

109TH CONGRESS
1ST SESSION

S. 2052

To amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2005

Mr. ROBERTS (for himself, Mr. NELSON of Nebraska, Mr. ISAKSON, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals.

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 “Agricultural Business
5 Security Tax Credit Act of 2005”.

6 **SEC. 2. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

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

1 1986 (relating to business related credits) is amended by
 2 adding at the end the following new section:

3 **“SEC. 45N. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 38, in
 5 the case of an eligible agricultural business, the agricul-
 6 tural chemicals security credit determined under this sec-
 7 tion for the taxable year is 30 percent of the qualified se-
 8 curity expenditures for the taxable year.

9 “(b) FACILITY LIMITATION.—The amount of the
 10 credit determined under subsection (a) with respect to any
 11 facility for any taxable year shall not exceed—

12 “(1) \$100,000, reduced by

13 “(2) the aggregate amount of credits deter-
 14 mined under subsection (a) with respect to such fa-
 15 cility for the 5 prior taxable years.

16 “(c) ANNUAL LIMITATION.—The amount of the cred-
 17 it determined under subsection (a) with respect to any tax-
 18 payer for any taxable year shall not exceed \$2,000,000.

19 “(d) QUALIFIED CHEMICAL SECURITY EXPENDI-
 20 TURE.—For purposes of this section, the term ‘qualified
 21 chemical security expenditure’ means, with respect to any
 22 eligible agricultural business for any taxable year, any
 23 amount paid or incurred by such business during such tax-
 24 able year for—

1 “(1) employee security training and background
2 checks,

3 “(2) limitation and prevention of access to con-
4 trols of specified agricultural chemicals stored at the
5 facility,

6 “(3) tagging, locking tank valves, and chemical
7 additives to prevent the theft of specified agricul-
8 tural chemicals or to render such chemicals unfit for
9 illegal use,

10 “(4) protection of the perimeter of specified ag-
11 ricultural chemicals,

12 “(5) installation of security lighting, cameras,
13 recording equipment, and intrusion detection sen-
14 sors,

15 “(6) implementation of measures to increase
16 computer or computer network security,

17 “(7) conducting a security vulnerability assess-
18 ment,

19 “(8) implementing a site security plan, and

20 “(9) such other measures for the protection of
21 specified agricultural chemicals as the Secretary may
22 identify in regulation.

23 Amounts described in the preceding sentence shall be
24 taken into account only to the extent that such amounts

1 are paid or incurred for the purpose of protecting specified
2 agricultural chemicals.

3 “(e) ELIGIBLE AGRICULTURAL BUSINESS.—For pur-
4 poses of this section, the term ‘eligible agricultural busi-
5 ness’ means any person in the trade or business of—

6 “(1) selling agricultural products, including
7 specified agricultural chemicals, at retail predomi-
8 nantly to farmers and ranchers, or

9 “(2) manufacturing, formulating, distributing,
10 or aerially applying specified agricultural chemicals.

11 “(f) SPECIFIED AGRICULTURAL CHEMICAL.—For
12 purposes of this section, the term ‘specified agricultural
13 chemical’ means—

14 “(1) any fertilizer commonly used in agricul-
15 tural operations which is listed under—

16 “(A) section 302(a)(2) of the Emergency
17 Planning and Community Right-to-Know Act of
18 1986,

19 “(B) section 101 of part 172 of title 49,
20 Code of Federal Regulations, or

21 “(C) part 126, 127, or 154 of title 33,
22 Code of Federal Regulations, and

23 “(2) any pesticide (as defined in section 2(u) of
24 the Federal Insecticide, Fungicide, and Rodenticide
25 Act), including all active and inert ingredients there-

1 of, which is customarily used on crops grown for
 2 food, feed, or fiber.

3 “(g) CONTROLLED GROUPS.—Rules similar to the
 4 rules of paragraphs (1) and (2) of section 41(f) shall apply
 5 for purposes of this section.

6 “(h) REGULATIONS.—The Secretary may prescribe
 7 such regulations as may be necessary or appropriate to
 8 carry out the purposes of this section, including regula-
 9 tions which—

10 “(1) provide for the proper treatment of
 11 amounts which are paid or incurred for purpose of
 12 protecting any specified agricultural chemical and
 13 for other purposes, and

14 “(2) provide for the treatment of related prop-
 15 erties as one facility for purposes of subsection (b).

16 “(i) TERMINATION.—This section shall not apply to
 17 any amount paid or incurred after December 31, 2010.”.

18 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 19 NESS CREDIT.—Section 38(b) of such Code is amended
 20 by striking “plus” at the end of paragraph (25), by strik-
 21 ing the period at the end of paragraph (26) and inserting
 22 “, plus”, and by adding at the end the following new para-
 23 graph:

24 “(27) in the case of an eligible agricultural
 25 business (as defined in section 45J(e)), the agricul-

1 tural chemicals security credit determined under sec-
 2 tion 45N(a).”.

3 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of
 4 such Code is amended by adding at the end the following
 5 new subsection:

6 “(e) CREDIT FOR SECURITY OF AGRICULTURAL
 7 CHEMICALS.—No deduction shall be allowed for that por-
 8 tion of the expenses (otherwise allowable as a deduction)
 9 taken into account in determining the credit under section
 10 45N for the taxable year which is equal to the amount
 11 of the credit determined for such taxable year under sec-
 12 tion 45N(a).”.

13 (d) CLERICAL AMENDMENT.—The table of sections
 14 for subpart D of part IV of subchapter A of chapter 1
 15 of such Code is amended by adding at the end the fol-
 16 lowing new item:

“Sec. 45N. Agricultural chemicals security credit”.

17 (e) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to amounts paid or incurred after
 19 December 31, 2005.

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