



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 20, 2001

S. 350

Brownfields Revitalization and Environmental Restoration Act of 2001

*As reported by the Senate Committee on Environment and Public Works
on March 12, 2001*

SUMMARY

S. 350 would expand and modify certain programs governed by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, commonly known as the Superfund Act). The bill would provide a statutory framework for Environmental Protection Agency (EPA) policies and programs related to brownfield sites and the liability of certain entities under CERCLA. (Brownfields are properties where the presence, or potential presence, of a hazardous substance complicates the expansion or redevelopment of the property.) The bill would authorize the appropriation of \$750 million over the next five years for grants to states and other governmental entities for various brownfield initiatives. Another \$250 million would be authorized over the same period for grants to states and Indian tribes for implementing voluntary cleanup programs. Finally, the bill would exempt some property owners from liability under CERCLA under certain terms and conditions.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 350 would cost \$680 million over the 2002-2006 period. CBO estimates that provisions affecting the liability of certain property owners would reduce net offsetting receipts (a form of direct spending) by \$2 million a year beginning in 2002, or a total of \$20 million over the next 10 years. In addition, the Joint Committee on Taxation (JCT) estimates that enacting this bill would reduce revenues by a total of \$24 million over the 2002-2006 period and by \$110 million over the 2002-2011 period. Because S. 350 would affect direct spending and receipts, pay-as-you-go procedures would apply.

S. 350 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 350 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

	By Fiscal Year, in Millions of Dollars					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Brownfields Spending Under Current Law						
Budget Authority ^a	92	0	0	0	0	0
Estimated Outlays	89	87	41	14	5	0
Proposed Changes						
Authorization Level	0	200	200	200	200	200
Estimated Outlays	0	10	110	170	190	200
Brownfields Spending Under S. 350						
Authorization Level ^a	92	200	200	200	200	200
Estimated Outlays	89	97	151	184	195	200
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2
CHANGES IN REVENUES						
Estimated Revenues ^b	0	0	1	4	8	11

a. The 2001 level is the amount appropriated for that year for EPA grants for brownfields initiatives, including grants to states for voluntary programs.

b. Source: Joint Committee on Taxation.

BASIS OF ESTIMATE

For purposes of this estimate, CBO assumes that S. 350 will be enacted by the end of fiscal year 2001, and that all funds authorized by the bill will be appropriated. Estimated outlays are based on the historical spending patterns for similar activities in the Superfund program.

Spending Subject to Appropriation

S. 350 would authorize the appropriation of \$1 billion over the next five years for two grant programs: for brownfield revitalization and for enhancing state programs related to brownfields and other voluntary initiatives. In recent years, the Congress has allocated some of the money appropriated for EPA's Superfund program for such grants; this legislation would provide an explicit statutory authorization for these activities and would authorize specific amounts for fiscal years 2002 through 2006. Provisions limiting the liability of certain property owners could increase the use of appropriated funds to clean up Superfund sites, but CBO estimates that any change in discretionary spending would not be significant in the next five years.

Grant Programs. Title I would authorize the appropriation of \$150 million annually for grants to states and other governmental entities to characterize, assess, or cleanup brownfield sites. Remediation grants could be used to capitalize revolving funds or to pay for cleaning up sites owned by public or nonprofit entities. Grants used for remediation would be subject to a matching requirement and could be used to leverage funding from other sources. In addition, title III would authorize \$50 million a year for grants to states and Indian tribes to develop or enhance programs pertaining to brownfields or voluntary response programs. These funds also could be used to capitalize revolving funds for brownfield remediation activities.

Cleanup Costs. Under CERCLA, property owners may be responsible for cleanup activities, even if they did not contribute to the contamination of a Superfund site. Title II would amend CERCLA to limit the liability of certain prospective purchasers of contaminated property after the date of enactment. By reducing the pool of potentially responsible parties, the "prospective purchaser" provisions in section 202 could reduce the number of Superfund sites that can be cleaned up in a timely fashion by private entities. This could, in turn, increase the number of sites needing full or partial federal funding for cleanup activities.

For this estimate, CBO assumes that the bill's prospective purchaser provisions would not affect discretionary spending for several years because only properties purchased after the date of enactment would be exempt from liability. The cost eventually could be significant, however, because cleanup costs average \$20 million per site.

Direct Spending

CBO estimates that provisions limiting the liability of certain property owners would reduce net offsetting receipts by about \$2 million a year. EPA currently negotiates liability settlements with 20 to 25 prospective purchasers of contaminated property. As part of these

agreements, purchasers make both monetary and in-kind payments in consideration of the government's covenant not to sue. While the cash payments vary significantly among properties, the agency typically collects an average of \$100,000 per settlement. EPA would forgo such payments under S. 350, because prospective purchasers would no longer need these agreements to be relieved of liability for cleaning up a site.

The other limitations on liability in title II also could affect EPA's ability to recover costs that the agency incurs at cleanup projects that are the responsibility of private parties. Liability for cleanup is retroactive, strict, and joint and several, so changing the liability of one party generally has the effect of shifting liability among the other private parties. On the other hand, there may be some circumstances in which this legislation would exempt the only party likely to pay cleanup costs. We estimate that the loss of offsetting receipts from these changes is likely to be insignificant, however, because most of the provisions are similar to current EPA practice.

Revenues

This bill would affect revenues by authorizing states and local governments to use federal grants for brownfields remediation to capitalize revolving funds. JCT expects that the ability to leverage these revolving funds would result in an increase in the issuance of tax-exempt bonds by state and local governments. JCT estimates that the federal government would forgo tax revenues of \$110 million over the 2002-2011 period as a result of these provisions.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	2	2	2	2	2	2	2	2	2	2
Changes in receipts	0	0	1	4	8	11	15	17	18	18	18

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 350 would impose no mandates on state, local, or tribal governments. The bill would authorize \$200 million annually from 2002 through 2006 for grants to state and local governments for inventorying, characterizing, assessing and remediating brownfield sites and for establishing or enhancing response programs. Implementing S. 350 would benefit state, local, and tribal governments if the Congress appropriates funds for the grants and loans authorized in the bill. Any costs incurred to participate in those grants and loan programs would be voluntary.

S. 350 would make several changes to current law concerning liabilities under CERCLA of certain property owners, which may include state, local, or tribal governments. These changes in liability, while not preemptions of state law, could make it more difficult for any states that currently rely on CERCLA to recover costs and damages under their own cleanup programs from parties whose liability now would be eliminated or limited by the bill. On the other hand, these changes could benefit state, local, and tribal governments as landowners if their liability would be reduced or eliminated. Enacting S. 350 could also benefit state and local governments with contaminated sites in their jurisdictions by clarifying the liability for certain property owners under federal law and thereby encouraging remediation and redevelopment of those sites.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no new private-sector mandates as defined in UMRA.

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