

113TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide an elective safe harbor for the expensing by small businesses of the costs of acquiring or producing tangible property.

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IN THE SENATE OF THE UNITED STATES

Mr. HOEVEN (for himself and Ms. CANTWELL) introduced the following bill;  
which was read twice and referred to the Committee on

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**A BILL**

To amend the Internal Revenue Code of 1986 to provide an elective safe harbor for the expensing by small businesses of the costs of acquiring or producing tangible property.

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 “Farm and Small Busi-  
5 ness Expensing Tax Relief Act”.

1 **SEC. 2. SAFE HARBOR FOR EXPENSING BY SMALL BUSI-**  
2 **NESSES OF ACQUISITION OR PRODUCTION**  
3 **COSTS OF TANGIBLE PROPERTY.**

4 (a) IN GENERAL.—Section 263 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following:

7 “(j) ELECTION FOR SMALL BUSINESSES TO EX-  
8 PENSE CERTAIN ACQUISITION AND PRODUCTION  
9 COSTS.—

10 “(1) IN GENERAL.—If the amount paid or in-  
11 curred by an eligible taxpayer to acquire or produce  
12 any item of tangible property does not exceed  
13 \$5,000 (or such higher amount as the Secretary may  
14 prescribe by regulations), then, notwithstanding sub-  
15 section (a), the taxpayer may elect to treat such  
16 amount as an expense which is not chargeable to  
17 capital account nor treated as a material or supply.  
18 Any amount so treated shall be allowed as a deduc-  
19 tion for the taxable year in which the property is ac-  
20 quired or produced.

21 “(2) ELIGIBLE TAXPAYER.—For purposes of  
22 this subsection—

23 “(A) IN GENERAL.—The term ‘eligible tax-  
24 payer’ means, with respect to any taxable year,  
25 a taxpayer—

1                   “(i) who meets the gross receipts test  
2                   of subparagraph (B) for the taxable year,  
3                   and

4                   “(ii) who, as of the beginning of the  
5                   taxable year, has in effect written account-  
6                   ing procedures meeting such requirements  
7                   as the Secretary may prescribe with re-  
8                   spect to the expensing of amounts de-  
9                   scribed in paragraph (1).

10                   “(B) GROSS RECEIPTS TEST.—A taxpayer  
11                   meets the gross receipts test of this subpara-  
12                   graph for any taxable year if the average an-  
13                   nual gross receipts of such taxpayer for the 3-  
14                   taxable-year period ending with the taxable year  
15                   which precedes such taxable year does not ex-  
16                   ceed \$10,000,000.

17                   “(C) RULES RELATING TO GROSS RE-  
18                   CEIPTS TEST.—For purposes of subparagraph  
19                   (B)—

20                   “(i) the rules of paragraphs (2) and  
21                   (3) of section 448(c) shall apply, and

22                   “(ii) in the case of a partnership, S  
23                   corporation, trust, estate, or other pass-  
24                   thru entity, the gross receipts test shall  
25                   apply at the entity level.

1           “(3) ELECTION.—Any election under this sub-  
2           section for any taxable year shall—

3                   “(A) specify the items of tangible property  
4                   to which the election applies, and

5                   “(B) be made, in such manner as the Sec-  
6                   retary may prescribe, on the taxpayer’s return  
7                   of the tax imposed by this chapter for the tax-  
8                   able year.

9           Any election made under this subsection, and any  
10           specification made in any such election, may not be  
11           revoked except with the consent of the Secretary.

12           “(4) COORDINATION WITH SECTION 179.—This  
13           subsection shall be applied before section 179.

14           “(5) REGULATIONS.—The Secretary shall pre-  
15           scribe such regulations as are necessary to carry out  
16           the purposes of this subsection, including regulations  
17           providing for—

18                   “(A) exceptions for property which is in-  
19                   ventory or land or for which the taxpayer  
20                   makes an election for optional treatment under  
21                   section 162; and

22                   “(B) the aggregation of all amounts paid  
23                   or incurred with respect to any item of tangible  
24                   property.

1           “(6) RULE OF CONSTRUCTION.—If, for any tax-  
2           able year, a taxpayer is not an eligible taxpayer (or  
3           is an eligible taxpayer who does not elect to have  
4           this subsection apply), nothing in this subsection  
5           shall be construed as prohibiting the expensing of  
6           any amount paid or incurred during the taxable year  
7           to acquire or produce any item of tangible property  
8           if such expensing is permitted under any safe harbor  
9           or other provision of the regulations prescribed  
10          under this section.

11          “(7) CROSS REFERENCE.—For capitalization of  
12          certain expenses where a taxpayer produces property  
13          or acquires property for resale, see section 263A.”.

14          (b) EFFECTIVE DATE.—The amendment made by  
15          this section shall apply to amounts paid or incurred in tax-  
16          able years beginning after December 31, 2013.