116TH CONGRESS
2D SESSION

H.R. _____

To amend the Internal Revenue Code of 1986 to establish Hemp Opportunity Zones.

IN THE HOUSE OF REPRESENTATIVES

Mr. Riggleman introduced the following bill; which was referred to the Committee on ____________

A BILL

To amend the Internal Revenue Code of 1986 to establish Hemp Opportunity Zones.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hemp Opportunity Zone Act of 2020".

SEC. 2. HEMP OPPORTUNITY ZONES.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after subchapter V the following new subchapter:
"Subchapter W—Hemp Opportunity Zones

"SEC. 1400W-1. DESIGNATION.

"(a) HEMP OPPORTUNITY ZONE DEFINED.—For purposes of this subchapter, the term 'hemp opportunity zone' means a population census tract that is a low-income community that is designated as a hemp opportunity zone.

"(b) DESIGNATION.—

"(1) IN GENERAL.—For purposes of subsection (a), a population census tract that is a low-income community is designated as a hemp opportunity zone if—

"(A) not later than the end of the determination period, the chief executive office of the State in which the tract is located—

"(i) nominates the tract for designation as a hemp opportunity zone, and

"(ii) notifies the Secretary in writing of such nomination, and

"(B) the Secretary certifies such nomination and designates such tract as a hemp opportunity zone before the end of the consideration period.

"(2) FACTORS FOR CONSIDERATION.—In nominating tracts (and considering such nominations for
certification) preference shall be given to areas which—

"(A) are facing obstacles to economic development due to a lack of resources,

"(B) are the focus of mutually reinforcing state, local, or private economic development initiatives,

"(C) are poised for economic growth that requires access to a larger hemp market for commercial purposes, and

"(D) represent the areas of a State where such service would result in the highest return on investment.

"(3) EXTENSION OF PERIODS.—A chief executive officer of a State may request that the Secretary extend either the determination or consideration period, or both (determined without regard to this subparagraph), for an additional 30 days.

"(c) OTHER DEFINITIONS.—For purposes of this subsection—

"(1) LOW-INCOME COMMUNITIES.—The term ‘low-income community’ has the same meaning as when used in section 45D(e).

"(2) DEFINITION OF PERIODS.—
“(A) CONSIDERATION PERIOD.—The term ‘consideration period’ means the 30-day period beginning on the date on which the Secretary receives notice under subsection (b)(1)(A)(ii), as extended under subsection (b)(3).

“(B) DETERMINATION PERIOD.—The term ‘determination period’ means the 90-day period beginning on the date of the enactment of this section, as extended under subsection (b)(2).

“(C) STATE.—For purposes of this section, the term ‘State’ includes any possession of the United States.

“(d) NUMBER OF DESIGNATIONS.—

“(1) IN GENERAL.—Except as provided by paragraph (2), the number of population census tracts in a State that may be designated as hemp opportunity zones under this section may not exceed 25 percent of the number of low-income communities in the State.

“(2) EXCEPTION.—If the number of low-income communities in a State is less than 100, then a total of 25 of such tracts may be designated as qualified opportunity zones.

“(e) DESIGNATION OF TRACTS CONTIGUOUS WITH LOW-INCOME COMMUNITIES.—
“(1) IN GENERAL.—A population census tract that is not a low-income community may be designated as a hemp opportunity zone under this section if—

“(A) the tract is contiguous with the low-income community that is designated as a hemp opportunity zone, and

“(B) the median family income of the tract does not exceed 125 percent of the median family income of the low-income community with which the tract is contiguous.

“(2) LIMITATION.—Not more than 5 percent of the population census tracts designated in a State as a hemp opportunity zone may be designated under paragraph (1).

“(f) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—A designation as a hemp opportunity zone shall remain in effect for the period beginning on the date of the designation and ending at the close of the 10th calendar year beginning on or after such date of designation.

“SEC. 1400W-2. DEFERRAL FOR ELIGIBLE TAXPAYER OF CAPITAL GAINS INVESTED IN HEMP OPPORTUNITY ZONES.

“(a) IN GENERAL.—
"(1) Exclusion of gain invested in hemp opportunity zone property.—In the case of gain from the sale to, or exchange with, an unrelated person of any property held by the taxpayer, at the election of the taxpayer—

"(A) gross income for the taxable year shall not include so much of such gain as does not exceed the aggregate cost of all qualified hemp opportunity zone property acquired by the taxpayer during the 180-day period beginning on the date of such sale or exchange, and

"(B) the amount of gain excluded by subparagraph (A) shall be included in gross income as provided by paragraph (2).

"(2) Deferral of gain invested in qualified hemp opportunity zone property.—

"(A) Year of inclusion.—Except as provided by subparagraph (C), gain to which paragraph (1)(B) applies shall be included in income in the taxable year in which the qualified hemp opportunity zone property related to such gain is sold or exchanged in the amount determined under subparagraph (B).

"(B) Amount includible.—The amount of gain determined under this clause shall be—
“(i) 100 percent of such gain in the case of the sale or exchange of the qualified hemp opportunity zone property with respect to which gain is deferred under paragraph (1) that is held for less than 5 years,

“(ii) 90 percent of such gain in the case of the sale or exchange of the qualified hemp opportunity zone property with respect to which gain is deferred under paragraph (1) that is held for at least 5 years but less than 7 years, and

“(iii) 85 percent of such gain in the case of the sale or exchange of the qualified hemp opportunity zone property with respect to which gain is deferred under paragraph (1) that is held for at least 7 years.

“(3) EXCLUSION OF GAIN ON QUALIFIED HEMP OPPORTUNITY ZONE PROPERTY HELD FOR AT LEAST 10 YEARS.—Except as provided in paragraph (2), in the case of the sale or exchange of qualified hemp opportunity zone property, or an investment in a qualified opportunity fund, held for at least 10 years, gross income for the taxable year shall not in-
clude any gain from the sale or exchange of such property or investment.

"(4) ONE ELECTION PER PROPERTY.—No election may be made under paragraph (1) with respect to a sale or exchange if an election previously made with respect to such sale or exchange is in effect.

"(b) BASIS RULES RELATING TO QUALIFIED HEMP OPPORTUNITY ZONE PROPERTY.—

"(1) REDUCED BY GAIN DEFERRED UNDER SUBSECTION (a)(1).—The basis of a qualified hemp opportunity zone property immediately after its acquisition under subsection (a) shall be reduced by the amount of gain deferred by reason of subsection (a)(1)(A) with respect to such property.

"(2) INCREASE FOR GAIN RECOGNIZED UNDER SUBSECTION (a)(2).—The basis of qualified hemp opportunity zone property shall be increased by the amount of gain recognized by reason of subsection (a)(2) with respect to such property.

"(3) SUBSEQUENT INCREASE IN BASIS FOR PROPERTY HELD FOR AT LEAST 5 YEARS BUT LESS THAN 10 YEARS.—In the case of qualified hemp opportunity zone property held for at least 5 years but less than 10 years—
“(A) Property held for 5 years.—For qualified hemp opportunity zone property held for at least 5 years, the basis of such property shall be increased by an amount equal to 10 percent of the amount of gain deferred by reason of subsection (a)(1)(A) with respect to such property.

“(B) Property held for 7 years.—For qualified hemp opportunity zone property held for at least 7 years, the basis of such property shall be increased by an amount equal to 5 percent of the amount of gain deferred by reason of subsection (a)(1)(A) with respect to such property.

“(c) Qualified Hemp Opportunity Zone Property.—For purposes of this section:

“(1) In general.—The term ‘qualified hemp opportunity zone property’ means property which is—

“(A) qualified hemp opportunity zone stock,

“(B) qualified hemp opportunity zone partnership interest,

“(C) qualified hemp opportunity zone business property, or
“(D) an interest in a qualified investment fund.

“(2) QUALIFIED HEMP OPPORTUNITY ZONE STOCK.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘qualified hemp opportunity zone stock’ means any stock in a domestic corporation if—

“(i) such stock is acquired by the taxpayer after December 31, 2019, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash,

“(ii) as of the time such stock was issued, such corporation was a qualified hemp opportunity zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being a qualified hemp opportunity zone business), and

“(iii) during substantially all of the taxpayer’s holding period for such stock, such corporation qualified as a qualified hemp opportunity zone business.
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"(B) REDEMPTIONS.—A rule similar to
the rule of section 1202(c)(3) shall apply for
purposes of this paragraph.

"(3) QUALIFIED HEMP OPPORTUNITY ZONE
PARTNERSHIP INTEREST.—The term ‘qualified hemp
opportunity zone partnership interest’ means any
capital or profits interest in a domestic partnership
if—

"(A) such interest is acquired by the tax-
payer after December 31, 2019, from the part-
nership solely in exchange for cash,

"(B) as of the time such interest was ac-
quired, such partnership was a qualified hemp
opportunity zone business (or, in the case of a
new partnership, such partnership was being
organized for purposes of being a qualified
hemp opportunity zone business), and

"(C) during substantially all of the tax-
payer’s holding period for such interest, such
partnership qualified as a qualified hemp oppor-
tunity zone business.

"(4) QUALIFIED HEMP OPPORTUNITY ZONE
BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term ‘qualified
hemp opportunity zone business property’
means tangible property used in a trade or business of the taxpayer if—

“(i) such property is used primarily in the trade or business of producing hemp—

“(ii) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2019,

“(iii) the original use of such property in the qualified hemp opportunity zone commences with the taxpayer or the taxpayer substantially improves the property, and

“(iv) during substantially all of the taxpayer’s holding period for such property, substantially all of the use of such property was in a qualified hemp opportunity zone.

“(B) SUBSTANTIAL IMPROVEMENT.—For purposes of subparagraph (A)(iii), property shall be treated as substantially improved by the taxpayer only if, during any 30-month period beginning after the date of acquisition of such property, additions to basis with respect to such property in the hands of the taxpayer ex-
ceed an amount equal to the adjusted basis of such property at the beginning of such 30-month period in the hands of the taxpayer.

"(C) TREATMENT OF RELATED PARTIES.—For purposes of subparagraph (A)(ii), the rules of subparagraph (A) of section 179(d)(2) shall be applied using the relationship described in subsection (e)(2) in lieu of the relationship described in such subparagraph.

"(5) QUALIFIED HEMP OPPORTUNITY FUND.— The term ‘qualified hemp opportunity fund’ means any investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified hemp opportunity zone property (other than another qualified hemp opportunity fund) that holds at least 90 percent of its assets in qualified hemp opportunity zone property, determined—

"(A) on the last day of the first 6-month period of the taxable year of the fund, and

"(B) on the last day of the taxable year of the fund.

"(6) QUALIFIED HEMP OPPORTUNITY ZONE BUSINESS.—
“(A) IN GENERAL.—The term ‘qualified hemp opportunity zone business’ means a trade or business—

“(i) in which substantially all of the tangible property owned or leased by the taxpayer is qualified hemp opportunity zone business property,

“(ii) which satisfies the requirements of paragraphs (2), (4), and (8) of section 1397C(b), and

“(iii) which is not described in section 144(c)(6)(B).

“(B) SPECIAL RULE.—For purposes of subparagraph (A), tangible property that ceases to be a qualified hemp opportunity zone business property shall continue to be treated as a qualified hemp opportunity zone business property for the lesser of—

“(i) 5 years after the date on which such tangible property ceases to be so qualified, or

“(ii) the date on which such tangible property is no longer held by the qualified hemp opportunity zone business.

“(d) APPLICABLE RULES.—
“(1) IN GENERAL.—For purposes of this section and except as otherwise provided in this section, rules similar to the rules applicable to deferred like kind exchanges under section 1031 shall apply except that reinvestment in qualified hemp opportunity zone property need not require an intermediary party.

“(2) RELATED PERSONS.—For purposes of this subsection, persons are related to each other if such persons are described in section 267(b) or 707(b)(1), determined by substituting ‘20 percent’ for ‘50 percent’ each place it occurs in such sections.

“(3) DECEDEENTS.—In the case of a decedent, amounts recognized under this section shall, if not properly includible in the gross income of the decedent, be includible in gross income as provided by section 691.

“(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

“(A) rules providing for proportionate inclusion in income and increases in basis for purposes of subsections (a) and (b) in cases in which a sale or exchange of any qualified hemp
opportunity zone property with respect to which
gain is deferred under subsection (a)(1)(A) is
less than all of such property,

"(B) rules requiring taxpayers to provide
such information as the Secretary determines to
be necessary or appropriate for the identifica-
tion of both the assets sold (including basis and
sale price) and the assets acquired and invest-
ments made, and.

"(C) rules to prevent abuse.

"SEC. 1400W–3. IMMEDIATE EXPENSING OF QUALIFIED
HEMP OPPORTUNITY ZONE BUSINESS PRO-
PERTY.

"(a) IN GENERAL.—A taxpayer engaged in the trade
or business of hemp production may elect to treat the cost
of any qualified hemp opportunity zone business property
(as defined in section 1400W–2) 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 qualified hemp opportunity zone business property is
placed in service.

"(b) EXCEPTION FOR CERTAIN PROPERTY.—For
purposes of this section, the term ‘qualified hemp oppor-
tunity zone business property’ shall not include any prop-
erty to which section 168(g) applies.
"(c) ELECTION.—An election under this section shall be made under rules similar to the rules of section 179(e).

"(d) COORDINATION WITH SECTION 179.—For purposes of section 179, qualified hemp opportunity zone business property shall not be treated as section 179 property.

"(e) APPLICATION OF OTHER RULES.—Rules similar to the rules of paragraphs (3), (4), (5), (7), (9), and (10) of section 179(d) shall apply for purposes of this section.

"(f) TAXPAYER REPORTING.—This section shall not apply with respect to any taxpayer for any taxable year unless such taxpayer provides the Secretary with such information as the Secretary may require to allow the Secretary to evaluate the effectiveness of the program established under this part.”.

(b) BASIS ADJUSTMENTS.—Section 1016(a) of such Code is amended by striking “and” at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting “, and”, and by inserting after paragraph (38) the following new paragraph:

“(39) to the extent provided in section 1400W–2(b).”.

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

"SUBCHAPTER W. HEMP OPPORTUNITY ZONES".

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

SEC. 3. INCREASED QUALIFIED BUSINESS INCOME DEDUC-
TION FOR HEMP PRODUCERS.

(a) IN GENERAL.—Section 199A(b) of the Internal
Revenue Code of 1986 is amended by adding at the end
the following new paragraph:

"(8) SPECIAL RULE WITH RESPECT TO QUALI-
FIED BUSINESS INCOME FROM HEMP PRODUC-
TION.—"

"(A) IN GENERAL.—In the case of any
qualified trade or business which is engaged in
hemp production and the gross receipts for the
preceding taxable year of which do not exceed
$25,000,000, the amount determined under
paragraph (2) with respect to such trade or
business shall be increased by an amount equal
to 15 percent of so much of the qualified busi-
ness income with respect to such trade or busi-
ness as is properly allocable to hemp produc-


“(B) COMMON CONTROL.—Any trades or business which are under common control and treated as a single employer under section 52 shall be treated as a single trade or business for purposes of applying the $25,000,000 gross receipts test under subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning the date of the enactment of this Act.

SEC. 4. HEMP FARMER START-UP TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 45U. HEMP FARMER START-UP CREDIT.

“(a) IN GENERAL.—For purposes of section 38, in the case of an eligible hemp farmer, the hemp farmer start-up credit determined under this section for any taxable year is an amount equal to—

“(1) 10 percent of the cash rent paid by the taxpayer for land in connection with the trade or business of producing hemp, or

“(2) 15 percent of the crop share rent so paid by the taxpayer.
"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE HEMP FARMER.—The term 'eligible hemp farmer' means any person who—

"(A) engaged in the trade or business of hemp farming, and

"(B) has gross receipts for the preceding taxable year of not more than $25,000,000.

"(2) CASH RENT.—The term 'cash rent' means any rent paid for the use of land in cash or as a crop share that is guaranteed as to the dollar amount of the commodity paid in rent.

"(3) CROP SHARE RENT.—The term 'crop share rent' means any rent paid for the use of land as a crop share and that is not described in paragraph (2).

"(4) YEARS OF ELECTION.—The taxpayer may elect the application of this section only for 3 taxable years of the first 5 taxable years for which ordinary and necessary expenses paid or incurred in carrying on such trade or business are allowable as a deduction by the taxpayer under section 162.

"(5) CONTROLLED GROUPS AND COMMON CONTROL.—All persons treated as a single employer
under subsections (a) and (b) of section 52 shall be treated as 1 person.”.

(b) PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking “plus” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, plus”, and by adding at the end the following new paragraph:

“(34) the hemp farmer start-up credit determined under section 45U(a).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45U. Hemp farmer start-up credit.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2020.

SEC. 5. SMALL HEMP FARMER INVESTMENT CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48C the following new section:

“SEC. 48D. SMALL HEMP FARMER CREDIT.

“(a) IN GENERAL.—For purposes of section 46, in the case of an eligible hemp farmer, the small hemp farmer credit for any taxable year is an amount equal to 30
percent of the basis of hemp farming property placed in
service during the taxable year.

"(b) ELIGIBLE HEMP FARMER.—For purposes of
this section, the term 'eligible hemp farmer' means any
person who—

"(1) engaged in the trade or business of hemp
farming, and

"(2) has gross receipts for the preceding taxable
year of not more than $250,000.

"(c) HEMP FARMING PROPERTY.—For purposes of
this section, the term 'hemp farming property' means any
property (of a character subject to the allowance for de-
preciation) which placed in service by the taxpayer for use
in the trade or business of hemp farming.

"(d) CONTROLLED GROUPS AND COMMON CON-
TROL.—All persons treated as a single employer under
subsections (a) and (b) of section 52 shall be treated as
1 person for purposes of subsection (b)(2).”.

(b) PART OF INVESTMENT CREDIT.—Section 46 of
such Code is amended by striking "and" at the end of
paragraph (5), by striking the period at the end of para-
graph (6) and inserting ", and", and by adding at the
end the following new paragraph:

"(7) the small hemp farmer credit.”.
(c) 50 PERCENT BASIS REDUCTION.—Section 50(e)(3) of such Code is amended by inserting "or small hemp farmer credit" after "energy credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48C the following new item:

"Sec. 48D. Small hemp farmer credit."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 2020.

SEC. 6. MARKETABILITY STUDY AND REPORT.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, shall study the issues described in subsection (b) with respect to the production of hemp and, not later than 1 year after the date of the enactment of this Act, submit to Congress a report of the findings of such study.

(b) ISSUES.—The issues described in this subsection, with respect to the production of hemp, are as follows:

(1) The potential opportunities for hemp seed to be used as an animal feed and any obstacles to approval for such use.

(2) The potential opportunities for hemp to be used to create personal protective equipment for healthcare workers and first responders.
(3) The feasibility and financial impact of hemp producer compliance with applicable Department of Agriculture sampling timetables.

(4) The feasibility of hemp producer compliance with Department of Agriculture reporting requirements.

(5) The feasibility of hemp producer compliance with a legal maximum 0.3 percent tetrahydrocannabinol limitation, including compliance and losses due to non-compliance, and a comparison to the feasibility of a legal maximum 1.0 percent tetrahydrocannabinol limitation.

(6) The maximum tetrahydrocannabinol level for the crop to have no psychotropic effect or intoxicating potential.

(7) The ability for United States hemp producers to compete globally with other countries that have a maximum 1.0 percent tetrahydrocannabinol limitation.

(8) Identifying market challenges and opportunities for a craft and small hemp producers to remain competitive in the United State and global hemp marketplace.

(9) The nutritional value and benefits of foods, drinks, and supplements produced from hemp-based
products, and the potential benefits of including hemp-based food, drink, supplements, and protein to certain public school meal programs.

(10) Which items procured by the Federal Government, or items used by contractors or subcontractors of the Federal Government at any tier, can be substituted by a hemp-based product.

(11) Identify potential opportunities for hemp to be used as a renewable energy source.