

BROWNFIELDS REVITALIZATION ACTIVITIES AND STATE  
RESPONSE PROGRAMS

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JULY 28, 2006.—Ordered to be printed  
—————

Mr. YOUNG of Alaska, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5810]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 5810) to amend the Comprehensive En-  
vironmental Response, Compensation, and Liability Act of 1980 to  
authorize funding for brownfields revitalization activities and State  
response programs, and for other purposes, having considered the  
same, report favorably thereon with an amendment and recom-  
mend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. BROWNFIELDS REVITALIZATION FUNDING.**

Section 104(k) of the Comprehensive Environmental Response, Compensation, and  
Liability Act of 1980 (42 U.S.C. 9604(k)) is amended—

(1) in paragraph (7)(D) by inserting “and every 4 years thereafter,” after “sub-  
section,”; and

(2) by striking paragraph (12) and inserting the following:

“(12) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appro-  
priated to carry out this subsection \$200,000,000 for each of fiscal years 2002  
through 2012.”.

**SEC. 2. STATE RESPONSE PROGRAMS.**

Section 128(a)(3) of the Comprehensive Environmental Response, Compensation,  
and Liability Act of 1980 (42 U.S.C. 9628(a)(3)) is amended by striking “2006” and  
inserting “2012”.

**SEC. 3. RANKING OF BROWNFIELD GRANT APPLICATIONS.**

Section 104(k)(5)(C) of the Comprehensive Environmental Response, Compensa-  
tion, and Liability Act of 1980 (42 U.S.C. 9604(k)(5)(C)) is amended by adding at  
the end the following:

“(xi) The extent to which the grant would implement green building  
standards, including the use of energy efficient building standards.”.

#### PURPOSE OF THE LEGISLATION

As the authorization for brownfields grants under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 expires at the end of 2006, the purpose of H.R. 5810 is to reauthorize the existing program.

#### BACKGROUND AND NEED FOR LEGISLATION

Brownfields are properties where the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. Types of brownfields include inactive factories, gas stations, salvage yards, or abandoned warehouses. These sites potentially drive down property values, provide little or no tax revenue, and contribute to community blight. There are estimated to be 450,000 to one million brownfields sites in the United States. Redevelopment of these abandoned sites can promote economic development, revitalize neighborhoods, enable the creation of public parks and open space, and preserve existing properties, including undeveloped green spaces.

Prior to enactment of the Brownfields Revitalization and Environmental Restoration Act of 2001, many potential lenders, investors, and developers were reluctant to become involved with brownfields sites because they feared environmental liability through laws such as the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund). This uncertainty over liability protection and standards for cleanup was identified as a hindrance to the redevelopment of brownfields. Investors often instead turned to green spaces on the outskirts of cities for new development opportunities.

In 2001, Congress created specific authority to address brownfields with the Brownfields Revitalization and Environmental Restoration Act of 2001, which was title II of the Small Business Liability Relief and Brownfields Revitalization Act. This became Public Law 107-118 in January 2002. This legislation amended the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) to authorize funding through EPA for brownfields assessment and cleanup grants, provide liability protections, and increase support for State and tribal voluntary cleanup programs. The authorization for brownfield grants under this law expires at the end of Fiscal Year 2006.

The Brownfields Revitalization and Environmental Restoration Act provides grant authority totaling \$250 million annually. This includes \$200 million annually for assessment, cleanup, revolving loan funds, research, and job training. Of that amount, \$50 million, or 25 percent of appropriated funds if less than the fully authorized level, is set aside for assessment and cleanup of petroleum contaminated sites. Assessment grants are limited to \$200,000 per site except in some cases, where due to size and contamination level, the limit is \$350,000. The cleanup grants can be used to capitalize a revolving loan fund or used directly to remediate sites. Each cleanup grant is limited to \$1 million.

The Brownfields Program generally has been well received by the Environmental Protection Agency, States, communities, investors, and developers. Since authorization of the program, Congress has

allocated approximately \$600 million in brownfields site assessments, remediation, and State response programs. This investment, coupled with the Environmental Protection Agency's efforts prior to authorization, has leveraged \$8.2 billion in cleanup and redevelopment dollars, a better than 10-to-1 return on investment. This high return on investment is because the Environmental Protection Agency is often just one of several funding sources for brownfields assessment and cleanup. These grants are used in conjunction with funding from state, local, private, and other federal sources to address brownfield sites. The program has resulted in the assessment of more than 8,000 properties and helped create more than 37,000 jobs. According to a 2001 study conducted by George Washington University, every acre of brownfields redevelopment saves more than four acres of greenspace.

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Brownfields revitalization funding*

Section 1 requires the Inspector General of the Environmental Protection Agency to provide to Congress every four years a report detailing the management of the Brownfields Program and a description of the allocation of funds through its grant program. In addition, section 1 reauthorizes section 104(k) of the Comprehensive Environmental Response, Compensation and Liability Act (Brownfields Revitalization Funding) through 2012 at the current level of \$200,000,000 annually.

This section strikes the provision that requires 25 percent of available funding to be used for characterization, assessment, and remediation of facilities where petroleum is the cause for site contamination. While petroleum sites are still eligible for funding, the Committee believes that these sites should not be subject to a mandatory set-aside and should have to compete with other eligible sites for priority and funding.

The Committee recommends that the Environmental Protection Agency review its procedures on the awarding grants and encourages the Agency to be more flexible in two areas. First, the Committee encourages the Agency, if practicable, to award grants more than once a year. Second, the Committee encourages the Agency to award several multiple purpose grants annually, not grants solely for assessment or solely for cleanup. The Committee believes that the Environmental Protection Agency has the administrative authority to undertake these activities and no legislative action is necessary.

##### *Section 2. State response programs*

Section 2 reauthorizes Section 128(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (State Response Programs) through 2012 at the current level of \$50,000,000 annually.

##### *Section 3. Ranking of brownfield grant applications*

Section 3 amends section 104(k)(5)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act to encourage green building standards and energy efficient building standards when ranking eligible applicants for brownfields grants. This

provision codifies Environmental Protection Agency's current administrative practice of using green building technology and energy efficient building standards when ranking applicants.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The Committee on Transportation and Infrastructure met in open session on July 19, 2006, and ordered H.R. 5810 reported, with an amendment, to the House by voice vote.

#### ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 5810 reported. A motion to order H.R. 5810 reported to the House was agreed to by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation is to encourage and create incentives for the cleanup and subsequent redevelopment of brownfields sites.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5810 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 28, 2006.*

Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure, House  
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5810, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to authorize funding for brownfields revitalization activities and state response programs, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne Mehlman and Leigh Angres.

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 5810—A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to authorize funding for brownfields revitalization activities and state response programs, and for other purposes*

Summary: H.R. 5810 would authorize the appropriation of \$250 million a year over the 2007–2012 period to the Environmental Protection Agency (EPA) for brownfields revitalization grants and programs. (Brownfields are properties where the presence, or potential presence, of a hazardous substance complicates the expansion or redevelopment of the property.) Assuming appropriation of the authorized amounts, CBO estimates that carrying out these programs would cost \$13 million in 2007 and \$626 million over the 2007–2011 period (additional amounts would be spent after 2011). Enacting H.R. 5810 would not affect direct spending or revenues.

H.R. 5810 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); the bill would benefit state, local, and tribal governments, and any cost would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5810 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

|  | By fiscal year, in millions of dollars— |      |      |      |      |      |
|--|---|------|------|------|------|------|
|  | 2006                                    | 2007 | 2008 | 2009 | 2010 | 2011 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION         |   |      |      |      |      |      |
| Spending Under Current Law for Brownfields Programs: |   |      |      |      |      |      |
| Budget Authority <sup>a</sup> .....                  | 162                                     | 0    | 0    | 0    | 0    | 0    |
| Estimated Outlays .....                              | 120                                     | 153  | 137  | 80   | 24   | 0    |
| Proposed Changes:                                    |   |      |      |      |      |      |
| Brownfields Cleanup Grants:                          |   |      |      |      |      |      |
| Authorization Level .....                            | 0                                       | 200  | 200  | 200  | 200  | 200  |
| Estimated Outlays .....                              | 0                                       | 10   | 40   | 100  | 160  | 190  |
| State and Tribal Cleanup Programs:                   |   |      |      |      |      |      |
| Authorization Level .....                            | 0                                       | 50   | 50   | 50   | 50   | 50   |
| Estimated Outlays .....                              | 0                                       | 3    | 10   | 25   | 40   | 48   |

|                                     | By fiscal year, in millions of dollars— |      |      |      |      |      |
|-------------------------------------|---|------|------|------|------|------|
|                                     | 2006                                    | 2007 | 2008 | 2009 | 2010 | 2011 |
| Total Changes:                      |   |      |      |      |      |      |
| Authorization Level .....           | 0                                       | 250  | 250  | 250  | 250  | 250  |
| Estimated Outlays .....             | 0                                       | 13   | 50   | 125  | 200  | 238  |
| Spending Under H.R. 5810:           |   |      |      |      |      |      |
| Estimated Authorization Level ..... | 162                                     | 250  | 250  | 250  | 250  | 250  |
| Estimated Outlays .....             | 120                                     | 166  | 187  | 205  | 224  | 238  |

<sup>a</sup>The 2006 level is the amount appropriated for that year for all EPA brownfields programs.

**Basis of estimate:** For this estimate, CBO assumes that the authorized amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns for EPA's brownfields programs.

H.R. 5810 would authorize the appropriation of \$250 million annually over the 2007–2012 period for EPA's brownfields restoration activities. The bill would maintain the current authorization level of \$200 million for brownfields cleanup grants and \$50 million for state and tribal voluntary cleanup programs, but would remove the requirement that 25 percent of appropriated funds be directed to petroleum-contaminated sites. In addition, H.R. 5810 would require EPA to submit reports to the Congress every four years detailing the management of the brownfields programs and the allocation of funding. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$13 million in 2007 and \$626 million over the 2007–2011 period (additional amounts would be spent after 2011).

**Intergovernmental and private-sector impact:** H.R. 5810 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments that participate in programs to remediate brownfield sites would benefit from grant funds reauthorized in the bill. Any costs incurred to participate in those grant programs would be voluntary.

Estimate prepared by: Federal Costs: Susanne Mehlman and Leigh Angres. Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum. Impact on the Private Sector: Tyler Kruzich.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 5810 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

**COMPREHENSIVE ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND LIABILITY ACT OF 1980**

\* \* \* \* \*

TITLE I—HAZARDOUS SUBSTANCES RELEASES, LIABILITY,  
COMPENSATION

\* \* \* \* \*

RESPONSE AUTHORITIES

SEC. 104. (a) \* \* \*

\* \* \* \* \*

(k) BROWNFIELDS REVITALIZATION FUNDING.—

(1) \* \* \*

\* \* \* \* \*

(5) GRANT APPLICATIONS.—

(A) \* \* \*

\* \* \* \* \*

(C) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications received under this paragraph that includes the following criteria:

(i) \* \* \*

\* \* \* \* \*

*(xi) The extent to which the grant would implement green building standards, including the use of energy efficient building standards.*

\* \* \* \* \*

(7) AUDITS.—

(A) \* \* \*

\* \* \* \* \*

(D) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this subsection, *and every 4 years thereafter*, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this subsection).

\* \* \* \* \*

[(12) FUNDING.—

[(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$200,000,000 for each of fiscal years 2002 through 2006.

[(B) USE OF CERTAIN FUNDS.—Of the amount made available under subparagraph (A), \$50,000,000, or, if the amount made available is less than \$200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).]

(12) AUTHORIZATION OF APPROPRIATIONS.—*There is authorized to be appropriated to carry out this subsection \$200,000,000 for each of fiscal years 2002 through 2012.*

\* \* \* \* \*

SEC. 128. STATE RESPONSE PROGRAMS.

(a) ASSISTANCE TO STATES.—

(1) \* \* \*

\* \* \* \* \*

(3) FUNDING.—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2002 through [2006] 2012.

\* \* \* \* \*