DESCRIPTION OF THE TAX PROVISIONS OF THE EMPOWERMENT ZONE/ENTERPRISE COMMUNITY PROGRAM AND H.R. 1031, THE "RENEWING AMERICAN COMMUNITIES ACT OF 1997"

Scheduled for a Hearing

Before the

SUBCOMMITTEE ON OVERSIGHT
of the
HOUSE COMMITTEE ON WAYS AND MEANS

on October 28, 1997

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

October 24, 1997

JCX-65-97

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, describes the present-law empowerment zone and enterprise community tax incentives and the tax provisions of H.R. 1031, "The Renewing American Communities Act of 1997."

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Tax Provisions of the Empowerment Zone/Enterprise Community Program and H.R. 1031, the "Renewing American Communities Act of 1997"*, (JCX-65-97), October 24, 1997.

I. DESCRIPTION OF THE PRESENT-LAW TAX PROVISIONS OF THE EMPOWERMENT ZONE/ENTERPRISE COMMUNITY PROGRAM

In general

Zones and communities designated under OBRA 1993

Pursuant to the Omnibus Budget Reconciliation Act of 1993 ("OBRA 1993"), the Secretaries of the Department of Housing and Urban Development (HUD) and the Department of Agriculture designated a total of nine empowerment zones and 95 enterprise communities on December 21, 1994. As required by law, six empowerment zones are located in urban areas and three empowerment zones are located in rural areas.[2] Of the enterprise communities, 65 are located in urban areas and 30 are located in rural areas (sec. 1391). Designated empowerment zones and enterprise communities were required to satisfy certain eligibility criteria, including specified poverty rates and population and geographic size limitations (sec. 1392).

The following tax incentives are available for certain businesses located in empowerment zones: (1) a 20-percent wage credit for the first $15,000 of wages paid to a zone resident who works in the zone; (2) an additional $20,000 of section 179 expensing for "qualified zone property" placed in service by an "enterprise zone business" (accordingly, certain businesses operating in empowerment zones are allowed up to $38,000 of expensing for 1997); (3) special tax-exempt financing for certain zone facilities (described in more detail below); and (4) the so-called "brownfields" tax incentive, which allows taxpayers to expense (rather than capitalize) certain environmental remediation expenditures.[3]

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[2] The six designated urban empowerment zones are located in New York City, Chicago, Atlanta, Detroit, Baltimore, and Philadelphia-Camden (New Jersey). The three designated rural empowerment zones are located in Kentucky Highlands (Clinton, Jackson, and Wayne counties, Kentucky), Mid-Delta Mississippi (Bolivar, Holmes, Humphreys, Leflore counties, Mississippi), and Rio Grande Valley Texas (Cameron, Hidalgo, Starr, and Willacy counties, Texas).

[3] The environmental remediation expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site, generally meaning any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance. Targeted areas include: (1) empowerment zones and enterprise communities as designated under OBRA 1993 and the 1997 Act (including any supplemental empowerment zone designated on December 21, 1994); (2) sites announced before February 1997, as being subject to one of the 76 Environmental Protection Agency (EPA) Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. The "brownfields" provision (enacted in the 1997 Act) applies to eligible expenditures incurred in taxable years ending after date of enactment and

The 95 enterprise communities are eligible for the special tax-exempt financing benefits and "brownfields" tax incentive, but not the other tax incentives (i.e., the wage credit and additional sec. 179 expensing) available in the empowerment zones. In addition to these tax incentives, OBRA 1993 provided that Federal grants would be made to designated empowerment zones and enterprise communities.

The tax incentives (other than the "brownfields" incentive) for empowerment zones and enterprise communities generally will be available during the period that the designation remains in effect, i.e., a 10-year period.

Additional zones designated under 1997 Act

Two additional urban zones with same tax incentives as previously designated empowerment zones.--Pursuant to the Tax Relief Act of 1997 ("1997 Act"), the Secretary of HUD is authorized to designate two additional empowerment zones located in urban areas (thereby increasing to eight the total number of empowerment zones located in urban areas) with respect to which generally apply the same tax incentives (i.e., the wage credit, additional expensing, special tax-exempt financing, and brownfields incentive) as are available within the empowerment zones authorized by OBRA 1993.[4] The two additional empowerment zones are subject to the same eligibility criteria under present-law section 1392 that apply to the original six urban empowerment zones.[5]

The two additional empowerment zones must be designated within 180 days after enactment of the 1997 Act (i.e., the designations must be made by February 1, 1998). However, a special rule provides that the designations of these two additional empowerment zones will not take effect until January 1, 2000 (and generally will remain in effect for 10 years).

20 additional urban and rural empowerment zones.--The 1997 Act also authorizes the Secretaries of HUD and Agriculture to designate an additional 20 empowerment zones (no more

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before January 1, 2001.

[4] The wage credit available in the two new urban empowerment zones is modified slightly to provide that the credit rate will be 20 percent for calendar years 2000-2004, 15 percent for calendar year 2005, 10 percent for calendar year 2006, and 5 percent for calendar 2007. No wage credit will be available in the two new urban empowerment zones after 2007.

[5] In order to permit designation of these two additional empowerment zones, the 1997 Act increased the aggregate population cap applicable to urban empowerment zones from 750,000 to a cap of one million aggregate population for the eight urban empowerment zones.

than 15 in urban areas and no more than five in rural areas).[6] With respect to these additional empowerment zones, the present-law eligibility criteria are expanded slightly in comparison to the eligibility criteria provided for by OBRA 1993. First, the general square mileage limitations (i.e., 20 square miles for urban areas and 1,000 square miles for rural areas) are expanded to allow the empowerment zones to include an additional 2,000 acres. This additional acreage, which could be developed for commercial or industrial purposes, is not subject to the poverty rate criteria and may be divided among up to three noncontiguous parcels. In addition, the general requirement that at least half of the nominated area consist of census tracts with poverty rates of 35 percent or more does not apply to the 20 additional empowerment zones. However, under present-law section 1392(a)(4), at least 90 percent of the census tracts within a nominated area must have a poverty rate of 25 percent or more, and the remaining census tracts must have a poverty rate of 20 percent or more.[7] For this purpose, census tracts with populations under 2,000 are treated as satisfying the 25-percent poverty rate criteria if (1) at least 75 percent of the tract was zoned for commercial or industrial use, and (2) the tract is contiguous to one or more other tracts that actually have a poverty rate of 25 percent or more.[8]

Within the 20 additional empowerment zones, qualified "enterprise zone businesses" are eligible to receive up to $20,000 of additional section 179 expensing[9] and to utilize special tax-exempt financing benefits. The "brownfields" tax incentive (described above) also is available within all designated empowerment zones. However, businesses within the 20 additional empowerment zones are not eligible to receive the present-law wage credit available within the 11 other designated empowerment zones (i.e., the wage credit is available only within in the nine zones designated under OBRA 1993 and the two urban zones designated under the 1997 Act that are eligible for the same tax incentives as are available in the nine zones designated under OBRA 1993).

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[6] In contrast to OBRA 1993, areas located within Indian reservations are eligible for designation as one of the additional 20 empowerment zones under the 1997 Act.

[7] In lieu of the poverty criteria, outmigration may be taken into account in designating one rural empowerment zone.

[8] A special rule enacted as part of the 1997 Act modifies the present-law empowerment zone and enterprise community designation criteria so that any zones or communities designated in the future in the States of Alaska or Hawaii will not be subject to the general size limitations, nor will such zones or communities be subject to the general poverty-rate criteria. Instead, nominated areas in either State will be eligible for designation as an empowerment zone or enterprise community if, for each census tract or block group within such area, at least 20 percent of the families have incomes which are 50 percent or less of the State-wide median family income. Such zones and communities will be subject to the population limitations under present-law section 1392(a)(1).

[9] However, the additional section 179 expensing is not available within the additional 2,000 acres allowed to be included under the 1997 Act within an empowerment zone.

The 20 additional empowerment zones are required to be designated before 1999, and the designations generally will remain in effect for 10 years.[10]

Definition of "qualified zone property"

Present-law section 1397C defines "qualified zone property" as depreciable tangible property (including buildings), provided that: (1) the property is acquired by the taxpayer (from an unrelated party) after the zone or community designation took effect; (2) the original use of the property in the zone or community commences with the taxpayer; and (3) substantially all of the use of the property is in the zone or community in the active conduct of a trade or business by the taxpayer in the zone or community. In the case of property which is substantially renovated by the taxpayer, however, the property need not be acquired by the taxpayer after zone or community designation or originally used by the taxpayer within the zone or community if, during any 24-month period after zone or community designation, the additions to the taxpayer's basis in the property exceed 100 percent of the taxpayer's basis in the property at the beginning of the period, or $5,000 (whichever is greater).

Definition of "enterprise zone business"

Present-law section 1397B defines the term "enterprise zone business" as a corporation or partnership (or proprietorship) if for the taxable year: (1) the sole trade or business of the corporation or partnership is the active conduct of a qualified business within an empowerment zone or enterprise community[11]; (2) at least 50 percent[12] of the total gross income is derived from the active conduct of a "qualified business" within a zone or community; (3) a substantial portion of the business's tangible property is used within a zone or community; (4) a substantial portion of the business's intangible property is used in the active conduct of such business; (5) a substantial portion of the services performed by employees are performed within a zone or community; (6) at least 35 percent of the employees are residents of the zone or community; and (7) less than five percent of the average of the aggregate unadjusted bases of the property owned by the business is attributable to (a) certain financial property, or (b) collectibles not held primarily for sale to customers in the ordinary course of an active trade or business.

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[10] In addition, the 1997 Act also provides for special tax incentives (some of which are modeled after the empowerment zone tax incentives) for the District of Columbia.

[11] A qualified proprietorship is not required to meet the requirement that the sole trade or business of the proprietor is the active conduct of a qualified business within the empowerment zone or enterprise community.

[12] The 1997 Act reduced this threshold from 80 percent (as enacted in OBRA 1993) to 50 percent.

A "qualified business" is defined as any trade or business other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license.[13] In addition, the leasing of real property that is located within the empowerment zone or community to others is treated as a qualified business only if (1) the leased property is not residential property, and (2) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.[14] The rental of tangible personal property to others is not a qualified business unless at least 50 percent of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone or enterprise community.

Tax-exempt financing rules

Tax-exempt private activity bonds may be issued to finance certain facilities in empowerment zones and enterprise communities. These bonds, along with most private activity bonds, are subject to an annual private activity bond State volume cap equal to $50 per resident of each State, or (if greater) $150 million per State. However, a special rule (enacted in the 1997 Act) provides that certain "new empowerment zone facility bonds" issued for qualified enterprise zone businesses in the 20 additional empowerment zones are not subject to the State private activity bond volume caps or the special limits on issue size generally applicable to qualified enterprise zone facility bonds.[15]

Qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which are used to finance (1) "qualified zone property" (as defined above[16]) the principal user of which is an "enterprise zone business" (also defined above[17]), or (2) functionally related and

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[13] Also, a qualified business does not include certain facilities described in section 144(c)(6)(B)(e.g., massage parlor, hot tub facility, or liquor store) or certain large farms.

[14] The 1997 Act provides that the lessor of property may rely on a lessee's certification that such lessee is an enterprise zone business.

[15] The maximum amount of "new empowerment zone facility bonds" that can be issued is limited to $60 million per rural zone, $130 million per urban zone with a population of less than 100,000, and $230 million per urban zone with a population of 100,000 or more.

[16] A special rule (enacted in the 1997 Act) relaxes the rehabilitation requirement for financing existing property with qualified enterprise zone facility bonds. In the case of property which is substantially renovated by the taxpayer, the property need not be acquired by the taxpayer after zone or community designation and need not be originally used by the taxpayer within the zone if, during any 24-month period after zone or community designation, the additions to the taxpayer's basis in the property exceed 15 percent of the taxpayer's basis at the beginning of the period, or $5,000 (whichever is greater).

[17] For purposes of the tax-exempt financing rules, an "enterprise zone business" also includes a business located in a zone or community which would qualify as an enterprise zone

subordinate land located in the empowerment zone or enterprise community.[18] These bonds may only be issued while an empowerment zone or enterprise community designation is in effect.

The aggregate face amount of all qualified enterprise zone bonds for each qualified enterprise zone business may not exceed $3 million per zone or community. In addition, total qualified enterprise zone bond financing for each principal user of these bonds may not exceed $20 million for all zones and communities.

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business if it were separately incorporated.

A special rule (enacted in the 1997 Act) waives the requirements of an enterprise zone business (other than the requirement that at least 35 percent of the business' employees be residents of the zone or community) for all years after a prescribed testing period equal to the first three taxable years after the startup period.

[18] A special rule (enacted in the 1997 Act) waives until the end of a "startup period" the requirement that 95 percent or more of the proceeds of bond issue be used by a qualified enterprise zone business. With respect to each property, the startup period would end at the beginning of the first taxable year beginning more than two years after the later of (1) the date of the bond issue financing such property, or (2) the date the property was placed in service (but in no event more than three years after the date of bond issuance). This waiver is available only if, at the beginning of the startup period, there is a reasonable expectation that the use by a qualified enterprise zone business will be satisfied at the end of the startup period and the business makes bona fide efforts to satisfy the enterprise zone business definition.

II. DESCRIPTION OF THE TAX PROVISIONS OF H.R. 1031

H.R. 1031, the "Renewing American Communities Act of 1997," was introduced on March 12, 1997, by Mr. Watts on behalf of Mr. Flake and Mr. Talent.

Title I of the bill would authorize the designation of 100 "renewal communities." Title II of the bill provides special tax incentives within the designated renewal communities. The following is a description of the designation process and the tax incentives that would be available within the proposed renewal communities. Title II of the bill also provides that individuals could claim a tax credit up to $75 ($150 in the case of a joint return) for certain contributions made to qualified charities aiding the poor, regardless of whether such charities provide services within or without renewal communities. This proposed tax credit also is described below.

Description of Renewal Communities Proposal

Designation process

Designation of 100 renewal communities--Under H.R. 1031, the Secretary of HUD may designate up to 100 "renewal communities" from areas nominated by States and local governments. At least 25 percent of the designated communities must be in rural areas (defined as areas which (1) are within local government jurisdictions with a population less than 50,000, (2) are outside of an metropolitan statistical area, or (3) are determined by HUD to be a rural area). The Secretary of HUD would be required to publish (within four months after enactment of the bill) regulations describing the selection process, and all designations of renewal communities would have to be made within 24 months after such regulations are published. Designations generally would remain in effect for seven years after the year the designation is made.

Old empowerment zones and enterprise communities could seek additional designation as renewal communities--The bill would allow the previously designated empowerment zones and enterprise communities to apply for designation as renewal communities. Priority would be given in the designation of the first 50 renewal communities to nominated areas which are empowerment zones or enterprise communities under present law and which otherwise meet the requirements of the bill for designation as a renewal community. If a previously designated empowerment zone or enterprise community is selected as one of the 100 renewal communities, then the area's designation as a empowerment zone or enterprise community would remain in effect and, in addition, the same area would also be designated as a renewal community. For such an area obtaining dual-designation status, the special tax incentives available for empowerment zones (or enterprise communities, as the case may be) and for renewal communities would be available. If an area previously designated as an empowerment zone or enterprise community does not seek designation (or is not selected by the Secretary of HUD) as a renewal community, then the present-law empowerment zone and enterprise community provisions would continue to apply to that area.

Eligibility criteria.--To be designated as a renewal community, a nominated area must meet all of the following criteria: (1) each census tract must have a poverty rate of at least 20 percent; (2) at least 70 percent of the households have incomes below 80 percent of the median incomes of households within the local government jurisdiction; (3) the unemployment rate is at least 1.5 times the national unemployment rate; (4) the area is one of pervasive poverty, unemployment, and general distress.

Except with respect to the designation of the first 50 renewal communities when priority would be given to existing empowerment zones and enterprise communities (as described above), those areas with the highest average ranking of factors (1), (2), and (3) above would be designated as renewal communities. The Secretary of HUD could also take into account in selecting areas for designation the extent to which such areas have a high incidence of crime.

There would be no geographic size or maximum population limitations placed on the designated renewal communities. The bill merely requires that the boundary of a designated community be "continuous" and that the designated community have a population of at least 4,000 if the community is located within a metropolitan statistical area (at least 1,000 in all other cases, or the community must be entirely within an Indian reservation).

Required State and local government course of action.--In order for an area to be designated as a renewal community, the State and local government must submit a written course of action which promises within the nominated area at least five of the following: (1) a reduction of tax rates or fees; (2) an increase in the level of efficiency of local services; (3) crime reduction strategies; (4) actions to remove or streamline governmental requirements; (5) involvement by private entities and community groups, such as to provide jobs and job training and financial assistance; (6) State or local income tax benefits for fees paid for services performed by a nongovernmental entity which were formerly performed by a government entity; and (7) the gift (or sale at below fair market value) of surplus realty by the State or local government to community organizations or private companies.

In addition, the bill requires that the nominating State and local governments must participate in a "low-income educational opportunity scholarship program" as described in Title III of the bill and that the governments must promise to promote economic growth in the nominated area by repealing or not enforcing (1) licensing requirements for occupations that do not ordinarily require a professional degree, (2) zoning restrictions on home-based businesses which do not create a public nuisance, (3) permit requirements for street vendors who do not create a public nuisance, (4) zoning or other restrictions that impede the formation of schools or child care centers, and (5) franchises or other restrictions on competition for businesses providing public services, including but not limited to taxicabs, jitneys, cable television, or trash hauling, unless such regulations are "well-tailored to the protection of health and safety."

Tax incentives for renewal communities

100 percent capital gain exclusion.--H.R. 1031 provides for a 100 percent capital gains exclusion for long-term capital gain from the sale of a qualified community asset held for more than five years. A "qualified community asset" includes: (1) qualified community stock (meaning original-issue stock purchased for cash in a "renewal community business," which is similar to the present-law definition of an "enterprise zone business"); (2) qualified community partnership interest (meaning a partnership interest acquired for cash in a renewal community business); and (3) qualified community business property (meaning tangible real and personal property used in a renewal community business if acquired (or substantially improved) by the taxpayer after the designation of an area as a renewal community). Property would continue to be a "qualified community asset" if sold (or otherwise transferred) to a subsequent purchaser, provided that the property continues to represent an interest in (or is tangible property used in) a renewal community business. The termination of an area's status as a renewal community would not affect whether property is a qualified community asset, but any gain attributable to the period after the termination would not be eligible for the 100-percent capital gains exclusion.

Family development accounts--Under the bill, individual taxpayers would be allowed to claim an above-the-line deduction for certain amounts paid in cash to a family development account ("FDA") established for the benefit of a "qualified individual," meaning an individual who both resides in a renewal community throughout the taxable year and was allowed to claim the earned income tax credit (EITC) during the preceding taxable year. A qualified individual may claim a deduction of up to $2,000 per year for amounts he/she contributes to his/her own FDA. Any other person may deduct up to $1,000 per year for amounts contributed to an FDA established on behalf of a qualified individual. Contributions to an FDA made on or before April 15th of a taxable year could be treated as made during the preceding taxable year. The bill would allow (but not require) individuals to direct that the IRS directly deposit their EITC refunds into an FDA on behalf of such individual.

The bill provides that an FDA would be exempt from taxation (other than the unrelated business income tax imposed by present-law section 511). Distributions from an FDA generally would be included in the gross income of the distributee (and would be subject to an additional 10-percent penalty tax[19]), but not if the distribution is used exclusively to pay (1) qualified post-secondary educational expenses, (2) certain first-home purchase costs, (3) certain qualified business capitalization costs approved by a financial institution or by a nonprofit loan fund, (4) qualified medical expenses. Such qualified expenses must be incurred on behalf of the FDA account holder, or the spouse or dependent of the account holder.

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[19] Penalty taxes would not be imposed, however, if a distribution is made after the account holder becomes 59 and ½ years old, or is made due to the death or disability of the account holder.

In addition, H.R. 1031 would allow tax-free (and penalty-free) rollovers of amounts in an FDA into another such account established for the benefit of a individual who (1) both resides in a renewal community throughout the taxable year and was allowed to claim the earned income tax credit during the preceding taxable year, and (2) either is a spouse or dependent of the account holder.

The bill also provides that up to 25 of the renewal communities also will be designated by the Secretary of HUD as "FDA matching demonstration areas," with respect to which HUD would match amounts contributed to FDAs, up to $1,000 per individual per taxable year (with a $2,000 lifetime cap). The matching grant amounts made under this demonstration program would be excluded from the gross income of the account holder, and no deduction would be allowed for matching grant amounts. A 100-percent penalty would be imposed on a non-qualified distribution to the extent the distribution is attributable to the HUD matching contributions.

Commercial revitalization credit.--The bill would allow taxpayers to claim a nonrefundable "commercial revitalization credit" (electing either (a) a 20-percent credit rate for the year the qualified building is placed in service or (b) a 5-percent credit rate for each year during a ten-year period after the building is placed in service) for costs (up to $10 million per building) of constructing or substantially rehabilitating one or more buildings used for commercial purposes in a designated renewal community, including costs for the acquisition of land in connection with such buildings. Under the bill, each State would be allowed to allocate no more than $2 million worth of credits to each renewal community located within the State for each calendar year. Under the bill, the proposed credit would not be available for any building placed in service after December 31, 2002.

Additional section 179 expensing.--A renewal community business (which is similar to the present-law definition of an enterprise zone business) would be allowed an additional $35,000 of section 179 expensing for qualified renewal property placed in service after an area is designated a renewal community. Thus, if a renewal community business is located in an area that is designated as both an empowerment zone and a renewal community, such business could be allowed an additional $55,000 of section 179 expensing (i.e., $20,000 of additional expensing because the area is designated an empowerment zone plus $35,000 of additional expensing because the area is designated a renewal community). As under present law, the section 179 expensing allowed to a taxpayer is phased out if the cost of section 179 property placed in service during the year by the taxpayer exceeds $200,000.

Expensing of environmental remediation costs ("brownfields").--Under the bill, taxpayers could elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred. The expenditure must be incurred in connection with the abatement or control of environmental contaminants, as required by Federal and State law, at a trade or business site located within a designated renewal community. This proposal is substantially similar to the "brownfields" provision enacted as part of the Taxpayer Relief Act of 1997, which allows taxpayers to expense

certain environmental remediation expenditures on property located in an empowerment zone, enterprise community, or certain other designated areas.

Extension of work opportunity tax credit.[20]-- H.R. 1031 would provide the Work Opportunity Tax Credit ("WOTC") on an elective basis for eligible employers who hire individuals from one or more targeted groups that live and perform substantially all their work in a renewal community. It would do this by extending the expiration date of the WOTC for these employees. The credit would be available for the period that the renewal community designation is in effect. Eligible employers would be those with a trade or business in a renewal community. The credit generally is equal to 40 percent (25 percent for employment of less than 400 hours) of qualified wages. Qualified wages consist of wages earned during the one-year period beginning with the day the individual begins work for the employer. Generally, no more than $6,000 of wages is permitted to be taken into account with respect to any individual during the first year of employment. Thus, the maximum credit per individual is $2,400. With respect to qualified summer youth employees, the maximum credit generally is 40 percent of up to $3,000 of qualified first-year wages, for a maximum credit of $1,200.

Targeted groups eligible for the credit include: (1) certain individuals certified by the designated local employment agency as being a member of a family eligible to receive benefits under AFDC or its successor program; (2) certain ex-felons having a hiring date within one year of release from prison or date of conviction; (3) individuals who are at least 18 but not 25 years of age and have a principal place of abode within an empowerment zone, enterprise community, or renewal community; (4) individuals who are at least 18 but not 25 years of age who are certified as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for a period of at least six months ending on the hiring date; (5) individuals who have a physical or mental disability that constitutes a substantial handicap to employment and who have been referred to the employer while receiving, or after completing, vocational rehabilitation services; (6) individuals who are 16 or 17 years of age, perform services during any 90-day period between May 1 and September 15, and have a principal place of abode within an empowerment zone, enterprise community, or renewal community; (7) certain veterans who receive food stamps, and (8) recipients of certain ("SSI") Supplemental Security Income benefits.

Credit for Cash Contributions to Qualified Charities Aiding the Poor

H.R. 1031 provides that individuals would be allowed to claim a nonrefundable credit for 75 percent of cash contributions up to $100 ($200 for joint filers) to a "qualified charity aiding the poor." Thus, the maximum credit allowed under the proposal would be $75 ($150 for joint filers). Under the proposal, a "qualified charity aiding the poor" would be defined as an organization: (1) that is a domestic, tax-exempt organization described in section 501(c)(3); (2)

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[20] The Taxpayer Relief Act of 1997 provided for a nine-month extension of the work opportunity tax credit (sec. 51)--i.e., from September 30, 1997, through July 1, 1998.

that is required or elects to file an annual information return and have it available for public inspection; (3) the predominant activity of such organization is providing direct services to individuals whose annual incomes generally do not exceed 185 percent of the official poverty line (determined by OMB)[21]; and (4) for which the taxpayer has performed at least ten hours of volunteer service during the taxable year. In addition, the bill requires that, in the immediately preceding taxable year (and the Secretary of the Treasury expects that for the current taxable year) a qualified charity may not engage in any of the following activities: (1) activity for the purpose of influencing legislation; (2) litigation on behalf of a low-income individual; or (3) voter registration, political organizing, public policy advocacy, or public policy research.

For purposes of the proposed credit, contributions made up to April 15th could be treated by the taxpayer as having been made during the preceding taxable year. If a taxpayer claims the proposed credit with respect to a contribution, then the taxpayer could not claim a deduction with respect to such contribution.

The credit would be available for cash contributions to a qualified charity aiding the poor, provided that the contribution is made after the date of enactment of the bill but prior to January 1, 2000.

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[21] In this regard, the bill provides that an organization would not be treated as failing the "predominant activity" test by reason of the fact that 25 percent or less of the annual aggregate expenditures of the organization are administrative expenditures in support of direct services for low-income individuals and expenditures for purposes of fundraising on behalf of the organization providing such direct services. Moreover, the bill provides that, except as provided in regulations, services to individuals in the form of temporary donations of food or meals, or temporary shelter to homeless individuals, would be treated as provided to individuals whose incomes generally do not exceed 185 percent of the official poverty line if the location and operation of such services are such that the service provider may reasonably conclude that such individuals are the beneficiaries of such services.