

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

# H. R. 5950

To repeal certain tax subsidies enacted by the Energy Policy Act of 2005 for oil and gas, to allow a credit against income tax for farm diesel expenses, and to allow a credit to farmers who produce biodiesel and agri-biodiesel.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. UDALL of New Mexico introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To repeal certain tax subsidies enacted by the Energy Policy Act of 2005 for oil and gas, to allow a credit against income tax for farm diesel expenses, and to allow a credit to farmers who produce biodiesel and agri-biodiesel.

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 “Family Farm Energy  
5       Relief Act of 2006”.

1 **SEC. 2. REPEAL OF TAX SUBSIDIES ENACTED BY THE EN-**  
2 **ERGY POLICY ACT OF 2005 FOR OIL AND GAS.**

3 (a) REPEAL.—The following provisions, and amend-  
4 ments made by such provisions, of the Energy Policy Act  
5 of 2005 are hereby repealed:

6 (1) Section 1323 (relating to temporary expens-  
7 ing for equipment used in refining of liquid fuels).

8 (2) Section 1324 (relating to pass through to  
9 owners of deduction for capital costs incurred by  
10 small refiner cooperatives in complying with Envi-  
11 ronmental Protection Agency sulfur regulations).

12 (3) Section 1325 (relating to natural gas dis-  
13 tribution lines treated as 15-year property).

14 (4) Section 1326 (relating to natural gas gath-  
15 ering lines treated as 7-year property).

16 (5) Section 1328 (relating to determination of  
17 small refiner exception to oil depletion deduction).

18 (6) Section 1329 (relating to amortization of  
19 geological and geophysical expenditures).

20 (b) ADMINISTRATION OF INTERNAL REVENUE CODE  
21 OF 1986.—The Internal Revenue Code of 1986 shall be  
22 applied and administered as if the provisions, and amend-  
23 ments, specified in subsection (a) had never been enacted.

24 **SEC. 3. FARM DIESEL PURCHASES CREDIT.**

25 (a) IN GENERAL.—Subpart A of part IV of sub-  
26 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to nonrefundable personal credits) is  
2 amended by inserting after section 25D the following new  
3 section:

4 **“SEC. 25E. FARM DIESEL EXPENSES CREDIT.**

5       “(a) ALLOWANCE OF CREDIT.—In the case of a  
6 qualified farmer, there shall be allowed as a credit against  
7 the tax imposed by this chapter for the taxable year an  
8 amount equal to 10 percent of the farm diesel expenses  
9 paid or incurred by the qualified farmer during the taxable  
10 year.

11       “(b) QUALIFIED FARMER.—For purposes of this sec-  
12 tion, with respect to a taxable year, the term ‘qualified  
13 farmer’ means an individual—

14               “(1) who is actively engaged in farming,

15               “(2) whose contributions to a farming operation  
16 during the taxable year are at least commensurate  
17 with the individual’s claimed share of the profits or  
18 losses of the farming operation, and

19               “(3) whose gross income from farming for the  
20 taxable year is at least 75 percent of the individual’s  
21 total gross income from all sources for the taxable  
22 year.

23       “(c) FARM DIESEL EXPENSES.—For purposes of this  
24 section, the term ‘farm diesel expenses’ means amounts  
25 paid or incurred for the purchase of diesel fuel that is de-

1 scribed in section 4082(a) and is intended to be used for  
2 farming purposes.

3 “(d) TERMINATION.—This section shall not apply  
4 with respect to farm diesel expenses paid or incurred in  
5 taxable years beginning after December 31, 2009.”.

6 (b) CLERICAL AMENDMENT.—The table of items for  
7 subpart A of part IV of subchapter A of chapter 1 of such  
8 Code is amended by inserting after the item relating to  
9 section 25D the following new item:

“Sec. 25E. Farm diesel expenses credit.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to farm diesel expenses paid or  
12 incurred in taxable years beginning after the date of the  
13 enactment of this Act.

14 **SEC. 4. INCREASE IN SMALL AGRI-BIODIESEL PRODUCER**  
15 **CREDIT FOR QUALIFIED FARMERS.**

16 (a) IN GENERAL.—Paragraph (5) of section 40A(b)  
17 of the Internal Revenue Code of 1986 (relating to small  
18 agri-biodiesel producer credit) is amended by adding at the  
19 end the following new subparagraph:

20 “(D) INCREASE FOR QUALIFIED FARM-  
21 ERS.—In the case of an eligible small agri-bio-  
22 diesel producer who is a qualified farmer, sub-  
23 paragraph (A) shall be applied by substituting  
24 ‘20 cents’ for ‘10 cents’.”.

1 (b) QUALIFIED FARMER.—Subsection (e) of section  
2 40A of such Code (relating to definitions and special rules  
3 for small agri-biodiesel producer credit) is amended by  
4 adding at the end the following new paragraph:

5 “(7) QUALIFIED FARMER.—With respect to a  
6 taxable year, the term ‘qualified farmer’ means an  
7 individual—

8 “(A) who is actively engaged in farming,

9 “(B) whose contributions to a farming op-  
10 eration during the taxable year are at least  
11 commensurate with the individual’s claimed  
12 share of the profits or losses of the farming op-  
13 eration, and

14 “(C) whose gross income from farming for  
15 the taxable year is at least 75 percent of the in-  
16 dividual’s total gross income from all sources  
17 for the taxable year.”.

18 (c) EFFECTIVE DATE.—The amendments by this sec-  
19 tion shall apply to qualified agri-biodiesel production after  
20 December 31, 2006, in taxable years beginning after such  
21 date.

1 **SEC. 5. ALLOWANCE OF SMALL BIODIESEL PRODUCER**  
2 **CREDIT FOR QUALIFIED FARMERS.**

3 (a) IN GENERAL.—Section 40A of the Internal Rev-  
4 enue Code of 1986 (relating to biodiesel and renewable  
5 diesel used as fuel) is amended—

6 (1) in subsection (a), by striking the period at  
7 the end of paragraph (3) and inserting “, plus” and  
8 by adding at the end the following new paragraph:

9 “(4) in the case of an eligible small biodiesel  
10 producer, the small biodiesel producer credit.”,

11 (2) in subsection (b), by adding at the end the  
12 following new paragraph:

13 “(6) SMALL BIODIESEL PRODUCER CREDIT.—

14 “(A) IN GENERAL.—The small biodiesel  
15 producer credit of any eligible small biodiesel  
16 producer for any taxable year is 10 cents for  
17 each gallon of qualified biodiesel production of  
18 such producer.

19 “(B) QUALIFIED BIODIESEL PRODUC-  
20 TION.—For purposes of this paragraph, the  
21 term “qualified biodiesel production” means  
22 any biodiesel which is produced by an eligible  
23 small biodiesel producer, and which during the  
24 taxable year—

25 “(i) is sold by such producer to an-  
26 other person—

1                   “(I) for use by such other person  
2                   in the production of a qualified bio-  
3                   diesel mixture in such other person’s  
4                   trade or business (other than casual  
5                   off-farm production),

6                   “(II) for use by such other per-  
7                   son as a fuel in a trade or business,  
8                   or

9                   “(III) who sells such biodiesel at  
10                  retail to another person and places  
11                  such biodiesel in the fuel tank of such  
12                  other person, or

13                  “(ii) is used or sold by such producer  
14                  for any purpose described in clause (i).

15                  “(C) LIMITATION.—The qualified biodiesel  
16                  production of any producer for any taxable year  
17                  shall not exceed 15,000,000 gallons.”, and

18                  (3) by redesignating subsections (f) and (g) as  
19                  subsections (g) and (h), respectively, and by insert-  
20                  ing after subsection (e) the following new subsection:

21                  “(f) DEFINITIONS AND SPECIAL RULES FOR SMALL  
22                  BIODIESEL PRODUCER CREDIT.—For purposes of this  
23                  section—

24                  “(1) ELIGIBLE SMALL BIODIESEL PRODUCER.—

1           “(A) IN GENERAL.—The term “eligible  
2           small biodiesel producer” means a qualified  
3           farmer who, at all times during the taxable  
4           year, has a productive capacity for biodiesel not  
5           in excess of 60,000,000 gallons.

6           “(B) QUALIFIED FARMER.—With respect  
7           to a taxable year, the term ‘qualified farmer’  
8           means an individual—

9                   “(i) who is actively engaged in farm-  
10                  ing,

11                   “(ii) whose contributions to a farming  
12                  operation during the taxable year are at  
13                  least commensurate with the individual’s  
14                  claimed share of the profits or losses of the  
15                  farming operation, and

16                   “(iii) whose gross income from farm-  
17                  ing for the taxable year is at least 75 per-  
18                  cent of the individual’s total gross income  
19                  from all sources for the taxable year.

20           “(2) SPECIAL RULES.—Rules similar to the  
21           rules of paragraphs (2), (3), (4), (5), and (6) of sub-  
22           section (e) shall apply to the small biodiesel producer  
23           credit.”.

24           (b) EFFECTIVE DATE.—The amendments made by  
25           this section shall apply qualified biodiesel production be-

- 1 ginning after December 31, 2006, in taxable years begin-
- 2 ning after such date.

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