

105TH CONGRESS
1ST SESSION

H. R. 505

To amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1997

Mr. RANGEL (for himself, Mr. FATTAH, Mr. MATSUI, Mr. COYNE, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. JEFFERSON, Mr. CONYERS, Mr. DELLUMS, Mr. FOGLIETTA, Mr. TOWNS, Mr. SERRANO, Ms. WATERS, Mr. BISHOP, Mr. CLYBURN, Mrs. MEEK of Florida, Mr. BLUMENAUER, and Mr. JACKSON of Illinois) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

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. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
2 sion, the reference shall be considered to be made to a
3 section or other provision of the Internal Revenue Code
4 of 1986.

5 **TITLE I—ADDITIONAL**
6 **EMPOWERMENT ZONES**

7 **SEC. 101. ADDITIONAL EMPOWERMENT ZONES.**

8 (a) **IN GENERAL.**—Paragraph (2) of section 1391(b)
9 (relating to designations of empowerment zones and enter-
10 prise communities) is amended—

11 (1) by striking “9” and inserting “11”,

12 (2) by striking “6” and inserting “8”, and

13 (3) by striking “750,000” and inserting
14 “1,000,000”.

15 (b) **EFFECTIVE DATE.**—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act, except that designations of new empowerment
18 zones made pursuant to such amendments shall be made
19 during the 180-day period beginning on the date of the
20 enactment of this Act.

1 **TITLE II—NEW EMPOWERMENT**
2 **ZONES AND ENTERPRISE**
3 **COMMUNITIES**

4 **SEC. 201. DESIGNATION OF ADDITIONAL EMPOWERMENT**
5 **ZONES AND ENTERPRISE COMMUNITIES.**

6 (a) IN GENERAL.—Section 1391 (relating to designa-
7 tion procedure for empowerment zones and enterprise
8 communities) is amended by adding at the end the follow-
9 ing new subsection:

10 “(g) ADDITIONAL DESIGNATIONS PERMITTED.—

11 “(1) IN GENERAL.—In addition to the areas
12 designated under subsection (a)—

13 “(A) ENTERPRISE COMMUNITIES.—The
14 appropriate Secretaries may designate in the
15 aggregate an additional 80 nominated areas as
16 enterprise communities under this section, sub-
17 ject to the availability of eligible nominated
18 areas. Of that number, not more than 50 may
19 be designated in urban areas and not more
20 than 30 may be designated in rural areas.

21 “(B) EMPOWERMENT ZONES.—The appro-
22 priate Secretaries may designate in the aggre-
23 gate an additional 20 nominated areas as
24 empowerment zones under this section, subject
25 to the availability of eligible nominated areas.

1 Of that number, not more than 15 may be des-
2 ignated in urban areas and not more than 5
3 may be designated in rural areas.

4 “(2) PERIOD DESIGNATIONS MAY BE MADE.—A
5 designation may be made under this subsection after
6 the date of the enactment of this subsection and be-
7 fore January 1, 1999.

8 “(3) MODIFICATIONS TO ELIGIBILITY CRITERIA,
9 ETC.—

10 “(A) POVERTY RATE REQUIREMENT.—

11 “(i) IN GENERAL.—A nominated area
12 shall be eligible for designation under this
13 subsection only if the poverty rate for each
14 population census tract within the nomi-
15 nated area is not less than 20 percent and
16 the poverty rate for at least 90 percent of
17 the population census tracts within the
18 nominated area is not less than 25 per-
19 cent.

20 “(ii) TREATMENT OF CENSUS TRACTS
21 WITH SMALL POPULATIONS.—A population
22 census tract with a population of less than
23 2,000 shall be treated as having a poverty
24 rate of not less than 25 percent if—

1 “(I) more than 75 percent of
2 such tract is zoned for commercial or
3 industrial use, and

4 “(II) such tract is contiguous to
5 1 or more other population census
6 tracts which have a poverty rate of
7 not less than 25 percent (determined
8 without regard to this clause).

9 “(iii) EXCEPTION FOR DEVELOPABLE
10 SITES.—Clause (i) shall not apply to up to
11 3 noncontiguous parcels in a nominated
12 area which may be developed for commer-
13 cial or industrial purposes. The aggregate
14 area of noncontiguous parcels to which the
15 preceding sentence applies with respect to
16 any nominated area shall not exceed 1,000
17 acres (2,000 acres in the case of an
18 empowerment zone).

19 “(iv) CERTAIN PROVISIONS NOT TO
20 APPLY.—Section 1392(a)(4) (and so much
21 of section 1392(b) (1) and (2) as relates to
22 section 1392(a)(4)) shall not apply to an
23 area nominated for designation under this
24 subsection.

1 “(v) SPECIAL RULE FOR CERTAIN EN-
2 TERPRISE COMMUNITIES AND EMPOWER-
3 MENT ZONES.—The Secretary of Agri-
4 culture may designate not more than 5 en-
5 terprise communities, and not more than 1
6 empowerment zone, in rural areas without
7 regard to clause (i) if such areas satisfy
8 emigration criteria specified by the Sec-
9 retary of Agriculture.

10 “(B) SIZE LIMITATION.—

11 “(i) IN GENERAL.—The parcels de-
12 scribed in subparagraph (A)(iii) shall not
13 be taken into account in determining
14 whether the requirement of subparagraph
15 (A) or (B) of section 1392(a)(3) is met.

16 “(ii) SPECIAL RULE FOR RURAL
17 AREAS.—If a population census tract (or
18 equivalent division under section
19 1392(b)(4)) in a rural area exceeds 1,000
20 square miles or includes a substantial
21 amount of land owned by the Federal,
22 State, or local government, the nominated
23 area may exclude such excess square mile-
24 age or governmentally owned land and the
25 exclusion of that area will not be treated

1 as violating the continuous boundary re-
2 quirement of section 1392(a)(3)(B).

3 “(C) AGGREGATE POPULATION LIMITA-
4 TION.—The aggregate population limitation
5 under the last sentence of subsection (b)(2)
6 shall not apply to a designation under para-
7 graph (1)(B).

8 “(D) PREVIOUSLY DESIGNATED ENTER-
9 PRISE COMMUNITIES MAY BE INCLUDED.—Sub-
10 subsection (e)(5) shall not apply to any enterprise
11 community designated under subsection (a) that
12 is also nominated for designation under this
13 subsection.

14 “(E) INDIAN RESERVATIONS MAY BE NOM-
15 INATED.—

16 “(i) IN GENERAL.—Section
17 1393(a)(4) shall not apply to an area nom-
18 inated for designation under this sub-
19 section.

20 “(ii) SPECIAL RULE.—An area in an
21 Indian reservation shall be treated as nom-
22 inated by a State and a local government
23 if it is nominated by the reservation gov-
24 erning body (as determined by the Sec-
25 retary of Interior).”

1 (b) EMPLOYMENT CREDIT NOT TO APPLY TO NEW
2 EMPOWERMENT ZONES.—Section 1396 (relating to
3 empowerment zone employment credit) is amended by
4 adding at the end the following new subsection:

5 “(e) CREDIT NOT TO APPLY TO EMPOWERMENT
6 ZONES DESIGNATED UNDER SECTION 1391(g).—This
7 section shall be applied without regard to any
8 empowerment zone designated under section 1391(g).”

9 (c) INCREASED EXPENSING UNDER SECTION 179
10 NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A
11 (relating to increase in expensing under section 179) is
12 amended by adding at the end the following new sub-
13 section:

14 “(c) LIMITATION.—For purposes of this section,
15 qualified zone property shall not include any property sub-
16 stantially all of the use of which is in any parcel described
17 in section 1391(g)(3)(A)(iii).”

18 (d) CONFORMING AMENDMENTS.—

19 (1) Subsections (e) and (f) of section 1391 are
20 each amended by striking “subsection (a)” and in-
21 serting “this section”.

22 (2) Section 1391(c) is amended by striking
23 “this section” and inserting “subsection (a)”.

1 **SEC. 202. VOLUME CAP NOT TO APPLY TO ENTERPRISE**
2 **ZONE FACILITY BONDS WITH RESPECT TO**
3 **NEW EMPOWERMENT ZONES.**

4 (a) IN GENERAL.—Section 1394 (relating to tax-ex-
5 empt enterprise zone facility bonds) is amended by adding
6 at the end the following new subsection:

7 “(f) BONDS FOR EMPOWERMENT ZONES DES-
8 IGNATED UNDER SECTION 1391(g).—

9 “(1) IN GENERAL.—In the case of a new
10 empowerment zone facility bond—

11 “(A) such bond shall not be treated as a
12 private activity bond for purposes of section
13 146, and

14 “(B) subsection (c) of this section shall not
15 apply.

16 “(2) LIMITATION ON AMOUNT OF BONDS.—

17 “(A) IN GENERAL.—Paragraph (1) shall
18 apply to a new empowerment zone facility bond
19 only if such bond is designated for purposes of
20 this subsection by the local government which
21 nominated the area to which such bond relates.

22 “(B) LIMITATION ON BONDS DES-
23 IGNATED.—The aggregate face amount of
24 bonds which may be designated under subpara-
25 graph (A) with respect to any empowerment
26 zone shall not exceed—

1 “(i) \$60,000,000 if such zone is in a
2 rural area,

3 “(ii) \$130,000,000 if such zone is in
4 an urban area and the zone has a popu-
5 lation of less than 100,000, and

6 “(iii) \$230,000,000 if such zone is in
7 an urban area and the zone has a popu-
8 lation of at least 100,000.

9 “(C) SPECIAL RULES.—

10 “(i) COORDINATION WITH LIMITATION
11 IN SUBSECTION (c).—Bonds to which para-
12 graph (1) applies shall not be taken into
13 account in applying the limitation of sub-
14 section (c) to other bonds.

15 “(ii) CURRENT REFUNDING NOT
16 TAKEN INTO ACCOUNT.—In the case of a
17 refunding (or series of refundings) of a
18 bond designated under this paragraph, the
19 refunding obligation shall be treated as
20 designated under this paragraph (and shall
21 not be taken into account in applying sub-
22 paragraph (B)) if—

23 “(I) the amount of the refunding
24 bond does not exceed the outstanding
25 amount of the refunded bond, and

1 “(II) the refunded bond is re-
2 deemed not later than 90 days after
3 the date of issuance of the refunding
4 bond.

5 “(3) NEW EMPOWERMENT ZONE FACILITY
6 BOND.—For purposes of this subsection, the term
7 ‘new empowerment zone facility bond’ means any
8 bond which would be described in subsection (a) if
9 only empowerment zones designated under section
10 1391(g) were taken into account under sections
11 1397B and 1397C.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to obligations issued after the date
14 of the enactment of this Act.

15 **SEC. 203. MODIFICATIONS TO ENTERPRISE ZONE FACILITY**
16 **BOND RULES FOR ALL EMPOWERMENT**
17 **ZONES AND ENTERPRISE COMMUNITIES.**

18 (a) MODIFICATIONS RELATING TO ENTERPRISE
19 ZONE BUSINESS.—Paragraph (3) of section 1394(b) (de-
20 fining enterprise zone business) is amended to read as fol-
21 lows:

22 “(3) ENTERPRISE ZONE BUSINESS.—

1 “(A) IN GENERAL.—Except as modified in
2 this paragraph, the term ‘enterprise zone busi-
3 ness’ has the meaning given such term by sec-
4 tion 1397B.

5 “(B) MODIFICATIONS.—In applying sec-
6 tion 1397B for purposes of this section—

7 “(i) BUSINESSES IN ENTERPRISE
8 COMMUNITIES ELIGIBLE.—References in
9 section 1397B to empowerment zones shall
10 be treated as including references to enter-
11 prise communities.

12 “(ii) WAIVER OF REQUIREMENTS
13 DURING STARTUP PERIOD.—A business
14 shall not fail to be treated as an enterprise
15 zone business during the startup period
16 if—

17 “(I) as of the beginning of the
18 startup period, it is reasonably ex-
19 pected that such business will be an
20 enterprise zone business (as defined in
21 section 1397B as modified by this
22 paragraph) at the end of such period,
23 and

24 “(II) such business makes bona
25 fide efforts to be such a business.

1 “(iii) REDUCED REQUIREMENTS
2 AFTER TESTING PERIOD.—A business shall
3 not fail to be treated as an enterprise zone
4 business for any taxable year beginning
5 after the testing period by reason of failing
6 to meet any requirement of subsection (b)
7 or (c) of section 1397B if at least 35 per-
8 cent of the employees of such business for
9 such year are residents of an empowerment
10 zone or an enterprise community. The pre-
11 ceding sentence shall not apply to any
12 business which is not a qualified business
13 by reason of paragraph (1), (4), or (5) of
14 section 1397B(d).

15 “(C) DEFINITIONS RELATING TO SUBPARA-
16 GRAPH (B).—For purposes of subparagraph
17 (B)—

18 “(i) STARTUP PERIOD.—The term
19 ‘startup period’ means, with respect to any
20 property being provided for any business,
21 the period before the first taxable year be-
22 ginning more than 2 years after the later
23 of—

24 “(I) the date of issuance of the
25 issue providing such property, or

1 “(II) the date such property is
2 first placed in service after such issu-
3 ance (or, if earlier, the date which is
4 3 years after the date described in
5 subclause (I)).

6 “(ii) TESTING PERIOD.—The term
7 ‘testing period’ means the first 3 taxable
8 years beginning after the startup period.

9 “(D) PORTIONS OF BUSINESS MAY BE EN-
10 TERPRISE ZONE BUSINESS.—The term ‘enter-
11 prise zone business’ includes any trades or busi-
12 nesses which would qualify as an enterprise
13 zone business (determined after the modifica-
14 tions of subparagraph (B)) if such trades or
15 businesses were separately incorporated.”

16 (b) MODIFICATIONS RELATING TO QUALIFIED ZONE
17 PROPERTY.—Paragraph (2) of section 1394(b) (defining
18 qualified zone property) is amended to read as follows:

19 “(2) QUALIFIED ZONE PROPERTY.—The term
20 ‘qualified zone property’ has the meaning given such
21 term by section 1397C; except that—

22 “(A) the references to empowerment zones
23 shall be treated as including references to enter-
24 prise communities, and

1 “(B) section 1397C(a)(2) shall be applied
2 by substituting ‘an amount equal to 15 percent
3 of the adjusted basis’ for ‘an amount equal to
4 the adjusted basis.’”

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to obligations issued after the date
7 of the enactment of this Act.

8 **SEC. 204. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS**

9 **DEFINITION FOR ALL EMPOWERMENT ZONES**

10 **AND ENTERPRISE COMMUNITIES.**

11 (a) IN GENERAL.—Section 1397B (defining enter-
12 prise zone business) is amended—

13 (1) by striking “80 percent” in subsections
14 (b)(2) and (c)(1) and inserting “50 percent”,

15 (2) by striking “substantially all” each place it
16 appears in subsections (b) and (c) and inserting “a
17 substantial portion”,

18 (3) by striking “, and exclusively related to,” in
19 subsection (b)(4) and (c)(3),

20 (4) by adding at the end of subsection (d)(2)
21 the following new flush sentence:

22 “For purposes of subparagraph (B), the lessor of
23 the property may rely on a lessee’s certification that
24 such lessee is an enterprise zone business.”,

1 (5) by striking “substantially all” in subsection
2 (d)(3) and inserting “at least 50 percent”, and

3 (6) by adding at the end the following new sub-
4 section:

5 “(f) TREATMENT OF BUSINESSES STRADDLING CEN-
6 SUS TRACT LINES.—For purposes of this section, if—

7 “(1) a business entity or proprietorship uses
8 real property located within an empowerment zone,

9 “(2) the business entity or proprietorship also
10 uses real property located outside the empowerment
11 zone,

12 “(3) the amount of real property described in
13 paragraph (1) is substantial compared to the
14 amount of real property described in paragraph (2),
15 and

16 “(4) the real property described in paragraph
17 (2) is contiguous to part or all of the real property
18 described in paragraph (1),

19 then all the services performed by employees, all business
20 activities, all tangible property, and all intangible property
21 of the business entity or proprietorship that occur in or
22 is located on the real property described in paragraphs (1)
23 and (2) shall be treated as occurring or situated in an
24 empowerment zone.”

25 (b) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning on
3 or after the date of the enactment of this Act.

4 (2) SPECIAL RULE FOR ENTERPRISE ZONE FA-
5 CILITY BONDS.—For purposes of section 1394(b) of
6 the Internal Revenue Code of 1986, the amendments
7 made by this section shall apply to obligations issued
8 after the date of the enactment of this Act.

9 **TITLE III—EXPENSING OF ENVI-**
10 **RONMENTAL REMEDIATION**
11 **COSTS**

12 **SEC. 301. EXPENSING OF ENVIRONMENTAL REMEDIATION**
13 **COSTS.**

14 (a) IN GENERAL.—Part VI of subchapter B of chap-
15 ter 1 is amended by adding at the end the following new
16 section:

17 **“SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION**
18 **COSTS.**

19 “(a) IN GENERAL.—A taxpayer may elect to treat
20 any qualified environmental remediation expenditure
21 which is paid or incurred by the taxpayer as an expense
22 which is not chargeable to capital account. Any expendi-
23 ture which is so treated shall be allowed as a deduction
24 for the taxable year in which it is paid or incurred.

1 “(b) QUALIFIED ENVIRONMENTAL REMEDIATION
2 EXPENDITURE.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified envi-
4 ronmental remediation expenditure’ means any ex-
5 penditure—

6 “(A) which is otherwise chargeable to cap-
7 ital account, and

8 “(B) which is paid or incurred in connec-
9 tion with the abatement or control of hazardous
10 substances at a qualified contaminated site.

11 “(2) SPECIAL RULE FOR EXPENDITURES FOR
12 DEPRECIABLE PROPERTY.—Such term shall not in-
13 clude any expenditure for the acquisition of property
14 of a character subject to the allowance for deprecia-
15 tion which is used in connection with the abatement
16 or control of hazardous substances at a qualified
17 contaminated site; except that the portion of the al-
18 lowance under section 167 for such property which
19 is otherwise allocated to such site shall be treated as
20 a qualified environmental remediation expenditure.

21 “(c) QUALIFIED CONTAMINATED SITE.—For pur-
22 poses of this section—

23 “(1) QUALIFIED CONTAMINATED SITE.—

24 “(A) IN GENERAL.—The term ‘qualified
25 contaminated site’ means any area—

1 “(i) which is held by the taxpayer for
2 use in a trade or business or for the pro-
3 duction of income, or which is property de-
4 scribed in section 1221(1) in the hands of
5 the taxpayer,

6 “(ii) which is within a targeted area,
7 and

8 “(iii) which contains (or potentially
9 contains) any hazardous substance.

10 “(B) TAXPAYER MUST RECEIVE STATE-
11 MENT FROM STATE ENVIRONMENTAL AGEN-
12 CY.—An area shall be treated as a qualified
13 contaminated site with respect to expenditures
14 paid or incurred during any taxable year only
15 if the taxpayer receives a statement from the
16 appropriate agency of the State in which such
17 area is located that such area meets the re-
18 quirements of clauses (ii) and (iii) of subpara-
19 graph (A).

20 “(C) APPROPRIATE STATE AGENCY.— For
21 purposes of subparagraph (B), the appropriate
22 agency of a State is the agency designated by
23 the Administrator of the Environmental Protec-
24 tion Agency for purposes of this section. If no

1 agency of a State is designated under the pre-
2 ceding sentence, the appropriate agency for
3 such State shall be the Environmental Protec-
4 tion Agency.

5 “(2) TARGETED AREA.—

6 “(A) IN GENERAL.—The term ‘targeted
7 area’ means—

8 “(i) any population census tract with
9 a poverty rate of not less than 20 percent,

10 “(ii) a population census tract with a
11 population of less than 2,000 if—

12 “(I) more than 75 percent of
13 such tract is zoned for commercial or
14 industrial use, and

15 “(II) such tract is contiguous to
16 1 or more other population census
17 tracts which meet the requirement of
18 clause (i) without regard to this
19 clause,

20 “(iii) any empowerment zone or enter-
21 prise community (and any supplemental
22 zone designated on December 21, 1994),
23 and

24 “(iv) any site announced before Feb-
25 ruary 1, 1997, as being included as a

1 brownfields pilot project of the Environ-
2 mental Protection Agency.

3 “(B) NATIONAL PRIORITIES LISTED SITES
4 NOT INCLUDED.—Such term shall not include
5 any site which is on the national priorities list
6 under section 105(a)(8)(B) of the Comprehen-
7 sive Environmental Response, Compensation,
8 and Liability Act of 1980 (as in effect on the
9 date of the enactment of this section).

10 “(C) CERTAIN RULES TO APPLY.—For
11 purposes of this paragraph, the rules of sections
12 1392(b)(4) and 1393(a)(9) shall apply.

13 “(D) TREATMENT OF CERTAIN SITES.—
14 For purposes of this paragraph, a single con-
15 taminated site shall be treated as within a tar-
16 geted area if—

17 “(i) a substantial portion of the site is
18 located within a targeted area described in
19 subparagraph (A) (determined without re-
20 gard to this subparagraph), and

21 “(ii) the remaining portions are con-
22 tiguous to, but outside, such targeted area.

23 “(d) HAZARDOUS SUBSTANCE.—For purposes of this
24 section—

1 “(1) IN GENERAL.—The term ‘hazardous sub-
2 stance’ means—

3 “(A) any substance which is a hazardous
4 substance as defined in section 101(14) of the
5 Comprehensive Environmental Response, Com-
6 pensation, and Liability Act of 1980, and

7 “(B) any substance which is designated as
8 a hazardous substance under section 102 of
9 such Act.

10 “(2) EXCEPTION.—Such term shall not include
11 any substance with respect to which a removal or re-
12 medial action is not permitted under section 104 of
13 such Act by reason of subsection (a)(3) thereof.

14 “(e) DEDUCTION RECAPTURED AS ORDINARY IN-
15 COME ON SALE, ETC.—Solely for purposes of section
16 1245, in the case of property to which a qualified environ-
17 mental remediation expenditure would have been capital-
18 ized but for this section—

19 “(1) the deduction allowed by this section for
20 such expenditure shall be treated as a deduction for
21 depreciation, and

22 “(2) such property (if not otherwise section
23 1245 property) shall be treated as section 1245
24 property solely for purposes of applying section 1245
25 to such deduction.

1 “(f) COORDINATION WITH OTHER PROVISIONS.—
2 Sections 280B and 468 shall not apply to amounts which
3 are treated as expenses under this section.

4 “(g) REGULATIONS.—The Secretary shall prescribe
5 such regulations as may be necessary or appropriate to
6 carry out the purposes of this section.”

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for part VI of subchapter B of chapter 1 is amended by
9 adding at the end the following new item:

“Sec. 198. Expensing of environmental remediation costs.”

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to expenditures paid or incurred
12 after the date of the enactment of this Act, in taxable
13 years ending after such date.

○