses:

12 “(iii) in the case of calendar year  
 13 2012, 20 cents,

14 “(iv) in the case of calendar year  
 15 2013, 15 cents, and

16 “(v) in the case of calendar quarters  
 17 beginning after 2013, the applicable rate  
 18 determined in accordance with the fol-  
 19 lowing table:

<b>“If the average price of crude oil during the preceding calendar quarter is:</b>	<b>The applicable rate for the calendar quarter is:</b>
Not more than \$50/barrel .....	30 cents
More than \$50 but not more than \$60/barrel .....	24 cents
More than \$60 but not more than \$70/barrel .....	18 cents
More than \$70 but not more than \$80/barrel .....	12 cents
More than \$80 but not more than \$90/barrel .....	6 cents
More than \$90/barrel .....	0 cents.

20 For purposes of the preceding table, the  
 21 average price of crude oil for any calendar

1           quarter shall be the average 3-month fu-  
2           tures price on the New York Mercantile  
3           Exchange for light sweet crude oil for such  
4           calendar quarter.”.

5           (2) EXTENSION OF TAX CREDIT OR PAY-  
6           MENT.—Sections 6426(b)(6) and 6427(e)(6)(A) of  
7           such Code are each amended by striking “2011” and  
8           inserting “2016”.

9           (b) INCOME TAX CREDIT.—

10           (1) IN GENERAL.—The table contained in sec-  
11           tion 40(h)(2) of the Internal Revenue Code of 1986  
12           is amended—

13           (A) by striking “calendar year” in the  
14           heading for the first column,

15           (B) by inserting “Calendar year” before  
16           “2001”,

17           (C) by inserting “Calendar year” before  
18           “2003”,

19           (D) by inserting “Calendar year” before  
20           “2005”,

21           (E) by inserting “Calendar years” before  
22           “2009”,

23           (F) by striking the period at the end of the  
24           table, and

25           (G) by adding at the end the following:

“Calendar year 2012 .....	20 cents	14.8 cents
Calendar year 2013 .....	15 cents	11.1 cents
Any calendar quarter beginning after 2013 and before 2017.	1st applicable rate	2d applicable rate.”.

1           (2) APPLICABLE RATES.—Paragraph (3) of sec-  
2           tion 40(h) of such Code is amended to read as fol-  
3           lows:

4           “(3) APPLICABLE RATES.—For purposes of this  
5           subsection, the 1st applicable rate and the 2d appli-  
6           cable rate shall be determined in accordance with  
7           the following table:

“If the average price of crude oil during the preceding calendar quarter is:	The 1st applicable rate for the calendar quarter is:	The 2d applicable rate for the calendar quarter is:
Not more than \$50/barrel .....	30 cents	22.20 cents
More than \$50 but not more than \$60/barrel.	24 cents	17.76 cents
More than \$60 but not more than \$70/barrel.	18 cents	13.33 cents
More than \$70 but not more than \$80/barrel.	12 cents	8.88 cents
More than \$80 but not more than \$90/barrel.	6 cents	4.44 cents
More than \$90/barrel .....	0 cents	0 cents.

8           For purposes of the preceding table, the average  
9           price of crude oil for any calendar quarter shall be  
10          the average 3-month futures price on the New York  
11          Mercantile Exchange for light sweet crude oil for  
12          such calendar quarter.”.

13          (3) EXTENSION OF TAX CREDIT.—Section 40 of  
14          such Code is amended—

15                 (A) by striking “2011” in subsection  
16                 (e)(1)(A) and inserting “2016”,

1 (B) by striking “2012” in subsection  
2 (e)(1)(B) and inserting “2017”, and  
3 (C) by striking “2011” in subsection  
4 (h)(1) and inserting “2016”.

5 (c) REPEAL OF DEADWOOD.—Section 6426(b)(2) of  
6 the Internal Revenue Code of 1986 is amended by striking  
7 subparagraph (C).

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to any sale, use, or removal for  
10 any period after the date of the enactment of the Act.

11 **SEC. 3. EXTENSION OF CELLULOSIC BIOFUEL PRODUCER**  
12 **CREDIT THROUGH 2016.**

13 (a) IN GENERAL.—Section 40(b)(6) of the Internal  
14 Revenue Code of 1986 is amended by striking subpara-  
15 graph (H).

16 (b) CONFORMING AMENDMENT.—Section 40(e) of  
17 the Internal Revenue Code of 1986 is amended by striking  
18 paragraph (3).

19 **SEC. 4. EXTENSION AND MODIFICATION OF ALTERNATIVE**  
20 **FUEL VEHICLE REFUELING PROPERTY CRED-**  
21 **IT.**

22 (a) EXTENSION FOR ETHANOL REFUELING PROP-  
23 erty.—Subsection (g) of section 30C of the Internal Rev-  
24 enue Code of 1986 is amended—

1           (1) by striking “and” at the end of paragraph  
2           (1),

3           (2) by striking the second period at the end of  
4           paragraph (2),

5           (3) by redesignating paragraph (2) as para-  
6           graph (3), and

7           (4) by inserting after paragraph (1) the fol-  
8           lowing new paragraph:

9           “(2) in the case of property relating to fuel de-  
10          scribed in subsection (c)(2)(A)(ii), after December  
11          31, 2016, and”.

12          (b) ONLY CERTAIN ETHANOL BLENDS ELIGIBLE  
13          FOR CREDIT.—Subparagraph (A) of section 30C(c)(2) of  
14          the Internal Revenue Code of 1986 is amended to read  
15          as follows:

16                 “(A) Any fuel—

17                         “(i) at least 85 percent of the volume  
18                         of which consists of one or more of the fol-  
19                         lowing: natural gas, compressed natural  
20                         gas, liquified natural gas, liquefied petro-  
21                         leum gas, or hydrogen, or

22                         “(ii) at least 85 percent of the volume  
23                         of which consists of—

24                                 “(I) ethanol, or

1                   “(II) ethanol and one or more of  
 2                   the fuels described in clause (i), but  
 3                   only if at least 20 percent and not  
 4                   more than 85 percent of the volume of  
 5                   such fuel consists of ethanol.”.

6           (c) CREDIT FOR DUAL-USE REFUELING PROP-  
 7   ERTY.—Subsection (e) of section 30C of the Internal Rev-  
 8   enue Code of 1986 is amended by adding at the end the  
 9   following new paragraph:

10                   “(6) DUAL-USE REFUELING PROPERTY.—

11                   “(A) IN GENERAL.—In the case of any  
 12                   dual-use refueling property, 100 percent of the  
 13                   cost of such property shall be treated as quali-  
 14                   fied alternative fuel refueling property if the  
 15                   taxpayer certifies, in such time and manner as  
 16                   the Secretary shall prescribe, that such prop-  
 17                   erty will be used in more than a de minimis ca-  
 18                   pacity for the purposes described in section  
 19                   179A(d)(3)(A) (applied as specified in sub-  
 20                   section (e)(2)).

21                   “(B) RECAPTURE.—If at any time within  
 22                   5 years after the date of the certification under  
 23                   subparagraph (A) the dual-use refueling prop-  
 24                   erty ceases to be used as required under such  
 25                   subparagraph, 100 percent of the cost of such

1 property shall be subject to recapture under  
2 paragraph (5).

3 “(C) DUAL-USE REFUELING PROPERTY.—  
4 For purposes of this paragraph, the term ‘dual-  
5 use refueling property’ means property that is  
6 both qualified alternative fuel vehicle refueling  
7 property and property used—

8 “(i) to store or dispense fuels not de-  
9 scribed in subsection (c)(2), or

10 “(ii) to store fuels described in sub-  
11 section (c)(2) for any purpose other than  
12 delivery of such fuel into the fuel tank of  
13 a motor vehicle.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to property placed in service after  
16 December 31, 2011.

17 **SEC. 5. EXTENSION OF SPECIAL DEPRECIATION ALLOW-**  
18 **ANCE FOR CELLULOSIC BIOFUEL PLANT**  
19 **PROPERTY.**

20 Subparagraph (D) of section 168(l)(2) of the Internal  
21 Revenue Code of 1986 is amended by striking “January  
22 1, 2013” and inserting “January 1, 2017”.

23 **SEC. 6. STAGED REDUCTION OF ETHANOL TARIFF.**

24 (a) CALENDAR YEAR 2012.—



1           (1) IN GENERAL.—Heading 9901.00.50 of the  
2 Harmonized Tariff Schedule of the United States is  
3 amended—

4           (A) by striking “14.27¢” and inserting  
5 “5.28¢” in the column 1 general rate of duty  
6 and in the column 2 rate of duty; and

7           (B) by striking “Before 1/1/2012” and in-  
8 serting “Before 1/1/2013”.

9           (2) EFFECTIVE DATE.—The amendments made  
10 by paragraph (1) shall take effect on January 1,  
11 2012.

12           (b) CALENDAR YEARS 2013 THROUGH 2016.—

13           (1) IN GENERAL.—Heading 9901.00.50 of the  
14 Harmonized Tariff Schedule of the United States is  
15 amended—

16           (A) by striking “5.28¢” and inserting  
17 “3.96¢” in the column 1 general rate of duty  
18 and in the column 2 rate of duty; and

19           (B) by striking “Before 1/1/2013” and in-  
20 serting “Before 1/1/2017”.

21           (2) EFFECTIVE DATE.—The amendments made  
22 by paragraph (1) shall take effect on January 1,  
23 2013.

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