

107TH CONGRESS  
1ST SESSION

# S. 1078

To promote brownfields redevelopment in urban and rural areas and spur community revitalization in low-income and moderate-income neighborhoods.

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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, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To promote brownfields redevelopment in urban and rural areas and spur community revitalization in low-income and moderate-income neighborhoods.

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 “Brownfields Economic  
5 Development Act of 2001”.

6 **SEC. 2. ECONOMIC DEVELOPMENT GRANTS.**

7 Section 108(q) of the Housing and Community De-  
8 velopment Act of 1974 (42 U.S.C. 5308(q)) is amended—

1 (1) in paragraph (2), by striking “Assistance”  
2 and inserting “Except as provided in paragraph (5),  
3 assistance”;

4 (2) in paragraph (3), by striking “Eligible” and  
5 inserting “Except as provided in paragraph (5), eli-  
6 gible”; and

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

8 “(5) BROWNFIELDS REDEVELOPMENT  
9 GRANTS.—

10 “(A) GRANT AUTHORITY.—Notwith-  
11 standing paragraph (1), of amounts made avail-  
12 able to carry out this subsection, the Secretary  
13 may make grants, on a competitive basis, to eli-  
14 gible public entities and federally recognized In-  
15 dian tribes for the redevelopment of brownfield  
16 sites, independent of any note or other obliga-  
17 tion guaranteed under subsection (a).

18 “(B) SET-ASIDE.—Of the amounts made  
19 available for grants under this paragraph, the  
20 Secretary shall set aside not less than 10 per-  
21 cent and not more than 30 percent, which shall  
22 be used for brownfield site redevelopment in  
23 nonentitlement areas and by federally recog-  
24 nized Indian tribes.

25 “(C) BROWNFIELD SITE DEFINITION.—

1           “(i) IN GENERAL.—The term  
2           ‘brownfield site’ means real property, the  
3           expansion, redevelopment, or reuse of  
4           which may be complicated by the presence  
5           or potential presence of—

6                   “(I) a hazardous substance (as  
7                   defined in section 101 of the Com-  
8                   prehensive Environmental Response,  
9                   Compensation, and Liability Act of  
10                  1980 (42 U.S.C. 9601)); or

11                  “(II) any other pollutant or con-  
12                  taminant, as determined by the Sec-  
13                  retary, in consultation with the Ad-  
14                  ministrators of the Environmental Pro-  
15                  tection Agency.

16           “(ii) EXCLUSIONS.—Except as pro-  
17           vided in clause (iii), the term ‘brownfield  
18           site’ does not include—

19                   “(I) a facility that is the subject  
20                   of a planned or ongoing removal ac-  
21                   tion under the Comprehensive Envi-  
22                   ronmental Response, Compensation,  
23                   and Liability Act of 1980 (42 U.S.C.  
24                   9601 et seq.);

1 “(II) a facility that is listed on  
2 the National Priorities List, or is pro-  
3 posed for listing, under that Act;

4 “(III) a facility that is the sub-  
5 ject of a unilateral administrative  
6 order, a court order, an administrative  
7 order on consent or judicial consent  
8 decree that has been issued to or en-  
9 tered into by the parties under that  
10 Act;

11 “(IV) a facility that is the sub-  
12 ject of a unilateral administrative  
13 order, a court order, an administrative  
14 order on consent or judicial consent  
15 decree that has been issued to or en-  
16 tered into by the parties, or a facility  
17 to which a permit has been issued by  
18 the United States or an authorized  
19 State under—

20 “(aa) the Solid Waste Dis-  
21 posal Act (42 U.S.C. 6901 et  
22 seq.);

23 “(bb) the Federal Water  
24 Pollution Control Act (33 U.S.C.  
25 1321);

1           “(cc) the Toxic Substances  
2 Control Act (15 U.S.C. 2601 et  
3 seq.); or

4           “(dd) the Safe Drinking  
5 Water Act (42 U.S.C. 300f et  
6 seq.);

7           “(V) a facility that—

8           “(aa) is subject to corrective  
9 action under section 3004(u) or  
10 3008(h) of the Solid Waste Dis-  
11 posal Act (42 U.S.C. 6924(u),  
12 6928(h)); and

13           “(bb) to which a corrective  
14 action permit or order has been  
15 issued or modified to require the  
16 implementation of corrective  
17 measures;

18           “(VI) a land disposal unit with  
19 respect to which—

20           “(aa) a closure notification  
21 under subtitle C of the Solid  
22 Waste Disposal Act (42 U.S.C.  
23 6921 et seq.) has been submitted;  
24 and

1                   “(bb) closure requirements  
2                   have been specified in a closure  
3                   plan or permit;

4                   “(VII) a facility that is subject to  
5                   the jurisdiction, custody, or control of  
6                   a department, agency, or instrumen-  
7                   tality of the United States, except for  
8                   land held in trust by the United  
9                   States for an Indian tribe;

10                  “(VIII) a portion of a facility—

11                    “(aa) at which there has  
12                    been a release of polychlorinated  
13                    biphenyls; and

14                    “(bb) that is subject to re-  
15                    mediation under the Toxic Sub-  
16                    stances Control Act (15 U.S.C.  
17                    2601 et seq.); or

18                    “(IX) a portion of a facility, for  
19                    which portion, assistance for response  
20                    activity has been obtained under sub-  
21                    title I of the Solid Waste Disposal Act  
22                    (42 U.S.C. 6991 et seq.) from the  
23                    Leaking Underground Storage Tank  
24                    Trust Fund established under section

1                   9508 of the Internal Revenue Code of  
2                   1986.

3                   “(iii) SITE-BY-SITE INCLUSIONS.—

4                   The term ‘brownfield site’, with respect to  
5                   the provision of financial assistance, in-  
6                   cludes a site referred to in subclause (I),  
7                   (IV), (V), (VI), (VIII), or (IX) of clause  
8                   (ii), if, on a site-by-site basis, the Sec-  
9                   retary, in consultation with the Adminis-  
10                  trator of the Environmental Protection  
11                  Agency, determines that use of the finan-  
12                  cial assistance at the site will—

13                   “(I) protect human health and  
14                   the environment; and

15                   “(II)(aa) promote economic de-  
16                   velopment; or

17                   “(bb) enable the creation of,  
18                   preservation of, or addition to parks,  
19                   greenways, undeveloped property,  
20                   other recreational property, or other  
21                   property used for nonprofit purposes.

22                   “(D) ADDITIONAL INCLUSIONS.—For pur-  
23                   poses of subparagraph (C), the term ‘brownfield  
24                   site’ includes a site that meets the definition of

1 'brownfield site' under clauses (i) through (iii)  
2 of subparagraph (C) that—

3 “(i) is contaminated by a controlled  
4 substance (as defined in section 102 of the  
5 Controlled Substances Act (21 U.S.C.  
6 802));

7 “(ii)(I) is contaminated by petroleum  
8 or a petroleum product excluded from the  
9 definition of ‘hazardous substance’ under  
10 section 101 of the Comprehensive Environ-  
11 mental Response, Compensation, and Li-  
12 ability Act of 1980 (42 U.S.C. 9601); and

13 “(II) is a site determined by the Sec-  
14 retary, in consultation with the Adminis-  
15 trator of the Environmental Protection  
16 Agency, to be—

17 “(aa) of relatively low risk, as  
18 compared with other petroleum-only  
19 sites in the State in which the site is  
20 located; and

21 “(bb) a site for which there is no  
22 viable responsible party and that will  
23 be assessed, investigated, or cleaned  
24 up by a person that is not potentially  
25 liable for cleaning up the site; and

1                   “(III) is not subject to any order  
2                   issued under section 9003(h) of the Solid  
3                   Waste Disposal Act (42 U.S.C. 6991b(h));  
4                   or  
5                   “(iii) is mine-scarred land.”.

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