

108TH CONGRESS  
2D SESSION

# S. 2456

To provide emergency disaster assistance to agricultural producers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 20, 2004

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide emergency disaster assistance to agricultural producers, 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 “Emergency Agricul-  
5 tural Disaster Assistance Act of 2004”.

6 **TITLE I—PROVISION OF**  
7 **ASSISTANCE**

8 **SEC. 101. CROP DISASTER ASSISTANCE.**

9 (a) IN GENERAL.—Notwithstanding section  
10 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C.

1 1508(b)(7)), the Secretary of Agriculture (referred to in  
2 this title as the “Secretary”) shall use such sums as are  
3 necessary of funds of the Commodity Credit Corporation  
4 to make crop disaster assistance authorized under this sec-  
5 tion available to producers on a farm that have incurred  
6 qualifying crop losses for the 2003 or 2004 crop, or both,  
7 due to damaging weather or related condition, as deter-  
8 mined by the Secretary.

9 (b) ADMINISTRATION.—The Secretary shall make as-  
10 sistance available under this section in the same manner  
11 as provided under section 815 of the Agriculture, Rural  
12 Development, Food and Drug Administration, and Re-  
13 lated Agencies Appropriations Act, 2001 (Public Law  
14 106–387; 114 Stat. 1549A–55), including using the same  
15 loss thresholds for the quantity and quality losses as were  
16 used in administering that section.

17 **SEC. 102. LIVESTOCK ASSISTANCE PROGRAM.**

18 (a) IN GENERAL.—The Secretary shall use such  
19 sums as are necessary of funds of the Commodity Credit  
20 Corporation to make and administer payments for live-  
21 stock losses to producers for 2003 and 2004 losses in a  
22 county that has received an emergency designation by the  
23 President or the Secretary after January 1, 2003, and  
24 January 1, 2004, respectively, of which an amount deter-  
25 mined by the Secretary shall be made available for the

1 American Indian livestock program under section 806 of  
2 the Agriculture, Rural Development, Food and Drug Ad-  
3 ministration, and Related Agencies Appropriations Act,  
4 2001 (Public Law 106–387; 114 Stat. 1549A–51).

5 (b) ADMINISTRATION.—The Secretary shall make as-  
6 sistance available under this section in the same manner  
7 as provided under section 806 of the Agriculture, Rural  
8 Development, Food and Drug Administration, and Re-  
9 lated Agencies Appropriations Act, 2001 (Public Law  
10 105–277; 114 Stat. 1549A–51).

11 **SEC. 103. COMMODITY CREDIT CORPORATION.**

12 The Secretary shall use the funds, facilities, and au-  
13 thorities of the Commodity Credit Corporation to carry  
14 out this title.

15 **SEC. 104. REGULATIONS.**

16 (a) IN GENERAL.—The Secretary may promulgate  
17 such regulations as are necessary to implement this title.

18 (b) PROCEDURE.—The promulgation of the regula-  
19 tions and administration of this title shall be made without  
20 regard to—

21 (1) the notice and comment provisions of sec-  
22 tion 553 of title 5, United States Code;

23 (2) the Statement of Policy of the Secretary of  
24 Agriculture effective July 24, 1971 (36 Fed. Reg.

1 13804), relating to notices of proposed rulemaking  
2 and public participation in rulemaking; and

3 (3) chapter 35 of title 44, United States Code  
4 (commonly known as the “Paperwork Reduction  
5 Act”).

6 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
7 MAKING.—In carrying out this section, the Secretary shall  
8 use the authority provided under section 808 of title 5,  
9 United States Code.

## 10 **TITLE II—TAX RELIEF**

### 11 **SEC. 201. SPECIAL RULES FOR LIVESTOCK SOLD ON AC-** 12 **COUNT OF WEATHER-RELATED CONDITIONS.**

13 (a) REPLACEMENT OF LIVESTOCK WITH OTHER  
14 FARM PROPERTY.—Subsection (f) of section 1033 of the  
15 Internal Revenue Code of 1986 (relating to involuntary  
16 conversions) is amended—

17 (1) by inserting “drought, flood, or other  
18 weather-related conditions, or” after “because of”,

19 (2) by inserting “in the case of soil contamina-  
20 tion or other environmental contamination” after  
21 “including real property”, and

22 (3) by striking “WHERE THERE HAS BEEN  
23 ENVIRONMENTAL CONTAMINATION” in the heading  
24 and inserting “IN CERTAIN CASES”.

1 (b) EXTENSION OF REPLACEMENT PERIOD OF IN-  
2 VOLUNTARILY CONVERTED LIVESTOCK.—Subsection (e)  
3 of section 1033 of the Internal Revenue Code of 1986 (re-  
4 lating to involuntary conversions) is amended—

5 (1) by striking “CONDITIONS.—For purposes”  
6 and inserting “CONDITIONS.—

7 “(1) IN GENERAL.—For purposes”, and

8 (2) by adding at the end the following new  
9 paragraph:

10 “(2) EXTENSION OF REPLACEMENT PERIOD.—

11 “(A) IN GENERAL.—In the case of  
12 drought, flood, or other weather-related condi-  
13 tions described in paragraph (1) which result in  
14 the area being designated as eligible for assist-  
15 ance by the Federal Government, subsection  
16 (a)(2)(B) shall be applied with respect to any  
17 converted property by substituting ‘4 years’ for  
18 ‘2 years’.

19 “(B) FURTHER EXTENSION BY SEC-  
20 RETARY.—The Secretary may extend on a re-  
21 gional basis the period for replacement under  
22 this section (after the application of subpara-  
23 graph (A)) for such additional time as the Sec-  
24 retary determines appropriate if the weather-re-

1           lated conditions which resulted in such applica-  
2           tion continue for more than 3 years.”.

3           (c) **INCOME INCLUSION RULES.**—Section 451(e) of  
4 the Internal Revenue Code of 1986 (relating to special  
5 rule for proceeds from livestock sold on account of  
6 drought, flood, or other weather-related conditions) is  
7 amended by adding at the end the following new para-  
8 graph:

9           “(3) **SPECIAL ELECTION RULES.**—If section  
10 1033(e)(2) applies to a sale or exchange of livestock  
11 described in paragraph (1), the election under para-  
12 graph (1) shall be deemed valid if made during the  
13 replacement period described in such section.”.

14           (d) **EFFECTIVE DATE.**—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2001.

17 **SEC. 202. FARM, FISHING, AND RANCH RISK MANAGEMENT**  
18 **ACCOUNTS.**

19           (a) **IN GENERAL.**—Subpart C of part II of sub-  
20 chapter E of chapter 1 of the Internal Revenue Code of  
21 1986 (relating to taxable year for which deductions taken)  
22 is amended by inserting after section 468B the following  
23 new section:

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

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

10 “(b) LIMITATIONS.—

11 “(1) CONTRIBUTIONS.—The amount which a  
12 taxpayer may pay into the FFARRM Account for  
13 any taxable year shall not exceed 20 percent of so  
14 much of the taxable income of the taxpayer (deter-  
15 mined without regard to this section) which is at-  
16 tributable (determined in the manner applicable  
17 under section 1301) to any eligible farming business  
18 or commercial fishing.

19 “(2) DISTRIBUTIONS.—Distributions from a  
20 FFARRM Account may not be used to purchase,  
21 lease, or finance any new fishing vessel, add capacity  
22 to any fishery, or otherwise contribute to the over-  
23 capitalization of any fishery. The Secretary of Com-  
24 merce shall implement regulations to enforce this  
25 paragraph.

1       “(c) ELIGIBLE BUSINESSES.—For purposes of this  
2 section—

3               “(1) ELIGIBLE FARMING BUSINESS.—The term  
4 ‘eligible farming business’ means any farming busi-  
5 ness (as defined in section 263A(e)(4)) which is not  
6 a passive activity (within the meaning of section  
7 469(c)) of the taxpayer.

8               “(2) COMMERCIAL FISHING.—The term ‘com-  
9 mercial fishing’ has the meaning given such term by  
10 section (3) of the Magnuson-Stevens Fishery Con-  
11 servation and Management Act (16 U.S.C. 1802)  
12 but only if such fishing is not a passive activity  
13 (within the meaning of section 469(c)) of the tax-  
14 payer.

15       “(d) FFARRM ACCOUNT.—For purposes of this sec-  
16 tion—

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

22                       “(A) No contribution will be accepted for  
23 any taxable year in excess of the amount al-  
24 lowed as a deduction under subsection (a) for  
25 such year.

1           “(B) The trustee is a bank (as defined in  
2           section 408(n)) or another person who dem-  
3           onstrates to the satisfaction of the Secretary  
4           that the manner in which such person will ad-  
5           minister the trust will be consistent with the re-  
6           quirements of this section.

7           “(C) The assets of the trust consist en-  
8           tirely of cash or of obligations which have ade-  
9           quate stated interest (as defined in section  
10          1274(c)(2)) and which pay such interest not  
11          less often than annually.

12          “(D) All income of the trust is distributed  
13          currently to the grantor.

14          “(E) The assets of the trust will not be  
15          commingled with other property except in a  
16          common trust fund or common investment  
17          fund.

18          “(2) ACCOUNT TAXED AS GRANTOR TRUST.—  
19          The grantor of a FFARRM Account shall be treated  
20          for purposes of this title as the owner of such Ac-  
21          count and shall be subject to tax thereon in accord-  
22          ance with subpart E of part I of subchapter J of  
23          this chapter (relating to grantors and others treated  
24          as substantial owners).

25          “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

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

4           “(A) any amount distributed from a  
5 FFARRM Account of the taxpayer during such  
6 taxable year, and

7           “(B) any deemed distribution under—

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

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

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

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

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

19           “(B) the distribution of any contribution  
20 paid during a taxable year to a FFARRM Ac-  
21 count to the extent that such contribution ex-  
22 ceeds the limitation applicable under subsection  
23 (b)(1) if requirements similar to the require-  
24 ments of section 408(d)(4) are met.

1 For purposes of subparagraph (A), distributions  
2 shall be treated as first attributable to income and  
3 then to other amounts.

4 “(f) SPECIAL RULES.—

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

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

10 “(i) there shall be deemed distributed  
11 from such Account during such taxable  
12 year an amount equal to such balance, and

13 “(ii) the taxpayer’s tax imposed by  
14 this chapter for such taxable year shall be  
15 increased by 10 percent of such deemed  
16 distribution.

17 The preceding sentence shall not apply if an  
18 amount equal to such nonqualified balance is  
19 distributed from such Account to the taxpayer  
20 before the due date (including extensions) for  
21 filing the return of tax imposed by this chapter  
22 for such year (or, if earlier, the date the tax-  
23 payer files such return for such year).

24 “(B) NONQUALIFIED BALANCE.—For pur-  
25 poses of subparagraph (A), the term ‘non-

1 qualified balance' means any balance in the Ac-  
2 count on the last day of the taxable year which  
3 is attributable to amounts deposited in such Ac-  
4 count before the 4th preceding taxable year.

5 “(C) ORDERING RULE.—For purposes of  
6 this paragraph, distributions from a FFARRM  
7 Account (other than distributions of current in-  
8 come) shall be treated as made from deposits in  
9 the order in which such deposits were made, be-  
10 ginning with the earliest deposits.

11 “(2) CESSATION IN ELIGIBLE BUSINESS.—At  
12 the close of the first disqualification period after a  
13 period for which the taxpayer was engaged in an eli-  
14 gible farming business or commercial fishing, there  
15 shall be deemed distributed from the FFARRM Ac-  
16 count of the taxpayer an amount equal to the bal-  
17 ance in such Account (if any) at the close of such  
18 disqualification period. For purposes of the pre-  
19 ceding sentence, the term ‘disqualification period’  
20 means any period of 2 consecutive taxable years for  
21 which the taxpayer is not engaged in an eligible  
22 farming business or commercial fishing.

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

1           “(A) Section 220(f)(8) (relating to treat-  
2           ment after death of account holder).

3           “(B) Section 408(e)(2) (relating to loss of  
4           exemption of account where individual engages  
5           in prohibited transaction).

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

8           “(D) Section 408(g) (relating to commu-  
9           nity property laws).

10          “(E) Section 408(h) (relating to custodial  
11          accounts).

12          “(4) TIME WHEN PAYMENTS DEEMED MADE.—  
13          For purposes of this section, a taxpayer shall be  
14          deemed to have made a payment to a FFARRM Ac-  
15          count on the last day of a taxable year if such pay-  
16          ment is made on account of such taxable year and  
17          is made on or before the due date (without regard  
18          to extensions) for filing the return of tax for such  
19          taxable year.

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

23          “(6) DEDUCTION NOT ALLOWED FOR SELF-EM-  
24          PLOYMENT TAX.—The deduction allowable by reason  
25          of subsection (a) shall not be taken into account in

1 determining an individual's net earnings from self-  
2 employment (within the meaning of section 1402(a))  
3 for purposes of chapter 2.

4 “(g) REPORTS.—The trustee of a FFARRM Account  
5 shall make such reports regarding such Account to the  
6 Secretary and to the person for whose benefit the Account  
7 is maintained with respect to contributions, distributions,  
8 and such other matters as the Secretary may require  
9 under regulations. The reports required by this subsection  
10 shall be filed at such time and in such manner and fur-  
11 nished to such persons at such time and in such manner  
12 as may be required by such regulations.”.

13 (b) TAX ON EXCESS CONTRIBUTIONS.—

14 (1) Subsection (a) of section 4973 of the Inter-  
15 nal Revenue Code of 1986 (relating to tax on excess  
16 contributions to certain tax-favored accounts and an-  
17 nnuities) is amended by striking “or” at the end of  
18 paragraph (4), by adding “or” at the end of para-  
19 graph (5), and by inserting after paragraph (5) the  
20 following new paragraph:

21 “(6) a FFARRM Account (within the meaning  
22 of section 468C(d)),”.

23 (2) Section 4973 of such Code is amended by  
24 adding at the end the following new subsection:

1       “(h) EXCESS CONTRIBUTIONS TO FFARRM AC-  
 2 COUNTS.—For purposes of this section, in the case of a  
 3 FFARRM Account (within the meaning of section  
 4 468C(d)), the term ‘excess contributions’ means the  
 5 amount by which the amount contributed for the taxable  
 6 year to the Account exceeds the amount which may be con-  
 7 tributed to the Account under section 468C(b)(1) for such  
 8 taxable year. For purposes of this subsection, any con-  
 9 tribution which is distributed out of the FFARRM Ac-  
 10 count in a distribution to which section 468C(e)(2)(B) ap-  
 11 plies shall be treated as an amount not contributed.”.

12       (c) TAX ON PROHIBITED TRANSACTIONS.—

13           (1) Subsection (c) of section 4975 of the Inter-  
 14 nal Revenue Code of 1986 (relating to tax on pro-  
 15 hibited transactions) is amended by adding at the  
 16 end the following new paragraph:

17           “(7) SPECIAL RULE FOR FFARRM ACCOUNTS.—

18       A person for whose benefit a FFARRM Account  
 19 (within the meaning of section 468C(d)) is estab-  
 20 lished shall be exempt from the tax imposed by this  
 21 section with respect to any transaction concerning  
 22 such account (which would otherwise be taxable  
 23 under this section) if, with respect to such trans-  
 24 action, the account ceases to be a FFARRM Ac-

1 count by reason of the application of section  
2 468C(f)(3)(A) to such account.”.

3 (2) Paragraph (1) of section 4975(e) of such  
4 Code is amended by redesignating subparagraphs  
5 (F) and (G) as subparagraphs (G) and (H), respec-  
6 tively, and by inserting after subparagraph (E) the  
7 following new subparagraph:

8 “(F) a FFARRM Account described in  
9 section 468C(d),”.

10 (d) FAILURE TO PROVIDE REPORTS ON FFARRM  
11 ACCOUNTS.—Paragraph (2) of section 6693(a) of the In-  
12 ternal Revenue Code of 1986 (relating to failure to provide  
13 reports on certain tax-favored accounts or annuities) is  
14 amended by redesignating subparagraphs (C) and (D) as  
15 subparagraphs (D) and (E), respectively, and by inserting  
16 after subparagraph (B) the following new subparagraph:

17 “(C) section 468C(g) (relating to  
18 FFARRM Accounts),”.

19 (e) CLERICAL AMENDMENT.—The table of sections  
20 for subpart C of part II of subchapter E of chapter 1 of  
21 the Internal Revenue Code of 1986 is amended by insert-  
22 ing after the item relating to section 468B the following  
23 new item:

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

1       (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

○