To amend the Internal Revenue Code of 1986 to provide for the designation of Clean Energy Business Zones and for tax incentives for the construction of, and employment at, energy-efficient buildings and clean energy facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. GRIFF (for himself and Mr. BARTLETT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide for the designation of Clean Energy Business Zones and for tax incentives for the construction of, and employment at, energy-efficient buildings and clean energy facilities, and for other purposes.

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 “Clean Energy Business
5 Zone Act of 2011” and as the “Clean Energy Empower-
6 ment Zone Act of 2011”.

SEC. 2. DESIGNATION OF CLEAN ENERGY BUSINESS ZONES AND TAX INCENTIVES WITH RESPECT TO SUCH ZONES.

(a) In General.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

“Subchapter Z—Clean Energy Business Zones

“Part I. Designation.

“Part II. Tax Benefits.

“Part I—Designation


“(a) In General.—The Secretary may designate 40 clean energy business zones.

“(b) Consultation.—In designating such zones, the Secretary shall consult with—

“(1) the Secretary of Housing and Urban Development in the case of urban areas, and

“(2) the Secretary of Agriculture in the case of rural areas.

“(c) Designation Criteria.—In designating such zones, the Secretary shall consider the following factors:

“(1) Whether the area already has a clean energy infrastructure or otherwise has a deteriorating conventional energy infrastructure.
“(2) Whether the area is reliant on carbon-intensive industries and, consequently, job loss is anticipated due to the transition to a clean energy economy.

“(3) Whether the area is home to business sectors that could complement new clean energy industries.

“(4) Whether the area has other environmental or economic conditions conducive to the establishment of facilities relating to the manufacture or research of clean energy or clean energy technologies, including the components used in such manufacture or research and the production of clean energy.

“(d) SIZE.—An area may be designated as a Clean Energy Business Zone only if it meets the requirements of section 1392(a)(3).

“(e) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under subsection (a) only after 2011 and before 2014.

“(f) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the close of the 10th calendar year beginning on or after such date of designation.
“PART II—TAX BENEFITS

“Sec. 1400V–2. Tax benefits for clean energy business zones.

“SEC. 1400V–2. TAX BENEFITS FOR CLEAN ENERGY BUSINESS ZONES.

“(a) WAGE CREDIT.—For purposes of section 1396—

“(1) IN GENERAL.—Subject to the modifications in paragraph (2), a Clean Energy Business Zone shall be treated as an empowerment zone.

“(2) MODIFICATIONS.—In applying section 1396 with respect to Clean Energy Business Zones—

“(A) IN GENERAL.—In the case of qualified wages—

“(i) subsection (b) thereof shall be applied by substituting ‘30 percent’ for ‘20 percent’, and

“(ii) subsection (c) thereof shall be applied by substituting ‘$20,000’ for ‘$15,000’ each place it appears.

“(B) QUALIFIED WAGES.—For purposes of subparagraph (A), the term ‘qualified wages’ means qualified zone wages (as defined in section 1396(c)) for services performed by the employee—
“(i) in the construction of any qualified Green building, or
“(ii) in any qualified clean energy facility.
“(C) COORDINATION WITH BASIC CREDIT.—The $15,000 amount in section 1396(c)(2) (without regard to this subsection) shall be reduced for any calendar year by the amount of wages paid or incurred during such year which are taken into account in determining the credit under this subsection.
“(3) CREDIT TO BE REFUNDABLE.—So much of the credit allowable by section 1396 solely by reason of this subsection shall be treated as allowed under subpart C of part IV of subchapter A of this chapter.
“(b) EXPANSION OF WORK OPPORTUNITY CREDIT.—
“(1) IN GENERAL.—For purposes of section 51, a Clean Energy Business Zone employee shall be treated as a member of a targeted group.
“(2) CLEAN ENERGY BUSINESS ZONE BUSINESS EMPLOYEE.—For purposes of this subsection—
“(A) IN GENERAL.—The term ‘Clean Energy Business Zone employee’ means, with re-
spect to any period, any employee of a Clean Energy Business Zone business if—

“(i) the principal place of abode of such employee during such period is within a Clean Energy Business Zone,

“(ii) substantially all the services performed during such period by such employee for such business are performed—

“(I) in the construction of any qualified Green energy building, or

“(II) in a qualified clean energy facility, and

“(iii) such employee had been employed in a carbon-intensive business at any time during the 1-year period ending on the date that the individual was first hired by the employer.

“(B) CLEAN ENERGY BUSINESS ZONE BUSINESS.—The term ‘Clean Energy Business Zone business’ means any trade or business—

“(i) which is located in a Clean Energy Business Zone, and

“(ii) at least 15 percent of the employees of which are residents of a Clean Energy Business Zone.
“(C) Special rules for determining amount of credit.—For purposes of applying subpart F of part IV of subchapter A of this chapter to wages paid or incurred to any Clean Energy Business Zone business employee—

“(i) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

“(ii) in determining qualified wages, the following shall apply in lieu of section 51(b):

“(I) Qualified wages.—The term ‘qualified wages’ means wages paid or incurred by the employer to individuals who are Clean Energy Business Zone business employees of such employer for work performed during calendar year 2012.

“(II) Only first $12,000 of wages per calendar year taken into account.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $12,000 per calendar year.

“(c) Clean Renewable Energy Bonds.—
“(1) IN GENERAL.—For purposes of section 54(c)(2), the term ‘qualified facility’ includes—

“(A) any qualified Green building, and

“(B) any qualified clean energy facility.

“(2) EXTENSION.—In the case of bonds which are clean renewable energy bonds under section 54 solely by reason of this subsection, section 54(m) shall be applied by substituting ‘December 31, 2022’ for ‘December 31, 2009’.

“(d) INCREASED EXPENSING UNDER SECTION 179.—

“(1) IN GENERAL.—For purposes of section 179, the dollar amount in effect under section 179(b)(1) for the taxable year shall be increased by the lesser of—

“(A) $250,000, or

“(B) the cost of qualified section 179 Clean Energy Business Zone property placed in service during the taxable year.

“(2) QUALIFIED SECTION 179 CLEAN ENERGY BUSINESS ZONE PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified section 179 Clean Energy Business Zone prop-
property’ means section 179 property (as defined in section 179(d))—

“(i) which is described in section 168(k)(2)(A)(i) or which is nonresidential real property or residential rental property,

“(ii) substantially all of the use of which is in—

“(I) a qualified Green building or a qualified clean energy facility, and

“(II) the active conduct of a trade or business by the taxpayer in such Zone,

“(iii) the original use of which in the Clean Energy Business Zone commences with the taxpayer on or after the date of the enactment of this section,

“(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) on or after such date, but only if no written binding contract for the acquisition was in effect before such date, and

“(v) which is placed in service by the taxpayer during the 2-year period beginning on such date (during the 3-year period beginning on such date, in the case of
nonresidential real property and residential rental property).

“(B) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

“(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

“(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(3) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

“(A) without regard to ‘and before January 1, 2013’ in clause (i) thereof, and
“(B) by substituting ‘qualified Clean Energy Business Zone property’ for ‘qualified property’ in clause (iv) thereof.

“(4) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

“(5) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified section 179 Clean Energy Business Zone property which ceases to be qualified section 179 Clean Energy Business Zone property.

“(e) EXCLUSION OF CAPITAL GAIN ON STOCK IN QUALIFIED BUSINESSES.—

“(1) IN GENERAL.—Gross income shall not include qualified capital gain from the sale or exchange of any Clean Energy Business Zone asset held for more than 5 years.

“(2) CLEAN ENERGY BUSINESS ZONE ASSET.—

For purposes of this subsection—

“(A) IN GENERAL.—The term ‘Clean Energy Business Zone asset’ means—

“(i) any Clean Energy Business Zone business stock,
“(ii) any Clean Energy Business Zone partnership interest, and

“(iii) any Clean Energy Business Zone business property.

“(B) CLEAN ENERGY BUSINESS ZONE BUSINESS STOCK.—

“(i) IN GENERAL.—The term ‘Clean Energy Business Zone business stock’ means any stock in a domestic corporation which is originally issued after the date of the enactment of this section if—

“(I) such stock is acquired by the taxpayer, before January 1, 2015, at its original issue (directly or through an underwriter) solely in exchange for cash,

“(II) as of the time such stock was issued, such corporation was a Clean Energy Business Zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being a Clean Energy Business Zone business), and

“(III) during substantially all of the taxpayer’s holding period for such
stock, such corporation qualified as a
Clean Energy Business Zone business.

“(ii) REDEMPTIONS.—A rule similar
to the rule of section 1202(c)(3) shall
apply for purposes of this paragraph.

“(C) CLEAN ENERGY BUSINESS ZONE
PARTNERSHIP INTEREST.—The term ‘Clean
Energy Business Zone partnership interest’
means any capital or profits interest in a do-
mestic partnership which is originally issued
after the date of the enactment of this section
if—

“(i) such interest is acquired by the
taxpayer, before January 1, 2015, from
the partnership solely in exchange for cash,

“(ii) as of the time such interest was
acquired, such partnership was a Clean
Energy Business Zone business (or, in the
case of a new partnership, such partner-
ship was being organized for purposes of
being a Clean Energy Business Zone busi-
ness), and

“(iii) during substantially all of the
taxpayer’s holding period for such interest,
such partnership qualified as a Clean Energy Business Zone business.

A rule similar to the rule of subparagraph (B)(ii) shall apply for purposes of this subparagraph.

“(D) CLEAN ENERGY BUSINESS ZONE BUSINESS PROPERTY.—

“(i) IN GENERAL.—The term ‘Clean Energy Business Zone business property’ means property which is a qualified Green building if—

“(I) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date of the enactment of this section and before January 1, 2015,

“(II) the original use of such property in the Clean Energy Business Zone commences with the taxpayer, and

“(III) during substantially all of the taxpayer’s holding period for such property, substantially all of the use of such property was in a Clean En-
ergy Business Zone business of the taxpayer.

“(ii) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

“(I) IN GENERAL.—The requirements of subclauses (I) and (II) of clause (i) shall be treated as met with respect to—

“(aa) property which is substantially improved by the taxpayer before January 1, 2015, and

“(bb) any land on which such property is located.

“(II) SUBSTANTIAL IMPROVEMENT.—For purposes of subclause (I), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1999, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of $5,000 or an amount equal to the adjusted basis of such property at the beginning of
such 24-month period in the hands of the taxpayer.

“(E) Treatment of Clean Energy Business Zone Termination.—The termination of the designation of the Clean Energy Business Zone shall be disregarded for purposes of determining whether any property is a Clean Energy Business Zone asset.

“(F) Treatment of Subsequent Purchasers, Etc.—The term ‘Clean Energy Business Zone asset’ includes any property which would be a Clean Energy Business Zone asset but for subparagraph (B)(i)(I), (C)(i), or (D)(i)(I) or (II) in the hands of the taxpayer if such property was a Clean Energy Business Zone asset in the hands of a prior holder.

“(G) 5-Year Safe Harbor.—If any property ceases to be a Clean Energy Business Zone asset by reason of subparagraph (B)(i)(III), (C)(iii), or (D)(i)(III) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which paragraph (1) applies on any sale or ex-
change of such property shall not exceed the
amount which would be qualified capital gain
had such property been sold on the date of such
cession.

“(3) CLEAN ENERGY BUSINESS ZONE BUSI-
NESS.—For purposes of this subsection, the term
‘Clean Energy Business Zone business’ means any
trade or business if—

“(A) all buildings located in any Clean En-
ergy Business Zone which are owned or occu-
pied by such trade or business are qualified
Green buildings or qualified clean energy facili-
ties, and

“(B) such business would be an enterprise
zone business (as defined in section 1397C) de-
termined—

“(i) by substituting ‘80 percent’ for
‘50 percent’ in subsections (b)(2) and
(c)(1) of section 1397C,

“(ii) by substituting ‘15 percent’ for
‘35 percent’ in subsections (b)(6) and
(c)(5) of section 1397C, and

“(iii) by treating no area other than
the Clean Energy Business Zone as an em-
powerment zone or enterprise community.
“(4) Other definitions and special rules.—

“(A) Qualified capital gain.—Except as otherwise provided in this paragraph, the term ‘qualified capital gain’ means any gain recognized on the sale or exchange of—

“(i) a capital asset, or

“(ii) property used in the trade or business (as defined in section 1231(b)).

“(B) Gain before enactment or after 2014 not qualified.—The term ‘qualified capital gain’ shall not include any gain attributable to periods before the date of the enactment of this section or after December 31, 2014.

“(C) Certain gain not qualified.—The term ‘qualified capital gain’ shall not include any gain which would be treated as ordinary income under section 1245 or under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

“(D) Intangibles and land not integral part of clean energy business zone business.—The term ‘qualified capital gain’ shall not include any gain which is attributable to real property, or an intangible asset, which
is not an integral part of a Clean Energy Business Zone business.

“(E) RELATED PARTY TRANSACTIONS.—

The term ‘qualified capital gain’ shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267(b) or 707(b)(1).

“(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this subsection.

“(6) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE CLEAN ENERGY BUSINESS ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a Clean Energy Business Zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

“(A) any gain which is attributable to real property, or an intangible asset, which is not an
integral part of a Clean Energy Business Zone business, and

“(B) any gain attributable to periods before the date of the enactment of this section or after December 31, 2014.

“(f) EXPENSING OF PORTION OF COST OF QUALIFIED CLEAN ENERGY FACILITIES.—

“(1) IN GENERAL.—A taxpayer may elect to treat the cost of any qualified clean energy facility property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the property is placed in service.

“(2) MAXIMUM AMOUNT OF DEDUCTION.—

“(A) IN GENERAL.—The deduction under paragraph (1) for any taxable year shall not exceed $1,000,000.

“(B) DEDUCTION ALLOWED FOR ONLY 5 YEARS.—A deduction shall be allowed under this paragraph for any qualified clean energy facility property only for the taxable year during which the qualified clean energy facility is placed in service and for the first 4 taxable years thereafter.
“(3) QUALIFIED CLEAN ENERGY FACILITY PROPERTY.—For purposes of this subsection, the term ‘qualified clean energy facility property’ means any property—

“(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

“(B) which is installed on or in any qualified clean energy facility.

“(4) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this subsection with respect to any qualified clean energy facility property, the basis of such property shall be reduced by the amount of the deduction so allowed.

“(5) TERMINATION.—This subsection shall not apply to property placed in service after December 31, 2014.

“(g) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED GREEN BUILDING.—

“(A) IN GENERAL.—The term ‘qualified Green building’ means any building which is located in a Clean Energy Business Zone and which meets the standards prescribed by the Administrator of the Environmental Protection
Agency under subparagraph (B) for such building.

“(B) STANDARDS.—The Administrator of the Environmental Protection Agency shall develop and implement, in consultation with the Secretary of Energy, standards for a national energy and environmental building retrofit policy for single-family and multifamily residences. The Administrator shall develop and implement, in consultation with the Secretary of Energy and the Director of Commercial High-Performance Green Buildings, standards for a national energy and environmental building retrofit policy for nonresidential buildings. The programs to implement the residential and nonresidential policies based on the standards developed under this subparagraph shall together be known as the Retrofit for Energy and Environmental Performance (REEP) program.

“(2) QUALIFIED CLEAN ENERGY FACILITY.—The term ‘qualified clean energy facility’ means any facility which is located in a Clean Energy Business Zone and which relates to the manufacture or research of clean energy or clean energy technologies,
including the components used in such manufacture
or research and the production of clean energy.”.

(b) Clerical Amendment.—The table of sub-
chapters for chapter 1 of such Code is amended by adding
at the end the following new item:

“Subchapter Z. Clean energy business zones.”.

(c) Effective Date.—The amendments made by
this section shall apply to taxable years ending after the
date of the enactment of this Act.

SEC. 3. WAIVER OF SBA LOAN FEES.

(a) Section 7(a) Loans.—Paragraph (18) section
7(a) of the Small Business Act is amended by adding at
the end the following new subparagraph:

“(C) No fee permitted for clean energy construction loans.—No fee may be
imposed under this paragraph with respect to
any loan made before January 1, 2022, for the
construction of any qualified Green building (as
defined in section 1400V–2(g) of the Internal
Revenue Code of 1986) or any qualified clean
energy facility (as defined in such section).”.

(b) Section 504 Loans.—Paragraph (2) of section
503(d) of the Small Business Investment Act of 1958 is
amended by adding at the end the following new sentence:

“No fee may be imposed under this paragraph with re-
spect to any loan made before January 1, 2022, for the
construction of any qualified Green building (as defined in section 1400V–2(g) of the Internal Revenue Code of 1986) or any qualified clean energy facility (as defined in such section).”