

105TH CONGRESS
1ST SESSION

H. R. 3020

To establish a program, primarily through the States and municipalities, and their agents, to facilitate the environmental assessment, cleanup, and reuse of abandoned or underutilized, potentially contaminated properties not on, or proposed for inclusion on, the National Priorities List.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1997

Mr. STOKES introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure and Ways and Means, 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 establish a program, primarily through the States and municipalities, and their agents, to facilitate the environmental assessment, cleanup, and reuse of abandoned or underutilized, potentially contaminated properties not on, or proposed for inclusion on, the National Priorities List.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Brownfields Reclama-
3 tion Act of 1997”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) Past uses of land in the United States pri-
7 marily for industrial and commercial purposes have
8 created hundreds of thousands of properties
9 throughout the United States that are now aban-
10 doned or substantially underutilized, and which may
11 also be environmentally contaminated.

12 (2) The abandonment or substantial under-
13 utilization of the properties referred to in paragraph
14 (1) contributes substantially to the economic and so-
15 cial distress of communities affecting large portions
16 of the population, including poor, unemployed, and
17 other disadvantaged individuals and households.

18 (3) The abandonment or substantial under-
19 utilization of such properties impairs the ability of
20 the Federal Government and the governments of
21 States and political subdivisions of States to provide
22 employment opportunities for, and improve the eco-
23 nomic welfare of, the people of the United States,
24 and the poor, unemployed, and disadvantaged, in
25 particular.

1 (4) The abandonment or substantial under-
2 utilization of such properties results in the ineffi-
3 cient use of community development facilities and
4 related public services, and extends conditions of
5 blight in local communities.

6 (5) The manner in which—

7 (A) the population of the United States is
8 distributed; and

9 (B) communities accommodate the growth
10 of the national economy;

11 affects the employment opportunities, availability of
12 capital to provide economic opportunities, social con-
13 ditions, and other important conditions of each such
14 community.

15 (6) The capital available for the redevelopment
16 or reuse of brownfields properties/sites may be lim-
17 ited because of uncertainties regarding the degree of
18 environmental contamination on the property/site,
19 time and costs for property/site assessments and
20 cleanup, and other factors.

21 (7) Citizens who live in the affected areas are
22 disproportionately impacted by economic and health
23 risks associated with these properties.

1 (8) Local communities' interest have often been
2 overlooked and is an essential part of the revitaliza-
3 tion program and the planning for the reuse.

4 (b) PURPOSES.—The purposes of this Act are to—

5 (1) facilitate the environmental assessment,
6 cleanup, and reuse of abandoned or underutilized,
7 potentially contaminated properties not on, or pro-
8 posed for inclusion, on the Nationality Priorities
9 List;

10 (2) substantially reduce public health and envi-
11 ronmental risks associated with such properties;

12 (3) expedite land assembly, site assessment,
13 cleanup, and reuse;

14 (4) lower planning, environmental assessment,
15 and cleanup costs;

16 (5) reduce out-year environmental risk liability
17 for developers, future property owners, lenders, envi-
18 ronmental consultants, and public entities;

19 (6) help assure community acceptance of clean-
20 up remedies and proposed reuse;

21 (7) promote job creation and commerce;

22 (8) enhance entrepreneurial and employment
23 opportunities for residents from distressed neighbor-
24 hoods proximate to such properties;

1 (9) preserve and enhance municipal and State
2 tax bases;

3 (10) promote land use policies and practices
4 that lead to core city and older suburban site aban-
5 donment and underutilization in favor of the devel-
6 opment of new properties located at the metropolitan
7 periphery for industrial and other business purposes;
8 and

9 (11) help preserve commercial, recreational, and
10 other existing land uses at the metropolitan periph-
11 ery.

12 **TITLE I—FEDERAL SUPPORT**
13 **FOR STATE VOLUNTARY**
14 **CLEANUP PROGRAMS**

15 **SEC. 101. FINDINGS.**

16 The Congress finds the following:

17 (1) An expanding number of States have cre-
18 ated and operate voluntary cleanup programs.

19 (2) State voluntary programs address contami-
20 nated properties that are generally lower risk prop-
21 erties and are ideal candidates for redevelopment.

22 (3) There is also a need for a Federal program
23 to support, facilitate, and sustain the efforts of local
24 municipalities, nongovernmental agencies, and tribes
25 to assess, clean up, redevelop, and reuse abandoned,

1 idle and/or under used industrial and commercial
2 properties in ways that protect the public’s health
3 and the environment.

4 **SEC. 102. DEFINITIONS.**

5 For purposes of this title:

6 (1) BROWNFIELDS PROPERTY/SITE.—The term
7 “brownfields” means abandoned, idled, or under-
8 used industrial and commercial properties/sites
9 where expansion or redevelopment is complicated by
10 real or perceived environmental contamination and
11 that were formerly used primarily for industrial or
12 commercial purposes—

13 (A) that are no longer operating or are so
14 substantially underutilized as to provide only
15 marginal employment opportunities; and

16 (B) that may have real or perceived condi-
17 tions, constraints, or other circumstances that
18 are detrimental to the public’s health or the en-
19 vironment.

20 (2) DISTRESSED COMMUNITY.—The term “dis-
21 tressed community” has the same meaning as pro-
22 vided for such term by the United States Depart-
23 ment of Housing and Urban Development.

24 (3) PRELIMINARY ASSESSMENT (PA).—The term
25 “preliminary assessment” means review of existing

1 environmental and health risk information and an
2 off-site reconnaissance, if appropriate, to determine
3 if a release may require additional investigation or
4 action. A preliminary assessment may include an on-
5 site reconnaissance, if appropriate.

6 (4) **SITE INSPECTION.**—The term “site inspec-
7 tion” means an on-site investigation to determine
8 whether there is a release or potential release and
9 the nature of the associated threats. The purpose is
10 to augment the data collected in the preliminary as-
11 sessment and to generate, if necessary, sampling and
12 other field data to determine, if further action or in-
13 vestigation is appropriate.

14 (5) **PUBLIC HEALTH ASSESSMENT.**—The term
15 “Public Health Assessment” means the evaluation of
16 data and information on the release of hazardous
17 substances into the environment in order to assess
18 any current or future impact on public health, de-
19 velop health advisories, or other recommendations,
20 and identify studies or actions needed to evaluate
21 and mitigate or prevent human effects.

22 **SEC. 103. VOLUNTARY CLEANUP PROGRAM SUPPORTS.**

23 (a) **IN GENERAL.**—The Administrator of the Envi-
24 ronmental Protection Agency shall facilitate and sustain

1 State voluntary cleanup programs by carrying out the fol-
2 lowing actions:

3 (1) The Administrator shall encourage the
4 State and tribal governments to formulate cleanup,
5 redevelopment, and reuse programs that—

6 (A) require leadership by local municipali-
7 ties;

8 (B) provide opportunities for meaningful
9 community involvement;

10 (C) have adequate resources to ensure that
11 cleanup, redevelopment, and reuse actions are
12 conducted in an appropriate and timely man-
13 ner, and that technical assistance, where appro-
14 priate, is available from State environmental
15 and public health agencies responsible for the
16 preliminary assessment, site inspection, and
17 public health assessment;

18 (D) provide mechanisms for written ap-
19 proval of response action plans and a certifi-
20 cation or similar documentation indicating that
21 the response actions are complete;

22 (E) provide adequate oversight to ensure
23 that response action is protective of human
24 health and the environment, consistent with ap-
25 plicable Federal and State law, and are con-

1 ducted in accordance with an appropriate re-
2 sponse action plan; and

3 (F) show the capability, through enforce-
4 ment or other authorities, of ensuring comple-
5 tion of response actions if the parties are con-
6 ducting the response action.

7 (2) The Administrator shall encourage State
8 programs to establish an effective mechanism for as-
9 suring community participation, especially of resi-
10 dents and business owners and local health authori-
11 ties near brownfields properties/sites, in broad deci-
12 sions regarding brownfields properties, cleanup, re-
13 development, and reuse.

14 (3) The Administrator shall provide funds to
15 States and tribes with cleanup programs based on
16 State needs and the availability of funds to help pay
17 for site inventory, primary assessment, property/site
18 inspection, and public health assessment by local
19 municipalities and nongovernmental agencies.

20 (4) The Administrator shall provide grant funds
21 to States and tribes for local municipalities, other
22 local government entities, or nongovernmental orga-
23 nizations to allow them to establish revolving loan
24 funds.

1 (5) The Administrator shall provide technical
2 assistance to States and tribes, local municipalities,
3 other local governmental entities, and nongovern-
4 mental organizations in designing, implementing,
5 and evaluating cleanup, redevelopment, and reuse
6 programs, especially States receiving grants under
7 paragraphs (3) and (4). The Agency for Toxic Sub-
8 stances and Disease Registry shall provide technical
9 assistance for public health assessments to States
10 and tribes, local municipalities, other governmental
11 entities, and nongovernmental organizations engaged
12 in designing and implementing State voluntary
13 cleanup programs, especially States receiving grant
14 funds under paragraphs (3) and (4).

15 (b) PURPOSE.—The purpose of the programs author-
16 ized by this section is to facilitate and sustain the assess-
17 ment, cleanup, redevelopment, and reuse of brownfields
18 properties.

19 (c) ALLOCATION OF FUNDS.—The Administrator
20 shall allocate funds made available pursuant to this title
21 among the States. In allocating the funds, the Adminis-
22 trator shall take into account—

23 (1) local private/public partnership targeting
24 cleanup, redevelopment, and reuse of brownfields
25 properties;

1 (2) evidence of capacity to complete primary as-
2 sessment property/site inspections and public health
3 assessment; and

4 (3) evidence of regional cooperation among
5 neighboring communities to solve these problems
6 and to improve coordination in the development and
7 implementation of future land use and development
8 plans.

9 (d) SCOPE OF FUNDING PROGRAMS.—

10 (1) PROPERTY/SITE INVENTORY GRANTS TO
11 STATES.—

12 (A) IN GENERAL.—Competitive grants
13 shall be made to States and tribes which would
14 provide funds to local municipalities, other gov-
15 ernmental entities, and nongovernmental orga-
16 nizations based on paragraph (1), (2), or (3) of
17 subsection (c).

18 (B) GRANT APPLICATION.—In an applica-
19 tion for a grant under paragraph (1), a State
20 shall submit each of the following:

21 (i) A summary description of its
22 cleanup, redevelopment, and reuse.

23 (ii) A detailed description of the
24 brownfields property history and intended
25 use.

1 (iii) The nature and extent of the
2 local capacity and description of the tech-
3 nical assistance available to local munici-
4 palities, other governmental entities, and
5 nongovernmental organizations.

6 (C) STATE AND TRIBE GRANTING PROCE-
7 DURE.—Site Inventory Grants to local munici-
8 palities, other governmental entities, and non-
9 governmental organizations will be selected
10 competitively based upon the following criteria:

11 (i) Proximity of properties/sites to dis-
12 tressed communities.

13 (ii) Cost-effectiveness and timeliness
14 of cleanup, redevelopment, and reuse plan.

15 (iii) Size of State match, if greater
16 than 50 percent.

17 (2) PROPERTY/SITE CLEANUP REVOLVING LOAN
18 FUND GRANTS TO STATES.—

19 (A) IN GENERAL.—The size and terms of
20 grants shall be flexible and subject to negotia-
21 tions within broad statutory and regulatory
22 guidelines. States loans to local municipalities
23 shall be matched dollar for dollar by local juris-
24 dictions and private contributors.

1 (B) LOAN APPLICATION.—In an applica-
2 tion for a grant under paragraph (1), a State
3 shall submit each of the following:

4 (i) A summary description of its
5 Brownfields Redevelopment Plan.

6 (ii) A detailed description of its site
7 cleanup program component, including the
8 nature and extent of technical assistance
9 being provided to municipalities on prop-
10 erty/site cleanup.

11 (iii) A detailed description of the tech-
12 nical assistance for development of the
13 public health assessment plan.

14 (C) LOCAL MATCH.—The municipality
15 shall match the State loan amount on a dollar
16 for dollar basis, or greater.

17 (D) LOAN AMOUNTS.—The loan amount
18 awarded to a municipality shall not exceed the
19 maximum amount of \$500,000.

1 **TITLE II—TAX INCENTIVE FOR**
2 **THE ASSESSMENT, CLEANUP,**
3 **AND BROWNFIELDS PROP-**
4 **ERTY/SITE ECONOMIC REDE-**
5 **VELOPMENT**

6 **SEC. 201. FINDINGS.**

7 The Congress finds that—

8 (1) gaps in total project costs between the rede-
9 velopment of brownfields properties and the develop-
10 ment of greenfield properties, caused mainly by the
11 need for environmental assessment and cleanup of
12 brownfields properties before development, are pri-
13 mary deterrents to property/site reclamation and
14 reuse; and

15 (2) there is a need for a Federal program to
16 provide an incentive spurring private reinvestment in
17 the reclamation and reuse of brownfields.

18 **SEC. 202. DEFINITION.**

19 As used in this title the term “total project costs”
20 is defined as consisting of all costs paid by the owner or
21 developer that are related to property/site assessment,
22 cleanup, and project development.

23 **SEC. 203. FEDERAL TAX INCENTIVE.**

24 (a) **IN GENERAL.**—The Administrator of the Envi-
25 ronmental Protection Agency shall work with the Comp-

1 troller of the Currency to revise the Community Reinvest-
2 ment Act (CRA) Credit to include giving credit to banks
3 who provide loans for the assessment, cleanup or redevelop-
4 opment of brownfields properties/sites.

5 (b) PURPOSE.—The tax incentive allows the use of
6 the tax code to encourage property/site reuse by permit-
7 ting certain remediation costs to be deductible, if incurred
8 with respect to a qualified site, up to the amount of deduc-
9 tions taken with respect to the property; and environ-
10 mental cleanup expenses would not be subject to deduction
11 recapture as ordinary income, but such expenditure shall
12 be treated as a deduction for depreciation.

13 (c) ALLOCATION OF FEDERAL TAX INCENTIVES.—
14 The Administrator of the Environmental Protection Agen-
15 cy shall allocate tax incentives made available to this title
16 among the States with voluntary cleanup programs. In al-
17 locating the tax incentives, the Administrator shall take
18 into account:

19 (1) The relative number of non-National Prior-
20 ity List brownfields properties/sites in the State,
21 with added emphasis on properties located in dis-
22 tressed communities.

23 (2) The relative commitment of the State and
24 local municipal governments to support the reclama-

1 tion and reuse of nonpriority list brownfields prop-
2 erties.

3 (3) Evidence of a commitment by the private
4 sector to redevelopment in distressed communities.

5 (d) COMPETITIVE SELECTION PROCEDURE.—Sub-
6 allocation of Federal tax incentives by State voluntary
7 cleanup programs to developers (or investor pools) shall
8 be made on the basis of an open and selective competitive
9 selection procedure administered by the State.

10 (e) MAXIMUM AWARD OF TAX INCENTIVES.—The
11 maximum amount of tax incentives awarded to a
12 brownfields property/site owner/developer will be limited to
13 50 percent or less of the total project costs, and no more
14 than the difference between total project costs of the
15 brownfields property/site and comparable costs for a
16 greenfield property/site located at the market periphery
17 (or a clean property/site within the same jurisdiction as
18 the brownfields site) as determined by the State admin-
19 istering agency in consultation with the owner/developer
20 of the brownfields property/site.

21 (f) STATE TAX INCENTIVES.—Participating States
22 may offer complementary tax incentives for property/site
23 remediation and reuse.

1 **TITLE III—LIMITING OUT-YEAR**
2 **ENVIRONMENTAL RISK LI-**
3 **ABILITY**

4 **SEC. 301. FINDINGS.**

5 The Congress finds that—

6 (1) the burdens associated with the risks of out-
7 year environmental liability is a factor that deters
8 the development of brownfields properties/sites. The
9 risks and benefits of brownfields development must
10 be balanced between the citizens of the affected com-
11 munity, developers, lenders, and insurers; and

12 (2) there is a need to substantially reduce the
13 risks associated with the development of brownfields
14 properties for all constituencies (citizens in the af-
15 fected communities, owners, developers, lenders, and
16 insurers) (relating to out-year environmental costs).

17 **SEC. 302. DEFINITION.**

18 As used in this title, the term “out-year environ-
19 mental risk liability” means liability regarding an environ-
20 mental or public health hazard not discovered during prop-
21 erty/site cleanup assessment or cleanup of a brownfields
22 property/site.

23 **SEC. 303. SCOPE OF PROGRAM.**

24 (a) **PROSPECTIVE PURCHASER AGREEMENT.**—In the
25 case of a prospective purchaser of a brownfields property/

1 site, the Administrator of the Environmental Protection
2 Agency may consider a prospective purchaser agreement
3 which releases the prospective purchaser from liability to
4 the United States, when appropriate and if there are sub-
5 stantial benefits to the government and the community
6 (such as through job creation or productive use of the
7 abandoned property) and if the prospective purchaser sat-
8 isfies other criteria (such as (1) an EPA action at the fa-
9 cility has been taken, is ongoing, or is anticipated to be
10 undertaken by the Agency, (2) the Agency should receive
11 a substantial benefit either in the form of a direct benefit
12 for cleanup, or as an indirect public benefit in combination
13 with a reduced direct benefit to EPA, (3) the continued
14 operation of the facility or new property/site development,
15 with the exercise of due care, will not aggravate or contrib-
16 ute to the existing contamination or interfere with EPA's
17 response action, (4) the continued operation or new devel-
18 opment of the property will not pose health risks to the
19 community and those persons likely to be present at the
20 property/site, and (5) the prospective purchaser is finan-
21 cially viable).

22 (b) INSURANCE MECHANISMS.—The Administrator
23 of the Environmental Protection Agency shall work with
24 the private insurance industry to determine the feasibility

1 of three basic insurance mechanisms for addressing the
2 issue of out-year environmental risk liability—

3 (1) a wholly private insurance program;

4 (2) a Federal insurance program; or

5 (3) a joint insurance program involving risks
6 shared between the two parties;

7 and make a recommendation to the Administrator, includ-
8 ing in the case that either a program under paragraph
9 (2) or (3) is selected, a recommended amount of capital-
10 ization required to create the insurance program, and in-
11 cluding any other recommendations, as appropriate. The
12 Administrator shall recognize State, local, and tribe land
13 use controls, such as zoning ordinances or deed restric-
14 tions, as means to ensure future property/site control and
15 limit the potential for future environmental contamina-
16 tion.

17 **TITLE IV—ENVIRONMENTAL AS-**
18 **SESSMENT AND CLEANUP RE-**
19 **SEARCH, DEVELOPMENT, AND**
20 **DEPLOYMENT**

21 **SEC. 401. FINDINGS.**

22 The Congress finds that—

23 (1) the costs and time associated with
24 brownfields property/site assessment, and property/

1 site cleanup are major deterrents to reclamation, re-
2 development, and reuse; and

3 (2) there is a need for the Federal Government
4 to fund innovative approaches to public health as-
5 sessment, property/site inspection, and cleanup
6 which drives down costs and expedites assessment
7 and cleanup.

8 **SEC. 402. SCOPE OF PROGRAM.**

9 (a) IN GENERAL.—The Administrator of the Envi-
10 ronmental Protection Agency shall make project grants
11 available to local technology centers and universities to re-
12 search, develop, and deploy innovative property/site as-
13 sessment, public health assessment, and cleanup tech-
14 nologies, procedures, and related information.

15 (b) GRANT APPLICATION.—The grant application will
16 conform with criteria established by the Administrator.

17 (c) GRANT AWARDS.—The maximum award shall be
18 \$250,000.

19 **TITLE V—ENCOURAGING PUB-**
20 **LIC-PRIVATE-COMMUNITY**
21 **PARTNERSHIPS**

22 **SEC. 501. FINDINGS.**

23 The Congress finds that—

24 (1) many brownfields properties/sites exist in
25 areas characterized by physical decline, high unem-

1 employment and poverty rates, and low educational at-
2 tainment;

3 (2) in terms of benefits, brownfields cleanup
4 immediately improves health and quality of life to
5 the extent that environmental hazards are removed;

6 (3) residents surrounding brownfields properties
7 both directly (e.g., from employment and entre-
8 preneurial opportunities) and indirectly (from in-
9 creased city revenues supporting neighborhood serv-
10 ices); and

11 (4) the Federal Government should encourage
12 and support public-private-community partnerships
13 in the assessment, cleanup, redevelopment, and
14 reuse of brownfields properties.

15 **SEC. 502. DEFINITION.**

16 As used in this title, the term “public-private-commu-
17 nity partnerships” means partnerships undertaken be-
18 tween layers of Government, private and nonprofit enti-
19 ties, and community organizations involved in some aspect
20 of brownfields planning, assessment, reclamation, and
21 reuse.

22 **SEC. 503. SCOPE OF PROGRAM.**

23 (a) IN GENERAL.—The Administrator shall—

24 (1) require community consultation, including
25 households and business owners from the immediate

1 neighborhood, local health authorities, on the extent
2 of required cleanup in relationship to ultimate reuse
3 and reuse impact on the neighborhood and larger
4 community;

5 (2) sustain and/or expand Federal funding for
6 training for property/site environmental assessment
7 and cleanup; these programs provide job training
8 and employment opportunities for core area resi-
9 dents;

10 (3) sustain and/or expand Federal funding for
11 technical assistance and research in brownfields
12 cleanup and redevelopment strategies, including
13 technical assistance in packaging project financing;
14 and

15 (4) shall assist the Administrator, Agency for
16 Toxic Substance and Disease Registry, to provide
17 technical assistance for public health assessments to
18 local health authorities and community-based organi-
19 zations.

20 (b) GRANT AWARDS AND SELECTION CRITERIA.—(1)
21 To support activity under subsection (a)(2), the Adminis-
22 trator shall make up to 20 grants on an annual basis to
23 501(c)(3) organizations and private sector organizations,
24 with a maximum grant per award of \$150,000, for up to

1 3 years. Selection criteria for evaluating grant applications
2 are—

3 (A) quality of proposed training; and

4 (B) training experience of grantees with local
5 community residents living near brownfields prop-
6 erties.

7 (2) To support activity under subsection (a)(3),
8 \$1,000,000 in additional appropriations is authorized to
9 support the work of the Environmental Protection Agen-
10 cy's Environmental Finance Centers for each year between
11 1998 and 2002.

12 **TITLE VI—ANNUAL PROGRAM** 13 **EVALUATION**

14 **SEC. 601. FINDINGS.**

15 The Congress finds that—

16 (1) there is a need to evaluate the Act's provi-
17 sions on an annual basis; and

18 (2) to fully review and provide an annual report
19 on the Act's implementation.

20 **SEC. 602. SUNSET PROVISION.**

21 The provisions of this Act shall cease to have any
22 force and effect on the date 5 years after enactment.

23 **SEC. 603. SCOPE OF ANNUAL EVALUATION.**

24 The Administrator of the Environmental Protection
25 Agency shall provide a written report to Congress which

1 describes program activity during each year, including the
2 identification of major achievements of programs estab-
3 lished under this Act affecting Federal, State, or local per-
4 formance.

5 **SEC. 604. REPORT TO CONGRESS.**

6 The Administrator of the Environmental Protection
7 Agency shall submit reports evaluating the impact and
8 cost-effectiveness of the provisions of this Act for which
9 they are responsible 180 days before the sunset date set
10 forth in section 602.

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