

108TH CONGRESS
1ST SESSION

S. 154

To provide emergency disaster assistance to agricultural producers, to impose tariff-rate quotas on certain casein and milk protein concentrates, and to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and the producers of biodiesel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 14, 2003

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

A BILL

To provide emergency disaster assistance to agricultural producers, to impose tariff-rate quotas on certain casein and milk protein concentrates, and 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. TABLE OF CONTENTS.**

4 The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

Sec. 101. Short title.

Sec. 102. Crop disaster assistance.

Sec. 103. Livestock assistance program.

- Sec. 104. Funding.
 Sec. 105. Regulations.
 Sec. 106. Emergency designation.
 Sec. 107. Budgetary treatment.

TITLE II—CASEIN AND MILK PROTEIN CONCENTRATES

- Sec. 201. Imposition of tariff-rate quotas on certain casein and milk concentrates.
 Sec. 202. Compensation authority.

TITLE III—BIODIESEL RENEWABLE FUEL

- Sec. 301. Short title; etc.
 Sec. 302. Credit for biodiesel used as fuel.
 Sec. 303. Reduction of motor fuel excise taxes on biodiesel mixtures.
 Sec. 304. Highway Trust Fund held harmless.
 Sec. 305. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.

1 **TITLE I—EMERGENCY AGRICUL-**
 2 **TURAL DISASTER ASSIST-**
 3 **ANCE**

4 **SECTION 101. SHORT TITLE.**

5 This title may be cited as the “Emergency Agricul-
 6 tural Disaster Assistance Act of 2003”.

7 **SEC. 102. CROP DISASTER ASSISTANCE.**

8 (a) IN GENERAL.—The Secretary of Agriculture (re-
 9 ferred to in this title as the “Secretary”) shall use such
 10 sums as are necessary of funds of the Commodity Credit
 11 Corporation to make emergency financial assistance au-
 12 thorized under this section available to producers on a
 13 farm that have incurred qualifying crop losses for the
 14 2001 or 2002 crop, or both, due to damaging weather or
 15 related condition, as determined by the Secretary.

16 (b) ADMINISTRATION.—The Secretary shall make as-
 17 sistance available under this section in the same manner

1 as provided under section 815 of the Agriculture, Rural
2 Development, Food and Drug Administration, and Re-
3 lated Agencies Appropriations Act, 2001 (Public Law
4 106–387; 114 Stat. 1549A–55), including using the same
5 loss thresholds for the quantity and quality losses as were
6 used in administering that section.

7 (c) CROP INSURANCE.—In carrying out this section,
8 the Secretary shall not discriminate against or penalize
9 producers on a farm that have purchased crop insurance
10 under the Federal Crop Insurance Act (7 U.S.C. 1501 et
11 seq.).

12 **SEC. 103. LIVESTOCK ASSISTANCE PROGRAM.**

13 (a) IN GENERAL.—The Secretary shall use such
14 sums as are necessary of funds of the Commodity Credit
15 Corporation as are necessary to make and administer pay-
16 ments for livestock losses to producers for 2001 or 2002
17 losses, or both, in a county that has received a cor-
18 responding emergency designation by the President or the
19 Secretary, of which an amount determined by the Sec-
20 retary shall be made available for the American Indian
21 livestock program under section 806 of the Agriculture,
22 Rural Development, Food and Drug Administration, and
23 Related Agencies Appropriations Act, 2001 (Public Law
24 106–387; 114 Stat. 1549, 1549A–51).

1 (b) ADMINISTRATION.—The Secretary shall make as-
2 sistance available under this section in the same manner
3 as provided under section 806 of the Agriculture, Rural
4 Development, Food and Drug Administration, and Re-
5 lated Agencies Appropriations Act, 2001 (Public Law
6 106–387; 114 Stat. 1549, 1549A–51).

7 **SEC. 104. FUNDING.**

8 Of the funds of the Commodity Credit Corporation,
9 the Secretary shall use such sums as are necessary to
10 carry out this title, to remain available until expended.

11 **SEC. 105. REGULATIONS.**

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

14 (b) PROCEDURE.—The promulgation of the regula-
15 tions and administration of this title shall be made without
16 regard to—

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

19 (2) the Statement of Policy of the Secretary of
20 Agriculture effective July 24, 1971 (36 Fed. Reg.
21 13804), relating to notices of proposed rulemaking
22 and public participation in rulemaking; and

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

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

5 **SEC. 106. EMERGENCY DESIGNATION.**

6 (a) IN GENERAL.—The entire amount made available
7 under this title shall be available only to the extent that
8 the President submits to Congress an official budget re-
9 quest for a specific dollar amount that includes designa-
10 tion of the entire amount of the request as an emergency
11 requirement for the purposes of the Balanced Budget and
12 Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et
13 seq.).

14 (b) DESIGNATION.—The entire amount made avail-
15 able under this section is designated by Congress as an
16 emergency requirement under sections 251(b)(2)(A) and
17 252(e) of that Act (2 U.S.C. 901(b)(2)(A), 902(e)).

18 **SEC. 107. BUDGETARY TREATMENT.**

19 Notwithstanding Rule 3 of the Budget Scorekeeping
20 Guidelines set forth in the Joint Explanatory Statement
21 of the Committee of Conference accompanying Conference
22 Report No. 105–217, the provisions of this title that would
23 have been estimated by the Office of Management and
24 Budget as changing direct spending or receipts under sec-
25 tion 252 of the Balanced Budget and Emergency Deficit

1 Control Act of 1985 (2 U.S.C. 902) were it included in
 2 an Act other than an appropriation Act shall be treated
 3 as direct spending or receipts legislation, as appropriate,
 4 under section 252 of the Balanced Budget and Emergency
 5 Deficit Control Act of 1985 (2 U.S.C. 902).

6 **TITLE II—CASEIN AND MILK**
 7 **PROTEIN CONCENTRATES**

8 **SEC. 201. IMPOSITION OF TARIFF-RATE QUOTAS ON CER-**
 9 **TAIN CASEIN AND MILK CONCENTRATES.**

10 (a) CASEIN AND CASEIN PRODUCTS.—

11 (1) IN GENERAL.—The Additional U.S. notes to
 12 chapter 35 of the Harmonized Tariff Schedule of the
 13 United States are amended—

14 (A) in note 1, by striking “subheading
 15 3501.10.10” and inserting “subheadings
 16 3501.10.05, 3501.10.15, and 3501.10.20”; and

17 (B) by adding at the end the following new
 18 note:

19 “2. The aggregate quantity of casein, caseinates, milk
 20 protein concentrate, and other casein derivatives entered
 21 under subheadings 3501.10.15, 3501.10.65, and
 22 3501.90.65 in any calendar year shall not exceed
 23 54,051,000 kilograms. Articles the product of Mexico shall
 24 not be permitted or included under this quantitative limi-
 25 tation and no such article shall be classifiable therein.”.

1 (2) RATES FOR CERTAIN CASEINS, CASEINATES,
 2 AND OTHER DERIVATIVES AND GLUES.—Chapter 35
 3 of the Harmonized Tariff Schedule of the United
 4 States is amended by striking subheadings 3501.10
 5 through 3501.90.60, inclusive, and inserting the fol-
 6 lowing new subheadings with article descriptions for
 7 subheadings 3501.10 and 3501.90 having the same
 8 degree of indentation as the article description for
 9 subheading 3502.20.00:

3501.10	Casein:			
	Milk protein concentrate:			
3501.10.05	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J, MX)	12¢/kg
3501.10.15	Described in additional U.S. note 2 to this chapter and entered ac- cording to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J)	12¢/kg
3501.10.20	Other	\$2.16/kg	Free (MX)	\$2.81/kg
	Other:			
3501.10.55	For industrial uses other than the manufacture of food for humans or other animals or as ingredients in such food	Free	Free (A*, CA, E, IL, J, MX)	Free
	Other:			
3501.10.60	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	Free	Free (A*, CA, E, IL, J, MX)	12¢/kg
3501.10.65	Described in additional U.S. note 2 to this chapter and en- tered according to its provi- sions	0.37¢/kg	Free (A*, CA, E, IL, J)	12¢/kg
3501.10.70	Other	\$2.16/kg	Free (MX)	\$2.81/kg
3501.90	Other:			
3501.90.05	Casein glues	6%	Free (A*, CA, E, IL, J, MX)	30%
	Other:			
3501.90.30	For industrial uses other than the manufacture of food for humans or other animals or as ingredients in such food	6%	Free (A*, CA, E, IL, J, MX)	30%
	Other:			
3501.90.55	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J, MX)	12.1¢/kg
3501.90.65	Described in additional U.S. note 2 to this chapter and en- tered according to its provi- sions	0.37¢/kg	Free (A*, CA, E, IL, J)	12.1¢/kg

3501.90.70	Other	\$2.16/kg	Free (MX)	\$2.81/kg	..
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1 (b) MILK PROTEIN CONCENTRATES.—

2 (1) IN GENERAL.—The Additional U.S. notes to
3 chapter 4 of the Harmonized Tariff Schedule of the
4 United States are amended—

5 (A) in note 13, by striking “subheading
6 0404.90.10” and inserting “subheadings
7 0404.90.05, 0404.90.15, and 0404.90.20”; and

8 (B) by adding at the end the following new
9 note:

10 “27. The aggregate quantity of milk protein con-
11 centrates entered under subheading 0404.90.15 in any
12 calendar year shall not exceed 15,818,000 kilograms. Arti-
13 cles the product of Mexico shall not be permitted or in-
14 cluded under this quantitative limitation and no such arti-
15 cle shall be classifiable therein.”.

16 (2) RATES FOR CERTAIN MILK PROTEIN CON-
17 CENTRATES.—Chapter 4 of the Harmonized Tariff
18 Schedule of the United States is amended by strik-
19 ing subheading 0404.90 through 0404.90.10, inclu-
20 sive, and inserting the following new subheadings
21 with the article description for subheading 0404.90
22 having the same degree of indentation as the article
23 description for subheading 0405.10 and the article
24 description for subheadings 0404.90.05, 0404.90.15,

1 and 0404.90.20 having the same degree of indenta-
 2 tion as the article description for subheading
 3 0405.20.40:

“	0404.90	Other:					
		Milk protein concentrates:					
	0404.90.05	Described in general note 15 of the tariff schedule and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J, MX)	12¢/kg		
	0404.90.15	Described in additional U.S. note 27 to this chapter and entered pursuant to its provisions	0.37¢/kg	Free (A*, CA, E, IL, J)	12¢/kg		
	0404.90.20	Other	\$1.56/kg	Free (MX)	\$2.02/kg		”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section apply to goods entered, or withdrawn from
 6 warehouse for consumption, on or after the first day of
 7 the first month after the date that is 15 days after the
 8 date of enactment of this Act.

9 **SEC. 202. COMPENSATION AUTHORITY.**

10 (a) IN GENERAL.—If the provisions of section 1 re-
 11 quire, the President—

12 (1) may enter into a trade agreement with any
 13 foreign country or instrumentality for the purpose of
 14 granting new concessions as compensation in order
 15 to maintain the general level of reciprocal and mutu-
 16 ally advantageous concessions; and

17 (2) may proclaim such modification or continu-
 18 ance of any existing duty, or such continuance of ex-
 19 isting duty-free or excise treatment, as the President
 20 determines to be required or appropriate to carry
 21 out any such agreement.

1 (b) LIMITATIONS.—

2 (1) IN GENERAL.—No proclamation shall be
3 made pursuant to subsection (a) decreasing any rate
4 of duty to a rate which is less than 70 percent of
5 the existing rate of duty.

6 (2) SPECIAL RULE FOR CERTAIN DUTY REDUC-
7 TIONS.—If the rate of duty in effect at any time is
8 an intermediate stage under section 2103(a) of the
9 Bipartisan Trade Promotion Authority Act of 2002,
10 the proclamation made pursuant to subsection (a)
11 may provide for the reduction of each rate of duty
12 at each such stage proclaimed under section 2103(a)
13 by not more than 30 percent of such rate of duty,
14 and may provide for a final rate of duty which is not
15 less than the 70 percent of the rate of duty pro-
16 claimed as the final stage under section 2103(a).

17 (3) ROUNDING.—If the President determines
18 that such action will simplify the computation of the
19 amount of duty computed with respect to an article,
20 the President may exceed the limitations provided in
21 paragraphs (1) and (2) by not more than the lesser
22 of—

23 (A) the difference between such limitation
24 and the next lower whole number, or

25 (B) one-half of one percent ad valorem.

1 **TITLE III—BIODIESEL**
 2 **RENEWABLE FUEL**

3 **SEC. 301. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This TITLE 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 title 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
 10 shall be considered to be made to a section or other provi-
 11 sion of the Internal Revenue Code of 1986.

12 **SEC. 302. CREDIT FOR BIODIESEL USED AS FUEL.**

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

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

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

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

24 “(1) BIODIESEL MIXTURE CREDIT.—

1 “(A) IN GENERAL.—The biodiesel mixture
2 credit of any taxpayer for any taxable year is
3 the sum of the products of the biodiesel mixture
4 rate for each blend of qualified biodiesel mix-
5 ture and the number of gallons of the blend of
6 the taxpayer for the taxable year.

7 “(B) BIODIESEL MIXTURE RATE.—For
8 purposes of subparagraph (A), the biodiesel
9 mixture rate shall be—

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

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

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

14 “(C) BLENDS.—For purposes of this para-
15 graph—

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

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

24 “(iii) B-20 BLEND.—The term ‘B-20
25 blend’ means a qualified biodiesel mixture

1 if at least 20 percent of the mixture is bio-
2 diesel.

3 “(D) APPLICABLE AMOUNT.—For pur-
4 poses of this paragraph, the term ‘applicable
5 amount’ means, in the case of a B–1 blend, the
6 amount equal to 1.5 cents multiplied by a frac-
7 tion the numerator of which is the percentage
8 of biodiesel in the B–1 blend and the denomi-
9 nator of which is 1 percent.

10 “(2) QUALIFIED BIODIESEL MIXTURE.—

11 “(A) IN GENERAL.—The term ‘qualified
12 biodiesel mixture’ means a mixture of diesel
13 and biodiesel which—

14 “(i) is sold by the taxpayer producing
15 such mixture to any person for use as a
16 fuel; or

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

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

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

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

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

7 “(c) COORDINATION WITH EXEMPTION FROM EX-
8 CISE TAX.—The amount of the credit determined under
9 this section with respect to any biodiesel shall, under regu-
10 lations prescribed by the Secretary, be properly reduced
11 to take into account any benefit provided with respect to
12 such biodiesel solely by reason of the application of section
13 4041(n) or section 4081(f).

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

16 “(1) BIODIESEL DEFINED.—

17 “(A) IN GENERAL.—The term ‘biodiesel’
18 means the monoalkyl esters of long chain fatty
19 acids derived from vegetable oils for use in
20 compressional-ignition (diesel) engines. Such
21 term shall include esters derived from vegetable
22 oils from corn, soybeans, sunflower seeds, cot-
23 tonseeds, canola, crambe, rapeseeds, safflowers,
24 flaxseeds, and mustard seeds.

1 “(B) REGISTRATION REQUIREMENTS.—
2 Such term shall only include a biodiesel which
3 meets the registration requirements for fuels
4 and fuel additives established by the Environ-
5 mental Protection Agency under section 211 of
6 the Clean Air Act (42 U.S.C. 7545).

7 “(2) BIODIESEL MIXTURE NOT USED AS A
8 FUEL, ETC.—

9 “(A) IMPOSITION OF TAX.—If—

10 “(i) any credit was determined under
11 this section with respect to biodiesel used
12 in the production of any qualified biodiesel
13 mixture, and

14 “(ii) any person—

15 “(I) separates the biodiesel from
16 the mixture, or

17 “(II) without separation, uses the
18 mixture other than as a fuel,

19 then there is hereby imposed on such per-
20 son a tax equal to the product of the bio-
21 diesel mixture rate applicable under sub-
22 section (b)(1)(B) and the number of gal-
23 lons of the mixture.

24 “(B) APPLICABLE LAWS.—All provisions of
25 law, including penalties, shall, insofar as appli-

1 cable and not inconsistent with this section,
 2 apply in respect of any tax imposed under sub-
 3 paragraph (A) as if such tax were imposed by
 4 section 4081 and not by this chapter.

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

9 “(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT
 10 NOT APPLY.—

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

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

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

23 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
 24 NESS CREDIT.—Section 38(b) is amended by striking
 25 “plus” at the end of paragraph (14), by striking the period

1 at the end of paragraph (15) and inserting “, plus”, and
 2 by adding at the end the following:

3 “(16) the biodiesel fuels credit determined
 4 under section 40A.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 39(d) is amended by adding at the
 7 end the following:

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

14 (2) Section 196(e) is amended by striking
 15 “and” at the end of paragraph (9), by striking the
 16 period at the end of paragraph (10) and inserting “,
 17 and”, and by adding at the end the following:

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

20 (3) Section 6501(m) is amended by inserting
 21 “40A(e),” after “40(f),”.

22 (4) The table of sections for subpart D of part
 23 IV of subchapter A of chapter 1 is amended by add-
 24 ing after the item relating to section 40 the fol-
 25 lowing new item:

“Sec. 40A. Biodiesel used as fuel.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2002.

4 **SEC. 303. REDUCTION OF MOTOR FUEL EXCISE TAXES ON**
 5 **BIODIESEL MIXTURES.**

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

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

11 “(1) IN GENERAL.—In the case of the removal
 12 or entry of a qualified biodiesel mixture, the rate of
 13 tax under subsection (a) shall be the otherwise appli-
 14 cable rate reduced by the biodiesel mixture rate (if
 15 any) applicable to the mixture.

16 “(2) TAX PRIOR TO MIXING.—

17 “(A) IN GENERAL.—In the case of the re-
 18 moval or entry of diesel fuel for use in pro-
 19 ducing at the time of such removal or entry a
 20 qualified biodiesel mixture, the rate of tax
 21 under subsection (a) shall be the otherwise ap-
 22 plicable rate, reduced by the amount deter-
 23 mined under subparagraph (B).

24 “(B) APPLICABLE REDUCTION.—For pur-
 25 poses of subparagraph (A), the amount deter-

1 mined under this subparagraph is an amount
2 equal to the biodiesel mixture rate for the quali-
3 fied biodiesel mixture to be produced from the
4 diesel fuel, divided by a percentage equal to 100
5 percent minus the percentage of biodiesel which
6 will be in the mixture.

7 “(3) DEFINITIONS.—For purposes of this sub-
8 section, any term used in this subsection which is
9 also used in section 40A shall have the meaning
10 given such term by section 40A.

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

14 (b) CONFORMING AMENDMENTS.—

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

17 “(n) BIODIESEL MIXTURES.—Under regulations pre-
18 scribed by the Secretary, in the case of the sale or use
19 of a qualified biodiesel mixture (as defined in section
20 40A(b)(2)), the rates under paragraphs (1) and (2) of
21 subsection (a) shall be the otherwise applicable rates, re-
22 duced by any applicable biodiesel mixture rate (as defined
23 in section 40A(b)(1)(B)).”.

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

4 “(p) BIODIESEL MIXTURES.—Except as provided in
5 subsection (k), if any diesel fuel on which tax was imposed
6 by section 4081 at a rate not determined under section
7 4081(f) is used by any person in producing a qualified
8 biodiesel mixture (as defined in section 40A(b)(2)) which
9 is sold or used in such person’s trade or business, the Sec-
10 retary shall pay (without interest) to such person an
11 amount equal to the per gallon applicable biodiesel mix-
12 ture rate (as defined in section 40A(b)(1)(B)) with respect
13 to such fuel.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on January 1, 2003.

16 **SEC. 304. HIGHWAY TRUST FUND HELD HARMLESS.**

17 There are hereby transferred (from time to time)
18 from the funds of the Commodity Credit Corporation
19 amounts equivalent to the reductions that would occur
20 (but for this section) in the receipts of the Highway Trust
21 Fund by reason of the amendments made by this title.
22 Such transfers shall be made on the basis of estimates
23 made by the Secretary of the Treasury and adjustments
24 shall be made to subsequent transfers to reflect any errors
25 in the estimates.

1 **SEC. 305. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE**
2 **AND BIODIESEL PURCHASING REQUIRE-**
3 **MENT.**

4 Title III of the Energy Policy Act of 1992 is amended
5 by striking section 306 (42 U.S.C. 13215) and inserting
6 the following:

7 **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**
8 **LINE AND BIODIESEL PURCHASING REQUIRE-**
9 **MENT.**

10 “(a) ETHANOL-BLENDED GASOLINE.—The head of
11 each Federal agency (except the Secretary of Defense)
12 shall ensure that, in areas in which ethanol-blended gaso-
13 line is available, the Federal agency purchases ethanol-
14 blended gasoline containing at least 10 percent ethanol (or
15 the highest available percentage of ethanol), rather than
16 nonethanol-blended gasoline, for use in vehicles used by
17 the agency.

18 “(b) BIODIESEL.—

19 “(1) DEFINITION OF BIODIESEL.—In this sub-
20 section, the term ‘biodiesel’ has the meaning given
21 the term in section 312(f).

22 “(2) REQUIREMENT.—The head of each Fed-
23 eral agency (except the Secretary of Defense) shall
24 ensure that the Federal agency purchases, for use in
25 fueling fleet vehicles used by the Federal agency at

1 the location at which fleet vehicles of the Federal
2 agency are centrally fueled—

3 “(A) as of the date that is 5 years after
4 the date of enactment of this paragraph, bio-
5 diesel-blended diesel fuel that contains at least
6 2 percent biodiesel, rather than nonbiodiesel-
7 blended diesel fuel; and

8 “(B) as of the date that is 10 years after
9 the date of enactment of this paragraph, bio-
10 diesel-blended diesel fuel that contains at least
11 20 percent biodiesel, rather than nonbiodiesel-
12 blended diesel fuel.”.

○