

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1680

To amend the Internal Revenue Code of 1986 to expand the incentives for the environmental cleanup of certain contaminated industrial sites designated as brownfields.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2005

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to expand the incentives for the environmental cleanup of certain contaminated industrial sites designated as brownfields.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Brownfield Cleanup  
5 Enhancement Act of 2005”.

6 **SEC. 2. CREDIT TO HOLDERS OF QUALIFIED BROWNFIELDS**  
7 **CLEANUP BONDS.**

8 (a) IN GENERAL.—Subpart B of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new  
2 section:

3 **“SEC. 30B. CREDIT TO HOLDERS OF QUALIFIED**  
4 **BROWNFIELDS CLEANUP BONDS.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-  
6 payer who holds a qualified brownfields cleanup bond on  
7 a credit allowance date of such bond which occurs during  
8 the taxable year, there shall be allowed as a credit against  
9 the tax imposed by this chapter for such taxable year an  
10 amount equal to the sum of the credits determined under  
11 subsection (b) with respect to credit allowance dates dur-  
12 ing such year on which the taxpayer holds such bond.

13 “(b) AMOUNT OF CREDIT.—

14 “(1) IN GENERAL.—The amount of the credit  
15 determined under this subsection with respect to any  
16 credit allowance date for a qualified brownfields  
17 cleanup bond is 25 percent of the annual credit de-  
18 termined with respect to such bond.

19 “(2) ANNUAL CREDIT.—The annual credit de-  
20 termined with respect to any qualified brownfields  
21 cleanup bond is the product of—

22 “(A) the applicable credit rate, multiplied  
23 by

24 “(B) the outstanding face amount of the  
25 bond.

1           “(3) APPLICABLE CREDIT RATE.—For purposes  
2 of paragraph (1), the applicable credit rate with re-  
3 spect to an issue is the rate equal to an average  
4 market yield (as of the day before the date of  
5 issuance of the issue) on outstanding long-term cor-  
6 porate debt obligations (determined under regula-  
7 tions prescribed by the Secretary).

8           “(4) SPECIAL RULE FOR ISSUANCE AND RE-  
9 DEMPTION.—In the case of a bond which is issued  
10 during the 3-month period ending on a credit allow-  
11 ance date, the amount of the credit determined  
12 under this subsection with respect to such credit al-  
13 lowance date shall be a ratable portion of the credit  
14 otherwise determined based on the portion of the 3-  
15 month period during which the bond is outstanding.  
16 A similar rule shall apply when the bond is re-  
17 deemed.

18           “(c) QUALIFIED BROWNFIELDS CLEANUP BOND.—  
19 For purposes of this section—

20           “(1) IN GENERAL.—The term ‘qualified  
21 brownfields cleanup bond’ means any bond issued as  
22 part of an issue if—

23           “(A) 95 percent or more of the proceeds of  
24 such issue are to be used for the abatement or

1 control of hazardous substances at a qualified  
2 contaminated site,

3 “(B) the bond is issued by a State or local  
4 government within the jurisdiction of which  
5 such site is located,

6 “(C) the issuer designates such bond for  
7 purposes of this section, and

8 “(D) the term of each bond which is part  
9 of such issue does not exceed 15 years.

10 “(2) LIMITATION ON AMOUNT OF BONDS DES-  
11 IGNATED.—The maximum aggregate face amount of  
12 bonds issued during any calendar year which may be  
13 designated under paragraph (1) by any issuer shall  
14 not exceed the limitation amount allocated under  
15 paragraph (3) for such calendar year to such issuer.

16 “(3) NATIONAL LIMITATION ON AMOUNT OF  
17 BONDS DESIGNATED.—There is a national qualified  
18 brownfields cleanup bond limitation for each cal-  
19 endar year. Such limitation is—

20 “(A) \$100,000,000 for 2006,

21 “(B) \$150,000,000 for 2007, and

22 “(C) zero for calendar years thereafter.

23 “(4) ALLOCATION OF LIMITATION AMONG  
24 STATES.—The limitation applicable under paragraph

1 (3) for any calendar year shall be allocated among  
2 the States by the Secretary of the Treasury.

3 “(5) CARRYOVER OF UNUSED LIMITATION.—If  
4 for any calendar year—

5 “(A) the amount allocated under para-  
6 graph (4) to any State, exceeds

7 “(B) the amount of bonds issued during  
8 such year which are designated under para-  
9 graph (1) pursuant to such allocation,

10 the limitation amount under paragraph (4) for such  
11 State for the following calendar year shall be in-  
12 creased by the amount of such excess.

13 “(6) BOND TO BE PAID BACK FROM ANY TAX  
14 REVENUE INCREASE.—A bond shall not be treated  
15 as a qualified brownfields cleanup bond unless any  
16 increase in real property tax revenues (attributable  
17 to increases in assessed value) by reason of the car-  
18 rying out of the purposes described in paragraph  
19 (1)(A) is reserved exclusively for debt service on the  
20 issue referred to in paragraph (1) (and similar  
21 issues) to the extent such increase does not exceed  
22 such debt service.

23 “(d) LIMITATION BASED ON AMOUNT OF TAX.—

1           “(1) IN GENERAL.—The credit allowed under  
2           subsection (a) for any taxable year shall not exceed  
3           the excess of—

4                   “(A) the sum of the regular tax liability  
5                   (as defined in section 26(b)) plus the tax im-  
6                   posed by section 55, over

7                   “(B) the sum of the credits allowable  
8                   under part IV of subchapter A (other than sub-  
9                   part C thereof, relating to refundable credits).

10           “(2) CARRYOVER OF UNUSED CREDIT.—If the  
11           credit allowable under subsection (a) exceeds the  
12           limitation imposed by paragraph (1) for such taxable  
13           year, such excess shall be carried to the succeeding  
14           taxable year and added to the credit allowable under  
15           subsection (a) for such taxable year.

16           “(e) OTHER DEFINITIONS.—For purposes of this  
17           section—

18                   “(1) CREDIT ALLOWANCE DATE.—The term  
19                   ‘credit allowance date’ means—

20                           “(A) March 15,

21                           “(B) June 15,

22                           “(C) September 15, and

23                           “(D) December 15.

24           Such term includes the last day on which the bond  
25           is outstanding.

1           “(2) BOND.—The term ‘bond’ includes any ob-  
2           ligation.

3           “(3) STATE.—The term ‘State’ includes the  
4           District of Columbia and any possession of the  
5           United States.

6           “(4) QUALIFIED CONTAMINATED SITE.—The  
7           term ‘qualified contaminated site’ means a  
8           brownfield site designated by the Administrator of  
9           the Environmental Protection Agency.

10          “(5) HAZARDOUS SUBSTANCE.—The term ‘haz-  
11          ardous substance’ has the meaning provided by sec-  
12          tion 198(d).

13          “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross  
14          income includes the amount of the credit allowed to the  
15          taxpayer under this section (determined without regard to  
16          subsection (d)) and the amount so included shall be treat-  
17          ed as interest income.

18          “(g) BONDS HELD BY REGULATED INVESTMENT  
19          COMPANIES.—If any qualified brownfields cleanup bond  
20          is held by a regulated investment company, the credit de-  
21          termined under subsection (a) shall be allowed to share-  
22          holders of such company under procedures prescribed by  
23          the Secretary.

24          “(h) CREDITS MAY BE STRIPPED.—Under regula-  
25          tions prescribed by the Secretary—

1           “(1) IN GENERAL.—There may be a separation  
2           (including at issuance) of the ownership of a quali-  
3           fied brownfields cleanup bond and the entitlement to  
4           the credit under this section with respect to such  
5           bond. In case of any such separation, the credit  
6           under this section shall be allowed to the person who  
7           on the credit allowance date holds the instrument ev-  
8           idencing the entitlement to the credit and not to the  
9           holder of the bond.

10           “(2) CERTAIN RULES TO APPLY.—In the case  
11           of a separation described in paragraph (1), the rules  
12           of section 1286 shall apply to the qualified  
13           brownfields cleanup bond as if it were a stripped  
14           bond and to the credit under this section as if it  
15           were a stripped coupon.

16           “(i) TREATMENT FOR ESTIMATED TAX PURPOSES.—  
17           Solely for purposes of sections 6654 and 6655, the credit  
18           allowed by this section to a taxpayer by reason of holding  
19           a qualified brownfields cleanup bond on a credit allowance  
20           date shall be treated as if it were a payment of estimated  
21           tax made by the taxpayer on such date.

22           “(j) CREDIT MAY BE TRANSFERRED.—Nothing in  
23           any law or rule of law shall be construed to limit the trans-  
24           ferability of the credit allowed by this section through sale  
25           and repurchase agreements.

1       “(k) REPORTING.—Issuers of qualified brownfields  
2 cleanup bonds shall submit reports similar to the reports  
3 required under section 149(e).”

4       (b) REPORTING.—Subsection (d) of section 6049 of  
5 such Code (relating to returns regarding payments of in-  
6 terest) is amended by adding at the end the following new  
7 paragraph:

8               “(8) REPORTING OF CREDIT ON QUALIFIED  
9 BROWNFIELDS CLEANUP BONDS.—

10               “(A) IN GENERAL.—For purposes of sub-  
11 section (a), the term ‘interest’ includes amounts  
12 includible in gross income under section 30B(f)  
13 and such amounts shall be treated as paid on  
14 the credit allowance date (as defined in section  
15 30B(e)(1)).

16               “(B) REPORTING TO CORPORATIONS,  
17 ETC.—Except as otherwise provided in regula-  
18 tions, in the case of any interest described in  
19 subparagraph (A) of this paragraph, subsection  
20 (b)(4) of this section shall be applied without  
21 regard to subparagraphs (A), (H), (I), (J), (K),  
22 and (L)(i).

23               “(C) REGULATORY AUTHORITY.—The Sec-  
24 retary may prescribe such regulations as are  
25 necessary or appropriate to carry out the pur-

1           poses of this paragraph, including regulations  
2           which require more frequent or more detailed  
3           reporting.”

4           (c) CONFORMING AMENDMENT.—The table of sec-  
5           tions for subpart B of part IV of subchapter A of chapter  
6           1 of such Code is amended by adding at the end the fol-  
7           lowing new item:

          “30B. Credit to holders of qualified public brownfields cleanup bonds.”

8           (d) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to obligations issued after Decem-  
10          ber 31, 2005.

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