

THE WHITE HOUSE

WASHINGTON

November 4, 1993

MEMORANDUM FOR KAREN HONTZ (OMB)

FROM: PAUL WEINSTEIN (DPC)

SUBJECT: LOCAL FLEXIBILITY ACT

The White House has looked very closely at H.R. 2856 because of its relevance to the issues of unfunded mandates and empowerment zones. We have provided the President and the Vice President with some preliminary briefings on the bill and the issue of waivers in general. The President has expressed a desire to have the authority to provide communities that come forward with a comprehensive strategic plan with waivers and flexibility. We should encourage passage of H.R. 2856, but with some significant changes. These include:

- H.R. 2856 would create a new entity, the Interagency Review Council (Council), to approve waiver requests. The Administration has already established by Presidential Directive the Community Enterprise Board for this purpose. H.R. 2856 should replace the Interagency Review Council with the Community Enterprise Board.
- The Council would be comprised of ten agencies and the chairperson would be appointed by the President. The Community Enterprise Board is made up of 15 agencies in addition to the Vice President -- who serves as its chair, and the Assistants to the President for Economic and Domestic Policy who serve as vice chairs. Agencies which serve on the Community Enterprise Board but would not serve on the Council include Treasury, the Small Business Administration, the Office of National Drug Control Policy, the Council of Economic Advisers, and the Office of Management and Budget.
- H.R. 2856 would provide the Council the authority to grant waivers from Federal regulations in six areas: education, employment training, health, housing, nutrition, and other social services. However, It is important that economic and rural development programs, as proposed in the Administration's original empowerment zone bill, also be subject to waiver authority.
- H.R. 2856 states that waivers would only apply to funds "available...to a local government or qualified organization." Federal assistance programs to States or where the State acts as the grantee should also qualify.

- H.R. 2856 should contain a provision that explicitly states that communities designated as Federal empowerment zones and enterprise communities qualify for waivers.

Waiver authority was not included in the empowerment zone legislation adopted by Congress in the Budget Reconciliation Act. The Conyers/Clinger bill, with modifications, would give the Administration the kind of waiver authority envisioned in the President's original proposal. I recommend Director Panetta's letter state the Administration's strong support for passage of H.R. 2856 with modifications.

cc: Carol Rasco

*Find Enterprise
zone language
Tax Position*

1 **TITLE III—EMPOWERMENT**
2 **ZONES AND ENTERPRISE**
3 **COMMUNITIES**

4 **SEC. 301. DESIGNATION AND TREATMENT OF**
5 **EMPOWERMENT ZONES AND ENTERPRISE**
6 **COMMUNITIES.**

7 (a) IN GENERAL.—Chapter 1 (relating to normal
8 taxes and surtaxes) is amended by inserting after sub-
9 chapter T the following new subchapter:

10 **“Subchapter U—Designation and Treatment**
11 **of Empowerment Zones and Enterprise**
12 **Communities**

- “Part I. Designation.
- “Part II. Incentives for empowerment zones and enterprise communities.
- “Part III. Additional incentives for empowerment zones.
- “Part IV. Regulations.

13 **“PART I—DESIGNATION**

- “Sec. 1391. Designation procedure.
- “Sec. 1392. Eligibility criteria.
- “Sec. 1393. Definitions and special rules.

14 **“SEC. 1391. DESIGNATION PROCEDURE.**

15 “(a) IN GENERAL.—From among the areas nomi-
16 nated for designation under this section, the appropriate
17 Secretaries may, in consultation with the Enterprise
18 Board, designate empowerment zones and enterprise com-
19 munities.

20 “(b) NUMBER OF DESIGNATIONS.—

1 “(1) ENTERPRISE COMMUNITIES.—The appro-
2 priate Secretaries may designate in the aggregate
3 100 nominated areas as enterprise communities
4 under this section, subject to the availability of eligi-
5 ble nominated areas. Of that number, not more than
6 65 may be designated in urban areas, not more than
7 30 may be designated in rural areas, and not more
8 than 5 may be designated by the Secretary of the
9 Interior in Indian reservations.

10 “(2) EMPOWERMENT ZONES.—The appropriate
11 Secretaries may designate in the aggregate 10 nomi-
12 nated areas as empowerment zones under this sec-
13 tion, subject to the availability of eligible nominated
14 areas. Of that number, not more than 6 may be des-
15 ignated in urban areas, not more than 3 may be des-
16 ignated in rural areas, and not more than 1 may be
17 designated by the Secretary of the Interior in an In-
18 dian reservation. If 6 empowerment zones are des-
19 ignated in urban areas, no less than 1 shall be des-
20 ignated in an urban area whose most populous city
21 has a population of 500,000 or less. The Secretary
22 of Housing and Urban Development shall designate
23 empowerment zones located in urban areas in such
24 a manner that the aggregate population of all such
25 zones does not exceed 750,000.

1 “(c) PERIOD DESIGNATIONS MAY BE MADE.—A des-
2 ignation may be made under this section only after 1993
3 and before 1996.

4 “(d) PERIOD FOR WHICH DESIGNATION IS IN EF-
5 FECT.—

6 “(1) IN GENERAL.—Any designation under this
7 section shall remain in effect during the period be-
8 ginning on the date of the designation and ending
9 on the earliest of—

10 “(A) the close of the 10th calendar year
11 beginning on or after such date of designation,

12 “(B) the termination date designated by
13 the State and local governments as provided for
14 in their nomination, or

15 “(C) the date the appropriate Secretary re-
16 vokes the designation.

17 “(2) REVOCATION OF DESIGNATION.—

18 “(A) IN GENERAL.—The appropriate Sec-
19 retary, in consultation with the Enterprise
20 Board, may revoke the designation under this
21 section of an area if such Secretary determines
22 that the local government or the State in which
23 it is located—

24 “(i) has modified the boundaries of
25 the area, or

1 “(ii) is not complying substantially
2 with, or fails to make progress in achieving
3 the benchmarks set forth in, the strategic
4 plan under subsection (f)(2).

5 “(B) APPLICABLE PROCEDURES.—A des-
6 ignation may be revoked by the appropriate
7 Secretary under subparagraph (A) only after a
8 hearing on the record involving officials of the
9 State or local government involved.

10 “(e) LIMITATIONS ON DESIGNATIONS.—An area may
11 be designated under subsection (a) only if—

12 “(1) the area is nominated by 1 or more local
13 governments and the State or States in which it is
14 located for designation under this section,

15 “(2) such State or States and the local govern-
16 ments have the authority—

17 “(A) to nominate the area for designation
18 under this section, and

19 “(B) to provide the assurances described in
20 paragraph (3),

21 “(3) such State or States and the local govern-
22 ments provide written assurances satisfactory to the
23 appropriate Secretary that the strategic plan de-
24 scribed in the application under subsection (f)(2) for
25 such area will be implemented,

1 “(4) the appropriate Secretary determines that
2 any information furnished is reasonably accurate,
3 and

4 “(5) such State or States and local govern-
5 ments certify that no portion of the area nominated
6 is already included in an empowerment zone or in an
7 enterprise community or in an area otherwise nomi-
8 nated to be designated under this section.

9 “(f) APPLICATION.—An application for designation
10 as an empowerment zone or as an enterprise community
11 shall—

12 “(1) demonstrate that the nominated area sat-
13 isfies the eligibility criteria described in section
14 1392,

15 “(2) include a strategic plan for accomplishing
16 the purposes of this subchapter that—

17 “(A) describes the coordinated economic,
18 human, community, and physical development
19 plan and related activities proposed for the
20 nominated area, .

21 “(B) describes the process by which the af-
22 fected community is a full partner in the proc-
23 ess of developing and implementing the plan
24 and the extent to which local institutions and

1 organizations have contributed to the planning
2 process,

3 “(C) identifies the amount of State, local,
4 and private resources that will be available in
5 the nominated area and the private/public part-
6 nerships to be used, which may include partici-
7 pation by, and cooperation with, universities,
8 medical centers, and other private and public
9 entities,

10 “(D) identifies the funding requested
11 under any Federal program in support of the
12 proposed economic, human, community, and
13 physical development and related activities,

14 “(E) identifies baselines, methods, and
15 benchmarks for measuring the success of carry-
16 ing out the strategic plan, including the extent
17 to which poor persons and families will be em-
18 powered to become economically self-sufficient,
19 and

20 “(F) does not include any action to assist
21 any establishment in relocating from one area
22 outside the nominated area to the nominated
23 area, except that assistance for the expansion of
24 an existing business entity through the estab-

1 lishment of a new branch, affiliate, or subsidi-
2 ary is permitted if—

3 “(i) the establishment of the new
4 branch, affiliate, or subsidiary will not re-
5 sult in a decrease in employment in the
6 area of original location or in any other
7 area where the existing business entity
8 conducts business operations, and

9 “(ii) there is no reason to believe that
10 the new branch, affiliate, or subsidiary is
11 being established with the intention of clos-
12 ing down the operations of the existing
13 business entity in the area of its original
14 location or in any other area where the ex-
15 isting business entity conducts business op-
16 eration, and

17 “(3) include such other information as may be
18 required by the appropriate Secretary or the Enter-
19 prise Board.

20 **“SEC. 1392. ELIGIBILITY CRITERIA.**

21 “(a) **IN GENERAL.**—A nominated area shall be eligi-
22 ble for designation under section 1391 only if it meets the
23 following criteria:

24 “(1) **POPULATION.**—The nominated area has a
25 maximum population of—

1 “(A) in the case of an urban area, the less-
2 er of—

3 “(i) 200,000, or

4 “(ii) the greater of 50,000 or 10 per-
5 cent of the population of the most popu-
6 lous city located within the nominated
7 area, and

8 “(B) in the case of a rural area, 30,000.

9 “(2) DISTRESS.—The nominated area is one of
10 pervasive poverty, unemployment, and general dis-
11 tress.

12 “(3) SIZE.—The nominated area—

13 “(A) does not exceed 20 square miles if an
14 urban area or 1,000 square miles if a rural
15 area or an Indian reservation,

16 “(B) has a boundary which is continuous,
17 or, except in the case of a rural area located in
18 more than 1 State, consists of not more than
19 3 noncontiguous parcels,

20 “(C)(i) in the case of an urban area, is lo-
21 cated entirely within no more than 2 contiguous
22 States, and

23 “(ii) in the case of a rural area, is located
24 entirely within no more than 3 contiguous
25 States, and

1 “(D) does not include any portion of a
2 central business district (as such term is used
3 for purposes of the most recent Census of Re-
4 tail Trade) unless the poverty rate for each
5 population census tract in such district is not
6 less than 35 percent.

7 “(4) POVERTY RATE.—The poverty rate—

8 “(A) for each population census tract with-
9 in the nominated area is not less than 20 per-
10 cent,

11 “(B) for at least 90 percent of the popu-
12 lation census tracts within the nominated area
13 is not less than 25 percent, and

14 “(C) for at least 50 percent of the popu-
15 lation census tracts within the nominated area
16 is not less than 35 percent.

17 “(b) SPECIAL RULES RELATING TO DETERMINATION
18 OF POVERTY RATE.—For purposes of subsection (a)(4)—

19 “(1) TREATMENT OF CENSUS TRACTS WITH
20 SMALL POPULATIONS.—

21 “(A) TRACTS WITH NO POPULATION.—In
22 the case of a population census tract with no
23 population—

24 “(i) such tract shall be treated as hav-
25 ing a poverty rate which meets the require-

1 ments of subparagraphs (A) and (B) of
2 subsection (a)(4), but

3 “(ii) such tract shall be treated as
4 having a zero poverty rate for purposes of
5 applying subparagraph (C) thereof.

6 “(B) TRACTS WITH POPULATIONS OF LESS
7 THAN 2,000.—A population census tract with a
8 population of less than 2,000 shall be treated as
9 having a poverty rate which meets the require-
10 ments of subparagraphs (A) and (B) of sub-
11 section (a)(4) if more than 75 percent of such
12 tract is zoned for commercial or industrial use.

13 “(2) DISCRETION TO ADJUST REQUIRE-
14 MENTS.—Where necessary to carry out the purposes
15 of this subchapter, the appropriate Secretary may
16 reduce by 5 percentage points one of the following
17 thresholds for not more than 10 percent of the popu-
18 lation census tracts (or, if fewer, 5 population cen-
19 sus tracts) in the nominated area:

20 “(A) The 20 percent threshold in sub-
21 section (a)(4)(A).

22 “(B) The 25 percent threshold in sub-
23 section (a)(4)(B).

24 “(C) The 35 percent threshold in sub-
25 section (a)(4)(C).

1 “(3) EACH NONCONTIGUOUS AREA MUST SAT-
2 ISFY POVERTY RATE RULE.—A nominated area may
3 not include a noncontiguous parcel unless such par-
4 cel separately meets (subject to paragraphs (1) and
5 (2)) the criteria set forth in subsection (a)(4).

6 “(4) AREAS NOT WITHIN CENSUS TRACTS.—In
7 the case of an area which is not tracted for popu-
8 lation census tracts, the equivalent county divisions
9 (as defined by the Bureau of the Census for pur-
10 poses of defining poverty areas) shall be used for
11 purposes of determining poverty rates.

12 “(c) FACTORS TO CONSIDER.—From among the
13 nominated areas eligible for designation under section
14 1391 by the appropriate Secretary, such appropriate Sec-
15 retary shall make designations of empowerment zones and
16 enterprise communities on the basis of—

17 “(1) the effectiveness of the strategic plan sub-
18 mitted pursuant to section 1391(f)(2) and the assur-
19 ances made pursuant to section 1391(e)(3), and

20 “(2) criteria specified by the Enterprise Board.

21 **“SEC. 1393. DEFINITIONS AND SPECIAL RULES.**

22 “(a) IN GENERAL.—For purposes of this
23 subchapter—

24 “(1) APPROPRIATE SECRETARY.—The term ‘ap-
25 propriate Secretary’ means—

1 “(A) the Secretary of Housing and Urban
2 Development in the case of any nominated area
3 which is located in an urban area,

4 “(B) the Secretary of Agriculture in the
5 case of any nominated area which is located in
6 a rural area, and

7 “(C) the Secretary of the Interior in the
8 case of any nominated area which is located in
9 an Indian reservation.

10 “(2) ENTERPRISE BOARD.—The term ‘Enter-
11 prise Board’ means any board hereafter established
12 and designated for purposes of this subchapter as
13 the ‘Enterprise Board’.

14 “(3) RURAL AREA.—The term ‘rural area’
15 means any area which is—

16 “(A) outside of a metropolitan statistical
17 area (within the meaning of section
18 143(k)(2)(B)), or

19 “(B) determined by the Secretary of Agri-
20 culture, after consultation with the Secretary of
21 Commerce, to be a rural area.

22 “(4) URBAN AREA.—The term ‘urban area’
23 means an area which is not a rural area.

24 “(5) INDIAN RESERVATION.—

1 “(A) IN GENERAL.—The term ‘Indian res-
2 ervation’ means a reservation as defined in—

3 “(i) section 3(d) of the Indian Financ-
4 ing Act of 1974 (25 U.S.C. 1452(d)), or

5 “(ii) section 4(10) of the Indian Child
6 Welfare Act of 1978 (25 U.S.C. 1903(10)).

7 “(B) GOVERNMENTS.—In the case of an
8 area in an Indian reservation, the reservation
9 governing body (as determined by the Secretary
10 of the Interior) shall be deemed to be both the
11 State and local governments with respect to
12 such area.

13 “(6) LOCAL GOVERNMENT.—The term ‘local
14 government’ means—

15 “(A) any county, city, town, township, par-
16 ish, village, or other general purpose political
17 subdivision of a State, and

18 “(B) any combination of political sub-
19 divisions described in subparagraph (A) rec-
20 ognized by the appropriate Secretary.

21 “(7) NOMINATED AREA.—The term ‘nominated
22 area’ means an area which is nominated by 1 or
23 more local governments and the State or States in
24 which it is located for designation under section
25 1391.

1 “(8) GOVERNMENTS.—If more than 1 State or
2 local government seeks to nominate an area as a tax
3 enterprise zone, any reference to, or requirement of,
4 this subchapter shall apply to all such governments.

5 “(9) SPECIAL RULE.—An area shall be treated
6 as nominated by a State and a local government if
7 it is nominated by such other entity as may be speci-
8 fied by the Enterprise Board.

9 “(10) USE OF CENSUS DATA.—Population and
10 poverty rate shall be determined by the most recent
11 decennial census data available.

12 “(b) EMPOWERMENT ZONE; ENTERPRISE COMMU-
13 NITY.—For purposes of this title, the terms ‘empowerment
14 zone’ and ‘enterprise community’ mean areas designated
15 as such under section 1391.

16 **“PART II—INCENTIVES FOR EMPOWERMENT**
17 **ZONES AND ENTERPRISE COMMUNITIES**

“Sec. 1394. Zone resident empowerment savings credit.

“Sec. 1395. Additional benefits.

18 **“SEC. 1394. ZONE RESIDENT EMPOWERMENT SAVINGS**
19 **CREDIT.**

20 “(a) GENERAL RULE.—For purposes of section 38,
21 the amount of the zone resident empowerment savings
22 credit determined under this section with respect to any
23 employer for any taxable year is 50 percent of the quali-
24 fied savings contributions for the taxable year.

1 “(b) QUALIFIED SAVINGS CONTRIBUTIONS.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified savings
4 contribution’ means any contribution by an employer
5 to a defined contribution plan—

6 “(A) which is made on behalf of an em-
7 ployee in connection with services performed by
8 such employee while such employee is a quali-
9 fied zone employee, and

10 “(B) with respect to which the employee
11 has a nonforfeitable right.

12 “(2) LIMITATION BASED ON COMPENSATION.—

13 “(A) IN GENERAL.—The qualified savings
14 contributions taken into account with respect to
15 any qualified zone employee for any taxable
16 year shall not exceed an amount equal to 2 per-
17 cent of so much of the employee’s compensation
18 (as defined in section 414(s)) as does not ex-
19 ceed \$35,000.

20 “(B) ZONE DESIGNATION IN EFFECT FOR
21 PARTIAL YEAR.—If a designation of an area as
22 an empowerment zone or an enterprise commu-
23 nity is in effect for less than the entire taxable
24 year, the \$35,000 amount under subparagraph
25 (A) shall be ratably reduced to reflect the por-

1 tion of the year such designation is not in ef-
2 fect.

3 “(3) CERTAIN CONTRIBUTIONS EXCLUDED.—

4 The term ‘qualified savings contribution’ shall not
5 include any contribution—

6 “(A) to a plan subject to the funding re-
7 quirements of section 412,

8 “(B) to a tax credit employee stock owner-
9 ship plan (as defined in section 409(a)) or to an
10 employee stock ownership plan (as defined in
11 section 4975(e)(7)),

12 “(C) to a stock bonus plan, or

13 “(D) which is an elective deferral (within
14 the meaning of section 402(g)(3)).

15 “(4) SIMPLIFIED EMPLOYEE PENSION.—A con-
16 tribution to an individual savings plan pursuant to
17 a simplified employee pension (as defined in section
18 408(k)) shall be treated as a contribution to a de-
19 fined contribution plan.

20 “(c) EMPLOYER REQUIREMENTS.—This section shall
21 apply to an employer for any taxable year only if—

22 “(1) the employer elects the application of this
23 section, and

24 “(2) the plan pursuant to which any qualified
25 savings contribution is made provides that any con-

1 tribution to such plan (whether or not a qualified
2 savings contribution) may be withdrawn by a quali-
3 fied zone employee for the purposes described in sec-
4 tion 72(t)(2) (B) or (D).

5 “(d) DEFINITIONS.—For purposes of this section—

6 “(1) QUALIFIED ZONE EMPLOYEE.—The term
7 ‘qualified zone employee’ has the meaning given such
8 term by section 1396(d), except that the references
9 to empowerment zones shall be treated as including
10 references to enterprise communities.

11 “(2) DEFINED CONTRIBUTION PLAN.—The
12 term ‘defined contribution plan’ means a defined
13 contribution plan (as defined in section 414(i))
14 which is described in section 401(a) and includes a
15 trust exempt from tax under section 501(a).

16 “(e) TREATMENT OF PLANS.—A plan shall not be
17 treated as failing to meet any requirement of part I of
18 subchapter D of chapter 1 by reason of permitting with-
19 drawals for the purposes described in section 72(t)(2)(B)
20 or (D).

21 “SEC. 1395. ADDITIONAL BENEFITS.

22 “(a) INCREASE IN LOW INCOME HOUSING CREDIT.—
23 For purposes of section 42(d)(5)(C), a building shall be
24 treated as located in a qualified census tract if—

1 “(1) such building is located in a census tract
2 having a poverty rate of at least 30 percent (deter-
3 mined in accordance with section 1393(a)(10)), and

4 “(2) such building is located in an
5 empowerment zone or an enterprise community.

6 “(b) TAX EXEMPT ENTERPRISE ZONE FACILITY
7 BONDS.—

8 “(1) IN GENERAL.—For purposes of part IV of
9 subchapter B of chapter 1 (relating to tax exemption
10 requirements for State and local bonds), the term
11 ‘exempt facility bond’ includes any bond issued as
12 part of an issue 95 percent or more of the net pro-
13 ceeds (as defined in section 150(a)(3)) of which are
14 to be used to provide any enterprise zone facility.

15 “(2) ENTERPRISE ZONE FACILITY.—For pur-
16 poses of this subsection—

17 “(A) IN GENERAL.—The term ‘enterprise
18 zone facility’ means any qualified zone property
19 the principal user of which is an enterprise zone
20 business (as defined in section 1399A), and any
21 land which is functionally related and subordi-
22 nated to such property.

23 “(B) QUALIFIED ZONE PROPERTY.—The
24 term ‘qualified zone property’ has the meaning

1 given such term by section 1398(c); except
2 that—

3 “(i) section 1398(c)(3) shall not
4 apply, and

5 “(ii) the references to empowerment
6 zones shall be treated as including ref-
7 erences to enterprise communities.

8 “(3) LIMITATION ON AMOUNT OF BONDS.—

9 “(A) IN GENERAL.—Paragraph (1) shall
10 not apply to any issue if the aggregate amount
11 of outstanding enterprise zone facility bonds al-
12 locable to any enterprise zone business (taking
13 into account such issue) exceeds—

14 “(i) \$3,000,000 with respect to any 1
15 empowerment zone or enterprise commu-
16 nity, or

17 “(ii) \$20,000,000 with respect to all
18 empowerment zones and enterprise com-
19 munities.

20 “(B) AGGREGATE ENTERPRISE ZONE FA-
21 CILITY BOND BENEFIT.—For purposes of sub-
22 paragraph (A), the aggregate amount of out-
23 standing enterprise zone facility bonds allocable
24 to any business shall be determined under rules
25 similar to the rules of section 144(a)(10), tak-

1 ing into account only bonds to which paragraph
2 (1) applies.

3 “(4) ACQUISITION OF LAND AND EXISTING
4 PROPERTY PERMITTED.—The requirements of sec-
5 tions 147(c)(1)(A) and 147(d) shall not apply to any
6 bond described in paragraph (1).

7 “(5) PARTIAL EXEMPTION FROM VOLUME
8 CAP.—Only for purposes of section 146, the term
9 ‘private activity bond’ shall not include 50 percent of
10 any bond issued as part of an issue described in
11 paragraph (1).

12 “(6) PENALTY FOR CEASING TO MEET RE-
13 QUIREMENTS.—

14 “(A) FAILURES CORRECTED.—An issue
15 which fails to meet 1 or more of the require-
16 ments of paragraphs (1) and (2) shall be treat-
17 ed as meeting such requirements if—

18 “(i) the issuer and any principal user
19 in good faith attempted to meet such re-
20 quirements, and

21 “(ii) any failure to meet such require-
22 ments is corrected within a reasonable pe-
23 riod after such failure is first discovered.

24 “(B) LOSS OF DEDUCTIONS WHERE FACIL-
25 ITY CEASES TO BE QUALIFIED.—No deduction

1 shall be allowed under this chapter for interest
2 on any financing provided from any bond to
3 which paragraph (1) applies with respect to any
4 facility to the extent such interest accrues dur-
5 ing the period beginning on the first day of the
6 calendar year which includes the date on
7 which—

8 “(i) substantially all of the facility
9 with respect to which the financing was
10 provided ceases to be used in an
11 empowerment zone or enterprise commu-
12 nity, or

13 “(ii) the principal user of such facility
14 ceases to be an enterprise zone business
15 (as defined in section 1399A, but treating
16 references to empowerment zones as in-
17 cluding references to enterprise commu-
18 nities).

19 “(C) EXCEPTION IF ZONE CEASES.—Sub-
20 paragraphs (A) and (B) shall not apply solely
21 by reason of the termination or revocation of a
22 designation as an empowerment zone or an en-
23 terprise community.

1 “(D) EXCEPTION FOR BANKRUPTCY.—
2 Subparagraphs (A) and (B) shall not apply to
3 any cessation resulting from bankruptcy.

4 “(c) ENTERPRISE ZONE FACILITY BONDS NOT SUB-
5 JECT TO INTEREST DEDUCTION LIMITATIONS ON FINAN-
6 CIAL INSTITUTIONS.—Any tax-exempt bond described in
7 paragraph (1)—

8 “(1) shall be treated as acquired before August
9 8, 1986, for purposes of sections 265(b) and
10 291(e)(1)(B), and

11 “(2) shall not be taken into account in deter-
12 mining whether any issuer is a qualified small issuer
13 for purposes of section 265(b).

14 **“PART III—ADDITIONAL INCENTIVES FOR**
15 **EMPOWERMENT ZONES**

 “SUBPART A. Empowerment zone employment credit.

 “SUBPART B. Depreciation and other incentives.

16 **“Subpart A—Empowerment Zone Employment Credit**

 “Sec. 1396. Empowerment zone employment credit.

 “Sec. 1397. Other definitions and special rules.

17 **“SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.**

18 “(a) AMOUNT OF CREDIT.—For purposes of section
19 38, the amount of the empowerment zone employment
20 credit determined under this section with respect to any
21 employer for any taxable year is the applicable percentage
22 of the qualified zone wages paid or incurred during the
23 calendar year which ends with or within such taxable year.

1 “(b) **APPLICABLE PERCENTAGE.**—For purposes of
 2 this section, the term ‘applicable percentage’ means the
 3 percentage determined in accordance with the following
 4 table:

“In the case of wages paid or incurred during calendar year:	The applicable percentage is:
1994 through 2000	25
2001	20
2002	15
2003	10
2004	5

5 “(c) **QUALIFIED ZONE WAGES.**—

6 “(1) **IN GENERAL.**—For purposes of this sec-
 7 tion, the term ‘qualified zone wages’ means any
 8 wages paid or incurred by an employer for services
 9 performed by an employee while such employee is a
 10 qualified zone employee.

11 “(2) **ONLY FIRST \$20,000 OF WAGES PER YEAR**
 12 **TAKEN INTO ACCOUNT.**—With respect to each quali-
 13 fied zone employee, the amount of qualified zone
 14 wages which may be taken into account for a cal-
 15 endar year shall not exceed \$20,000.

16 “(3) **COORDINATION WITH TARGETED JOBS**
 17 **CREDIT.**—

18 “(A) **IN GENERAL.**—The term ‘qualified
 19 zone wages’ shall not include wages attributable
 20 to service rendered during the 1-year period be-
 21 ginning with the day the individual begins work

1 for the employer if any portion of such wages
2 is taken into account in determining the credit
3 under section 51.

4 “(B) COORDINATION WITH PARAGRAPH
5 (2).—In the case of the calendar year in which
6 the 1-year period referred to in subparagraph
7 (A) ends, the \$20,000 amount in paragraph (2)
8 shall be reduced by the amount of wages attrib-
9 utable to service rendered during the portion of
10 such 1-year period which is within such cal-
11 endar year.

12 “(d) QUALIFIED ZONE EMPLOYEE.—For purposes of
13 this section—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, the term ‘qualified zone em-
16 ployee’ means, with respect to any period, any em-
17 ployee of an employer if—

18 “(A) substantially all of the services per-
19 formed during such period by such employee for
20 such employer are performed within an
21 empowerment zone in a trade or business of the
22 employer, and

23 “(B) the principal place of abode of such
24 employee while performing such services is
25 within such empowerment zone.

1 under regulations prescribed by the Sec-
2 retary),
3 exceeds \$500,000.

4 “(3) SPECIAL RULES RELATED TO TERMI-
5 NATION OF EMPLOYMENT.—

6 “(A) IN GENERAL.—Paragraph (2)(C)
7 shall not apply to—

8 “(i) a termination of employment of
9 an individual who before the close of the
10 period referred to in paragraph (2)(C) be-
11 comes disabled to perform the services of
12 such employment unless such disability is
13 removed before the close of such period
14 and the taxpayer fails to offer reemploy-
15 ment to such individual, or

16 “(ii) a termination of employment of
17 an individual if it is determined under the
18 applicable State unemployment com-
19 pensation law that the termination was due
20 to the misconduct of such individual.

21 “(B) CHANGES IN FORM OF BUSINESS.—

22 For purposes of paragraph (2)(C), the employ-
23 ment relationship between the taxpayer and an
24 employee shall not be treated as terminated—

1 “(i) by a transaction to which section
2 381(a) applies if the employee continues to
3 be employed by the acquiring corporation,
4 or

5 “(ii) by reason of a mere change in
6 the form of conducting the trade or busi-
7 ness of the taxpayer if the employee con-
8 tinues to be employed in such trade or
9 business and the taxpayer retains a sub-
10 stantial interest in such trade or business.

11 **“SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.**

12 “(a) WAGES.—For purposes of this subpart—

13 “(1) IN GENERAL.—The term ‘wages’ has the
14 same meaning as when used in section 51.

15 “(2) CERTAIN TRAINING AND EDUCATIONAL
16 BENEFITS.—

17 “(A) IN GENERAL.—The following
18 amounts shall be treated as wages paid to an
19 employee:

20 “(i) Any amount paid or incurred by
21 an employer which is excludable from the
22 gross income of an employee under section
23 127, but only to the extent paid or in-
24 curred to a person not related to the em-
25 ployer.

1 “(ii) In the case of an employee who
2 has not attained the age of 19, any
3 amount paid or incurred by an employer
4 for any youth training program operated
5 by such employer in conjunction with local
6 education officials.

7 “(B) RELATED PERSON.—A person is re-
8 lated to any other person if the person bears a
9 relationship to such other person specified in
10 section 267(b) or 707(b)(1), or such person and
11 such other person are engaged in trades or
12 businesses under common control (within the
13 meaning of subsections (a) and (b) of section
14 52). For purposes of the preceding sentence, in
15 applying section 267(b) or 707(b)(1), ‘10 per-
16 cent’ shall be substituted for ‘50 percent’.

17 “(b) CONTROLLED GROUPS.—For purposes of this
18 subpart—

19 “(1) all employers treated as a single employer
20 under subsection (a) or (b) of section 52 shall be
21 treated as a single employer for purposes of this
22 subpart, and

23 “(2) the credit (if any) determined under sec-
24 tion 1396 with respect to each such employer shall

1 be its proportionate share of the wages giving rise
2 to such credit.

3 **“(c) CERTAIN OTHER RULES MADE APPLICABLE.—**

4 For purposes of this subpart, rules similar to the rules
5 of section 51(k) and subsections (c), (d), and (e) of section
6 52 shall apply.

7 **“(d) NOTICE OF AVAILABILITY OF ADVANCE PAY-**
8 **MENT OF EARNED INCOME CREDIT.—**Each employer shall
9 take reasonable steps to notify all qualified zone employees
10 of the availability to eligible individuals of receiving ad-
11 vanced payments of the credit under section 32 (relating
12 to the earned income credit).

13 **“Subpart B—Depreciation and Other Incentives**

“Sec. 1398. Depreciation benefits.

“Sec. 1399. Additional exclusion from volume cap for certain en-
terprise zone facility bonds.

“Sec. 1399A. Enterprise zone business.

14 **“SEC. 1398. DEPRECIATION BENEFITS.**

15 **“(a) INCREASE IN EXPENSING UNDER SECTION**
16 **179.—**

17 **“(1) IN GENERAL.—**In the case of an enterprise
18 zone business, for purposes of section 179—

19 **“(A) qualified zone property shall be treat-**
20 **ed as section 179 property,**

21 **“(B) the limitation under section**
22 **179(b)(1) shall be increased by the lesser of—**

23 **“(i) \$65,000, or**

1 “(ii) the cost of qualified zone prop-
 2 erty placed in service during the taxable
 3 year, and

4 “(C) section 179(b)(2) shall be applied by
 5 substituting ‘by one-half of the amount by
 6 which the cost of qualified zone property (other
 7 than real property)’ for ‘by the amount by
 8 which the cost of section 179 property’.

9 “(b) ACCELERATED DEPRECIATION.—

10 “(1) IN GENERAL.—For purposes of section
 11 168(a), with respect to qualified zone property of an
 12 enterprise zone business, the applicable recovery pe-
 13 riod shall be determined in accordance with the table
 14 contained in paragraph (2) in lieu of the table con-
 15 tained in section 168(c).

16 “(2) APPLICABLE RECOVERY PERIOD FOR
 17 QUALIFIED ZONE PROPERTY.—For purposes of para-
 18 graph (1)—

“In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

19 “(3) DEDUCTION ALLOWED IN COMPUTING
 20 MINIMUM TAX.—Paragraph (1) shall apply for pur-

1 poses of determining alternative minimum taxable
2 income under section 55.

3 “(4) COORDINATION WITH INVESTMENT CRED-
4 IT.—This subsection shall not apply to any property
5 with respect to which a credit is determined under
6 section 46A or 50A. If the lessee of any property is
7 treated as the owner of such property for purposes
8 of such credit, this subsection shall not apply to
9 such property in the hands of the lessor.

10 “(c) QUALIFIED ZONE PROPERTY.—For purposes of
11 this section—

12 “(1) IN GENERAL.—The term ‘qualified zone
13 property’ means any property to which section 168
14 applies (or would apply but for section 179) if—

15 “(A) such property was acquired by the
16 taxpayer by purchase (as defined in section
17 179(d)(2)) after the date on which the des-
18 ignation of the empowerment zone took effect,

19 “(B) the original use of which in an
20 empowerment zone commences with the tax-
21 payer, and

22 “(C) substantially all of the use of which
23 is in an empowerment zone and is in the active
24 conduct of a trade or business by the taxpayer
25 in such zone.

1 “(2) SPECIAL RULE FOR SUBSTANTIAL REN-
2 OVATIONS.—In the case of any property which is
3 substantially renovated by the taxpayer, the require-
4 ments of subparagraphs (A) and (B) of paragraph
5 (1) shall be treated as satisfied. For purposes of the
6 preceding sentence, property shall be treated as sub-
7 stantially renovated by the taxpayer if, during any
8 24-month period beginning after the date on which
9 the designation of the empowerment zone took ef-
10 fect, additions to basis with respect to such property
11 in the hands of the taxpayer exceed the greater of
12 (i) an amount equal to the adjusted basis at the be-
13 ginning of such 24-month period in the hands of the
14 taxpayer, or (ii) \$5,000.

15 “(3) EXCEPTION FOR ALTERNATIVE DEPRECIA-
16 TION PROPERTY.—The term ‘qualified zone prop-
17 erty’ does not include any property to which the al-
18 ternative depreciation system under section 168(g)
19 applies, determined—

20 “(A) without regard to section 168(g)(7)
21 (relating to election to use alternative deprecia-
22 tion system), and

23 “(B) after the application of section
24 280F(b) (relating to listed property with limited
25 business use).

1 “(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For
2 purposes of subsection (c)(1)(B), if property is sold and
3 leased back by the taxpayer within 3 months after the date
4 such property was originally placed in service, such prop-
5 erty shall be treated as originally placed in service not ear-
6 lier than the date on which such property is used under
7 the leaseback.

8 “(e) RECAPTURE.—Rules similar to the rules under
9 section 179(d)(10) shall apply with respect to any quali-
10 fied zone property of any business which ceases to be an
11 enterprise zone business.

12 **“SEC. 1399. ADDITIONAL EXCLUSION FROM VOLUME CAP**
13 **FOR CERTAIN ENTERPRISE ZONE FACILITY**
14 **BONDS.**

15 “(a) IN GENERAL.—Section 1395(b)(5) shall be ap-
16 plied by substituting ‘75 percent’ for ‘50 percent’ in the
17 case of any bond described in section 1395(b)(1) issued
18 as part of an issue 95 percent or more of the net proceeds
19 (as defined in section 150(a)(3)) of which are used to pro-
20 vide qualified zone property the principal user of which
21 is any enterprise zone business if the ownership require-
22 ments of subsection (b) are met with respect to such busi-
23 ness.

1 “(b) OWNERSHIP REQUIREMENTS.—The ownership
2 requirements of this subsection are met with respect to
3 an enterprise zone business if—

4 “(1) in the case of a sole proprietorship, the
5 principal place of abode of the proprietor is in an
6 empowerment zone,

7 “(2) in the case of a corporation, more than 50
8 percent of the stock (by vote and value) in the cor-
9 poration is owned by individuals whose principal
10 place of abode is in an empowerment zone, and

11 “(3) in the case of a partnership, more than 50
12 percent of the capital and profits interests in the
13 partnership is owned by individuals whose principal
14 place of abode is in an empowerment zone.

15 **“SEC. 1399A. ENTERPRISE ZONE BUSINESS DEFINED.**

16 “(a) IN GENERAL.—For purposes of this subpart, the
17 term ‘enterprise zone business’ means—

18 “(1) any qualified business entity, and

19 “(2) any qualified proprietorship.

20 “(b) QUALIFIED BUSINESS ENTITY.—For purposes
21 of this section, the term ‘qualified business entity’ means,
22 with respect to any taxable year, any corporation or part-
23 nership if for such year—

1 “(1) every trade or business of such entity is
2 the active conduct of a qualified business within an
3 empowerment zone,

4 “(2) at least 80 percent of the total gross in-
5 come of such entity is derived from the active con-
6 duct of such business,

7 “(3) substantially all of the use of the tangible
8 property of such entity (whether owned or leased) is
9 within an empowerment zone,

10 “(4) substantially all of the intangible property
11 of such entity is used in, and exclusively related to,
12 the active conduct of any such business,

13 “(5) substantially all of the services performed
14 for such entity by its employees are performed in an
15 empowerment zone,

16 “(6) at least 35 percent of its employees are
17 residents of an empowerment zone,

18 “(7) less than 5 percent of the average of the
19 aggregate unadjusted bases of the property of such
20 entity is attributable to collectibles (as defined in
21 section 408(m)(2)) other than collectibles that are
22 held primarily for sale to customers in the ordinary
23 course of such business, and

24 “(8) less than 5 percent of the average of the
25 aggregate unadjusted bases of the property of such

1 entity is attributable to nonqualified financial prop-
2 erty.

3 “(c) **QUALIFIED PROPRIETORSHIP.**—For purposes of
4 this section, the term ‘qualified proprietorship’ means,
5 with respect to any taxable year, any qualified business
6 carried on by an individual as a proprietorship if for such
7 year—

8 “(1) at least 80 percent of the total gross in-
9 come of such individual from such business is de-
10 rived from the active conduct of such business in an
11 empowerment zone,

12 “(2) substantially all of the use of the tangible
13 property of such individual in such business (wheth-
14 er owned or leased) is within an empowerment zone,

15 “(3) substantially all of the intangible property
16 of such business is used in, and exclusively related
17 to, the active conduct of such business,

18 “(4) substantially all of the services performed
19 for such individual in such business by employees of
20 such business are performed in an empowerment
21 zone,

22 “(5) at least 35 percent of such employees are
23 residents of an empowerment zone,

24 “(6) less than 5 percent of the average of the
25 aggregate unadjusted bases of the property of such

1 individual which is used in such business is attrib-
2 utable to collectibles (as defined in section
3 408(m)(2)) other than collectibles that are held pri-
4 marily for sale to customers in the ordinary course
5 of such business, and

6 “(7) less than 5 percent of the average of the
7 aggregate unadjusted bases of the property of such
8 individual which is used in such business is attrib-
9 utable to nonqualified financial property.

10 For purposes of this subsection, the term ‘employee’ in-
11 cludes the proprietor.

12 “(d) QUALIFIED BUSINESS.—For purposes of this
13 section—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, the term ‘qualified business’
16 means any trade or business.

17 “(2) RENTAL OF REAL PROPERTY.—The rental
18 to others of real property located in an
19 empowerment zone shall be treated as a qualified
20 business if and only if—

21 “(A) the property is not residential rental
22 property (as defined in section 168(e)(2)), and

23 “(B) at least 50 percent of the gross rental
24 income from the real property is from enter-
25 prise zone businesses.

1 “(ii) the aggregate value of assets
2 leased by the taxpayer which are used in
3 such a trade or business,
4 exceeds \$500,000.

5 For purposes of subparagraph (B), rules similar to
6 the rules of section 1397(b) shall apply.

7 “(e) **NONQUALIFIED FINANCIAL PROPERTY.**—For
8 purposes of this section, the term ‘nonqualified financial
9 property’ means debt, stock, partnership interests, op-
10 tions, futures contracts, forward contracts, warrants, no-
11 tional principal contracts, annuities, and other similar
12 property specified in regulations; except that such term
13 shall not include—

14 “(1) reasonable amounts of working capital
15 held in cash, cash equivalents, or debt instruments
16 with a term of 18 months or less, or

17 “(2) debt instruments described in section
18 1221(4).

19 **“PART IV—REGULATIONS**

 “Sec. 1399B. Regulations.

20 **“SEC. 1399B. REGULATIONS.**

21 “The Secretary shall prescribe such regulations as
22 may be necessary or appropriate to carry out the purposes
23 of parts II and III, including—

1 “(1) regulations limiting the benefit of parts II
2 and III in circumstances where such benefits, in
3 combination with benefits provided under other Fed-
4 eral programs, would result in an activity being 100
5 percent or more subsidized by the Federal Govern-
6 ment,

7 “(2) regulations preventing abuse of the provi-
8 sions of parts II and III, and

9 “(3) regulations dealing with inadvertent fail-
10 ures of entities to be enterprise zone businesses.”

11 (b) **CLERICAL AMENDMENT.**—The table of sub-
12 chapters for chapter 1 is amended by inserting after the
13 item relating to subchapter T the following new item:

 “Subchapter U. Designation and treatment of empowerment
 zones and enterprise communities.”

14 **SEC. 302. EXPANSION OF TARGETED JOBS CREDIT.**

15 (a) **ALLOWANCE OF CREDIT FOR HIRING**
16 **EMPOWERMENT ZONE RESIDENT.**—Paragraph (1) of sec-
17 tion 51(d) (defining members of targeted groups) is
18 amended by striking “or” at the end of subparagraph (I),
19 by striking the period at the end of subparagraph (J) and
20 inserting “, or”, and by adding at the end the following
21 new subparagraph:

22 “(K) an empowerment zone resident.”

23 (b) **EMPOWERMENT ZONE RESIDENT.**—Section
24 51(d) is amended by redesignating paragraphs (13)
25 through (16) as paragraphs (14) through (17), respec-

1 tively, and by inserting after paragraph (12) the following
2 new paragraph:

3 “(13) EMPOWERMENT ZONE RESIDENT.—The
4 term ‘empowerment zone resident’ means an individ-
5 ual whose principal place of abode while performing
6 services for the employer is within an empowerment
7 zone.”

8 (c) CONFORMING AMENDMENT.—Subparagraph (C)
9 of section 51(d)(12) is amended by striking “paragraph
10 (11)” and inserting “paragraph (12)”.

11 **SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.**

12 (a) CERTAIN CREDITS PART OF GENERAL BUSINESS
13 CREDIT.—

14 (1) Subsection (b) of section 38 (relating to
15 current year business credit) is amended by striking
16 “plus” at the end of paragraph (7), by striking the
17 period at the end of paragraph (8) and inserting a
18 comma, and by adding at the end the following new
19 paragraphs:

20 “(9) the zone resident empowerment savings
21 credit determined under section 1394, plus

22 “(10) the empowerment zone employment credit
23 determined under section 1396(a).”

1 (2) Subsection (d) of section 39, as amended by
2 section 1201(e)(2), is amended by adding at the end
3 the following new paragraph:

4 “(5) ENTERPRISE ZONE CREDITS.—No portion
5 of the unused business credit which is attributable to
6 the credit determined under section 1394 (relating
7 to zone resident empowerment savings credit) or sec-
8 tion 1396 (relating to empowerment zone employ-
9 ment credit) may be carried to any taxable year end-
10 ing before January 1, 1994.”

11 (b) DENIAL OF DEDUCTION FOR PORTION OF WAGES
12 EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CRED-
13 IT.—

14 (1) Subsection (a) of section 280C (relating to
15 rule for targeted jobs credit) is amended—

16 (A) by striking “the amount of the credit
17 determined for the taxable year under section
18 51(a)” and inserting “the sum of the credits
19 determined for the taxable year under sections
20 51(a) and 1396(a)”, and

21 (B) by striking “TARGETED JOBS CRED-
22 IT” in the subsection heading and inserting
23 “EMPLOYMENT CREDITS”.

24 (2) Subsection (c) of section 196 (relating to
25 deduction for certain unused business credits) is

1 amended by striking "and" at the end of paragraph
2 (4), by striking the period at the end of paragraph
3 (5) and inserting ", and", and by adding at the end
4 the following new paragraph:

5 " (6) the empowerment zone employment credit
6 determined under section 1396(a). "

7 (c) EMPLOYMENT AND SAVINGS CREDITS MAY OFF-
8 SET 25 PERCENT OF MINIMUM TAX.—

9 (1) Subparagraph (A) of section 38(c)(2), as
10 added by section 1201(c) of this Act, is amended—

11 (A) by inserting "and the empowerment
12 zone credits" after "the regular investment tax
13 credit" each place it appears, and

14 (B) by striking "such credit" in clause (ii)
15 and inserting "such credits".

16 (2) Paragraph (2) of section 38(c), as so added,
17 is amended by adding at the end thereof the fol-
18 lowing new subparagraph:

19 "(C) EMPOWERMENT ZONE CREDITS.—For
20 purposes of this paragraph, the term
21 'empowerment zone credits' means the portion
22 of the credit under subsection (a) which is at-
23 tributable to the credits determined under sec-
24 tion 1394 (relating to zone resident
25 empowerment savings credit) and section 1396

1 (relating to empowerment zone employment
2 credit).”

3 (d) CHANGES RELATING TO EMPOWERMENT ZONE
4 RESIDENT EMPOWERMENT SAVINGS CREDIT.—

5 (1) DISALLOWANCE OF DEDUCTION.—Section
6 404 (relating to deduction for certain employer con-
7 tributions) is amended by adding at the end the fol-
8 lowing new subsection:

9 “(m) COORDINATION WITH EMPOWERMENT ZONE
10 CREDIT.—No deduction shall be allowed under this sec-
11 tion for any qualified employer contribution taken into ac-
12 count in computing the credit determined under section
13 1394.”

14 (2) PENALTY-FREE DISTRIBUTIONS.—

15 (A) IN GENERAL.—Paragraph (2) of sec-
16 tion 72(t) (relating to exceptions to 10-percent
17 additional tax on early distributions from quali-
18 fied retirement plans) is amended by adding at
19 the end thereof the following new subpara-
20 graph:

21 “(D) DISTRIBUTIONS FROM CERTAIN
22 PLANS FOR FIRST HOME PURCHASES OR EDU-
23 CATIONAL EXPENSES.—

1 “(i) IN GENERAL.—Distributions to
2 an individual from a qualified retirement
3 plan—

4 “(I) which are qualified first-time
5 homebuyer distributions (as defined in
6 paragraph (6)),

7 “(II) to the extent such dis-
8 tributions do not exceed the qualified
9 higher education expenses (as defined
10 in paragraph (7)) of the taxpayer for
11 the taxable year, or

12 “(III) to the extent such dis-
13 tributions do not exceed an amount
14 equal to the aggregate investment
15 made by the taxpayer during the tax-
16 able year in any enterprise zone busi-
17 ness (as defined in section 1399A)

18 “(ii) LIMITATION.—Clause (i) shall
19 not apply to the extent that the aggregate
20 amount of the distributions described in
21 clause (i) are greater than the excess of—

22 “(I) the qualified retirement con-
23 tributions (as defined in section
24 1394(b)) of the taxpayer, and any
25 earnings thereon, over

*that meets
the ownership
requirements
of section
1399(d).*

1 “(II) the aggregate amounts to
2 which clause (i) and the last sentence
3 of paragraph (3)(A) applied for pre-
4 ceding taxable years.”

5 (B) DEFINITIONS.—Section 72(t) is
6 amended by adding at the end thereof the fol-
7 lowing new paragraphs:

8 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-
9 TRIBUTIONS.—For purposes of paragraph
10 (2)(D)(i)(I)—

11 “(A) IN GENERAL.—The term ‘qualified
12 first-time homebuyer distribution’ means any
13 payment or distribution received by an individ-
14 ual to the extent such payment or distribution
15 is used by the individual before the close of the
16 60th day after the day on which such payment
17 or distribution is received to pay qualified ac-
18 quisition costs with respect to a principal resi-
19 dence of a first-time homebuyer who is such in-
20 dividual or the spouse of such individual.

21 “(B) QUALIFIED ACQUISITION COSTS.—
22 For purposes of this paragraph, the term
23 ‘qualified acquisition costs’ means the costs of
24 acquiring, constructing, or reconstructing a resi-
25 dence. Such term includes any usual or reason-

1 able settlement, financing, or other closing
2 costs.

3 “(C) FIRST-TIME HOMEBUYER; OTHER
4 DEFINITIONS.—For purposes of this
5 paragraph—

6 “(i) FIRST-TIME HOMEBUYER.—The
7 term ‘first-time homebuyer’ means any in-
8 dividual if—

9 “(I) such individual (and if mar-
10 ried, such individual’s spouse) had no
11 present ownership interest in a prin-
12 cipal residence during the 3-year pe-
13 riod ending on the date of acquisition
14 of the principal residence to which
15 this paragraph applies, and

16 “(II) subsection (a)(6), (h), or
17 (k) of section 1034 did not suspend
18 the running of any period of time
19 specified in section 1034 with respect
20 to such individual on the day before
21 the date the distribution is applied
22 pursuant to subparagraph (A)(ii).

23 “(ii) PRINCIPAL RESIDENCE.—The
24 term ‘principal residence’ has the same
25 meaning as when used in section 1034.

1 “(iii) DATE OF ACQUISITION.—The
2 term ‘date of acquisition’ means the date—

3 “(I) on which a binding contract
4 to acquire the principal residence to
5 which subparagraph (A) applies is en-
6 tered into, or

7 “(II) on which construction or re-
8 construction of such a principal resi-
9 dence is commenced.

10 “(D) SPECIAL RULE WHERE DELAY IN AC-
11 QUISSION.—If any distribution from any quali-
12 fied retirement plan fails to meet the require-
13 ments of subparagraph (A) solely by reason of
14 a delay or cancellation of the purchase or con-
15 struction of the residence, the amount of the
16 distribution may be recontributed to the plan
17 from which it was distributed within 120 days
18 after the date of such distribution.

19 “(7) QUALIFIED HIGHER EDUCATION EX-
20 PENSES.—For purposes of paragraph
21 (2)(D)(ii)(II)—

22 “(A) IN GENERAL.—The term ‘qualified
23 higher education expenses’ means tuition, fees,
24 books, supplies, and equipment required for the
25 enrollment or attendance of—

- 1 “(i) the taxpayer,
2 “(ii) the taxpayer’s spouse, or
3 “(iii) the taxpayer’s child (as defined
4 in section 151(c)(3)) or grandchild,
5 at an eligible educational institution (as defined
6 in section 135(c)(3)).

7 “(B) COORDINATION WITH SAVINGS BOND
8 PROVISIONS.—The amount of qualified higher
9 education expenses for any taxable year shall be
10 reduced by any amount excludable from gross
11 income under section 135.”

12 (C) CONFORMING AMENDMENTS.—

13 (i) Subparagraph (B) of section
14 72(t)(2) is amended by striking “or (C)”
15 and inserting “, (C), or (D)”.

16 (ii) Section 401(k)(2)(B)(i) is amend-
17 ed by striking “or” at the end of subclause
18 (III), by striking “and” at the end of
19 subclause (IV) and inserting “or”, and by
20 inserting after subclause (IV) the following
21 new subclause:

22 “(V) subject to the limitation of
23 section 72(t)(2)(D)(ii), the date on
24 which qualified first-time homebuyer
25 distributions (as defined in section

1 72(t)(6)), distributions for qualified
2 higher education expenses (as defined
3 in section 72(t)(7)), or distributions
4 for investments described in section
5 72(t)(2)(D)(i)(III) are made, and”.

6 (e) AMENDMENT OF TARGETED JOBS CREDIT.—
7 Subparagraph (A) of section 51(i)(1) is amended by in-
8 serting “, or, if the taxpayer is an entity other than a
9 corporation, to any individual who owns, directly or indi-
10 rectly, more than 50 percent of the capital and profits in-
11 terests in the entity,” after “of the corporation”.

12 (f) CARRYOVERS.—Subsection (c) of section 381 (re-
13 lating to carryovers in certain corporate acquisitions) is
14 amended by adding at the end the following new para-
15 graph:

16 “(26) ENTERPRISE ZONE PROVISIONS.—The
17 acquiring corporation shall take into account (to the
18 extent proper to carry out the purposes of this sec-
19 tion and subchapter U, and under such regulations
20 as may be prescribed by the Secretary) the items re-
21 quired to be taken into account for purposes of sub-
22 chapter U in respect of the distributor or transferor
23 corporation.”

1 SEC. 304. EFFECTIVE DATE.

2 The amendments made by this title shall take effect
3 on the date of the enactment of this Act.