

108TH CONGRESS
2D SESSION

S. 2733

To promote freedom, fairness, and economic opportunity by establishing a National Enterprise Zone system to promote prosperity in economically depressed areas.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2004

Mr. BROWNBACK introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To promote freedom, fairness, and economic opportunity by establishing a National Enterprise Zone system to promote prosperity in economically depressed areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Enterprise Zone Act of 2004”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. National Enterprise Zones.

1 **SEC. 2. FINDINGS.**

2 The Congress finds—

3 (1) a higher level of private sector economic ac-
4 tivity is necessary to alleviate poverty and unemploy-
5 ment in economically depressed regions of the
6 United States;

7 (2) removing tax disincentives to reside or do
8 business in economically depressed areas is an effec-
9 tive means of promoting economic growth, develop-
10 ment, employment, a higher standard of living, and
11 a higher quality of life in economically depressed
12 areas;

13 (3) lower marginal tax rates on work, savings,
14 and investment in economically depressed regions
15 will promote employment, business activity, and de-
16 velopment in economically depressed areas; and

17 (4) improved taxation of business investment in
18 plants, equipment, and inventories in economically
19 depressed areas will encourage business to operate in
20 those areas.

21 **SEC. 3. NATIONAL ENTERPRISE ZONES.**

22 (a) **IN GENERAL.**—Chapter 1 of the Internal Rev-
23 enue Code of 1986 is amended by inserting after sub-
24 chapter Y the following new subchapter:

1 the nominator with the application procedures or of any
2 needed information that may be missing from the applica-
3 tion by issuing a deficiency notice no later than April 30
4 of the year that the application was submitted.

5 “(d) CURING DEADLINE.—The nominator shall cure
6 any deficiencies set forth in the Secretary’s deficiency no-
7 tice by May 31 of the year in which the deficiency notice
8 was issued. Failure to timely cure such deficiencies shall
9 constitute the withdraw of the nomination application.

10 “(e) DESIGNATION DEADLINE.—The Secretary shall
11 make a determination with respect to any nomination ap-
12 plication no later than September 30 of the year in which
13 the application was received. If the Secretary finds that
14 a nominated zone meets the National Enterprise Zone eli-
15 gibility criteria set forth in section 1400N, then the Sec-
16 retary shall designate such zone as a National Enterprise
17 Zone no later than September 30 of the year that the ap-
18 plication was submitted. If the Secretary finds that a nom-
19 inated zone does not meet the National Enterprise Zone
20 eligibility criteria set forth in section 1400N or that the
21 application does not contain sufficient information to de-
22 termine whether a nominated zone meets the National En-
23 terprise Zone eligibility criteria set forth in section 1400N,
24 then the Secretary shall decline to designate such zone as
25 a National Enterprise Zone and shall, not later than Octo-

1 ber 31 of the year the application was submitted, provide
2 to the nominator a rejection notice setting forth with par-
3 ticularly the reasons why the application was rejected.

4 “(f) NO PREJUDICE WITH RESPECT TO PREVIOUSLY
5 NOMINATED ZONES.—Whether a zone or a substantially
6 similar zone has been nominated in previous years shall
7 not be regarded by the Secretary as relevant when evalu-
8 ating whether to designate a nominated zone as a National
9 Enterprise Zone.

10 “(g) APPLICATION CONTENTS.—The application sub-
11 mitted by the nominator shall contain—

12 “(1) an enumeration of all of the census tracts
13 to be included in the zone;

14 “(2) census data for each tract with respect to
15 median household income in that tract;

16 “(3) census data for each tract with respect to
17 the poverty rate in that tract;

18 “(4) the laws of the State or Territory that
19 conforms to the requirements of section 1400N; and

20 “(5) such other information as the Secretary
21 may require.

22 “(h) EFFECTIVE DATE OF ZONE DESIGNATION.—
23 The effective date of the designation of any zone as a Na-
24 tional Enterprise Zone pursuant to this section shall be
25 January 1 of the year following its designation. A designa-

1 tion shall continue indefinitely, subject to annual eligibility
2 reviews under subsection (i).

3 “(i) ANNUAL ELIGIBILITY REVIEW.—Between Janu-
4 ary 1 and April 30 of the sixth year of a National Enter-
5 prise Zone’s initial effective date and each year thereafter,
6 the Secretary shall undertake a review of each National
7 Enterprise Zone designation whereby the Secretary shall
8 determine whether the zone continues to meet the Na-
9 tional Enterprise Zone Eligibility Criteria established by
10 section 1400N. If this review determines that a National
11 Enterprise Zone no longer meets the National Enterprise
12 Zone Eligibility Criteria established by section 1400N,
13 then the Secretary shall revoke the designation effective
14 the end of the calendar year. No later than June 30 after
15 such determination, the Secretary shall issue a notice to
16 the nominator and to all taxpayers making National En-
17 terprise Zone elections with respect to such zone in the
18 taxpayer’s previous taxable year that the designation will
19 be revoked at the end of the calendar year for such Na-
20 tional Enterprise Zone. The Secretary shall publish the
21 annual eligibility review results for all National Enterprise
22 Zones no later than June 30 of each year.

1 **“SEC. 1400N. NATIONAL ENTERPRISE ZONE ELIGIBILITY**
 2 **CRITERIA.**

3 “(a) NATIONAL ENTERPRISE ZONE ELIGIBILITY
 4 CRITERIA.—A National Enterprise Zone must—

5 “(1) be composed of contiguous census tracts
 6 (none of which may be part of an existing National
 7 Enterprise Zone);

8 “(2) have greater than 10,000 residents;

9 “(3) have a poverty rate 2 times the national
 10 poverty rate;

11 “(4) have a median household income less than
 12 60 percent of the national median household income;

13 “(5) have an unemployment rate 2.5 times the
 14 national average unemployment rate; and

15 “(6) be located entirely within a State or Terri-
 16 tory that the Secretary certifies has enacted con-
 17 forming laws within the meaning of subsection (e).

18 “(b) SPECIAL RULE FOR SMALL INCORPORATED CIT-
 19 IES OR SMALL COUNTIES.—Paragraph (2) of subsection
 20 (a) shall not apply to a zone if the zone comprises an en-
 21 tire incorporated city or an entire county provided that
 22 such incorporated city or county existed on the date of
 23 enactment of this subchapter.

24 “(c) NO OVERLAP WITH EXISTING ZONES OF DIF-
 25 FERENT TYPE.—No part of a National Enterprise Zone
 26 may also be a part of—

1 “(1) a zone designated under subchapter U as
2 an Empowerment Zone, an Enterprise Community,
3 or a Rural Development Investment Area; or

4 “(2) a zone designated as a District of Colum-
5 bia Enterprise Zone under subchapter W.

6 The nominator of a proposed National Enterprise Zone
7 may indicate in his application that some or all of an exist-
8 ing zone described in the previous sentence shall lose its
9 designation as an Empowerment Zone, Enterprise Com-
10 munity, Rural Development Investment Area, or District
11 of Columbia Enterprise Zone upon its designation as all
12 or part of a National Enterprise Zone. Such existing zone
13 shall lose such designation upon its designation as all or
14 part of a National Enterprise Zone in a manner prescribed
15 by the Secretary.

16 “(d) DATA.—No later than November 30 of each
17 year, the Secretary shall designate which data as of which
18 date shall be used by nominators to perform the calcula-
19 tions required in subsection (a) in applications made the
20 following year.

21 “(e) CONFORMING LAWS.—A State or Territory shall
22 be deemed to have enacted conforming laws if—

23 “(1) it is in substantial compliance with the No
24 Child Left Behind Act of 2001; and

25 “(2) its tax laws provide for either—

1 “(A)(i) a substantially similar income tax
2 base with respect to business income arising
3 from the conduct of an active trade or business
4 within a National Enterprise Zone as that pro-
5 vided for Federal income tax purposes; and

6 “(ii) tax rates no higher than that imposed
7 on businesses without a National Enterprise
8 Zone; or

9 “(B) the imposition of no income tax with
10 respect to business income arising from the con-
11 duct of an active trade or business within a Na-
12 tional Enterprise Zone.

13 **“SEC. 14000. EFFECT OF NATIONAL ENTERPRISE ZONE**
14 **DESIGNATION ON INDIVIDUALS, ESTATES,**
15 **AND TRUSTS.**

16 “(a) INDIVIDUAL ALTERNATIVE NATIONAL ENTER-
17 PRISE ZONE TAX.—If for any taxable year, any individual
18 taxpayer who is resident in a National Enterprise Zone
19 for the entire taxable year has any National Enterprise
20 Zone taxable income, then, in lieu of any tax imposed by
21 section 1 or section 55, such individual taxpayer may elect,
22 in a form prescribed by the Secretary, to pay a tax for
23 such taxable year which shall consist of the sum of—

24 “(1) a tax computed on the taxable income of
25 the individual taxpayer for such taxable year re-

1 duced by the amount of National Enterprise Zone
2 tentative taxable income of such individual taxpayer
3 for such taxable year (if greater than zero), at the
4 rates and in the manner as if this subsection had
5 not been enacted; plus

6 “(2) a tax of 17 percent of the National Enter-
7 prise Zone taxable income for the taxable year.

8 “(b) INDIVIDUAL TAXPAYER.—For purposes of this
9 section, an individual taxpayer shall include an—

10 “(1) individual;

11 “(2) married individual filing a joint return;

12 “(3) surviving spouse;

13 “(4) head of household;

14 “(5) married individual filing a separate return;

15 “(6) estate; or

16 “(7) trust.

17 “(c) CERTAIN INDIVIDUALS, ESTATES AND
18 TRUSTS.—

19 “(1) JOINT FILERS.—In the case of married in-
20 dividuals filing a joint return, both individuals must
21 have been residents in a National Enterprise Zone
22 for their entire taxable year in order to be eligible
23 under this section.

24 “(2) INDIVIDUALS RESIDENT IN MULTIPLE
25 ZONES.—Individuals who are residents of 2 or more

1 National Enterprise Zones during their taxable year
 2 but are residents of a National Enterprise Zone for
 3 their entire taxable year shall be eligible under this
 4 section.

5 “(3) ESTATES AND CERTAIN TRUSTS.—The es-
 6 tate of an individual and testamentary trusts of an
 7 individual shall be eligible under this section if the
 8 decedent was a resident of a National Enterprise
 9 Zone for at least two complete taxable years prior to
 10 the individual’s death.

11 **“SEC. 1400P. NATIONAL ENTERPRISE ZONE INDIVIDUAL**
 12 **TAXABLE INCOME.**

13 “(a) NATIONAL ENTERPRISE ZONE INDIVIDUAL
 14 TENTATIVE TAXABLE INCOME.—National Enterprise
 15 Zone tentative individual taxable income shall be equal to
 16 taxable income (as defined by section 63 and computed
 17 without regard to section 179(e)) plus the additions set
 18 forth in subsection (b) less the deductions set forth in sub-
 19 section (c).

20 “(b) ADDITIONS TO TAXABLE INCOME TO DETER-
 21 MINE NATIONAL ENTERPRISE INDIVIDUAL TENTATIVE
 22 TAXABLE INCOME.—The following amounts shall be
 23 added to taxable income for purposes of determining Na-
 24 tional Enterprise Zone individual tentative taxable in-
 25 come—

1 “(1) any amount excluded by section 103;

2 “(2) any amount excluded by section 105;

3 “(3) any amount excluded by section 106; and

4 “(4) any amount excluded by section 125.

5 “(c) DEDUCTIONS FROM TAXABLE INCOME TO DE-
6 TERMINE NATIONAL ENTERPRISE INDIVIDUAL TEN-
7 TATIVE TAXABLE INCOME.—The following amounts shall
8 be deducted from taxable income for purposes of deter-
9 mining National Enterprise Zone individual tentative tax-
10 able income—

11 “(1) the taxpayer’s distributive share of any
12 partnership item (within the meaning of section
13 702) that is not attributable to the conduct of an ac-
14 tive trade or business within a National Enterprise
15 Zone;

16 “(2) the taxpayer’s pro rata share of any S cor-
17 poration item (within the meaning of section 1366)
18 that is not attributable to the conduct of an active
19 trade or business within a National Enterprise Zone;
20 and

21 “(3) income derived from business that does not
22 constitute the conduct of an active trade or business
23 within a National Enterprise Zone.

24 “(d) NATIONAL ENTERPRISE ZONE INDIVIDUAL
25 TAXABLE INCOME.—National Enterprise Zone individual

1 taxable income for any taxable year shall be National En-
2 terprise Zone tentative individual taxable income for such
3 taxable year less—

4 “(1) net savings (as defined in subsection (e))
5 for such taxable year;

6 “(2) capital gains for such taxable year subject
7 to tax under section 1(h), but only if the property
8 the disposition of which gave rise to the gain was ac-
9 quired by the taxpayer at a time the taxpayer was
10 a resident of a National Enterprise Zone;

11 “(3) expenditures made to acquire inventory
12 property during such taxable year;

13 “(4) the amount, if any, the taxpayer elects to
14 deduct pursuant to 179(e) for such taxable year that
15 exceeds the limitations in section 179(b);

16 “(5) deductions reduced pursuant to section 68;
17 and

18 “(6) amounts by which the exemption was re-
19 duced pursuant to section 151(d)(3).

20 “(e) NET SAVINGS.—

21 “(1) GENERAL RULE.—Net savings means de-
22 posits or contributions to nonqualified financial ac-
23 counts less withdraws or distributions from non-
24 qualified financial accounts held.

1 “(2) NONQUALIFIED FINANCIAL ACCOUNTS.—A
 2 nonqualified financial account means an account
 3 maintained with a bank (other than a checking ac-
 4 count), a regulated investment company, an invest-
 5 ment bank, or a brokerage firm that is not a quali-
 6 fied trust or account within the meaning of sub-
 7 chapter D.

8 “(f) TAX UPON LEAVING ZONE.—The cumulative
 9 sum of net savings deducted pursuant to subsection (d)(1)
 10 (if greater than zero) shall be includible in gross income
 11 and taxed at a 17 percent rate upon a person becoming
 12 a non-resident of a National Enterprise Zone.

13 **“SEC. 1400Q. EFFECT OF NATIONAL ENTERPRISE ZONE**
 14 **DESIGNATION ON CORPORATIONS.**

15 “(a) CORPORATE ALTERNATIVE NATIONAL ENTER-
 16 PRISE ZONE TAX.—If for any taxable year, any corpora-
 17 tion (other than an S corporation) has any National En-
 18 terprise Zone taxable income, then, in lieu of any tax im-
 19 posed by section 11 or section 55, such corporation may
 20 elect, in a form prescribed by the Secretary, to pay a tax
 21 which shall consist of the sum of—

22 “(1) a tax computed on the taxable income of
 23 such corporation for the taxable year reduced by the
 24 amount of National Enterprise Zone tentative cor-
 25 porate taxable income for such taxable year (if

1 greater than zero), at the rates and in the manner
2 as if this subsection had not been enacted; plus

3 “(2) a tax of 17 percent of the National Enter-
4 prise Zone taxable income for such taxable year.

5 **“SEC. 1400R. NATIONAL ENTERPRISE ZONE CORPORATE**
6 **TAXABLE INCOME.**

7 “(a) IN GENERAL.—National Enterprise Zone Cor-
8 porate tentative taxable income for any taxable year shall
9 be taxable income (computed without regard to section
10 179(e)) arising from the conduct of an active trade or
11 business within one or more National Enterprise Zones
12 during such taxable year.

13 “(b) ADJUSTMENTS.—National Enterprise Zone Cor-
14 porate taxable income for any taxable year shall be equal
15 to National Enterprise Zone Corporate tentative taxable
16 income for such taxable year less—

17 “(1) expenditures made to acquire inventory
18 property held in a National Enterprise Zone in such
19 taxable year; and

20 “(2) the amount, if any, the taxpayer elects to
21 deduct pursuant to 179(e) for such taxable year that
22 exceeds the limitations under section 179(b).

1 “(2) EXPENSES.—Expenses shall be allocated
2 and apportioned to the income producing activities
3 to which they are related. Expenses which are not
4 allocable or apportioned to any specific income pro-
5 ducing activities shall be allocated on the basis of
6 gross income such that the ratio of the expense allo-
7 cated to the National Enterprise Zone is the same
8 as the ratio of gross income within the National En-
9 terprise Zone to all gross income within the United
10 States of the taxpayer or, in the case of a corpora-
11 tion that is a member of a controlled group of cor-
12 porations (within the meaning of section 1563), the
13 controlled group of such taxpayer.

14 “(c) ALTERNATIVE FORMULARY METHOD.—

15 “(1) IN GENERAL.—A corporation (or con-
16 trolled group in the case of a corporation that is a
17 member of a controlled group), partnership, or sole
18 proprietor that so elects, in a form and manner pre-
19 scribed by the Secretary, may determine the share of
20 its income, expense, and other items attributable to
21 the conduct of an active trade or business within a
22 National Enterprise Zone by multiplying its appor-
23 tionment ratio by the amount of the income, ex-
24 pense, and other items for purposes of determining

1 its National Enterprise Zone Corporate taxable in-
2 come.

3 “(2) APPORTIONMENT RATIO.—The appor-
4 tionment ratio shall be the ratio of—

5 “(A) the sum of—

6 “(i) the remaining basis in depreciable
7 property held in zone for the entire taxable
8 year;

9 “(ii) the inventory held in a zone at
10 the end of the taxable year; and

11 “(iii) the compensation paid to zone-
12 based employees during the taxable year;
13 to

14 “(B) the sum of—

15 “(i) the remaining basis in depreciable
16 property held in the United States for the
17 entire taxable year;

18 “(ii) the inventory held in the United
19 States at the end of the taxable year; and

20 “(iii) the compensation paid to em-
21 ployees within the United States during
22 the taxable year.

23 “(3) MANDATORY USE OF ALTERNATIVE FOR-
24 MULARY METHOD.—If—

1 “(A) a taxpayer derives greater than 10
2 percent of its gross income from sales to related
3 parties (as defined in section 1313(c)); or

4 “(B) expenses of a taxpayer attributable to
5 purchases from related parties (as defined in
6 section 1313(c)) account for greater than 10
7 percent of its expenses,

8 then the taxpayer must use the alternative formulary
9 method described in paragraph (1).

10 **“SEC. 1400T. DEFINITIONS AND SPECIAL RULES.**

11 “(a) **BASED IN A NATIONAL ENTERPRISE ZONE.—**

12 A person is based in a National Enterprise Zone if that
13 person works out of an office, factory, store, or other facil-
14 ity located in a National Enterprise Zone not less than
15 80 percent of the hours worked by such person in a cal-
16 endar year. In the case of a person that works for an em-
17 ployer for less than the full calendar year or was engaged
18 in the conduct of an active trade or business within a Na-
19 tional Enterprise Zone for less than the full calendar year,
20 then a person shall be deemed based in a National Enter-
21 prise Zone if that person worked out of an office, factory,
22 store, or other facility located in a National Enterprise
23 Zone not less than 80 percent of the hours worked by such
24 person while employed by such employer or engaged in the

1 conduct of an active trade or business within a National
2 Enterprise Zone.

3 “(b) INVENTORY.—

4 “(1) INVENTORY PROPERTY.—For purposes of
5 sections 1400P and 1400R, inventory property shall
6 mean property described in section 1221(a)(1) and
7 any expenditures capitalized pursuant to section
8 263A.

9 “(2) NO DOUBLE COUNTING.—The deductions
10 afforded by section 1400P(d)(3) and 1400R(b)(1)
11 are in lieu of the deduction provided upon the sale
12 of inventory property.

13 “(c) NOMINATOR.—Nominator means the governor of
14 a State or Territory or the Mayor of the District of Colum-
15 bia who nominated a zone by application to be a National
16 Enterprise Zone.

17 “(d) RESIDENCY.—For purposes of this subchapter,
18 an individual is a resident in a National Enterprise Zone
19 for an entire taxable year if—

20 “(1) such individual’s principal residence (with-
21 in the meaning of section 121) is located within the
22 National Enterprise Zone; and

23 “(2) such individual was present (within the
24 meaning of section 7701(b)(3)) in the National En-

1 terprise Zone no fewer than 245 days during the
2 taxable year.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 179 of the Internal Revenue Code
5 of 1986 is amended by inserting at the end the fol-
6 lowing new subsection:

7 “(e) NO LIMITATION ON AMOUNT IN NATIONAL EN-
8 TERPRISE ZONES.—

9 “(1) IN GENERAL.—The limitations under sub-
10 section (b) shall not apply with respect to property
11 placed in service in a National Enterprise Zone.

12 “(2) PROPERTY REMOVED FROM NATIONAL EN-
13 TERPRISE ZONES.—Property to which this sub-
14 section applies which is removed from service within
15 a National Enterprise Zone but not disposed of by
16 the taxpayer shall be treated as if it had been, as
17 of the date of the removal, disposed of by the tax-
18 payer and repurchased by the taxpayer at a price
19 equal to what its remaining basis would have been
20 if the election under this section had not been exer-
21 cised with respect to the property.”.

22 (2) Subsection (d) of section 243 of such Code
23 is amended by adding at the end the following new
24 paragraph:

1 “(5) A domestic corporation which is subject to
2 taxation under this chapter shall include any cor-
3 poration organized under the laws of the Common-
4 wealth of Puerto Rico for any taxable year for which
5 such corporation has made an election under section
6 1400Q.”.

7 (c) CLERICAL AMENDMENT.—The table of sub-
8 chapters for chapter 1 of such Code is amended by insert-
9 ing after the item relating to subchapter Y the following
10 new item:

 “Subchapter Z—National Enterprise Zones.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 January 1, 2006.

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