

107TH CONGRESS  
1ST SESSION

# S. 313

To amend the Internal Revenue Code of 1986 to provide for Farm, Fishing,  
and Ranch Risk Management Accounts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2001

Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mrs. HUTCHISON, Mr. BURNS, Mr. BREAUX, Mr. HATCH, Mr. CRAIG, Mr. ALLARD, Mr. LUGAR, Mr. GRAMM, Mr. HAGEL, Mr. BUNNING, Mr. DEWINE, Mr. BOND, Mr. FITZGERALD, Mr. CONRAD, Mr. MURKOWSKI, Mr. STEVENS, Mr. KYL, Mr. BROWNBACK, and Mr. SESSIONS) 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 Farm, Fishing, and Ranch Risk Management Ac-  
counts, 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; AMENDMENT OF 1986 CODE.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Farm, Fishing, and Ranch Risk Management Act”.

6       (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
7       wise expressly provided, whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference  
 2 shall be considered to be made to a section or other provi-  
 3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. FARM, FISHING, AND RANCH RISK MANAGEMENT**  
 5 **ACCOUNTS.**

6 (a) IN GENERAL.—Subpart C of part II of sub-  
 7 chapter E of chapter 1 (relating to taxable year for which  
 8 deductions taken) is amended by inserting after section  
 9 468B the following new section:

10 **“SEC. 468C. FARM, FISHING, AND RANCH RISK MANAGE-**  
 11 **MENT ACCOUNTS.**

12 “(a) DEDUCTION ALLOWED.—In the case of an indi-  
 13 vidual engaged in an eligible farming business or commer-  
 14 cial fishing, there shall be allowed as a deduction for any  
 15 taxable year the amount paid in cash by the taxpayer dur-  
 16 ing the taxable year to a Farm, Fishing, and Ranch Risk  
 17 Management Account (hereinafter referred to as the  
 18 ‘FFARRM Account’).

19 “(b) LIMITATION.—

20 “(1) CONTRIBUTIONS.—The amount which a  
 21 taxpayer may pay into the FFARRM Account for  
 22 any taxable year shall not exceed 20 percent of so  
 23 much of the taxable income of the taxpayer (deter-  
 24 mined without regard to this section) which is at-  
 25 tributable (determined in the manner applicable

1       under section 1301) to any eligible farming business  
2       or commercial fishing.

3           “(2) DISTRIBUTIONS.—Distributions from a  
4       FFARRM Account may not be used to purchase,  
5       lease, or finance any new fishing vessel, add capacity  
6       to any fishery, or otherwise contribute to the over-  
7       capitalization of any fishery. The Secretary of Com-  
8       merce shall implement regulations to enforce this  
9       paragraph.

10       “(c) ELIGIBLE BUSINESSES.—For purposes of this  
11       section—

12           “(1) ELIGIBLE FARMING BUSINESS.—The term  
13       ‘eligible farming business’ means any farming busi-  
14       ness (as defined in section 263A(e)(4)) which is not  
15       a passive activity (within the meaning of section  
16       469(c)) of the taxpayer.

17           “(2) COMMERCIAL FISHING.—The term ‘com-  
18       mercial fishing’ has the meaning given such term by  
19       section (3) of the Magnuson-Stevens Fishery Con-  
20       servation and Management Act (16 U.S.C. 1802)  
21       but only if such fishing is not a passive activity  
22       (within the meaning of section 469(c)) of the tax-  
23       payer.

24       “(d) FFARRM ACCOUNT.—For purposes of this  
25       section—

1           “(1) IN GENERAL.—The term ‘FFARRM Ac-  
2       count’ means a trust created or organized in the  
3       United States for the exclusive benefit of the tax-  
4       payer, but only if the written governing instrument  
5       creating the trust meets the following requirements:

6           “(A) No contribution will be accepted for  
7       any taxable year in excess of the amount al-  
8       lowed as a deduction under subsection (a) for  
9       such year.

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

16          “(C) The assets of the trust consist en-  
17       tirely of cash or of obligations which have ade-  
18       quate stated interest (as defined in section  
19       1274(c)(2)) and which pay such interest not  
20       less often than annually.

21          “(D) All income of the trust is distributed  
22       currently to the grantor.

23          “(E) The assets of the trust will not be  
24       commingled with other property except in a

1 common trust fund or common investment  
2 fund.

3 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—

4 The grantor of a FFARRM Account shall be treated  
5 for purposes of this title as the owner of such Ac-  
6 count and shall be subject to tax thereon in accord-  
7 ance with subpart E of part I of subchapter J of  
8 this chapter (relating to grantors and others treated  
9 as substantial owners).

10 “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

11 “(1) IN GENERAL.—Except as provided in para-  
12 graph (2), there shall be includible in the gross in-  
13 come of the taxpayer for any taxable year—

14 “(A) any amount distributed from a  
15 FFARRM Account of the taxpayer during such  
16 taxable year, and

17 “(B) any deemed distribution under—

18 “(i) subsection (f)(1) (relating to de-  
19 posits not distributed within 5 years),

20 “(ii) subsection (f)(2) (relating to ces-  
21 sation in eligible farming business), and

22 “(iii) subparagraph (B) or (C) of sub-  
23 section (f)(3) (relating to prohibited trans-  
24 actions and pledging account as security).

1           “(2) EXCEPTIONS.—Paragraph (1)(A) shall not  
2       apply to—

3           “(A) any distribution to the extent attrib-  
4       utable to income of the Account, and

5           “(B) the distribution of any contribution  
6       paid during a taxable year to a FFARRM Ac-  
7       count to the extent that such contribution ex-  
8       ceeds the limitation applicable under subsection  
9       (b) if requirements similar to the requirements  
10      of section 408(d)(4) are met.

11      For purposes of subparagraph (A), distributions  
12      shall be treated as first attributable to income and  
13      then to other amounts.

14      “(f) SPECIAL RULES.—

15           “(1) TAX ON DEPOSITS IN ACCOUNT WHICH  
16      ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

17           “(A) IN GENERAL.—If, at the close of any  
18      taxable year, there is a nonqualified balance in  
19      any FFARRM Account—

20           “(i) there shall be deemed distributed  
21      from such Account during such taxable  
22      year an amount equal to such balance, and

23           “(ii) the taxpayer’s tax imposed by  
24      this chapter for such taxable year shall be

1           increased by 10 percent of such deemed  
2           distribution.

3           The preceding sentence shall not apply if an  
4           amount equal to such nonqualified balance is  
5           distributed from such Account to the taxpayer  
6           before the due date (including extensions) for  
7           filing the return of tax imposed by this chapter  
8           for such year (or, if earlier, the date the tax-  
9           payer files such return for such year).

10           “(B) NONQUALIFIED BALANCE.—For pur-  
11           poses of subparagraph (A), the term ‘non-  
12           qualified balance’ means any balance in the Ac-  
13           count on the last day of the taxable year which  
14           is attributable to amounts deposited in such Ac-  
15           count before the 4th preceding taxable year.

16           “(C) ORDERING RULE.—For purposes of  
17           this paragraph, distributions from a FFARRM  
18           Account (other than distributions of current in-  
19           come) shall be treated as made from deposits in  
20           the order in which such deposits were made, be-  
21           ginning with the earliest deposits.

22           “(2) CESSATION IN ELIGIBLE BUSINESS.—At  
23           the close of the first disqualification period after a  
24           period for which the taxpayer was engaged in an eli-  
25           gible farming business or commercial fishing, there

1 shall be deemed distributed from the FFARRM Ac-  
 2 count of the taxpayer an amount equal to the bal-  
 3 ance in such Account (if any) at the close of such  
 4 disqualification period. For purposes of the pre-  
 5 ceding sentence, the term ‘disqualification period’  
 6 means any period of 2 consecutive taxable years for  
 7 which the taxpayer is not engaged in an eligible  
 8 farming business or commercial fishing.

9 “(3) CERTAIN RULES TO APPLY.—Rules similar  
 10 to the following rules shall apply for purposes of this  
 11 section:

12 “(A) Section 220(f)(8) (relating to treat-  
 13 ment on death).

14 “(B) Section 408(e)(2) (relating to loss of  
 15 exemption of account where individual engages  
 16 in prohibited transaction).

17 “(C) Section 408(e)(4) (relating to effect  
 18 of pledging account as security).

19 “(D) Section 408(g) (relating to commu-  
 20 nity property laws).

21 “(E) Section 408(h) (relating to custodial  
 22 accounts).

23 “(4) TIME WHEN PAYMENTS DEEMED MADE.—  
 24 For purposes of this section, a taxpayer shall be  
 25 deemed to have made a payment to a FFARRM Ac-



1 count on the last day of a taxable year if such pay-  
 2 ment is made on account of such taxable year and  
 3 is made on or before the due date (without regard  
 4 to extensions) for filing the return of tax for such  
 5 taxable year.

6 “(5) INDIVIDUAL.—For purposes of this sec-  
 7 tion, the term ‘individual’ shall not include an estate  
 8 or trust.

9 “(6) DEDUCTION NOT ALLOWED FOR SELF-EM-  
 10 PLOYMENT TAX.—The deduction allowable by reason  
 11 of subsection (a) shall not be taken into account in  
 12 determining an individual’s net earnings from self-  
 13 employment (within the meaning of section 1402(a))  
 14 for purposes of chapter 2.

15 “(g) REPORTS.—The trustee of a FFARRM Account  
 16 shall make such reports regarding such Account to the  
 17 Secretary and to the person for whose benefit the Account  
 18 is maintained with respect to contributions, distributions,  
 19 and such other matters as the Secretary may require  
 20 under regulations. The reports required by this subsection  
 21 shall be filed at such time and in such manner and fur-  
 22 nished to such persons at such time and in such manner  
 23 as may be required by such regulations.”

24 (b) TAX ON EXCESS CONTRIBUTIONS.—

1           (1) Subsection (a) of section 4973 (relating to  
 2           tax on excess contributions to certain tax-favored ac-  
 3           counts and annuities) is amended by striking “or”  
 4           at the end of paragraph (3), by redesignating para-  
 5           graph (4) as paragraph (5), and by inserting after  
 6           paragraph (3) the following new paragraph:

7           “(4) a FFARRM Account (within the meaning  
 8           of section 468C(d)), or”.

9           (2) Section 4973 is amended by adding at the  
 10          end the following new subsection:

11          “(g) EXCESS CONTRIBUTIONS TO FFARRM AC-  
 12          COUNTS.—For purposes of this section, in the case of a  
 13          FFARRM Account (within the meaning of section  
 14          468C(d)), the term ‘excess contributions’ means the  
 15          amount by which the amount contributed for the taxable  
 16          year to the Account exceeds the amount which may be con-  
 17          tributed to the Account under section 468C(b) for such  
 18          taxable year. For purposes of this subsection, any con-  
 19          tribution which is distributed out of the FFARRM Ac-  
 20          count in a distribution to which section 468C(e)(2)(B) ap-  
 21          plies shall be treated as an amount not contributed.”

22          (3) The section heading for section 4973 is  
 23          amended to read as follows:

1 **“SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN AC-**  
 2 **COUNTS, ANNUITIES, ETC.”**

3 (4) The table of sections for chapter 43 is  
 4 amended by striking the item relating to section  
 5 4973 and inserting the following new item:

“Sec. 4973. Excess contributions to certain accounts, annuities,  
 etc.”

6 **(c) TAX ON PROHIBITED TRANSACTIONS.—**

7 (1) Subsection (c) of section 4975 (relating to  
 8 tax on prohibited transactions) is amended by add-  
 9 ing at the end the following new paragraph:

10 **“(6) SPECIAL RULE FOR FFARM ACCOUNTS.—**

11 A person for whose benefit a FFARM Account  
 12 (within the meaning of section 468C(d)) is estab-  
 13 lished shall be exempt from the tax imposed by this  
 14 section with respect to any transaction concerning  
 15 such account (which would otherwise be taxable  
 16 under this section) if, with respect to such trans-  
 17 action, the account ceases to be a FFARM Ac-  
 18 count by reason of the application of section  
 19 468C(f)(3)(A) to such account.”

20 (2) Paragraph (1) of section 4975(e) is amend-  
 21 ed by redesignating subparagraphs (E) and (F) as  
 22 subparagraphs (F) and (G), respectively, and by in-  
 23 serting after subparagraph (D) the following new  
 24 subparagraph:

1                   “(E) a FFARRM Account described in  
2                   section 468C(d),”.

3           (d) FAILURE TO PROVIDE REPORTS ON FFARRM  
4 ACCOUNTS.—Paragraph (2) of section 6693(a) (relating  
5 to failure to provide reports on certain tax-favored ac-  
6 counts or annuities) is amended by redesignating subpara-  
7 graphs (C) and (D) as subparagraphs (D) and (E), re-  
8 spectively, and by inserting after subparagraph (B) the  
9 following new subparagraph:

10                   “(C)    section    468C(g)    (relating    to  
11                   FFARRM Accounts),”.

12           (e) CLERICAL AMENDMENT.—The table of sections  
13 for subpart C of part II of subchapter E of chapter 1 is  
14 amended by inserting after the item relating to section  
15 468B the following new item:

“Sec. 468C. Farm, Fishing and Ranch Risk Management Ac-  
counts.”

16           (f) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to taxable years beginning after  
18 December 31, 2001.

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