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Mr. Chairman and members of the committee. My name is Keku Kamalani, UNLV intern for Senator Dina Titus.

Brownfields are defined as abandoned, idled, or underused properties where redevelopment or expansion is complicated by real or perceived environmental contamination. Brownfields typically occur on or near properties that were formally used for industrial purposes, such as chemical production, manufacturing and any activity that may result in soil or water contamination. Until an environmental assessment is conducted, the property owner, developer, or purchaser may not know that the property presents an environmental risk. The uncertainty associated with a property's environmental liability can slow or stop the development process.

Brownfields redevelopment is a form of recycling land. It is a means of reestablishing previously underused or underdeveloped property as a viable resource.

At the federal level there have been many attempts at addressing the problems associated with brownfields. Both the U.S. Senate and House of Representatives have introduced legislation that provide funds to finance brownfield site activities, such as assessments and cleanup, and tax incentives to ease the cash flow or cost of capital for brownfield projects. In

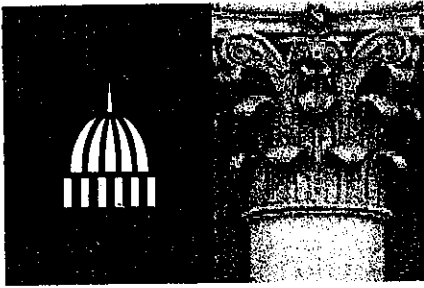
1997, the Clinton administration signed into law the Brownfield tax Incentive which uses the tax code to encourage non-responsible parties-such as innocent owners and prospective purchasers-to undertake clean up projects (such as making cleanup expenses fully deductible in the year incurred). The law also authorized \$1.5 billion in incentives for cleanups undertaken by Dec. 31, 2000. There has also been legislation introduced which offered further protection for brownfield participants such as prospective purchasers and adjoining property owners, while other bills provided a more direct link between EPA and state voluntary cleanup programs.

Such has been the case in Nevada. In 1999, SB 363, sponsored by Sen. Titus, was passed and created a brownfield program whereby prospective purchasers of contaminated property can voluntarily enter an agreement with the Nevada Department of Environmental Protection to clean up environmental hazards on land, and in turn receive protection from liability for damages caused by the hazardous substance prior to the cleanup. And before you today, AB 74 supplements this program by creating a revolving fund through which federal dollars can be distributed. We are pleased to

commend Allen Biaggi and the Nevada Division of Environmental Protection for acquiring this grant.

Brownfields Development is important because many benefits are associated with this program. When contaminated sites are cleaned a healthier environment is the end result. Besides the environment, other benefits attributed to brownfield development include the creation of new jobs, and improved property values. Revitalized, economically successful sites could attract additional industry and commercial enterprise to the State of Nevada and further the diversification of the business sector. This diversification of the business sector promotes diversification of the job market and labor pool. Economic diversification may reduce the cyclical slumps that can occur in mono-economies, such as those based solely on tourism. This is especially important post 9-11, in which Nevada's tourist economy is at risk.

So I urge you to support AB 74. Thank you.



National Conference of State Legislatures

LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

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Financing Brownfields Cleanup and Redevelopment

By L. Cheryl Runyon and Larry Morandi

Brownfields redevelopment can help manage sprawl, spur economic development and protect health.

Innovative financing techniques by state and local governments can spur brownfields reuse.

A "brownfield" is an abandoned commercial or industrial site whose future use may be affected by contamination. Brownfields come in all sizes and locations—manufacturing plants, gas stations, strip malls and agricultural operations in urban, suburban and rural areas. These sites can be redeveloped into economic centers, recreational areas, housing and open spaces. Paying for redevelopment is an increasingly important topic as state and local governments look to these sites to spur economic development and manage growth and sprawl while protecting public health.

Redevelopment costs hinge on future use of the site—residential, commercial or recreational—which determines the level of necessary cleanup. Construction often is the greatest cost, but site preparation and land acquisition also can be expensive steps. When converting brownfields to other uses, creating a financing package for assessment, cleanup and redevelopment can be a great challenge facing the developer. Innovative financing techniques include grants, loans and tax credits from federal and state government agencies or tax increment financing, bonds and special tax assessments from local governments.

Federal Action

Several federal agencies, including the Environmental Protection Agency (EPA), Department of Housing and Urban Development, the Economic Development Administration and the Federal Highway Administration, have committed money to brownfields redevelopment. The new Small Business Liability Relief and Brownfields Revitalization Act authorized up to \$200 million per year for assessment and cleanup. EPA's FY 2003 budget request includes \$200 million (\$102 million more than FY 2002) to help states and communities clean up and revitalize brownfield sites.

Federal funding also can be used for brownfields assessments and cleanups.

The Brownfields Tax Incentive reauthorized in December 2000 removes many financial disincentives for cleaning up and reusing older industrial properties. Under this program, companies can deduct from their income taxes the full amount of environmental cleanup costs in the year they are incurred, rather than amortizing them over a longer period. The tax incentive could cost the federal government \$300 million annually, but it is expected to leverage \$3.4 billion in private investment and return 8,000 brownfields to productive use.

State Action

Several states provide grants, low interest loans, credit enhancement agreements and tax incentives:

- The Pennsylvania Land Recycling Program includes an Industrial Sites Cleanup Fund to assist in voluntary cleanups—grants or low-interest loans cover up to 75 percent of the cost of an environmental study and a cleanup plan. A job creation and tax credit program provides a \$1,000 tax credit for each new job created at a brownfields site for companies that increase employment by 25 jobs or 20 percent within three years of beginning site remediation.

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4

- Oregon's Economic and Community Development Department offers several forms of financial assistance, including credit enhancement agreements (loan portfolio insurance and loan guarantees for environmental evaluations) and a Brownfield Redevelopment Loan Fund.
- Ohio voters approved \$400 million in general obligation bonds in November 2000 to create the Clean Ohio Fund. A total of \$200 million is targeted toward brownfield projects and can be applied to any stage of redevelopment.
- Michigan voters approved a \$675 million general obligation bond in 1998 that includes \$335 million for brownfields redevelopment. The measure allocates up to \$263 million for cleanup of contaminated sites and \$20 million for grants and loans to local governments.
- Massachusetts earmarked \$15 million in 1998 for an insurance fund to help pay cleanup costs or guarantee private loans. The state also established a redevelopment fund to provide \$30 million in low interest loans to private parties and grants to local governments, and authorized a tax credit.
- Colorado provides a tax credit for environmental cleanup and redevelopment projects in cities with populations larger than 10,000. The tax credit ranges from 50 percent of the initial \$100,000 for site remediation to 20 percent of the third \$100,000 spent on cleanup.
- Minnesota's Metro Greenways program provides state funds to purchase fee title or development rights to properties that can be linked together to preserve natural corridors in the Minneapolis-St. Paul area.

Clean water state revolving funds also can pay for certain aspects of brownfields redevelopment, including site remediation, land acquisition and purchase of conservation easements to prevent inappropriate development. All 50 states and Puerto Rico operate these funds. Wisconsin allocates \$20 million for a land recycling loan program; municipalities can use the funds to clean up contaminated properties. Interest rates are half the market rate, and awards are based on the potential to reduce environmental pollution, threats to public health and development of pristine land.

Clean water state revolving funds also can help pay for redevelopment.

Local Government Options. More than half of local government brownfield redevelopment funds come from tax increment financing (TIF). Bonds, special improvement or special assessments, and general funds also are used. TIF allows future increases in tax revenue generated by a project to support it. A redevelopment agency freezes tax assessments in a TIF district at a base year level. In future years, the extra taxes generated by the project are allocated to the district to pay for redevelopment or to pay debt on project bonds. Michigan amended its brownfields legislation in 1996 to authorize local governments to use TIF for redevelopment. A brownfields authority may capture new property taxes generated by the redeveloped site and use them to reimburse cleanup costs. Local governments also can establish special assessment districts to finance development or infrastructure projects. The local government levies a charge on property (*ad valorem* property tax assessment or a sliding scale fee) within a specific geographic area and the money finances public improvements.

Local governments support redevelopment with TIF funds.

Selected References

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PROGRAM DESCRIPTION

Voluntary Cleanup Programs and Assurances Provided

Incentives for Voluntary Removal program (1999) offers COC; liability relief transferable to new owners.

FINANCIAL ELEMENTS

Financing Programs Targeted to Brownfield Situations

- ▶ U.S. EPA capitalized Brownfield Cleanup RLF in 2001 with coalition partner, Hawthorne, NV, for \$2 million.
- ▶ State has targeted \$1 million for all projects within Nevada. New program targets for 2002 (reflecting the new brownfields law) include rural communities, USTfields, mine-scarred lands, and drug labs.

Incentives to Attract Private Investment to Brownfields

N/A

TECHNICAL ELEMENTS

Definition

Nevada defines an eligible property in its voluntary cleanup program as real property not listed on the NPL, owned by anyone under current investigation with respect to the property and containing the probable site of a release of a hazardous substance.

MOA

No

Contaminants

Asbestos, lead paint, PCBs are OK; petroleum OK only if commingled with another hazardous substance.

Standards

RBCA process in place.

Institutional Controls

ICs not encouraged at this point; state anticipates more receptivity to ICs in the future, at more complicated brownfield sites having extensive contamination.

IC Benefits/Problems

ICs not encouraged because they are hard to track and state has no authority to enforce.

REUSE BENEFITS

Number of Sites

One site now in program and in the process of negotiating the remedial agreement. Outreach workshops planned for the next year to educate about and market the program to prospective volunteers. State has several sites close to entering program.

Economic Benefits

Nevada is working with various cities to potentially use funds through the Trust for Public Land. The state also is working with several communities on incorporating a greenspace element in their EPA brownfields assessment grant proposals. Nevada did receive a pilot for Nye County, which also received \$50,000 for a greenspace project.

IMPACTS OF NEW FEDERAL BROWNFIELDS LAW

Changes to Accommodate Law

Will not consider changes until more information on new law's implementation is available.

Impacts of Law

So far, the new law appears to be of tremendous benefit for Nevada, especially with rural development. The state has modified its brownfield program targets to reflect new federal eligible activities, such as mine-scarred lands and petroleum-contaminated sites.

The only concerns raised by the state stem from the unallowed expenses of administrative costs with the Brownfields Cleanup Revolving Loan Fund Pilots.

LESSONS AND ADVICE

"Even though Nevada's Brownfields Program and VCP Program are just beginning to test the waters within our state, I have found brownfields to be the most rewarding and challenging program to implement. One must maintain a vision, develop a continued flow of optimism, be aggressive, but move softly with a determined step, stay focused on the good things a project will do for the environment and the improvements to its citizen's well-being. The most important aspect that attracted me to brownfields is the whole concept of empowering local governments, states, and tribes. Empowerment means allowing those affected to stand up, have a voice, make decisions, creating new boxes to bring projects to completion and utilizing our thinking. To effect change requires an incredible amount of dedication, determination, and heart-felt enthusiasm or a passion for brownfields, constant discussions for anyone who will listen, and most of all tenacity."

"I have found the most frustration with certain mind-sets by governments – whether it is our own state government, federal government, or some nonprofit entities. This really has to do with people who work within these systems and who choose to exist as they have always existed. Brownfields require participation and partnerships to help projects move forward for the benefit of others. Sometimes all it takes [to derail a project] is one person (in a certain position) who refuses to become a partner or a team member or chooses to see things as black and white. Your stakeholder project team needs to be forward thinking and involved to help make things really happen."