

116TH CONGRESS
1ST SESSION

H. R. 5082

To amend the Internal Revenue Code of 1986 to provide tax benefits for investments in gigabit opportunity zones.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2019

Mr. COLLINS of Georgia (for himself, Mr. CUELLAR, Mr. RIGGLEMAN, Mr. LOUDERMILK, Mr. HURD of Texas, Mr. TIPTON, Mr. PENCE, Mr. WITTMAN, and Mr. MOONEY of West Virginia) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 tax benefits for investments in gigabit opportunity zones.

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 “Gigabit Opportunity
5 Act”.

1 **SEC. 2. GIGABIT OPPORTUNITY ZONES.**

2 (a) IN GENERAL.—Chapter 1 of the Internal Rev-
3 enue Code of 1986 is amended by inserting after sub-
4 chapter V the following new subchapter:

5 **“Subchapter W—Gigabit Opportunity Zones**

“Sec. 1400W-1. Designation.

“Sec. 1400W-2. Deferral for eligible taxpayer of capital gains invested in gig-
abit opportunity zones.

“Sec. 1400W-3. Immediate expensing of qualified gigabit opportunity zone
business property.

6 **“SEC. 1400W-1. DESIGNATION.**

7 “(a) QUALIFIED GIGABIT OPPORTUNITY ZONE DE-
8 FINED.—For the purposes of this subchapter, the term
9 ‘qualified gigabit opportunity zone’ means a population
10 census tract that is a low-income community—

11 “(1) which does not have fixed terrestrial
12 broadband service that meets the current speed
13 benchmark for fixed services (as determined by the
14 Federal Communications Commission in its most re-
15 cent report issued pursuant to section 706 of the
16 Telecommunications Act of 1996 (47 U.S.C. 1302)),

17 “(2) which is located in a jurisdiction—

18 “(A) that has been certified by Secretary,
19 in consultation with the National Telecommuni-
20 cations and Information Administration, as
21 having adopted the Uniform Model Broadband
22 Deployment Act prescribed by the Federal

1 Communications Commission pursuant to sec-
2 tion 4 of the Gigabit Opportunity Act, or

3 “(B) which has been determined by the
4 Secretary, in consultation with the National
5 Telecommunications and Information Adminis-
6 tration, to have adopted laws which are com-
7 parable to such Uniform Model Broadband De-
8 ployment Act, and

9 “(3) which is designated as a qualified gigabit
10 opportunity zone.

11 Paragraph (1)(B) shall not apply with respect to any ju-
12 risdiction for which a determination has been made after
13 the date which is 3 years after the date of the enactment
14 of this section.

15 “(b) DESIGNATION.—

16 “(1) IN GENERAL.—For purposes of subsection
17 (a)(3), a population census tract that is a low-in-
18 come community and which meets the requirements
19 of paragraph (1) of subsection (a) is designated as
20 a qualified gigabit opportunity zone if—

21 “(A) not later than the end of the deter-
22 mination period, the governor of the State in
23 which the tract is located—

1 “(i) nominates the tract for designa-
2 tion as a qualified gigabit opportunity
3 zone, and

4 “(ii) notifies the Secretary in writing
5 of such nomination, and

6 “(B) the Secretary certifies such nomina-
7 tion and designates such tract as a qualified
8 gigabit opportunity zone before the end of the
9 consideration period.

10 “(2) EXTENSION OF PERIODS.—A governor
11 may request that the Secretary extend either the de-
12 termination or consideration period, or both (deter-
13 mined without regard to this subparagraph), for an
14 additional 30 days.

15 “(c) OTHER DEFINITIONS.—For purposes of this
16 subsection—

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

20 “(2) DEFINITION OF PERIODS.—

21 “(A) CONSIDERATION PERIOD.—The term
22 ‘consideration period’ means the 30-day period
23 beginning on the date on which the Secretary
24 receives notice under subsection (b)(1)(A)(ii),
25 as extended under subsection (b)(2).

1 “(B) DETERMINATION PERIOD.—The term
2 ‘determination period’ means the 90-day period
3 beginning on the date on which the State
4 adopts the Uniform Model Broadband Deploy-
5 ment Act described in subsection (a)(2)(A), as
6 extended under subsection (b)(2).

7 “(d) GUIDANCE FOR OPPORTUNITY ZONE NOMINA-
8 TIONS.—When considering the nomination of qualified
9 gigabit opportunity zones, governors should strive for the
10 creation of qualified gigabit opportunity zones that are
11 geographically concentrated and contiguous clusters of
12 population census tracts and should give particular consid-
13 eration to areas that—

14 “(1) are currently facing obstacles to economic
15 development due to a lack of geographic broadband
16 coverage or a lack of broadband speed,

17 “(2) are currently the focus of mutually rein-
18 forcing State, local, or private economic development
19 initiatives, and

20 “(3)(A) are poised for economic growth that re-
21 quires access to high speed broadband for commer-
22 cial purposes, and

23 “(B) represent the areas of a State where such
24 service would result in the highest return on invest-
25 ment.

1 “(e) NUMBER OF DESIGNATIONS.—

2 “(1) IN GENERAL.—Except as provided by
3 paragraph (2), the number of population census
4 tracts in a State that may be designated as qualified
5 gigabit opportunity zones under this section may not
6 exceed 25 percent of the number of low-income com-
7 munities in the State.

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

12 “(f) DESIGNATION OF TRACTS CONTIGUOUS WITH
13 LOW-INCOME COMMUNITIES.—

14 “(1) IN GENERAL.—A population census tract
15 that is not a low-income community may be des-
16 ignated as a qualified gigabit opportunity zone under
17 this section if—

18 “(A) such tract meets the requirements of
19 paragraph (1) of subsection (a),

20 “(B) the tract is contiguous with the low-
21 income community that is designated as a
22 qualified gigabit opportunity zone, and

23 “(C) the median family income of the tract
24 does not exceed 150 percent of the median fam-

1 the taxpayer during the 180-day period begin-
2 ning on the date of such sale or exchange, and

3 “(B) the amount of gain excluded by sub-
4 paragraph (A) shall be included in gross income
5 as provided by paragraph (2).

6 “(2) DEFERRAL OF GAIN INVESTED IN QUALI-
7 FIED GIGABIT OPPORTUNITY ZONE PROPERTY.—

8 “(A) YEAR OF INCLUSION.—Except as
9 provided by subparagraph (C), gain to which
10 paragraph (1)(B) applies shall be included in
11 income in the taxable year in which the quali-
12 fied gigabit opportunity zone property related to
13 such gain is sold or exchanged in the amount
14 determined under subparagraph (B).

15 “(B) AMOUNT INCLUDIBLE.—The amount
16 of gain determined under this clause shall be—

17 “(i) 100 percent of such gain in the
18 case of the sale or exchange of the quali-
19 fied gigabit opportunity zone property with
20 respect to which gain is deferred under
21 paragraph (1) that is held for less than 5
22 years,

23 “(ii) 90 percent of such gain in the
24 case of the sale or exchange of the quali-
25 fied gigabit opportunity zone property with

1 respect to which gain is deferred under
2 paragraph (1) that is held for at least 5
3 years but less than 7 years, and

4 “(iii) 85 percent of such gain in the
5 case of the sale or exchange of the quali-
6 fied gigabit opportunity zone property with
7 respect to which gain is deferred under
8 paragraph (1) that is held for at least 7
9 years.

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

19 “(4) ONE ELECTION PER PROPERTY.—No elec-
20 tion may be made under paragraph (1) with respect
21 to a sale or exchange if an election previously made
22 with respect to such sale or exchange is in effect.

23 “(b) BASIS RULES RELATING TO QUALIFIED GIG-
24 ABIT OPPORTUNITY ZONE PROPERTY.—

1 “(1) REDUCED BY GAIN DEFERRED UNDER
2 SUBSECTION (a)(1).—The basis of a qualified gig-
3 abit opportunity zone property immediately after its
4 acquisition under subsection (a) shall be reduced by
5 the amount of gain deferred by reason of subsection
6 (a)(1)(A) with respect to such property.

7 “(2) INCREASE FOR GAIN RECOGNIZED UNDER
8 SUBSECTION (a)(2).—The basis of qualified gigabit
9 opportunity zone property shall be increased by the
10 amount of gain recognized by reason of subsection
11 (a)(2) with respect to such property.

12 “(3) SUBSEQUENT INCREASE IN BASIS FOR
13 PROPERTY HELD FOR AT LEAST 5 YEARS BUT LESS
14 THAN 10 YEARS.—In the case of qualified gigabit op-
15 portunity zone property held for at least 5 years but
16 less than 10 years—

17 “(A) PROPERTY HELD FOR 5 YEARS.—For
18 qualified gigabit opportunity zone property held
19 for at least 5 years, the basis of such property
20 shall be increased by an amount equal to 10
21 percent of the amount of gain deferred by rea-
22 son of subsection (a)(1)(A) with respect to such
23 property.

24 “(B) PROPERTY HELD FOR 7 YEARS.—For
25 qualified gigabit opportunity zone property held

1 for at least 7 years, the basis of such property
2 shall be increased by an amount equal to 5 per-
3 cent of the amount of gain deferred by reason
4 of subsection (a)(1)(A) with respect to such
5 property.

6 “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-
7 tion, the term ‘eligible taxpayer’ means any taxpayer who
8 has a trade or business a substantial part of which con-
9 sists of selling broadband Internet service to commercial
10 customers, residential customers, or both through one or
11 a combination of the following technologies:

12 “(1) Digital Subscriber Line transmission tech-
13 nology that transmits data faster over traditional
14 copper telephone lines, without regards to the spe-
15 cific type of Digital Subscriber Line transmission
16 technology such as Asymmetrical Digital Subscriber
17 Line, Symmetrical Digital Subscriber Line, High
18 data rate Digital Subscriber Line, or Very High
19 data rate Digital Subscriber Line.

20 “(2) Cable Modem transmission technology that
21 enables operators to provide broadband using the
22 same coaxial cables that deliver pictures and sound
23 to televisions.

1 “(3) Fiber optic transmission technology that
2 converts electrical signals carrying data to light and
3 sends the light through transparent glass fibers.

4 “(4) Wireless transmission technology that uti-
5 lizes a radio link between the customer’s location
6 and the service provider’s facility, whether mobile or
7 fixed.

8 “(5) Satellite transmission technology that pro-
9 vides broadband links via orbiting satellites.

10 “(6) Broadband over powerline transmission
11 technology that delivers broadband over the existing
12 low- and medium-voltage electric power distribution
13 network.

14 “(7) Such other technologies as the Secretary,
15 in consultation with the Federal Communications
16 Commission, may designate by rule as a broadband
17 provider technology.

18 “(d) QUALIFIED GIGABIT OPPORTUNITY ZONE
19 PROPERTY.—For purposes of this section:

20 “(1) IN GENERAL.—The term ‘qualified gigabit
21 opportunity zone property’ means property which
22 is—

23 “(A) qualified gigabit opportunity zone
24 stock,

1 “(B) qualified gigabit opportunity zone
2 partnership interest,

3 “(C) qualified gigabit opportunity zone
4 business property, or

5 “(D) an interest in a qualified investment
6 fund.

7 “(2) QUALIFIED GIGABIT OPPORTUNITY ZONE
8 STOCK.—

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

13 “(i) such stock is acquired by the tax-
14 payer after December 31, 2019, at its
15 original issue (directly or through an un-
16 derwriter) from the corporation solely in
17 exchange for cash,

18 “(ii) as of the time such stock was
19 issued, such corporation was a qualified
20 gigabit opportunity zone business (or, in
21 the case of a new corporation, such cor-
22 poration was being organized for purposes
23 of being a qualified gigabit opportunity
24 zone business), and

1 “(iii) during substantially all of the
2 taxpayer’s holding period for such stock,
3 such corporation qualified as a qualified
4 gigabit opportunity zone business.

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

8 “(3) QUALIFIED GIGABIT OPPORTUNITY ZONE
9 PARTNERSHIP INTEREST.—The term ‘qualified gig-
10 abit opportunity zone partnership interest’ means
11 any capital or profits interest in a domestic partner-
12 ship if—

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

16 “(B) as of the time such interest was ac-
17 quired, such partnership was a qualified gigabit
18 opportunity zone business (or, in the case of a
19 new partnership, such partnership was being
20 organized for purposes of being a qualified gig-
21 abit opportunity zone business), and

22 “(C) during substantially all of the tax-
23 payer’s holding period for such interest, such
24 partnership qualified as a qualified gigabit op-
25 portunity zone business.

1 “(4) QUALIFIED GIGABIT OPPORTUNITY ZONE
2 BUSINESS PROPERTY.—

3 “(A) IN GENERAL.—The term ‘qualified
4 gigabit opportunity zone business property’
5 means tangible property used in a trade or
6 business of the taxpayer if—

7 “(i) such property—

8 “(I) is used primarily to provide
9 broadband transmission services to
10 areas which do not have fixed terres-
11 trial broadband service that meets the
12 current speed benchmark for fixed
13 services (as determined by the Federal
14 Communications Commission in its
15 most recent report issued pursuant to
16 section 706 of the Telecommuni-
17 cations Act of 1996 (47 U.S.C.
18 1302)), and

19 “(II) is capable of transmitting
20 signals at a rate of at least
21 1,000,000,000 bits per second,

22 “(ii) such property was acquired by
23 the taxpayer by purchase (as defined in
24 section 179(d)(2)) after December 31,
25 2019,

1 “(iii) the original use of such property
2 in the qualified gigabit opportunity zone
3 commences with the taxpayer or the tax-
4 payer substantially improves the property,
5 and

6 “(iv) during substantially all of the
7 taxpayer’s holding period for such prop-
8 erty, substantially all of the use of such
9 property was in a qualified gigabit oppor-
10 tunity zone.

11 “(B) SPECIAL RULE FOR CERTAIN PROP-
12 ERTY.—In the case of property which is placed
13 in service before January 1, 2023, and which is
14 with respect to technology described in para-
15 graph (4) or (5) of subsection (c), subpara-
16 graph (A)(i)(II) shall be applied by substituting
17 ‘150,000,000 bits per second’ for
18 ‘1,000,000,000 bits per second’.

19 “(C) SUBSTANTIAL IMPROVEMENT.—For
20 purposes of subparagraph (A)(iii), property
21 shall be treated as substantially improved by
22 the taxpayer only if, during any 30-month pe-
23 riod beginning after the date of acquisition of
24 such property, additions to basis with respect to
25 such property in the hands of the taxpayer ex-

1 ceed an amount equal to the adjusted basis of
2 such property at the beginning of such 30-
3 month period in the hands of the taxpayer.

4 “(D) TREATMENT OF RELATED PAR-
5 TIES.—For purposes of subparagraph (A)(ii),
6 the rules of subparagraph (A) of section
7 179(d)(2) shall be applied using the relation-
8 ship described in subsection (e)(2) in lieu of the
9 relationship described in such subparagraph.

10 “(5) QUALIFIED GIGABIT OPPORTUNITY
11 FUND.—The term ‘qualified gigabit opportunity
12 fund’ means any investment vehicle organized as a
13 corporation or a partnership for the purpose of in-
14 vesting in qualified gigabit opportunity zone prop-
15 erty (other than another qualified opportunity fund)
16 that holds at least 90 percent of its assets in quali-
17 fied opportunity zone property, determined—

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

20 “(B) on the last day of the taxable year of
21 the fund.

22 “(6) QUALIFIED GIGABIT OPPORTUNITY ZONE
23 BUSINESS.—

1 “(A) IN GENERAL.—The term ‘qualified
2 gigabit opportunity zone business’ means a
3 trade or business—

4 “(i) in which substantially all of the
5 tangible property owned or leased by the
6 taxpayer is qualified gigabit opportunity
7 zone business property,

8 “(ii) which satisfies the requirements
9 of paragraphs (2), (4), and (8) of section
10 1397C(b), and

11 “(iii) which is not described in section
12 144(e)(6)(B).

13 “(B) SPECIAL RULE.—For purposes of
14 subparagraph (A), tangible property that ceases
15 to be a qualified gigabit opportunity zone busi-
16 ness property shall continue to be treated as a
17 qualified gigabit opportunity zone business
18 property for the lesser of—

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

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

25 “(e) APPLICABLE RULES.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion and except as otherwise provided in this section,
3 rules similar to the rules applicable to deferred like
4 kind exchanges under section 1031 shall apply ex-
5 cept that reinvestment in qualified gigabit oppor-
6 tunity zone property need not require an inter-
7 mediary party.

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

13 “(3) DECEDENTS.—In the case of a decedent,
14 amounts recognized under this section shall, if not
15 properly includible in the gross income of the dece-
16 dent, be includible in gross income as provided by
17 section 691.

18 “(4) REGULATIONS.—The Secretary shall pre-
19 scribe such regulations as may be necessary or ap-
20 propriate to carry out the purposes of this section,
21 including—

22 “(A) rules providing for proportionate in-
23 clusion in income and increases in basis for
24 purposes of subsections (a) and (b) in cases in
25 which a sale or exchange of any qualified gig-

1 abit opportunity zone property with respect to
2 which gain is deferred under subsection
3 (a)(1)(A) is less than all of such property,

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

10 “(C) rules to prevent abuse.

11 **“SEC. 1400W-3. IMMEDIATE EXPENSING OF QUALIFIED GIG-**
12 **ABIT OPPORTUNITY ZONE BUSINESS PROP-**
13 **ERTY.**

14 “(a) IN GENERAL.—An eligible taxpayer may elect
15 to treat the cost of any qualified gigabit opportunity zone
16 business property (as defined in section 1400W-2) as an
17 expense which is not chargeable to capital account. Any
18 cost so treated shall be allowed as a deduction for the tax-
19 able year in which the qualified gigabit opportunity zone
20 business property is placed in service.

21 “(b) ELIGIBLE TAXPAYER.—For purposes of this
22 section, the term ‘eligible taxpayer’ has the same meaning
23 given to such term under section 1400W-2(c).

24 “(c) EXCEPTION FOR CERTAIN PROPERTY.—For
25 purposes of this section, the term ‘qualified gigabit oppor-

1 tunity zone business property' shall not include any prop-
2 erty to which section 168(g) applies.

3 “(d) ELECTION.—An election under this section shall
4 be made under rules similar to the rules of section 179(c).

5 “(e) COORDINATION WITH SECTION 179.—For pur-
6 poses of section 179, qualified gigabit opportunity zone
7 business property shall not be treated as section 179 prop-
8 erty.

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

12 “(g) TAXPAYER REPORTING.—This section shall not
13 apply with respect to any taxpayer for any taxable year
14 unless such taxpayer provides the Secretary with such in-
15 formation as the Secretary may require to allow the Sec-
16 retary to evaluate the effectiveness of the program estab-
17 lished under this part.”.

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

23 “(39) to the extent provided in section 1400W–
24 2(b).”.

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

“SUBCHAPTER W. GIGABIT OPPORTUNITY ZONES”.

5 **SEC. 3. PRIVATE ACTIVITY BONDS FOR QUALIFIED**
 6 **BROADBAND PROJECTS.**

7 (a) IN GENERAL.—Section 142(a) of the Internal
 8 Revenue Code of 1986 is amended by striking “or” at the
 9 end of paragraph (14), by striking the period at the end
 10 of paragraph (15) and inserting “, or”, and by adding at
 11 the end the following new paragraph:

12 “(16) qualified broadband projects.”.

13 (b) QUALIFIED BROADBAND PROJECTS.—Section
 14 142 of such Code is amended by adding at the end the
 15 following new subsection:

16 “(n) QUALIFIED BROADBAND PROJECT.—

17 “(1) IN GENERAL.—For purposes of subsection
 18 (a)(16), the term ‘qualified broadband project’
 19 means any project which—

20 “(A) is located in a jurisdiction that has
 21 been certified by Secretary, in consultation with
 22 the National Telecommunications and Informa-
 23 tion Administration, as having adopted the Uni-
 24 form Model Broadband Deployment Act pre-
 25 scribed by the Federal Communications Com-

1 mission pursuant to section 4 of the Gigabit
2 Opportunity Act, and

3 “(B) results in gigabit capable Internet ac-
4 cess to residential or commercial locations—

5 “(i) where a broadband service pro-
6 vider previously did not provide service, or

7 “(ii) which do not have fixed terres-
8 trial broadband service that meets the cur-
9 rent speed benchmark for fixed services (as
10 determined by the Federal Communica-
11 tions Commission in its most recent report
12 issued pursuant to section 706 of the Tele-
13 communications Act of 1996 (47 U.S.C.
14 1302)).”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to bonds issued after the date of
17 the enactment of this Act.

18 **SEC. 4. UNIFORM MODEL BROADBAND DEPLOYMENT ACT.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of the enactment of this Act, the Federal Commu-
21 nications Commission shall publish a Uniform Model
22 Broadband Deployment Act containing laws for the State
23 regulation of the deployment of broadband services.

24 (b) NO INFERENCE RELATING TO DATA COLLEC-
25 TION.—Nothing in this Act or the amendments made by

1 this Act shall be construed to provide additional authority
2 for the collection of data to the Federal Communications
3 Commission or the National Telecommunications and In-
4 formation Administration.

○