

104TH CONGRESS  
2D SESSION

# S. 1911

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 27, 1996

Ms. MOSELEY-BRAUN (for herself and Mr. JEFFORDS) 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 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  
6 of an amendment to, or repeal of, a section or other provi-  
7 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code  
2 of 1986.

3 **TITLE I—ADDITIONAL  
4 EMPOWERMENT ZONES**

5 **SEC. 101. ADDITIONAL EMPOWERMENT ZONES.**

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

9 (1) by striking “9” and inserting “11”,  
10 (2) by striking “6” and inserting “8”, and  
11 (3) by striking “750,000” and inserting  
12 “1,000,000”.

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

19 **TITLE II—NEW EMPOWERMENT  
20 ZONES AND ENTERPRISE  
21 COMMUNITIES**

22 **SEC. 201. DESIGNATION OF ADDITIONAL EMPOWERMENT  
23 ZONES AND ENTERPRISE COMMUNITIES.**

24 (a) IN GENERAL.—Section 1391 (relating to designa-  
25 tion procedure for empowerment zones and enterprise

1 communities) is amended by adding at the end the follow-  
2 ing new subsection:

3       “(g) ADDITIONAL DESIGNATIONS PERMITTED.—

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

6               “(A) ENTERPRISE COMMUNITIES.—The  
7       appropriate Secretaries may designate in the  
8       aggregate an additional 80 nominated areas as  
9       enterprise communities under this section, sub-  
10       ject to the availability of eligible nominated  
11       areas. Of that number, not more than 50 may  
12       be designated in urban areas and not more  
13       than 30 may be designated in rural areas.

14               “(B) EMPOWERMENT ZONES.—The appro-  
15       priate Secretaries may designate in the aggre-  
16       gate an additional 20 nominated areas as  
17       empowerment zones under this section, subject  
18       to the availability of eligible nominated areas.  
19       Of that number, not more than 15 may be des-  
20       ignated in urban areas and not more than 5  
21       may be designated in rural areas.

22               “(2) PERIOD DESIGNATIONS MAY BE MADE.—A  
23       designation may be made under this subsection after  
24       the date of the enactment of this subsection and be-  
25       fore January 1, 1998.

1               “(3) MODIFICATIONS TO ELIGIBILITY CRITERIA,

2               ETC.—

3               “(A) POVERTY RATE REQUIREMENT.—

4               “(i) IN GENERAL.—A nominated area  
5               shall be eligible for designation under this  
6               subsection only if the poverty rate for each  
7               population census tract within the nomi-  
8               nated area is not less than 20 percent and  
9               the poverty rate for at least 90 percent of  
10               the population census tracts within the  
11               nominated area is not less than 25 per-  
12               cent.

13               “(ii) TREATMENT OF CENSUS TRACTS  
14               WITH SMALL POPULATIONS.—A population  
15               census tract with a population of less than  
16               2,000 shall be treated as having a poverty  
17               rate of not less than 25 percent if—

18               “(I) more than 75 percent of  
19               such tract is zoned for commercial or  
20               industrial use, and

21               “(II) such tract is contiguous to  
22               1 or more other population census  
23               tracts which have a poverty rate of  
24               not less than 25 percent (determined  
25               without regard to this clause).

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

11                           “(iv) CERTAIN PROVISIONS NOT TO  
12 APPLY.—Section 1392(a)(4) (and so much  
13 of paragraphs (1) and (2) of section  
14 1392(b) as relate to section 1392(a)(4))  
15 shall not apply to an area nominated for  
16 designation under this subsection.

17                           “(v) SPECIAL RULE FOR RURAL  
18 EMPOWERMENT ZONES AND ENTERPRISE  
19 COMMUNITIES.—The Secretary of Agri-  
20 culture may designate not more than 1  
21 empowerment zone, and not more than 5  
22 enterprise communities, in rural areas  
23 without regard to clause (i) if such areas  
24 satisfy emigration criteria specified by the  
25 Secretary of Agriculture.

## 1                   “(B) SIZE LIMITATION.—

2                   “(i) IN GENERAL.—The parcels de-  
3                   scribed in subparagraph (A)(iii) shall not  
4                   be taken into account in determining  
5                   whether the requirement of subparagraph  
6                   (A) or (B) of section 1392(a)(3) is met.7                   “(ii) SPECIAL RULE FOR RURAL  
8                   AREAS.—If a population census tract (or  
9                   equivalent division under section  
10                   1392(b)(4)) in a rural area exceeds 1,000  
11                   square miles or includes a substantial  
12                   amount of land owned by the Federal,  
13                   State, or local government, the nominated  
14                   area may exclude such excess square mile-  
15                   age or governmentally owned land and the  
16                   exclusion of that area will not be treated  
17                   as violating the continuous boundary re-  
18                   quirement of section 1392(a)(3)(B).19                   “(C) AGGREGATE POPULATION LIMITA-  
20                   TION.—The aggregate population limitation  
21                   under the last sentence of subsection (b)(2)  
22                   shall not apply to a designation under para-  
23                   graph (1)(B).24                   “(D) PREVIOUSLY DESIGNATED ENTER-  
25                   PRISE COMMUNITIES MAY BE INCLUDED.—Sub-

1           section (e)(5) shall not apply to any enterprise  
2           community designated under subsection (a) that  
3           is also nominated for designation under this  
4           subsection.

5           “(E) INDIAN RESERVATIONS MAY BE NOM-  
6           INATED.—

7           “(i) IN GENERAL.—Section 1393(a)(4)  
8           shall not apply to an area nominated for  
9           designation under this subsection.

10           “(ii) SPECIAL RULE.—An area in an  
11           Indian reservation shall be treated as nom-  
12           inated by a State and a local government  
13           if it is nominated by the reservation gov-  
14           erning body (as determined by the Sec-  
15           retary of Interior).”

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

20           “(e) CREDIT NOT TO APPLY TO EMPOWERMENT  
21           ZONES DESIGNATED UNDER SECTION 1391(g).—This  
22           section shall be applied without regard to any  
23           empowerment zone designated under section 1391(g).”

24           (c) INCREASED EXPENSING UNDER SECTION 179  
25           NOT TO APPLY IN DEVELOPABLE SITES.—Section 1397A

1 (relating to increase in expensing under section 179) is  
2 amended by adding at the end the following new sub-  
3 section:

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

8 (d) CONFORMING AMENDMENTS.—

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

14 SEC. 202. VOLUME CAP NOT TO APPLY TO ENTERPRISE  
15 ZONE FACILITY BONDS WITH RESPECT TO  
16 NEW EMPOWERMENT ZONES.

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

20        "(f) BONDS FOR EMPOWERMENT ZONES DES-  
21 IGNATED UNDER SECTION 1391(g).—

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

1               “(A) such bond shall not be treated as a  
2               private activity bond for purposes of section  
3               146, and

4               “(B) subsection (c) of this section shall not  
5               apply.

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

7               “(A) IN GENERAL.—Paragraph (1) shall  
8               apply to a new empowerment zone facility bond  
9               only if such bond is designated for purposes of  
10               this subsection by the local government which  
11               nominated the area to which such bond relates.

12               “(B) LIMITATION ON BONDS DESIGNATED.—The aggregate face amount of  
13               bonds which may be designated under subparagraph  
14               (A) with respect to any empowerment  
15               zone shall not exceed—

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

19               “(ii) \$130,000,000 if such zone is in  
20               an urban area and the zone has a population of less than 100,000, and

22               “(iii) \$230,000,000 if such zone is in  
23               an urban area and the zone has a population of at least 100,000.

25               “(C) SPECIAL RULES.—

1                             “(i) COORDINATION WITH LIMITATION  
2                             IN SUBSECTION (c).—Bonds to which para-  
3                             graph (1) applies shall not be taken into  
4                             account in applying the limitation of sub-  
5                             section (c) to other bonds.

6                             “(ii) CURRENT REFUNDING NOT  
7                             TAKEN INTO ACCOUNT.—In the case of a  
8                             refunding (or series of refundings) of a  
9                             bond designated under this paragraph, the  
10                            refunding obligation shall be treated as  
11                            designated under this paragraph (and shall  
12                            not be taken into account in applying sub-  
13                            paragraph (B)) if—

14                            “(I) the amount of the refunding  
15                            bond does not exceed the outstanding  
16                            amount of the refunded bond, and

17                            “(II) the refunded bond is re-  
18                            deemed not later than 90 days after  
19                            the date of issuance of the refunding  
20                            bond.

21                            “(3) NEW EMPOWERMENT ZONE FACILITY  
22                            BOND.—For purposes of this subsection, the term  
23                            ‘new empowerment zone facility bond’ means any  
24                            bond which would be described in subsection (a) if  
25                            only empowerment zones designated under section

1       1391(g) were taken into account under sections  
2       1397B and 1397C.”

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

6 **SEC. 203. MODIFICATIONS TO ENTERPRISE ZONE FACILITY**

7                   **BOND RULES FOR ALL EMPOWERMENT**  
8                   **ZONES AND ENTERPRISE COMMUNITIES.**

9       (a) MODIFICATIONS RELATING TO ENTERPRISE  
10 ZONE BUSINESS.—Paragraph (3) of section 1394(b) (defining enterprise zone business) is amended to read as follows:

13               “(3) ENTERPRISE ZONE BUSINESS.—

14               “(A) IN GENERAL.—Except as modified in  
15 this paragraph, the term ‘enterprise zone business’ has the meaning given such term by section 1397B.

18               “(B) MODIFICATIONS.—In applying section 1397B for purposes of this section—

20               “(i) BUSINESSES IN ENTERPRISE  
21 COMMUNITIES ELIGIBLE.—References in section 1397B to empowerment zones shall  
22 be treated as including references to enterprise communities.

1                         “(ii) WAIVER OF REQUIREMENTS  
2                         DURING STARTUP PERIOD.—A business  
3                         shall not fail to be treated as an enterprise  
4                         zone business during the startup period  
5                         if—

6                         “(I) as of the beginning of the  
7                         startup period, it is reasonably ex-  
8                         pected that such business will be an  
9                         enterprise zone business (as defined in  
10                         section 1397B as modified by this  
11                         paragraph) at the end of such period,  
12                         and

13                         “(II) such business makes bona  
14                         fide efforts to be such a business.

15                         “(iii) REDUCED REQUIREMENTS  
16                         AFTER TESTING PERIOD.—A business shall  
17                         not fail to be treated as an enterprise zone  
18                         business for any taxable year beginning  
19                         after the testing period by reason of failing  
20                         to meet any requirement of subsection (b)  
21                         or (c) of section 1397B if at least 35 per-  
22                         cent of the employees of such business for  
23                         such year are residents of an empowerment  
24                         zone or an enterprise community. The pre-  
25                         ceding sentence shall not apply to any

1 business which is not a qualified business  
2 by reason of paragraph (1), (4), or (5) of  
3 section 1397B(d).

23                   “(D) PORTIONS OF BUSINESS MAY BE EN-  
24                   TERPRISE ZONE BUSINESS.—The term ‘enter-  
25                   prise zone business’ includes any trades or busi-

1           nesses which would qualify as an enterprise  
2           zone business (determined after the modifica-  
3           tions of subparagraph (B)) if such trades or  
4           businesses were separately incorporated.”

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

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

11           “(A) the references to empowerment zones  
12          shall be treated as including references to enter-  
13          prise communities, and

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

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

21 **SEC. 204. MODIFICATIONS TO ENTERPRISE ZONE BUSINESS**  
22           **DEFINITION FOR ALL EMPOWERMENT ZONES**  
23           **AND ENTERPRISE COMMUNITIES.**

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

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

3 (2) by striking “substantially all” each place it  
4 appears in subsections (b) and (c) and inserting “a  
5 substantial portion”,

6 (3) by striking “, and exclusively related to,” in  
7 subsections (b)(4) and (c)(3),

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

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

15 (6) by adding at the end the following new sub-  
16 section:

17        "(f) TREATMENT OF BUSINESSES STRADDLING CEN-  
18 SUS TRACT LINES.—For purposes of this section, if—

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

21               “(2) the business entity or proprietorship also  
22       uses real property located outside the empowerment  
23       zone.

24                   “(3) the amount of real property described in  
25                   paragraph (1) is substantial compared to the

1       amount of real property described in paragraph (2),  
2       and  
3           “(4) the real property described in paragraph  
4           (2) is contiguous to part or all of the real property  
5           described in paragraph (1),  
6       then all the services performed by employees, all business  
7       activities, all tangible property, and all intangible property  
8       of the business entity or proprietorship that occur in or  
9       is located on the real property described in paragraphs (1)  
10      and (2) shall be treated as occurring or situated in an  
11      empowerment zone.”

12       (b) EFFECTIVE DATES.—

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

16           (2) SPECIAL RULE FOR ENTERPRISE ZONE FA-  
17       CILITY BONDS.—For purposes of section 1394(b) of  
18       the Internal Revenue Code of 1986, the amendments  
19       made by this section shall apply to obligations issued  
20       after the date of the enactment of this Act.

1 **TITLE III—EXPENSING OF ENVI-**  
2 **RONMENTAL REMEDIATION**  
3 **COSTS**

4 **SEC. 301. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
5 **COSTS.**

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

9 **“SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
10 **COSTS.**

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

17 “(b) **QUALIFIED ENVIRONMENTAL REMEDIATION**  
18 **EXPENDITURE.**—For purposes of this section—

19 “(1) IN GENERAL.—The term ‘qualified envi-  
20 ronmental remediation expenditure’ means any ex-  
21 penditure—

22 “(A) which is otherwise chargeable to cap-  
23 ital account, and

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

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

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

16                 “(1) QUALIFIED CONTAMINATED SITE.—

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

19                         “(i) which is held by the taxpayer for  
20                         use in a trade or business or for the pro-  
21                         duction of income, or which is property de-  
22                         scribed in section 1221(1) in the hands of  
23                         the taxpayer,

24                         “(ii) which is within a targeted area,  
25                         and

1                             “(iii) which contains (or potentially  
2                             contains) any hazardous substance.

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

13                             “(C) APPROPRIATE STATE AGENCY.— For  
14                             purposes of subparagraph (B), the appropriate  
15                             agency of a State is the agency designated by  
16                             the Administrator of the Environmental Protec-  
17                             tion Agency for purposes of this section. If no  
18                             agency of a State is designated under the pre-  
19                             ceding sentence, the appropriate agency for  
20                             such State shall be the Environmental Protec-  
21                             tion Agency.

22                             “(2) TARGETED AREA.—

23                             “(A) IN GENERAL.—The term ‘targeted  
24                             area’ means—

1                     “(i) any population census tract with  
2                     a poverty rate of not less than 20 percent,  
3                     “(ii) a population census tract with a  
4                     population of less than 2,000 if—  
5                         “(I) more than 75 percent of  
6                     such tract is zoned for commercial or  
7                     industrial use, and  
8                         “(II) such tract is contiguous to  
9                     1 or more other population census  
10                    tracts which meet the requirement of  
11                    clause (i) without regard to this  
12                    clause,  
13                     “(iii) any empowerment zone or enter-  
14                    prise community (and any supplemental  
15                    zone designated on December 21, 1994),  
16                    and  
17                     “(iv) any site announced before Feb-  
18                    ruary 1, 1996, as being included as a  
19                    brownfields pilot project of the Environ-  
20                    mental Protection Agency.

21                     “(B) NATIONAL PRIORITIES LISTED SITES  
22                    NOT INCLUDED.—Such term shall not include  
23                    any site which is on the national priorities list  
24                    under section 105(a)(8)(B) of the Comprehen-  
25                    sive Environmental Response, Compensation,

1 and Liability Act of 1980 (as in effect on the  
2 date of the enactment of this section).

3 “(C) CERTAIN RULES TO APPLY.—For  
4 purposes of this paragraph, the rules of sections  
5 1392(b)(4) and 1393(a)(9) shall apply.

6 “(D) TREATMENT OF CERTAIN SITES.—  
7 For purposes of this paragraph, a single con-  
8 taminated site shall be treated as within a tar-  
9 geted area if—

10 “(i) a substantial portion of the site is  
11 located within a targeted area described in  
12 subparagraph (A) (determined without re-  
13 gard to this subparagraph), and

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

16 “(d) HAZARDOUS SUBSTANCE.—For purposes of this  
17 section—

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

20 “(A) any substance which is a hazardous  
21 substance as defined in section 101(14) of the  
22 Comprehensive Environmental Response, Com-  
23 pensation, and Liability Act of 1980, and

1               “(B) any substance which is designated as  
2               a hazardous substance under section 102 of  
3               such Act.

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

8               “(e) DEDUCTION RECAPTURED AS ORDINARY IN-  
9               COME ON SALE, ETC.—Solely for purposes of section  
10       1245, in the case of property to which a qualified environ-  
11       mental remediation expenditure would have been capital-  
12       ized but for this section—

13               “(1) the deduction allowed by this section for  
14               such expenditure shall be treated as a deduction for  
15               depreciation, and

16               “(2) such property (if not otherwise section  
17       1245 property) shall be treated as section 1245  
18       property solely for purposes of applying section 1245  
19       to such deduction.

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

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

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

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

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

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