

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

# H. R. 5932

To amend the Internal Revenue Code of 1986 to authorize agricultural producers to establish and contribute to tax-exempt farm risk management accounts in lieu of obtaining federally subsidized crop insurance or noninsured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. EVERETT (for himself, Mr. BONNER, and Mr. ROGERS of Alabama) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, 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 Internal Revenue Code of 1986 to authorize agricultural producers to establish and contribute to tax-exempt farm risk management accounts in lieu of obtaining federally subsidized crop insurance or noninsured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of

such distributions to a producer during a taxable year, 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 “Farm Risk Manage-  
5 ment Act of 2006”.

6 **SEC. 2. FARM RISK MANAGEMENT ACCOUNTS.**

7       (a) IN GENERAL.—Part VII of subchapter B of chap-  
8 ter 1 of the Internal Revenue Code of 1986 (relating to  
9 additional itemized deductions for individuals) is amended  
10 by redesignating section 224 as section 225 and by insert-  
11 ing after section 223 the following new section:

12 **“SEC. 224. FARM RISK MANAGEMENT ACCOUNTS.**

13       “(a) DEDUCTION ALLOWED.—In the case of a quali-  
14 fied farmer, there shall be allowed as a deduction for the  
15 taxable year an amount equal to the aggregate amount  
16 paid in cash during such taxable year by or on behalf of  
17 such individual to a farm risk management account of  
18 such individual.

19       “(b) MINIMUM CONTRIBUTION REQUIREMENT.—A  
20 deduction shall not be allowed under subsection (a) for  
21 the taxable year with respect to an individual if, during  
22 such taxable year, the aggregate amount contributed by  
23 such individual to farm risk management accounts of the  
24 individual is not equal to at least 2 percent of the individ-

1 ual’s 3-year average of income derived from farming or  
2 ranching.

3 “(c) ACCOUNT BALANCE LIMITATION.—A deduction  
4 shall not be allowed under subsection (a) with respect to  
5 any portion of a contribution to a farm risk management  
6 account of an individual if such contribution would result  
7 in the sum of the balances in all such accounts of such  
8 individual to exceed 150 percent of the individual’s 3-year  
9 average of income derived from farming or ranching.

10 “(d) QUALIFIED FARMER.—For purposes of this sec-  
11 tion, the term ‘qualified farmer’ means, with respect to  
12 any taxable year, any individual who, during such year—

13 “(1) was engaged in the trade or business of  
14 farming or ranching,

15 “(2) has in effect an agreement with the Sec-  
16 retary of Agriculture to accept contributions under  
17 this section in lieu of—

18 “(A) receiving, after the transition period  
19 of the individual referred to in subsection  
20 (g)(2), any Federal subsidy toward the pre-  
21 mium of any crop insurance policy, or

22 “(B) obtaining noninsured crop assistance  
23 under section 196 of the Agricultural Market  
24 Transition Act (7 U.S.C. 7333), and

1           “(3) does not have any federally subsidized crop  
2 insurance policy after the transition period of the in-  
3 dividual referred to in subsection (g)(2).

4           “(e) FARM RISK MANAGEMENT ACCOUNT.—For pur-  
5 poses of this section—

6           “(1) IN GENERAL.—The term ‘farm risk man-  
7 agement account’ means a trust created or orga-  
8 nized in the United States as a farm risk manage-  
9 ment account exclusively for the purpose of making  
10 qualified distributions, but only if the written gov-  
11 erning instrument creating the trust meets the fol-  
12 lowing requirements:

13                   “(A) No contribution will be accepted un-  
14 less it is in cash.

15                   “(B) The trustee is a bank (as defined in  
16 section 408(n)) or another person who dem-  
17 onstrates to the satisfaction of the Secretary  
18 that the manner in which such person will ad-  
19 minister the trust will be consistent with the re-  
20 quirements of this section.

21                   “(C) The assets of the trust will be in-  
22 vested in securities issued by the United States  
23 Treasury or in such other low-risk interest-  
24 bearing securities as are approved by the Sec-  
25 retary.

1           “(D) The assets of the trust will not be  
2 commingled with other property except in a  
3 common trust fund or common investment  
4 fund.

5           “(E) The interest of an individual in the  
6 balance in his account is nonforfeitable.

7           “(2) QUALIFIED DISTRIBUTION.—The term  
8 ‘qualified distribution’ means any amount paid from  
9 a farm risk management account to the account ben-  
10 efiary to the extent that such amount when added  
11 to all other amounts paid from such accounts to  
12 such beneficiary during the taxable year (other than  
13 rollover contributions) does not exceed the excess (if  
14 any) of—

15           “(A) 80 percent of such beneficiary’s 3-  
16 year average of income derived from farming or  
17 ranching, over

18           “(B) such beneficiary’s gross income de-  
19 rived from farming or ranching for the taxable  
20 year.

21           “(3) 3-YEAR AVERAGE OF INCOME DERIVED  
22 FROM FARMING OR RANCHING.—The term ‘3-year  
23 average of income derived from farming or ranching’  
24 means, with respect to any individual—

1           “(A) the sum of the individual’s gross in-  
2 come derived from farming or ranching for the  
3 taxable year and the 2 preceding taxable years,  
4 divided by

5           “(B) the number of taxable years taken  
6 into account under clause (i) during which such  
7 individual was engaged in the trade or business  
8 of farming or ranching.

9           “(4) ACCOUNT BENEFICIARY.—The term ‘ac-  
10 count beneficiary’ means the individual on whose be-  
11 half the farm risk management account was estab-  
12 lished.

13           “(5) SPECIAL RULES.—

14           “(A) FEDERAL CONTRIBUTIONS.—For  
15 purposes of this title, any amount paid to a  
16 farm risk management account by the Secretary  
17 of Agriculture under subsection (g) shall be in-  
18 cluded in the account beneficiary’s gross income  
19 in the taxable year for which the amount was  
20 contributed, whether or not a deduction for  
21 such payment is allowable under this section to  
22 the beneficiary.

23           “(B) OTHER RULES.—Rules similar to the  
24 following rules shall apply for purposes of this  
25 section:

1                   “(i) Section 219(d)(2) (relating to no  
2                   deduction for rollovers).

3                   “(ii) Section 219(f)(3) (relating to  
4                   time when contributions deemed made).

5                   “(iii) Section 408(g) (relating to com-  
6                   munity property laws).

7                   “(iv) Section 408(h) (relating to cus-  
8                   todial accounts).

9                   “(f) TAX TREATMENT OF ACCOUNTS.—

10                   “(1) IN GENERAL.—A farm risk management  
11                   account is exempt from taxation under this subtitle  
12                   unless such account has ceased to be a farm risk  
13                   management account. Notwithstanding the pre-  
14                   ceding sentence, any such account is subject to the  
15                   taxes imposed by section 511 (relating to imposition  
16                   of tax on unrelated business income of charitable,  
17                   etc. organizations).

18                   “(2) TERMINATION OF ACCOUNTS.—If the ac-  
19                   count beneficiary ceases to engage in the trade or  
20                   business of farming or ranching, such trade or busi-  
21                   ness becomes covered under any crop insurance pol-  
22                   icy for which a premium subsidy is paid by the Sec-  
23                   retary of Agriculture, or the account beneficiary  
24                   seeks noninsured crop assistance under section 196

1 of the Agricultural Market Transition Act (7 U.S.C.  
2 7333)—

3 “(A) all farm risk management accounts of  
4 such individual shall cease to be such accounts,  
5 and

6 “(B) the balance of all such accounts shall  
7 be treated as—

8 “(i) distributed to such individual,  
9 and

10 “(ii) not paid in a qualified distribu-  
11 tion.

12 “(g) FEDERAL CONTRIBUTION TO ACCOUNTS.—

13 “(1) CONTRIBUTIONS REQUIRED.—Using  
14 amounts in the insurance fund established under  
15 section 516(c) of the Federal Crop Insurance Act (7  
16 U.S.C. 1516(c)), the Secretary of Agriculture shall  
17 match the contributions made for a taxable year to  
18 farm risk management accounts of an individual  
19 who has entered into the agreement with the Sec-  
20 retary required by subsection (d)(2) in an aggregate  
21 amount equal to 2 percent of the individual’s 3-year  
22 average of income derived from farming or ranching.

23 “(2) TRANSITIONAL PERIOD.—Notwithstanding  
24 paragraph (1), during the first 3 taxable years for  
25 which the Secretary of Agriculture makes contribu-

1 tions under such paragraph to farm risk manage-  
2 ment accounts of an individual, the amount contrib-  
3 uted by the Secretary may not exceed—

4 “(A) for the first taxable year, 25 percent  
5 of the amount the Secretary would otherwise  
6 contribute under paragraph (1) for that taxable  
7 year,

8 “(B) for the second taxable year, 50 per-  
9 cent of the amount the Secretary would other-  
10 wise contribute under paragraph (1) for that  
11 taxable year, and

12 “(C) for the third taxable year, 75 percent  
13 of the amount the Secretary would otherwise  
14 contribute under paragraph (1) for that taxable  
15 year.

16 “(3) CROP INSURANCE COVERAGE.—During the  
17 transition period referred to in paragraph (2) for an  
18 individual receiving contributions under this sub-  
19 section, the individual shall procure, as a condition  
20 of receiving the contributions, at least catastrophic  
21 risk protection provided under section 508(b) of the  
22 Federal Crop Insurance Act (7 U.S.C. 1508(b)).  
23 During this period, the individual would be covered  
24 with any claim at the same level of coverage pur-  
25 chased, but subject to the condition that any claim

1 would first use amounts in the farm risk manage-  
2 ment accounts of an individual before conventional  
3 crop insurance would make any payment, if nec-  
4 essary.

5 “(h) TAX TREATMENT OF DISTRIBUTIONS.—

6 “(1) IN GENERAL.—Any amount paid or dis-  
7 tributed out of a farm risk management account  
8 (other than a rollover contribution described in para-  
9 graph (4)) shall be included in gross income.

10 “(2) ADDITIONAL TAX ON NON-QUALIFIED DIS-  
11 TRIBUTIONS.—

12 “(A) IN GENERAL.—The tax imposed by  
13 this chapter on the account beneficiary for any  
14 taxable year in which there is a payment or dis-  
15 tribution from a farm risk management account  
16 of such beneficiary which is not a qualified dis-  
17 tribution shall be increased by 15 percent of the  
18 amount of such payment or distribution which  
19 is not a qualified distribution.

20 “(B) EXCEPTION FOR DISABILITY OR  
21 DEATH.—Subparagraph (A) shall not apply if  
22 the payment or distribution is made after the  
23 account beneficiary becomes disabled within the  
24 meaning of section 72(m)(7) or dies.

1           “(3) EXCESS CONTRIBUTIONS RETURNED BE-  
2 FORE DUE DATE OF RETURN.—

3           “(A) IN GENERAL.—If any excess con-  
4 tribution is contributed for a taxable year to a  
5 farm risk management account of an individual,  
6 paragraph (2) shall not apply to distributions  
7 from the farm risk management accounts of  
8 such individual (to the extent such distributions  
9 do not exceed the aggregate excess contribu-  
10 tions to all such accounts of such individual for  
11 such year) if—

12           “(i) such distribution is received by  
13 the individual on or before the last day  
14 prescribed by law (including extensions of  
15 time) for filing such individual’s return for  
16 such taxable year, and

17           “(ii) such distribution is accompanied  
18 by the amount of net income attributable  
19 to such excess contribution.

20 Any net income described in clause (ii) shall be  
21 included in the gross income of the individual  
22 for the taxable year in which it is received.

23           “(B) EXCESS CONTRIBUTION.—For pur-  
24 poses of subparagraph (A), the term ‘excess  
25 contribution’ means any contribution (other

1 than a rollover contribution) which is not de-  
2 ductible under this section.

3 “(4) ROLLOVER CONTRIBUTION.—An amount is  
4 described in this paragraph as a rollover contribu-  
5 tion if it meets the requirements of subparagraphs  
6 (A) and (B).

7 “(A) IN GENERAL.—For purposes of this  
8 section, any amount paid or distributed from a  
9 farm risk management account to the account  
10 beneficiary shall be treated as a qualified dis-  
11 tribution to the extent the amount received is  
12 paid into a farm risk management account for  
13 the benefit of such beneficiary not later than  
14 the 60th day after the day on which the bene-  
15 ficiary receives the payment or distribution.

16 “(B) LIMITATION.—This paragraph shall  
17 not apply to any amount described in subpara-  
18 graph (A) received by an individual from a  
19 farm risk management account if, at any time  
20 during the 1-year period ending on the day of  
21 such receipt, such individual received any other  
22 amount described in subparagraph (A) from a  
23 farm risk management account which was not  
24 included in the individual’s gross income be-  
25 cause of the application of this paragraph.

1           “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-  
2           VORCE.—The transfer of an individual’s interest in  
3           a farm risk management account to an individual’s  
4           spouse or former spouse under a divorce or separa-  
5           tion instrument described in subparagraph (A) of  
6           section 71(b)(2) shall not be considered a taxable  
7           transfer made by such individual notwithstanding  
8           any other provision of this subtitle, and such interest  
9           shall, after such transfer, be treated as a farm risk  
10          management account with respect to which such  
11          spouse is the account beneficiary.

12           “(6) TREATMENT AFTER DEATH OF ACCOUNT  
13          BENEFICIARY.—

14           “(A) TREATMENT IF DESIGNATED BENE-  
15          FICIARY IS SPOUSE.—If the account bene-  
16          ficiary’s surviving spouse acquires such bene-  
17          ficiary’s interest in a farm risk management ac-  
18          count by reason of being the designated bene-  
19          ficiary of such account at the death of the ac-  
20          count beneficiary, such farm risk management  
21          account shall be treated as if the spouse were  
22          the account beneficiary.

23           “(B) OTHER CASES.—

24           “(i) IN GENERAL.—If, by reason of  
25          the death of the account beneficiary, any

1 person acquires the account beneficiary's  
2 interest in a farm risk management ac-  
3 count in a case to which subparagraph (A)  
4 does not apply—

5 “(I) such account shall cease to  
6 be a farm risk management account  
7 as of the date of death, and

8 “(II) an amount equal to the fair  
9 market value of the assets in such ac-  
10 count on such date shall be included  
11 if such person is not the estate of  
12 such beneficiary, in such person's  
13 gross income for the taxable year  
14 which includes such date, or if such  
15 person is the estate of such bene-  
16 ficiary, in such beneficiary's gross in-  
17 come for the last taxable year of such  
18 beneficiary.

19 “(ii) DEDUCTION FOR ESTATE  
20 TAXES.—An appropriate deduction shall be  
21 allowed under section 691(c) to any person  
22 (other than the decedent or the decedent's  
23 spouse) with respect to amounts included  
24 in gross income under clause (i) by such  
25 person.

1       “(i) REPORTS.—The Secretary may require the trust-  
2 ee of a farm risk management account to make such re-  
3 ports regarding such account to the Secretary and to the  
4 account beneficiary with respect to contributions, distribu-  
5 tions, and such other matters as the Secretary determines  
6 appropriate. The reports required by this subsection shall  
7 be filed at such time and in such manner and furnished  
8 to such individuals at such time and in such manner as  
9 may be required by the Secretary.”.

10       (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
11 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
12 of section 62 of such Code is amended by inserting after  
13 paragraph (20) the following new paragraph:

14               “(21) FARM RISK MANAGEMENT ACCOUNTS.—  
15       The deduction allowed by section 224.”.

16       (c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973  
17 of such Code (relating to tax on excess contributions to  
18 certain tax-favored accounts and annuities) is amended—

19               (1) by striking “or” at the end of subsection  
20 (a)(4), by inserting “or” at the end of subsection  
21 (a)(5), and by inserting after subsection (a)(5) the  
22 following new paragraph:

23               “(6) a farm risk management account (within  
24 the meaning of section 224(e)),”, and

1           (2) by adding at the end the following new sub-  
2           section:

3           “(h) EXCESS CONTRIBUTIONS TO FARM RISK MAN-  
4           AGEMENT ACCOUNTS.—For purposes of this section, in  
5           the case of farm risk management accounts (within the  
6           meaning of section 224(e)), the term ‘excess contribution’  
7           means the sum of—

8                   “(1) the aggregate amount contributed for the  
9                   taxable year to the accounts (other than rollover  
10                   contributions described in section 224(h)(4)) which  
11                   is not allowable as a deduction under section 224 for  
12                   such year, and

13                   “(2) the amount determined under this sub-  
14                   section for the preceding taxable year, reduced by  
15                   the sum of—

16                           “(A) the distributions out of the accounts  
17                           with respect to which additional tax was im-  
18                           posed under section 224(h)(2), and

19                           “(B) the excess (if any) of—

20                                   “(i) the maximum amount allowable  
21                                   as a deduction under section 224(c) for the  
22                                   taxable year, over

23                                   “(ii) the amount contributed to the  
24                                   accounts for the taxable year.

1 For purposes of this subsection, any contribution  
2 which is distributed out of the farm risk manage-  
3 ment account in a distribution to which section  
4 224(h)(3) applies shall be treated as an amount not  
5 contributed.”.

6 (d) TAX ON PROHIBITED TRANSACTIONS.—

7 (1) Section 4975(e) of such Code (relating to  
8 tax on prohibited transactions) is amended by add-  
9 ing at the end the following new paragraph:

10 “(7) SPECIAL RULE FOR FARM RISK MANAGE-  
11 MENT ACCOUNTS.—An individual for whose benefit a  
12 farm risk management account (within the meaning  
13 of section 224(e)) is established shall be exempt  
14 from the tax imposed by this section with respect to  
15 any transaction concerning such account (which  
16 would otherwise be taxable under this section) if,  
17 with respect to such transaction, the account ceases  
18 to be a farm risk management account by reason of  
19 the application of section 224(f)(2) to such ac-  
20 count.”.

21 (2) Section 4975(e)(1) of such Code is amended  
22 by redesignating subparagraphs (F) and (G) as sub-  
23 paragraphs (G) and (H), respectively, and by insert-  
24 ing after subparagraph (E) the following new sub-  
25 paragraph:

1                   “(F) a farm risk management account de-  
2                   scribed in section 224(e),”.

3           (e) FAILURE TO PROVIDE REPORTS ON FARM RISK  
4 MANAGEMENT ACCOUNTS.—Section 6693(a)(2) of such  
5 Code (relating to reports) is amended by redesignating  
6 subparagraphs (D) and (E) as subparagraphs (E) and  
7 (F), respectively, and by inserting after subparagraph (C)  
8 the following new subparagraph:

9                   “(D) section 224(i) (relating to farm risk  
10                   management accounts),”.

11           (f) CLERICAL AMENDMENT.—The table of sections  
12 for part VII of subchapter B of chapter 1 of such Code  
13 is amended by striking the last item and inserting the fol-  
14 lowing:

“Sec. 224. Farm risk management accounts.

“Sec. 225. Cross reference.”.

15           (g) CONFORMING AMENDMENTS TO FEDERAL CROP  
16 INSURANCE ACT.—

17                   (1) PAYMENT OF PORTION OF PREMIUM BY  
18 FEDERAL CROP INSURANCE CORPORATION.—Section  
19 508(e) of the Federal Crop Insurance Act (7 U.S.C.  
20 1508(e)) is amended by adding at the end the fol-  
21 lowing new paragraph:

22                   “(6) TRANSITION TO FARM RISK MANAGEMENT  
23 ACCOUNTS.—If a producer enters into an agreement  
24 under section 224 of the Internal Revenue Code of

1 1986 to forgo any Federal subsidy toward the pre-  
2 mium of any crop insurance policy in exchange for  
3 contributions by the Secretary to a farm risk man-  
4 agement account of the producer, then, in connec-  
5 tion with the purchase of any crop insurance policy  
6 during the first 3 taxable years for which the Sec-  
7 retary makes contributions under subsection (g) of  
8 such section to a farm risk management account of  
9 the producer, the amount of the premium to be paid  
10 by the Corporation under this subsection shall be  
11 equal to—

12 “(A) for the first taxable year, 75 percent  
13 of the amount of the premium that would oth-  
14 erwise be paid by the Corporation under this  
15 subsection;

16 “(B) for the second taxable year, 50 per-  
17 cent of the amount of the premium that would  
18 otherwise be paid by the Corporation under this  
19 subsection; and

20 “(C) for the third taxable year, 25 percent  
21 of the amount of the premium that would oth-  
22 erwise be paid by the Corporation under this  
23 subsection.”.

1           (2) FUNDING SOURCE.—Section 516(b) of such  
2 Act (7 U.S.C. 1516(b)) is amended by adding at the  
3 end the following new paragraph:

4           “(3) CONTRIBUTIONS TO FARM RISK MANAGE-  
5 MENT ACCOUNTS.—The Secretary shall use the in-  
6 surance fund established under subsection (c) to  
7 make required contributions to farm risk manage-  
8 ment accounts established under section 224 of the  
9 Internal Revenue Code of 1986.”.

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

○