

105TH CONGRESS  
1ST SESSION

# H. R. 523

To amend the Internal Revenue Code of 1986 to allow a credit for the cleanup of certain contaminated industrial sites and to allow the use of tax-exempt redevelopment bonds for such cleanup.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1997

Mr. COYNE (for himself and Mr. RANGEL) 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 allow a credit for the cleanup of certain contaminated industrial sites and to allow the use of tax-exempt redevelopment bonds for such cleanup.

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 “Brownfields Redevelop-  
5       ment Act of 1997”.

6       **SEC. 2. ENVIRONMENTAL REMEDIATION TAX CREDIT.**

7       (a) GENERAL RULE.—Part IV of subchapter A of  
8       chapter 1 of the Internal Revenue Code of 1986 (relating

1 to credits allowable) is amended by adding at the end  
 2 thereof the following new subpart:

3 **“Subpart H—Environmental Remediation Credit**

“Sec. 54. Amount of environmental remediation credit.

“Sec. 54A. Definitions and special rules.

4 **“SEC. 54. AMOUNT OF ENVIRONMENTAL REMEDIATION**  
 5 **CREDIT.**

6 “(a) GENERAL RULE.—For purposes of section 38,  
 7 the environmental remediation credit determined under  
 8 this section is 50 percent of the costs—

9 “(1) which are paid or incurred by the taxpayer  
 10 for environmental remediation with respect to any  
 11 qualified contaminated site which is owned by the  
 12 taxpayer, and

13 “(2) which are incurred by the taxpayer pursu-  
 14 ant to an environmental remediation plan for such  
 15 site which was approved by the Administrator of the  
 16 Environmental Protection Agency or by the head of  
 17 any State or local government agency designated by  
 18 the Administrator to carry out the Administrator’s  
 19 functions under this subpart with respect to such  
 20 site.

21 “(b) REMEDIATION PLAN MUST BE COMPLETED.—

22 “(1) IN GENERAL.—Except as otherwise pro-  
 23 vided in paragraph (2)—

1           “(A) no environmental remediation credit  
2           shall be determined under this section with re-  
3           spect to any qualified contaminated site unless  
4           the Administrator of the Environmental Protec-  
5           tion Agency (or such Administrator’s designee  
6           under subsection (a)(2)) certifies the environ-  
7           mental remediation plan for such site has been  
8           completed, and

9           “(B) if such Administrator (or designee)  
10          certifies that such plan has been completed,  
11          such credit shall be taken into account under  
12          subsection (a) ratably over the 5 taxable year  
13          period beginning with the taxable year in which  
14          such plan was completed.

15          “(2) SPECIAL RULE WHERE EXTRAORDINARY  
16          COST INCREASES.—If—

17               “(A) the taxpayer determines that due to  
18               unforeseen circumstances the cost of completing  
19               the remediation plan for any qualified contami-  
20               nated site exceeds 200 percent of the estimated  
21               costs of completing such plan, and

22               “(B) the State or local official administer-  
23               ing the remediation credit program agrees with  
24               such determination,

1 the taxpayer may cease the implementation of such  
2 plan and shall be entitled to an environmental reme-  
3 diation credit with respect to costs incurred before  
4 such cessation. Such credit shall be taken into ac-  
5 count under subsection (a) ratably over the 5-tax-  
6 able-year period beginning with the taxable year in  
7 which such cessation occurs.

8 “(c) CERTAIN PARTIES NOT ELIGIBLE.—

9 “(1) IN GENERAL.—A taxpayer shall not be eli-  
10 gible for any credit determined under this section  
11 with respect to any qualified contaminated site if—

12 “(A) at any time on or before the date of  
13 the enactment of this subpart, such taxpayer  
14 was the owner or operator of any business on  
15 such site,

16 “(B) at any time before, on, or after such  
17 date of enactment such taxpayer—

18 “(i) had (by contract, agreement, or  
19 otherwise) arranged for the disposal or  
20 treatment of any hazardous materials at  
21 such site or arranged with a transporter  
22 for transport for disposal or treatment of  
23 any hazardous materials at such site, or

24 “(ii) had accepted any hazardous ma-  
25 terials for transport to such site, or

1 “(C) the taxpayer is related to any tax-  
2 payer referred to in subparagraph (A) or (B).

3 “(2) EXCEPTIONS.—

4 “(A) ACQUISITION OF BUSINESS OR SITE  
5 BY FORECLOSURE, ETC.—Paragraph (1) shall  
6 not apply to a taxpayer who became described  
7 therein by reason of the acquisition of the busi-  
8 ness or site through foreclosure (or the equiva-  
9 lent) of a security interest held by the taxpayer  
10 or a related party if the taxpayer undertakes to  
11 sell or otherwise dispose of such business or site  
12 in a reasonably expeditious manner on commer-  
13 cially reasonable terms.

14 “(B) USE OF SITE REMEDIATED BY TAX-  
15 PAYER.—Subparagraph (B) of paragraph (1)  
16 shall not apply to a taxpayer with respect to  
17 any site if—

18 “(i) the only actions described in such  
19 subparagraph of the taxpayer (or a related  
20 person) with respect to such site occur  
21 after such taxpayer (or person) carry out  
22 an environmental remediation plan for  
23 such site (and the completion of such plan  
24 is certified under subsection (b)(1)), and

1                   “(ii) such actions are part of bona  
2                   fide manufacturing process (or other in-  
3                   dustrial activity at such site) of such tax-  
4                   payer (or person) which complies with all  
5                   Federal environmental laws and regula-  
6                   tions.

7           “(d) QUALIFIED CONTAMINATED SITE.—For pur-  
8 poses of this subpart, the term ‘qualified contaminated  
9 site’ means any contaminated site if—

10           “(1) the condition of the contaminated site is  
11           such that without participation in the environmental  
12           remediation credit program redevelopment is un-  
13           likely,

14           “(2) the contaminated site has not been in pro-  
15           ductive use for at least 1 year before participation  
16           in the program,

17           “(3) there is a strong likelihood of redevel-  
18           opment of the site for industrial or commercial use  
19           that will result in creation of jobs and expansion of  
20           the tax base, and

21           “(4) environmental remediation and redevel-  
22           opment are likely to be completed within a reasonable  
23           period of time.

1 **“SEC. 54A. DEFINITIONS AND SPECIAL RULES.**

2 “(a) CONTAMINATED SITE.—For purposes of this  
3 subpart—

4 “(1) IN GENERAL.—The term ‘contaminated  
5 site’ means any site if at least 1 of the following en-  
6 vironmental conditions are present on such site:

7 “(A) A release or threatened release of any  
8 hazardous, toxic, or dangerous substance.

9 “(B) Any storage tanks which contain any  
10 hazardous, toxic, or dangerous substance.

11 “(C) Any illegal disposal of solid waste.

12 “(2) HAZARDOUS, TOXIC, OR DANGEROUS SUB-  
13 STANCE.—Any substance, waste, or material shall be  
14 treated as a hazardous, toxic, or dangerous sub-  
15 stance if it is so treated under—

16 “(A) the Comprehensive Environmental  
17 Response, Compensation, and Liability Act (42  
18 U.S.C. 9601 et seq.) as in effect on the date of  
19 the enactment of this section, or

20 “(B) the Resource Conservation and Re-  
21 covery Act (42 U.S.C. 6901 et seq.) as so in ef-  
22 fect.

23 The following materials shall in any event be treated  
24 as such a substance: petroleum or crude oil or any  
25 derivative thereof, friable asbestos or any asbestos

1       containing material, polychlorinated biphenyls, and  
2       lead paint.

3       “(b) ENVIRONMENTAL REMEDIATION.—For pur-  
4 poses of this subpart, the term ‘environmental remedi-  
5 ation’ means—

6               “(1) removal or remediation activity in accord-  
7       ance with the plan approved under section 54(a)(2),

8               “(2) restoration of natural, historic or cultural  
9       resources at the site, or the mitigation of unavail-  
10      able losses of such resources incurred in connection  
11      with the remediation or response activity,

12              “(3) health assessments or health effects stud-  
13      ies related to the site,

14              “(4) remediation of off-site contamination  
15      caused by activity on the site (other than remedi-  
16      ation activities of a type not permitted for the site),  
17      and

18              “(5) any other costs specified in the plan ap-  
19      proved under section 54(a)(2), including demolition  
20      of existing contaminated structures, site security,  
21      permit fees necessary for remediation, and environ-  
22      mental audits.

23       “(c) RELATED PERSON.—For purposes of this sub-  
24 part, persons shall be treated as related to each other if  
25 such persons are treated as a single employer under the



1 regulations prescribed under section 52(b) or such persons  
2 bear a relationship to each other specified in section  
3 267(b) or 707(b).”

4 (b) CREDIT MADE PART OF GENERAL BUSINESS  
5 CREDIT.—Subsection (b) of section 38 of such Code is  
6 amended by striking “plus” at the end of paragraph (10),  
7 by striking the period at the end of paragraph (11) and  
8 inserting “, plus”, and by adding at the end thereof the  
9 following new paragraph:

10 “(12) the environmental remediation credit  
11 under section 54(a).”

12 (c) LIMITATION ON CARRYBACK.—Subsection (d) of  
13 section 39 of such Code is amended by adding at the end  
14 thereof the following new paragraph:

15 “(7) NO CARRYBACK OF ENVIRONMENTAL RE-  
16 MEDIATION CREDIT BEFORE EFFECTIVE DATE.—No  
17 portion of the unused business credit for any taxable  
18 year which is attributable to the credit under section  
19 54 may be carried back to a taxable year beginning  
20 on or before the date of the enactment of section  
21 54.”

22 (d) DEDUCTION FOR UNUSED CREDIT.—Subsection  
23 (c) of section 196 of such Code is amended by striking  
24 “and” at the end of paragraph (6), by striking the period

1 at the end of paragraph (7) and inserting “, and”, and  
 2 by adding at the end thereof the following new paragraph:

3 “(8) the environmental remediation credit de-  
 4 termined under section 54.”

5 (e) CLERICAL AMENDMENT.—The table of subparts  
 6 for part IV of subchapter A of chapter 1 of such Code  
 7 is amended by adding at the end thereof the following new  
 8 item:

“Subpart H. Environmental remediation credit.”

9 (f) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to taxable years beginning after  
 11 the date of the enactment of this Act.

12 **SEC. 3. USE OF REDEVELOPMENT BONDS FOR ENVIRON-**  
 13 **MENTAL REMEDIATION.**

14 (a) ENVIRONMENTAL REMEDIATION INCLUDED AS  
 15 REDEVELOPMENT PURPOSE.—Subparagraph (A) of sec-  
 16 tion 144(c)(3) of the Internal Revenue Code of 1986 (re-  
 17 lating to redevelopment purposes) is amended by striking  
 18 “and” at the end of clause (iii), by striking the period  
 19 at the end of clause (iv) and inserting “, and”, and by  
 20 adding at the end the following new clause:

21 “(v) the costs of environmental reme-  
 22 diation (as defined in section 54A(b)) with  
 23 respect to a qualified contaminated site (as  
 24 defined in section 54(d)) if such costs are

1 incurred pursuant to an environmental re-  
2 mediation plan which was approved by the  
3 Administrator of the Environmental Pro-  
4 tection Agency or by the head of any State  
5 or local government agency designated by  
6 the Administrator to carry out the Admin-  
7 istrator's functions under this clause."

8 (b) CERTAIN REQUIREMENTS NOT TO APPLY TO  
9 REDEVELOPMENT BONDS FOR ENVIRONMENTAL REME-  
10 DIATION.—Subsection (c) of section 144 of such Code is  
11 amended by adding at the end the following new para-  
12 graph:

13 "(9) CERTAIN REQUIREMENTS NOT TO APPLY  
14 TO REDEVELOPMENT BONDS FOR ENVIRONMENTAL  
15 REMEDIATION.—In the case of any bond issued as  
16 part of an issue 95 percent or more of the proceeds  
17 of which are to finance costs referred to in para-  
18 graph (3)(A)(v)—

19 "(A) paragraph (2)(A)(i) shall not apply,

20 "(B) paragraph (2)(A)(ii) shall not apply  
21 to any issue issued by the governing body de-  
22 scribed in paragraph (4)(A) with respect to the  
23 area which includes the site,

24 "(C) the requirement of paragraph  
25 (2)(B)(ii) shall be treated as met if—

1 “(i) the payment of the principal and  
 2 interest on such issue is secured by taxes  
 3 imposed by a governmental unit, or

4 “(ii) such issue is approved by the ap-  
 5 plicable elected representative (as defined  
 6 in section 147(f)(2)(E)) of the govern-  
 7 mental unit which issued such issue (or on  
 8 behalf of which such issue was issued),

9 “(D) subparagraphs (C) and (D) of para-  
 10 graph (2) shall not apply,

11 “(E) subparagraphs (C) and (D) of para-  
 12 graph (4) shall not apply, and

13 “(F) if the real property referred to in  
 14 clause (iii) of paragraph (3)(A) is 1 or more  
 15 dwelling units, such clause shall apply only if  
 16 the requirements of section 142(d) or 143 (as  
 17 the case may be) are met with respect to such  
 18 units.”

19 (c) PENALTY FOR FAILURE TO SATISFACTORILY  
 20 COMPLETE REMEDIATION PLAN.—Subsection (b) of sec-  
 21 tion 150 of such Code is amended by adding at the end  
 22 thereof the following new paragraph:

23 “(7) QUALIFIED CONTAMINATED SITE REMEDI-  
 24 ATION BONDS.—In the case of financing provided for

1 costs described in section 144(c)(3)(A)(v), no deduc-  
2 tion shall be allowed under this chapter for interest  
3 on such financing during any period during which  
4 there is a determination by the Administrator of the  
5 Environmental Protection Agency (or by the head of  
6 any State or local government agency designated by  
7 the Administrator to carry out the Administrator's  
8 functions under this paragraph) that the remedi-  
9 ation plan under which such costs were incurred was  
10 not satisfactorily completed."

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to bonds issued after the date of  
13 the enactment of this Act.

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