

107TH CONGRESS  
1ST SESSION

# S. 1058

To amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 19, 2001

Mr. HUTCHINSON (for himself and Mr. DAYTON) 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 tax relief for farmers and the producers of biodiesel, 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; ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Biodiesel Renewable Fuels 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  
9 to or a repeal of a section or other provision, the reference

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

3 **SEC. 2. CREDIT FOR BIODIESEL USED AS FUEL.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
 5 chapter A of chapter 1 (relating to business related cred-  
 6 its) is amended by inserting after section 40 the following  
 7 new section:

8 **“SEC. 40A. BIODIESEL USED AS FUEL.**

9 “(a) GENERAL RULE.—For purposes of section 38,  
 10 the biodiesel fuels credit determined under this section for  
 11 the taxable year is an amount equal to the biodiesel mix-  
 12 ture credit.

13 “(b) DEFINITION OF BIODIESEL MIXTURE CRED-  
 14 IT.—For purposes of this section—

15 “(1) BIODIESEL MIXTURE CREDIT.—

16 “(A) IN GENERAL.—The biodiesel mixture  
 17 credit of any taxpayer for any taxable year is  
 18 the sum of the products of the biodiesel mixture  
 19 rate for each blend of qualified biodiesel mix-  
 20 ture and the number of gallons of the blend of  
 21 the taxpayer for the taxable year.

22 “(B) BIODIESEL MIXTURE RATE.—For  
 23 purposes of subparagraph (A), the biodiesel  
 24 mixture rate shall be—

1                   “(i) the applicable amount for a B-1  
2                   blend,

3                   “(ii) 3.0 cents for a B-2 blend, and

4                   “(iii) 20.0 cents for a B-20 blend.

5                   “(C) BLENDS.—For purposes of this  
6                   paragraph—

7                   “(i) B-1 BLEND.—The term ‘B-1  
8                   blend’ means a qualified biodiesel mixture  
9                   if at least 0.5 percent but less than 2.0  
10                  percent of the mixture is biodiesel.

11                  “(ii) B-2 BLEND.—The term ‘B-2  
12                  blend’ means a qualified biodiesel mixture  
13                  if at least 2.0 percent but less than 20 per-  
14                  cent of the mixture is biodiesel.

15                  “(iii) B-20 BLEND.—The term ‘B-20  
16                  blend’ means a qualified biodiesel mixture  
17                  if at least 20 percent of the mixture is bio-  
18                  diesel.

19                  “(D) APPLICABLE AMOUNT.—For pur-  
20                  poses of this paragraph, the term ‘applicable  
21                  amount’ means, in the case of a B-1 blend, the  
22                  amount equal to 1.5 cents multiplied by a frac-  
23                  tion the numerator of which is the percentage  
24                  of biodiesel in the B-1 blend and the denomi-  
25                  nator of which is 1 percent.

1           “(2) QUALIFIED BIODIESEL MIXTURE.—

2                   “(A) IN GENERAL.—The term ‘qualified  
3 biodiesel mixture’ means a mixture of diesel  
4 and biodiesel which—

5                           “(i) is sold by the taxpayer producing  
6 such mixture to any person for use as a  
7 fuel; or

8                           “(ii) is used as a fuel by the taxpayer  
9 producing such mixture.

10                   “(B) SALE OR USE MUST BE IN TRADE OR  
11 BUSINESS, ETC.—Biodiesel used in the produc-  
12 tion of a qualified biodiesel mixture shall be  
13 taken into account—

14                           “(i) only if the sale or use described  
15 in subparagraph (A) is in a trade or busi-  
16 ness of the taxpayer; and

17                           “(ii) for the taxable year in which  
18 such sale or use occurs.

19                   “(C) CASUAL OFF-FARM PRODUCTION NOT  
20 ELIGIBLE.—No credit shall be allowed under  
21 this section with respect to any casual off-farm  
22 production of a qualified biodiesel mixture.

23                   “(c) COORDINATION WITH EXEMPTION FROM EX-  
24 CISE TAX.—The amount of the credit determined under  
25 this section with respect to any biodiesel shall, under regu-

1 lations prescribed by the Secretary, be properly reduced  
2 to take into account any benefit provided with respect to  
3 such biodiesel solely by reason of the application of section  
4 4041(n) or section 4081(f).

5 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
6 poses of this section—

7 “(1) BIODIESEL DEFINED.—

8 “(A) IN GENERAL.—The term ‘biodiesel’  
9 means the monoalkyl esters of long chain fatty  
10 acids derived from vegetable oils for use in  
11 compressional-ignition (diesel) engines. Such  
12 term shall include esters derived from vegetable  
13 oils from corn, soybeans, sunflower seeds, cot-  
14 tonseeds, canola, crambe, rapeseeds, safflowers,  
15 flaxseeds, and mustard seeds.

16 “(B) REGISTRATION REQUIREMENTS.—  
17 Such term shall only include a biodiesel which  
18 meets the registration requirements for fuels  
19 and fuel additives established by the Environ-  
20 mental Protection Agency under section 211 of  
21 the Clean Air Act (42 U.S.C. 7545).

22 “(2) BIODIESEL MIXTURE NOT USED AS A  
23 FUEL, ETC.—

24 “(A) IMPOSITION OF TAX.—If—

1           “(i) any credit was determined under  
2           this section with respect to biodiesel used  
3           in the production of any qualified biodiesel  
4           mixture, and

5           “(ii) any person—

6                   “(I) separates the biodiesel from  
7                   the mixture, or

8                   “(II) without separation, uses the  
9                   mixture other than as a fuel,

10           then there is hereby imposed on such per-  
11           son a tax equal to the product of the bio-  
12           diesel mixture rate applicable under sub-  
13           section (b)(1)(B) and the number of gal-  
14           lons of the mixture.

15           “(B) APPLICABLE LAWS.—All provisions of  
16           law, including penalties, shall, insofar as appli-  
17           cable and not inconsistent with this section,  
18           apply in respect of any tax imposed under sub-  
19           paragraph (A) as if such tax were imposed by  
20           section 4081 and not by this chapter.

21           “(3) PASS-THRU IN THE CASE OF ESTATES AND  
22           TRUSTS.—Under regulations prescribed by the Sec-  
23           retary, rules similar to the rules of subsection (d) of  
24           section 52 shall apply.

1       “(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT  
2 NOT APPLY.—

3           “(1) IN GENERAL.—A taxpayer may elect to  
4 have this section not apply for any taxable year.

5           “(2) TIME FOR MAKING ELECTION.—An elec-  
6 tion under paragraph (1) for any taxable year may  
7 be made (or revoked) at any time before the expira-  
8 tion of the 3-year period beginning on the last date  
9 prescribed by law for filing the return for such tax-  
10 able year (determined without regard to extensions).

11           “(3) MANNER OF MAKING ELECTION.—An elec-  
12 tion under paragraph (1) (or revocation thereof)  
13 shall be made in such manner as the Secretary may  
14 by regulations prescribe.”

15       (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
16 NESS CREDIT.—Section 38(b) is amended by striking  
17 “plus” at the end of paragraph (14), by striking the period  
18 at the end of paragraph (15) and inserting “, plus”, and  
19 by adding at the end the following:

20           “(16) the biodiesel fuels credit determined  
21 under section 40A.”

22       (c) CONFORMING AMENDMENTS.—

23           (1) Section 39(d) is amended by adding at the  
24 end the following:

1           “(11) NO CARRYBACK OF BIODIESEL FUELS  
2 CREDIT BEFORE JANUARY 1, 2003.—No portion of  
3 the unused business credit for any taxable year  
4 which is attributable to the biodiesel fuels credit de-  
5 termined under section 40A may be carried back to  
6 a taxable year beginning before January 1, 2003.”

7           (2) Section 196(c) is amended by striking  
8 “and” at the end of paragraph (9), by striking the  
9 period at the end of paragraph (10), and by adding  
10 at the end the following:

11           “(11) the biodiesel fuels credit determined  
12 under section 40A.”

13           (3) The table of sections for subpart D of part  
14 IV of subchapter A of chapter 1 is amended by add-  
15 ing after the item relating to section 40 the fol-  
16 lowing new item:

                  “Sec. 40A. Biodiesel used as fuel.”

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

20 **SEC. 3. REDUCTION OF MOTOR FUEL EXCISE TAXES ON**  
21 **BIODIESEL MIXTURES.**

22           (a) IN GENERAL.—Section 4081 (relating to manu-  
23 facturers tax on petroleum products) is amended by add-  
24 ing at the end the following new subsection:

1       “(f) BIODIESEL MIXTURES.—Under regulations pre-  
2 scribed by the Secretary—

3           “(1) IN GENERAL.—In the case of the removal  
4 or entry of a qualified biodiesel mixture, the rate of  
5 tax under subsection (a) shall be the otherwise appli-  
6 cable rate reduced by the biodiesel mixture rate (if  
7 any) applicable to the mixture.

8           “(2) TAX PRIOR TO MIXING.—

9           “(A) IN GENERAL.—In the case of the re-  
10 moval or entry of diesel fuel for use in pro-  
11 ducing at the time of such removal or entry a  
12 qualified biodiesel mixture, the rate of tax  
13 under subsection (a) shall be the otherwise ap-  
14 plicable rate, reduced by the amount deter-  
15 mined under subparagraph (B).

16           “(B) APPLICABLE REDUCTION.—For pur-  
17 poses of subparagraph (A), the amount deter-  
18 mined under this subparagraph is an amount  
19 equal to the biodiesel mixture rate for the quali-  
20 fied biodiesel mixture to be produced from the  
21 diesel fuel, divided by a percentage equal to 100  
22 percent minus the percentage of biodiesel which  
23 will be in the mixture.

24           “(3) DEFINITIONS.—For purposes of this sub-  
25 section, any term used in this subsection which is

1 also used in section 40A shall have the meaning  
2 given such term by section 40A.

3 “(4) CERTAIN RULES TO APPLY.—Rules similar  
4 to the rules of paragraphs (6) and (7) of subsection  
5 (c) shall apply for purposes of this subsection.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 4041 is amended by adding at the  
8 end the following new subsection:

9 “(n) BIODIESEL MIXTURES.—Under regulations pre-  
10 scribed by the Secretary, in the case of the sale or use  
11 of a qualified biodiesel mixture (as defined in section  
12 40A(b)(2)), the rates under paragraphs (1) and (2) of  
13 subsection (a) shall be the otherwise applicable rates, re-  
14 duced by any applicable biodiesel mixture rate (as defined  
15 in section 40A(b)(1)(B)).”.

16 (2) Section 6427 is amended by redesignating  
17 subsection (p) as subsection (q) and by inserting  
18 after subsection (o) the following new subsection:

19 “(p) BIODIESEL MIXTURES.—Except as provided in  
20 subsection (k), if any diesel fuel on which tax was imposed  
21 by section 4081 at a rate not determined under section  
22 4081(f) is used by any person in producing a qualified  
23 biodiesel mixture (as defined in section 40A(b)(2)) which  
24 is sold or used in such person’s trade or business, the Sec-  
25 retary shall pay (without interest) to such person an

1 amount equal to the per gallon applicable biodiesel mix-  
2 ture rate (as defined in section 40A(b)(1)(B)) with respect  
3 to such fuel.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on January 1, 2002.

6 **SEC. 4. HIGHWAY TRUST FUND HELD HARMLESS.**

7 There are hereby transferred (from time to time)  
8 from the funds of the Commodity Credit Corporation  
9 amounts equivalent to the reductions that would occur  
10 (but for this section) in the receipts of the Highway Trust  
11 Fund by reason of the amendments made by this Act.  
12 Such transfers shall be made on the basis of estimates  
13 made by the Secretary of the Treasury and adjustments  
14 shall be made to subsequent transfers to reflect any errors  
15 in the estimates.

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