

107TH CONGRESS  
1ST SESSION

# S. 1079

To amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites.

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## IN THE SENATE OF THE UNITED STATES

JUNE 21, 2001

Mr. LEVIN (for himself, Mr. JEFFORDS, Mr. BAUCUS, Mr. KENNEDY, Ms. STABENOW, Mr. REID, Mr. SCHUMER, Mr. LEAHY, Mr. CORZINE, Mr. SARBANES, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites.

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 “Brownfield Site Rede-  
5 velopment Assistance Act of 2001”.

1 **SEC. 2. PURPOSES.**

2 Consistent with section 2 of the Public Works and  
3 Economic Development Act of 1965 (42 U.S.C. 3121), the  
4 purposes of this Act are—

5 (1) to provide targeted assistance, including  
6 planning assistance, for projects that promote the  
7 redevelopment, restoration, and economic recovery of  
8 brownfield sites; and

9 (2) through such assistance, to further the  
10 goals of restoring the employment and tax bases of,  
11 and bringing new income and private investment to,  
12 distressed communities that have not participated  
13 fully in the economic growth of the United States  
14 because of a lack of an adequate private sector tax  
15 base to support essential public services and facili-  
16 ties.

17 **SEC. 3. DEFINITIONS.**

18 Section 3 of the Public Works and Economic Devel-  
19 opment Act of 1965 (42 U.S.C. 3122) is amended—

20 (1) by redesignating paragraphs (1) through  
21 (10) as paragraphs (2) through (11), respectively;

22 (2) by inserting before paragraph (2) (as so re-  
23 designated) the following:

24 “(1) BROWNFIELD SITE.—

25 “(A) IN GENERAL.—The term ‘brownfield  
26 site’ means real property, the expansion, rede-

1           velopment, or reuse of which may be com-  
2           plicated by the presence or potential presence  
3           of—

4                   “(i) a hazardous substance (as defined  
5                   in section 101 of the Comprehensive Envi-  
6                   ronmental Response, Compensation, and  
7                   Liability Act of 1980 (42 U.S.C. 9601));  
8                   or

9                   “(ii) any other pollutant or contami-  
10                  nant, as determined by the Secretary, in  
11                  consultation with the Administrator of the  
12                  Environmental Protection Agency.

13           “(B) EXCLUSIONS.—Except as provided in  
14           subparagraph (C), the term ‘brownfield site’  
15           does not include—

16                   “(i) a facility that is the subject of a  
17                   planned or ongoing removal action under  
18                   the Comprehensive Environmental Re-  
19                   sponse, Compensation, and Liability Act of  
20                   1980 (42 U.S.C. 9601 et seq.);

21                   “(ii) a facility that is listed on the Na-  
22                   tional Priorities List, or is proposed for  
23                   listing on that list, under that Act;

24                   “(iii) a facility that is the subject of  
25                   a unilateral administrative order, a court

1 order, an administrative order on consent,  
2 or a judicial consent decree that has been  
3 issued to or entered into by the parties  
4 under that Act;

5 “(iv) a facility that is the subject of a  
6 unilateral administrative order, a court  
7 order, an administrative order on consent,  
8 or a judicial consent decree that has been  
9 issued to or entered into by the parties, or  
10 a facility to which a permit has been issued  
11 by the United States or an authorized  
12 State, under—

13 “(I) the Solid Waste Disposal  
14 Act (42 U.S.C. 6901 et seq.);

15 “(II) the Federal Water Pollution  
16 Control Act (33 U.S.C. 1251 et seq.);

17 “(III) the Toxic Substances Con-  
18 trol Act (15 U.S.C. 2601 et seq.); or

19 “(IV) the Safe Drinking Water  
20 Act (42 U.S.C. 300f et seq.);

21 “(v) a facility—

22 “(I) that is subject to corrective  
23 action under section 3004(u) or  
24 3008(h) of the Solid Waste Disposal

1 Act (42 U.S.C. 6924(u), 6928(h));  
2 and

3 “(II) to which a corrective action  
4 permit or order has been issued or  
5 modified to require the implementa-  
6 tion of corrective measures;

7 “(vi) a land disposal unit with respect  
8 to which—

9 “(I) a closure notification under  
10 subtitle C of the Solid Waste Disposal  
11 Act (42 U.S.C. 6921 et seq.) has been  
12 submitted; and

13 “(II) closure requirements have  
14 been specified in a closure plan or  
15 permit;

16 “(vii) a facility that is subject to the  
17 jurisdiction, custody, or control of a de-  
18 partment, agency, or instrumentality of the  
19 United States, except for land held in trust  
20 by the United States for an Indian tribe;

21 “(viii) a portion of a facility—

22 “(I) at which there has been a  
23 release of polychlorinated biphenyls;  
24 and

1                   “(II) that is subject to remedi-  
2                   ation under the Toxic Substances  
3                   Control Act (15 U.S.C. 2601 et seq.);  
4                   or

5                   “(ix) a portion of a facility, for which  
6                   portion, assistance for response activity  
7                   has been obtained under subtitle I of the  
8                   Solid Waste Disposal Act (42 U.S.C. 6991  
9                   et seq.) from the Leaking Underground  
10                  Storage Tank Trust Fund established by  
11                  section 9508 of the Internal Revenue Code  
12                  of 1986.

13                  “(C)   SITE-BY-SITE    INCLUSIONS.—The  
14                  term ‘brownfield site’ includes a site referred to  
15                  in clause (i), (iv), (v), (vi), (viii), or (ix) of sub-  
16                  paragraph (B), if, on a site-by-site basis, the  
17                  Secretary, in consultation with the Adminis-  
18                  trator of the Environmental Protection Agency,  
19                  determines that use of the financial assistance  
20                  at the site will—

21                         “(i) protect human health and the en-  
22                         vironment; and

23                         “(ii)(I) promote economic develop-  
24                         ment; or

1           “(II) enable the creation of, preserva-  
2           tion of, or addition to parks, greenways,  
3           undeveloped property, other recreational  
4           property, or other property used for non-  
5           profit purposes.

6           “(D) ADDITIONAL INCLUSIONS.—The term  
7           ‘brownfield site’ includes a site that meets the  
8           definition of ‘brownfield site’ under subpara-  
9           graphs (A) through (C) that—

10           “(i) is contaminated by a controlled  
11           substance (as defined in section 102 of the  
12           Controlled Substances Act (21 U.S.C.  
13           802));

14           “(ii)(I) is contaminated by petroleum  
15           or a petroleum product excluded from the  
16           definition of ‘hazardous substance’ under  
17           section 101 of the Comprehensive Environ-  
18           mental Response, Compensation, and Li-  
19           ability Act of 1980 (42 U.S.C. 9601); and

20           “(II) is a site determined by the Sec-  
21           retary, in consultation with the Adminis-  
22           trator of the Environmental Protection  
23           Agency, to be—

24           “(aa) of relatively low risk, as  
25           compared with other petroleum-only

1 sites in the State in which the site is  
2 located; and

3 “(bb) a site for which there is no  
4 viable responsible party and that will  
5 be assessed, investigated, or cleaned  
6 up by a person that is not potentially  
7 liable for cleaning up the site; and

8 “(III) is not subject to any order  
9 issued under section 9003(h) of the Solid  
10 Waste Disposal Act (42 U.S.C. 6991b(h));  
11 or

12 “(iii) is mine-scarred land.”; and

13 (3) by adding at the end the following:

14 “(12) UNUSED LAND.—The term ‘unused land’  
15 means any publicly-owned or privately-owned un-  
16 used, underused, or abandoned land that is not con-  
17 tributing to the quality of life or economic well-being  
18 of the community in which the land is located.”.

19 **SEC. 4. COORDINATION.**

20 Section 103 of the Public Works and Economic De-  
21 velopment Act of 1965 (42 U.S.C. 3132) is amended—

22 (1) by inserting “(a) COMPREHENSIVE ECO-  
23 NOMIC DEVELOPMENT STRATEGIES.—” before “The  
24 Secretary”; and

25 (2) by adding at the end the following:



1       “(b) BROWNFIELD SITE REDEVELOPMENT.—The  
 2 Secretary shall coordinate activities relating to the redevel-  
 3 opment of brownfield sites under this Act with other Fed-  
 4 eral agencies, States, local governments, consortia of local  
 5 governments, Indian tribes, nonprofit organizations, and  
 6 public-private partnerships.”.

7 **SEC. 5. GRANTS FOR BROWNFIELD SITE REDEVELOPMENT.**

8       (a) IN GENERAL.—Title II of the Public Works and  
 9 Economic Development Act of 1965 (42 U.S.C. 3141 et  
 10 seq.) is amended—

11           (1) by redesignating sections 210 through 213  
 12 as sections 211 through 214, respectively; and

13           (2) by inserting after section 209 the following:

14 **“SEC. 210. GRANTS FOR BROWNFIELD SITE REDEVELOP-**  
 15 **MENT.**

16       “(a) IN GENERAL.—On the application of an eligible  
 17 recipient, the Secretary may make grants for projects to  
 18 alleviate or prevent conditions of excessive unemployment,  
 19 underemployment, blight, and infrastructure deterioration  
 20 associated with brownfield sites, including projects con-  
 21 sisting of—

22           “(1) development of public facilities;

23           “(2) development of public services;

24           “(3) business development (including funding of  
 25 a revolving loan fund);

1 “(4) planning;

2 “(5) technical assistance; and

3 “(6) training.

4 “(b) CRITERIA FOR GRANTS.—The Secretary may  
5 provide a grant for a project under this section only if—

6 “(1) the Secretary determines that the project  
7 will assist the area where the project is or will be lo-  
8 cated to meet, directly or indirectly, a special need  
9 arising from—

10 “(A) a high level of unemployment or  
11 underemployment, or a high proportion of low-  
12 income households;

13 “(B) the existence of blight and infrastruc-  
14 ture deterioration;

15 “(C) dislocations resulting from commer-  
16 cial or industrial restructuring;

17 “(D) outmigration and population loss, as  
18 indicated by—

19 “(i)(I) depletion of human capital (in-  
20 cluding young, skilled, or educated popu-  
21 lations);

22 “(II) depletion of financial capital (in-  
23 cluding firms and investment); or

24 “(III) a shrinking tax base; and

25 “(ii) resulting—

1 “(I) fiscal pressure;

2 “(II) restricted access to mar-  
3 kets; and

4 “(III) constrained local develop-  
5 ment potential; or

6 “(E) the closure or realignment of—

7 “(i) a military or Department of En-  
8 ergy installation; or

9 “(ii) any other Federal facility; and

10 “(2) except in the case of a project consisting  
11 of planning or technical assistance—

12 “(A) the Secretary has approved a com-  
13 prehensive economic development strategy for  
14 the area where the project is or will be located;  
15 and

16 “(B) the project is consistent with the  
17 comprehensive economic development strategy.

18 “(c) PARTICULAR COMMUNITY ASSISTANCE.—Assist-  
19 ance under this section may include assistance provided  
20 for activities identified by a community, the economy of  
21 which is injured by the existence of 1 or more brownfield  
22 sites, to assist the community in—

23 “(1) revitalizing affected areas by—

24 “(A) diversifying the economy of the com-  
25 munity; or

1           “(B) carrying out industrial or commercial  
2           (including mixed use) redevelopment projects on  
3           brownfield sites or sites adjacent to brownfield  
4           sites;

5           “(2) carrying out development that conserves  
6           environmental and agricultural resources by—

7           “(A) reusing existing facilities and infra-  
8           structure;

9           “(B) reclaiming unused land and aban-  
10          doned buildings; or

11          “(C) creating publicly owned parks, play-  
12          grounds, recreational facilities, or cultural cen-  
13          ters that contribute to the economic revitaliza-  
14          tion of a community; or

15          “(3) carrying out a collaborative economic de-  
16          velopment planning process, developed with broad-  
17          based and diverse community participation, that ad-  
18          dresses the economic repercussions and opportunities  
19          posed by the existence of brownfield sites in an area.

20          “(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY  
21          ELIGIBLE RECIPIENT.—

22                 “(1) IN GENERAL.—Subject to paragraph (2),  
23                 an eligible recipient of a grant under this section  
24                 may directly expend the grant funds or may redis-  
25                 tribute the funds to public and private entities in the

1 form of a grant, loan, loan guarantee, payment to  
 2 reduce interest on a loan guarantee, or other appro-  
 3 priate assistance.

4 “(2) LIMITATION.—Under paragraph (1), an el-  
 5 igible recipient may not provide any grant to a pri-  
 6 vate for-profit entity.”.

7 (b) CONFORMING AMENDMENT.—The table of con-  
 8 tents in section 1(b) of the Public Works and Economic  
 9 Development Act of 1965 (42 U.S.C. prec. 3121) is  
 10 amended by striking the items relating to sections 210  
 11 through 213 and inserting the following:

“Sec. 210. Grants for brownfield site redevelopment.

“Sec. 211. Changed project circumstances.

“Sec. 212. Use of funds in projects constructed under projected cost.

“Sec. 213. Reports by recipients.

“Sec. 214. Prohibition on use of funds for attorney’s and consultant’s fees.”.

12 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—Title VII of the Public Works and  
 14 Economic Development Act of 1965 (42 U.S.C. 3231 et  
 15 seq.) is amended by adding at the end the following:

16 **“SEC. 704. AUTHORIZATION OF APPROPRIATIONS FOR**  
 17 **BROWNFIELD SITE REDEVELOPMENT.**

18 “(a) IN GENERAL.—In addition to amounts made  
 19 available under section 701, there is authorized to be ap-  
 20 propriated to carry out section 210 \$60,000,000 for each  
 21 of fiscal years 2002 through 2006, to remain available  
 22 until expended.

1       “(b) FEDERAL SHARE.—Notwithstanding section  
2 204, subject to section 205, the Federal share of the cost  
3 of activities funded with amounts made available under  
4 subsection (a) shall be not more than 75 percent.”.

5       (b) CONFORMING AMENDMENT.—The table of con-  
6 tents in section 1(b) of the Public Works and Economic  
7 Development Act of 1965 (42 U.S.C. prec. 3121) is  
8 amended by adding at the end of the items relating to  
9 title VII the following:

“Sec. 704. Authorization of appropriations for brownfield site redevelopment.”.

