

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3596

To amend the Internal Revenue Code of 1986 to provide a credit to certain concentrated animal feeding operations for the cost of complying with environmental protection regulations.

---

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2006

Mr. HAGEL 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 concentrated animal feeding operations for the cost of complying with environmental protection regulations.

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 “CAFO Tax Credit  
5 Act”.

1 **SEC. 2. CREDIT FOR CONCENTRATED ANIMAL FEEDING OP-**  
 2 **ERATIONS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to business related credits) is amended by  
 6 adding at the end the following new section:

7 **“SEC. 45N. CREDIT FOR EPA COMPLIANCE COSTS FOR CON-**  
 8 **CENTRATED ANIMAL FEEDING OPERATIONS.**

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) IN GENERAL.—For purposes of section 38,  
 11 in the case of an eligible taxpayer, the EPA compli-  
 12 ance credit determined under this section for the  
 13 taxable year is an amount equal to the applicable  
 14 percentage of the qualified compliance costs paid or  
 15 incurred by the eligible taxpayer during the taxable  
 16 year.

17 “(2) APPLICABLE PERCENTAGE.—For purposes  
 18 of paragraph (1), the applicable percentage shall be  
 19 determined as follows:

<b>“If the amount of qualified compliance costs paid or incurred during the taxable year is:</b>	<b>The applicable percentage is:</b>
Not over \$100,000 .....	100
Over \$100,000 but not over \$200,000 .....	80
Over \$200,000 but not over \$400,000 .....	60
Over \$400,000 .....	40.

20 “(b) LIMITATION.—The amount of credit allowed  
 21 under subsection (a) for any taxable year shall not exceed  
 22 \$500,000.

1       “(b) LIMITATION.—The amount of credit allowed  
2 under subsection (a) for any taxable year shall not exceed  
3 \$500,000.

4       “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-  
5 tion, the term ‘eligible taxpayer’ means an owner or oper-  
6 ator of a concentrated animal feeding operation (as de-  
7 fined under section 122.23 of title 40, Code of Federal  
8 Regulations).

9       “(d) QUALIFIED COMPLIANCE COSTS.—For purposes  
10 of this section—

11           “(1) IN GENERAL.—The term ‘qualified compli-  
12 ance costs’ means costs paid or incurred for compli-  
13 ance with a national pollutant discharge elimination  
14 system permit issued under section 402 of the Fed-  
15 eral Water Pollution Control Act (33 U.S.C. 1342).

16           “(2) EXCLUSION FOR AMOUNTS FUNDED BY  
17 GRANTS, ETC.—The term ‘qualified compliance  
18 costs’ shall not include any amount to the extent  
19 such amount is funded by any grant, contract, or  
20 otherwise by another person (or any governmental  
21 entity).

22       “(e) SPECIAL RULES.—

23           “(1) REDUCTION IN BASIS.—For purposes of  
24 this subtitle, if a credit is determined under this sec-  
25 tion for any expenditure with respect to any prop-

1       erty, the increase in basis of such property which  
2       would (but for this subsection) result from such ex-  
3       penditure shall be reduced by the amount of the  
4       credit so determined.

5           “(2) WHEN COSTS PAID OR INCURRED.—For  
6       purposes of this section, a cost shall be treated as  
7       paid or incurred in the year in which the taxpayer  
8       achieves compliance with the national pollutant dis-  
9       charge elimination system permit issued under sec-  
10      tion 402 of the Federal Water Pollution Control Act  
11      (33 U.S.C. 1342).

12          “(3) DENIAL OF DOUBLE BENEFIT.—No deduc-  
13      tion or other credit shall be allowed under this chap-  
14      ter for any amount taken into account in deter-  
15      mining the credit under this section.

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

18          (b) CREDIT MADE PART OF GENERAL BUSINESS  
19      CREDIT.—Section 38(b) of the Internal Revenue Code of  
20      1986 is amended by striking “and” at the end of para-  
21      graph (29), by striking the period at the end of paragraph  
22      (30) and inserting “, plus”, and by adding at the end the  
23      following new paragraph:

24           “(31) the EPA compliance credit determined  
25      under section 45N(a).”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 1016(a) of the Internal Revenue  
3 Code of 1986 is amended by striking “and” at the  
4 end of paragraph (36), by striking the period at the  
5 end of paragraph (37) and inserting “, and”, and by  
6 inserting after paragraph (37) the following new  
7 paragraph:

8 “(38) to the extent provided in section  
9 45N(e)(1).”.

10 (2) The table of sections for subpart D of part  
11 IV of subchapter A of chapter 1 of such Code is  
12 amended by adding at the end the following new  
13 item:

“Sec. 45N. Credit for compliance costs for concentrated animal feeding oper-  
ations.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to expenditures incurred after De-  
16 cember 31, 2002.

○