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115TH CONGRESS
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S. 822

[Report No. 115–148]

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to modify provisions relating to grants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2017

Mr. INHOFE (for himself, Mr. MARKEY, Mr. ROUNDS, Mr. BOOKER, Mr. CRAPO, Mr. KING, Mr. WHITEHOUSE, Mr. CARPER, Mrs. GILLIBRAND, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 7, 2017

Reported by Mr. BARRASSO, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to modify provisions relating to grants, and for other purposes.

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 Utiliza-
3 tion, Investment, and Local Development Act of 2017” or
4 the “BUILD Act”.

5 **SEC. 2. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
6 **ZATIONS.**

7 Section 104(k)(1) of the Comprehensive Environ-
8 mental Response, Compensation, and Liability Act of
9 1980 (42 U.S.C. 9604(k)(1)) is amended—

10 (1) in subparagraph (G), by striking “or” after
11 the semicolon;

12 (2) in subparagraph (H), by striking the period
13 at the end and inserting a semicolon; and

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

15 “(I) an organization described in section
16 501(c)(3) of the Internal Revenue Code of 1986
17 and exempt from taxation under section 501(a)
18 of that Code;

19 “(J) a limited liability corporation in which
20 all managing members are organizations de-
21 scribed in subparagraph (I) or limited liability
22 corporations whose sole members are organiza-
23 tions described in subparagraph (I);

24 “(K) a limited partnership in which all
25 general partners are organizations described in
26 subparagraph (I) or limited liability corpora-

tions whose sole members are organizations described in subparagraph (I); or

“(L) a qualified community development entity (as defined in section 45D(c)(1) of the Internal Revenue Code of 1986).”.

SEC. 3. MULTIPURPOSE BROWNFIELDS GRANTS.

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

(1) by redesignating paragraphs (4) through (9) and (10) through (12) as paragraphs (5) through (10) and (13) through (15), respectively;

(2) in paragraph (3)(A), in the matter preceding clause (i), by striking “subject to paragraphs (4) and (5)” and inserting “subject to paragraphs (5) and (6)”; and

(3) by inserting after paragraph (3) the following:

“(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

“(A) IN GENERAL.—Subject to subparagraph (D) and paragraphs (5) and (6), the Administrator shall establish a program to provide multipurpose grants to an eligible entity based on the considerations under paragraph (3)(C), to carry out inventory, characterization, assess-

ment, planning, or remediation activities at 1 or more brownfield sites in a proposed area.

~~“(B) GRANT AMOUNTS.—~~

~~“(i) INDIVIDUAL GRANT AMOUNTS.—~~

Each grant awarded under this paragraph shall not exceed \$950,000.

~~“(ii) CUMULATIVE GRANT AMOUNTS.—~~The total amount of grants awarded for each fiscal year under this paragraph shall not exceed 15 percent of the funds made available for the fiscal year to carry out this subsection.

~~“(C) CRITERIA.—~~In awarding a grant under this paragraph, the Administrator shall consider the extent to which an eligible entity is able—

~~“(i) to provide an overall plan for revitalization of the 1 or more brownfield sites in the proposed area in which the multipurpose grant will be used;~~

~~“(ii) to demonstrate a capacity to conduct the range of eligible activities that will be funded by the multipurpose grant; and~~

1 “(iii) to demonstrate that a multipur-
 2 pose grant will meet the needs of the 1 or
 3 more brownfield sites in the proposed area.

4 “(D) **CONDITION.**—As a condition of re-
 5 ceiving a grant under this paragraph, each eli-
 6 gible entity shall expend the full amount of the
 7 grant not later than the date that is 3 years
 8 after the date on which the grant is awarded to
 9 the eligible entity unless the Administrator, in
 10 the discretion of the Administrator, provides an
 11 extension.”.

12 **SEC. 4. TREATMENT OF CERTAIN PUBLICLY OWNED**
 13 **BROWNFIELD SITES.**

14 Section 104(k)(2) of the Comprehensive Environ-
 15 mental Response, Compensation, and Liability Act of
 16 1980 (42 U.S.C. 9604(k)(2)) is amended by adding at the
 17 end the following:

18 “(C) **EXEMPTION FOR CERTAIN PUBLICLY**
 19 **OWNED BROWNFIELD SITES.**—Notwithstanding
 20 any other provision of law, an eligible entity
 21 that is a governmental entity may receive a
 22 grant under this paragraph for property ac-
 23 quired by that governmental entity prior to
 24 January 11, 2002, even if the governmental en-
 25 tity does not qualify as a bona fide prospective

1 purchaser (as that term is defined in section
 2 101(40)), so long as the eligible entity has not
 3 caused or contributed to a release or threatened
 4 release of a hazardous substance at the prop-
 5 erty.”.

6 **SEC. 5. INCREASED FUNDING FOR REMEDIATION GRANTS.**

7 Section ~~104(k)(3)(A)(ii)~~ of the Comprehensive Envi-
 8 ronmental Response, Compensation, and Liability Act of
 9 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
 10 ing “\$200,000 for each site to be remediated” and insert-
 11 ing “\$500,000 for each site to be remediated, which limit
 12 may be waived by the Administrator, but not to exceed
 13 a total of \$650,000 for each site, based on the anticipated
 14 level of contamination, size, or ownership status of the
 15 site”.

16 **SEC. 6. ALLOWING ADMINISTRATIVE COSTS FOR GRANT**
 17 **RECIPIENTS.**

18 Paragraph ~~(5)~~ of section ~~104(k)~~ of the Comprehen-
 19 sive Environmental Response, Compensation, and Liabil-
 20 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
 21 section ~~3(1)~~) is amended—

22 (1) in subparagraph (B)—

23 (A) in clause (i)—

24 (i) by striking subclause (III); and

1 (ii) by redesignating subclauses (IV)
2 and (V) as subclauses (III) and (IV), re-
3 spectively;

4 (B) by striking clause (ii);

5 (C) by redesignating clause (iii) as clause
6 (ii); and

7 (D) in clause (ii) (as redesignated by sub-
8 paragraph (C)), by striking “Notwithstanding
9 clause (i)(IV)” and inserting “Notwithstanding
10 clause (i)(III)”; and

11 (2) by adding at the end the following:

12 “(E) ADMINISTRATIVE COSTS.—

13 “(i) IN GENERAL.—An eligible entity
14 may use up to 8 percent of the amounts
15 made available under a grant or loan
16 under this subsection for administrative
17 costs.

18 “(ii) RESTRICTION.—For purposes of
19 clause (i), the term ‘administrative costs’
20 does not include—

21 “(I) investigation and identifica-
22 tion of the extent of contamination;

23 “(II) design and performance of
24 a response action; or

1 “(III) monitoring of a natural re-
 2 source.”.

3 **SEC. 7. SMALL COMMUNITY TECHNICAL ASSISTANCE**
 4 **GRANTS.**

5 Paragraph (7)(A) of section 104(k) of the Com-
 6 prehensive Environmental Response, Compensation, and
 7 Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesign-
 8 nated by section 3(1)) is amended—

9 (1) by striking “The Administrator may pro-
 10 vide,” and inserting the following:

11 “(i) DEFINITIONS.—In this subpara-
 12 graph:

13 “(I) DISADVANTAGED AREA.—

14 The term ‘disadvantaged area’ means
 15 an area with an annual median house-
 16 hold income that is less than 80 per-
 17 cent of the statewide annual median
 18 household income, as determined by
 19 the latest available decennial census.

20 “(II) SMALL COMMUNITY.—The

21 term ‘small community’ means a com-
 22 munity with a population of not more
 23 than 15,000 individuals, as deter-
 24 mined by the latest available decennial
 25 census.

1 “(ii) ESTABLISHMENT OF PRO-
 2 GRAM.—The Administrator shall establish
 3 a program to provide grants that pro-
 4 vide,”; and

5 (2) by adding at the end the following:

6 “(iii) SMALL OR DISADVANTAGED
 7 COMMUNITY RECIPIENTS.—

8 “(I) IN GENERAL.—Subject to
 9 subclause (II), in carrying out the
 10 program under clause (ii), the Admin-
 11 istrator shall use not more than
 12 \$600,000 of the amounts made avail-
 13 able to carry out this paragraph to
 14 provide grants to States that receive
 15 amounts under section 128(a) to as-
 16 sist small communities, Indian tribes,
 17 rural areas, or disadvantaged areas in
 18 achieving the purposes described in
 19 clause (ii).

20 “(II) LIMITATION.—Each grant
 21 awarded under subclause (I) shall be
 22 not more than \$7,500.”.

23 **SEC. 8. WATERFRONT BROWNFIELDS GRANTS.**

24 Section 104(k) of the Comprehensive Environmental
 25 Response, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9604(k)) is amended by inserting after paragraph
 2 (10) (as redesignated by section 3(1)) the following:

3 “(11) WATERFRONT BROWNFIELD SITES.—

4 “(A) DEFINITION OF WATERFRONT
 5 BROWNFIELD SITE.—In this paragraph, the
 6 term ‘waterfront brownfield site’ means a
 7 brownfield site that is adjacent to a body of
 8 water or a federally designated floodplain.

9 “(B) REQUIREMENTS.—In providing
 10 grants under this subsection, the Administrator
 11 shall—

12 “(i) take into consideration whether
 13 the brownfield site to be served by the
 14 grant is a waterfront brownfield site; and

15 “(ii) give consideration to waterfront
 16 brownfield sites.”.

17 **SEC. 9. CLEAN ENERGY BROWNFIELDS GRANTS.**

18 Section 104(k) of the Comprehensive Environmental
 19 Response, Compensation, and Liability Act of 1980 (42
 20 U.S.C. 9604(k)) (as amended by section 8) is amended
 21 by inserting after paragraph (11) the following:

22 “(12) CLEAN ENERGY PROJECTS AT
 23 BROWNFIELD SITES.—

1 “(A) DEFINITION OF CLEAN ENERGY
2 PROJECT.—In this paragraph, the term ‘clean
3 energy project’ means—

4 “(i) a facility that generates renew-
5 able electricity from wind, solar, or geo-
6 thermal energy; and

7 “(ii) any energy efficiency improve-
8 ment project at a facility, including com-
9 bined heat and power and district energy.

10 “(B) ESTABLISHMENT.—The Adminis-
11 trator shall establish a program to provide
12 grants—

13 “(i) to eligible entities to carry out in-
14 ventory, characterization, assessment,
15 planning, feasibility analysis, design, or re-
16 mediation activities to locate a clean en-
17 ergy project at 1 or more brownfield sites;
18 and

19 “(ii) to capitalize a revolving loan
20 fund for the purposes described in clause
21 (i).

22 “(C) MAXIMUM AMOUNT.—A grant under
23 this paragraph shall not exceed \$500,000.”.

1 **SEC. 10. TARGETED FUNDING FOR STATES.**

2 Paragraph ~~(15)~~ of section 104(k) of the Comprehen-
 3 sive Environmental Response, Compensation, and Liabil-
 4 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
 5 section ~~3(1)~~) is amended by adding at the end the fol-
 6 lowing:

7 “(C) TARGETED FUNDING.—Of the
 8 amounts made available under subparagraph
 9 (A) for a fiscal year, the Administrator may use
 10 not more than \$2,000,000 to provide grants to
 11 States for purposes authorized under section
 12 128(a), subject to the condition that each State
 13 that receives a grant under this subparagraph
 14 shall have used at least 50 percent of the
 15 amounts made available to that State in the
 16 previous fiscal year to carry out assessment and
 17 remediation activities under section 128(a).”.

18 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) BROWNFIELDS REVITALIZATION FUNDING.—
 20 Paragraph ~~(15)~~(A) of section 104(k) of the Comprehen-
 21 sive Environmental Response, Compensation, and Liabil-
 22 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
 23 section ~~3(1)~~) is amended by striking “2006” and inserting
 24 “2020”.

25 (b) STATE RESPONSE PROGRAMS.—Section
 26 128(a)(3) of the Comprehensive Environmental Response,

1 Compensation, and Liability Act of 1980 (42 U.S.C.
 2 9628(a)(3)) is amended by striking “2006” and inserting
 3 “2020”.

4 **SECTION 1. SHORT TITLE.**

5 *This Act may be cited as the “Brownfields Utilization,*
 6 *Investment, and Local Development Act of 2017” or the*
 7 *“BUILD Act”.*

8 **SEC. 2. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
 9 **ZATIONS.**

10 *Section 104(k)(1) of the Comprehensive Environ-*
 11 *mental Response, Compensation, and Liability Act of 1980*
 12 *(42 U.S.C. 9604(k)(1)) is amended—*

13 *(1) in subparagraph (G), by striking “or” after*
 14 *the semicolon;*

15 *(2) in subparagraph (H), by striking the period*
 16 *at the end and inserting a semicolon; and*

17 *(3) by adding at the end the following:*

18 *“(I) an organization described in section*
 19 *501(c)(3) of the Internal Revenue Code of 1986*
 20 *and exempt from taxation under section 501(a)*
 21 *of that Code;*

22 *“(J) a limited liability corporation in*
 23 *which all managing members are organizations*
 24 *described in subparagraph (I) or limited liabil-*

1 *ity corporations whose sole members are organi-*
 2 *zations described in subparagraph (I);*

3 *“(K) a limited partnership in which all*
 4 *general partners are organizations described in*
 5 *subparagraph (I) or limited liability corpora-*
 6 *tions whose sole members are organizations de-*
 7 *scribed in subparagraph (I); or*

8 *“(L) a qualified community development*
 9 *entity (as defined in section 45D(c)(1) of the In-*
 10 *ternal Revenue Code of 1986).”.*

11 **SEC. 3. MULTIPURPOSE BROWNFIELDS GRANTS.**

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

15 *(1) by redesignating paragraphs (4) through (9)*
 16 *and (10) through (12) as paragraphs (5) through (10)*
 17 *and (13) through (15), respectively;*

18 *(2) in paragraph (3)(A), in the matter preceding*
 19 *clause (i), by striking “subject to paragraphs (4) and*
 20 *(5)” and inserting “subject to paragraphs (5) and*
 21 *(6)”;* *and*

22 *(3) by inserting after paragraph (3) the fol-*
 23 *lowing:*

24 *“(4) MULTIPURPOSE BROWNFIELDS GRANTS.—*

1 “(A) *IN GENERAL.*—Subject to subpara-
 2 graph (D) and paragraphs (5) and (6), the Ad-
 3 ministrators shall establish a program to provide
 4 multipurpose grants to an eligible entity based
 5 on the considerations under paragraph (3)(C), to
 6 carry out inventory, characterization, assess-
 7 ment, planning, or remediation activities at 1 or
 8 more brownfield sites in a proposed area.

9 “(B) *GRANT AMOUNTS.*—

10 “(i) *INDIVIDUAL GRANT AMOUNTS.*—
 11 Each grant awarded under this paragraph
 12 shall not exceed \$950,000.

13 “(ii) *CUMULATIVE GRANT AMOUNTS.*—
 14 The total amount of grants awarded for
 15 each fiscal year under this paragraph shall
 16 not exceed 15 percent of the funds made
 17 available for the fiscal year to carry out
 18 this subsection.

19 “(C) *CRITERIA.*—In awarding a grant
 20 under this paragraph, the Administrator shall
 21 consider the extent to which an eligible entity is
 22 able—

23 “(i) to provide an overall plan for revi-
 24 talization of the 1 or more brownfield sites

1 *in the proposed area in which the multipur-*
 2 *pose grant will be used;*

3 “(ii) *to demonstrate a capacity to con-*
 4 *duct the range of eligible activities that will*
 5 *be funded by the multipurpose grant; and*

6 “(iii) *to demonstrate that a multipur-*
 7 *pose grant will meet the needs of the 1 or*
 8 *more brownfield sites in the proposed area.*

9 “(D) *CONDITION.—As a condition of receiv-*
 10 *ing a grant under this paragraph, each eligible*
 11 *entity shall expend the full amount of the grant*
 12 *not later than the date that is 3 years after the*
 13 *date on which the grant is awarded to the eligi-*
 14 *ble entity unless the Administrator, in the discre-*
 15 *tion of the Administrator, provides an exten-*
 16 *sion.”.*

17 **SEC. 4. TREATMENT OF CERTAIN PUBLICLY OWNED**
 18 **BROWNFIELD SITES.**

19 *Section 104(k)(2) of the Comprehensive Environ-*
 20 *mental Response, Compensation, and Liability Act of 1980*
 21 *(42 U.S.C. 9604(k)(2)) is amended by adding at the end*
 22 *the following:*

23 “(C) *EXEMPTION FOR CERTAIN PUBLICLY*
 24 *OWNED BROWNFIELD SITES.—Notwithstanding*
 25 *any other provision of law, an eligible entity*

1 that is a governmental entity may receive a
 2 grant under this paragraph for property ac-
 3 quired by that governmental entity prior to Jan-
 4 uary 11, 2002, even if the governmental entity
 5 does not qualify as a bona fide prospective pur-
 6 chaser (as that term is defined in section
 7 101(40)), so long as the eligible entity has not
 8 caused or contributed to a release or threatened
 9 release of a hazardous substance at the prop-
 10 erty.”.

11 **SEC. 5. INCREASED FUNDING FOR REMEDIATION GRANTS.**

12 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
 13 ronmental Response, Compensation, and Liability Act of
 14 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by striking
 15 “\$200,000 for each site to be remediated” and inserting
 16 “\$500,000 for each site to be remediated, which limit may
 17 be waived by the Administrator, but not to exceed a total
 18 of \$650,000 for each site, based on the anticipated level of
 19 contamination, size, or ownership status of the site”.

20 **SEC. 6. ALLOWING ADMINISTRATIVE COSTS FOR GRANT RE-**
 21 **CIPIENTS.**

22 Paragraph (5) of section 104(k) of the Comprehensive
 23 Environmental Response, Compensation, and Liability Act
 24 of 1980 (42 U.S.C. 9604(k)) (as redesignated by section
 25 3(1)) is amended—

- 1 (1) *in subparagraph (B)—*
- 2 *(A) in clause (i)—*
- 3 *(i) by striking subclause (III); and*
- 4 *(ii) by redesignating subclauses (IV)*
- 5 *and (V) as subclauses (III) and (IV), re-*
- 6 *spectively;*
- 7 *(B) by striking clause (ii);*
- 8 *(C) by redesignating clause (iii) as clause*
- 9 *(ii); and*
- 10 *(D) in clause (ii) (as redesignated by sub-*
- 11 *paragraph (C)), by striking “Notwithstanding*
- 12 *clause (i)(IV)” and inserting “Notwithstanding*
- 13 *clause (i)(III)”;* *and*
- 14 (2) *by adding at the end the following:*
- 15 “(E) *ADMINISTRATIVE COSTS.—*
- 16 “(i) *IN GENERAL.—An eligible entity*
- 17 *may use up to 8 percent of the amounts*
- 18 *made available under a grant or loan under*
- 19 *this subsection for administrative costs.*
- 20 “(ii) *RESTRICTION.—For purposes of*
- 21 *clause (i), the term ‘administrative costs’*
- 22 *does not include—*
- 23 “(I) *investigation and identifica-*
- 24 *tion of the extent of contamination;*

1 “(II) design and performance of a
 2 response action; or
 3 “(III) monitoring of a natural re-
 4 source.”.

5 **SEC. 7. SMALL COMMUNITY TECHNICAL ASSISTANCE**
 6 **GRANTS.**

7 Paragraph (7)(A) of section 104(k) of the Comprehen-
 8 sive Environmental Response, Compensation, and Liability
 9 Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by section
 10 3(1)) is amended—

11 (1) by striking “The Administrator may pro-
 12 vide,” and inserting the following:

13 “(i) **DEFINITIONS.**—In this subpara-
 14 graph:

15 “(I) **DISADVANTAGED AREA.**—The
 16 term ‘disadvantaged area’ means an
 17 area with an annual median household
 18 income that is less than 80 percent of
 19 the statewide annual median household
 20 income, as determined by the latest
 21 available decennial census.

22 “(II) **SMALL COMMUNITY.**—The
 23 term ‘small community’ means a com-
 24 munity with a population of not more
 25 than 15,000 individuals, as determined

1 *by the latest available decennial cen-*
 2 *sus.*

3 “(ii) *ESTABLISHMENT OF PROGRAM.*—
 4 *The Administrator shall establish a pro-*
 5 *gram to provide grants that provide,”; and*
 6 *(2) by adding at the end the following:*

7 “(iii) *SMALL OR DISADVANTAGED COM-*
 8 *MUNITY RECIPIENTS.*—

9 “(I) *IN GENERAL.*—*Subject to*
 10 *subclause (II), in carrying out the pro-*
 11 *gram under clause (ii), the Adminis-*
 12 *trator shall use not more than*
 13 *\$600,000 of the amounts made avail-*
 14 *able to carry out this paragraph to*
 15 *provide grants to States that receive*
 16 *amounts under section 128(a) to assist*
 17 *small communities, Indian tribes,*
 18 *rural areas, or disadvantaged areas in*
 19 *achieving the purposes described in*
 20 *clause (ii).*

21 “(II) *LIMITATION.*—*Each grant*
 22 *awarded under subclause (I) shall be*
 23 *not more than \$7,500.”.*

1 **SEC. 8. WATERFRONT BROWNFIELDS GRANTS.**

2 Section 104(k) of the Comprehensive Environmental
3 Response, Compensation, and Liability Act of 1980 (42
4 U.S.C. 9604(k)) is amended by inserting after paragraph
5 (10) (as redesignated by section 3(1)) the following:

6 “(11) WATERFRONT BROWNFIELD SITES.—

7 “(A) DEFINITION OF WATERFRONT
8 BROWNFIELD SITE.—In this paragraph, the term
9 ‘waterfront brownfield site’ means a brownfield
10 site that is adjacent to a body of water or a fed-
11 erally designated floodplain.

12 “(B) REQUIREMENTS.—In providing grants
13 under this subsection, the Administrator shall—

14 “(i) take into consideration whether
15 the brownfield site to be served by the grant
16 is a waterfront brownfield site; and

17 “(ii) give consideration to waterfront
18 brownfield sites.”.

19 **SEC. 9. CLEAN ENERGY BROWNFIELDS GRANTS.**

20 Section 104(k) of the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980 (42
22 U.S.C. 9604(k)) (as amended by section 8) is amended by
23 inserting after paragraph (11) the following:

24 “(12) CLEAN ENERGY PROJECTS AT BROWNFIELD
25 SITES.—

1 “(A) *DEFINITION OF CLEAN ENERGY*
 2 *PROJECT.—In this paragraph, the term ‘clean*
 3 *energy project’ means—*

4 “(i) *a facility that generates renewable*
 5 *electricity from wind, solar, or geothermal*
 6 *energy; and*

7 “(ii) *any energy efficiency improve-*
 8 *ment project at a facility, including com-*
 9 *bined heat and power and district energy.*

10 “(B) *ESTABLISHMENT.—The Administrator*
 11 *shall establish a program to provide grants—*

12 “(i) *to eligible entities to carry out in-*
 13 *ventory, characterization, assessment, plan-*
 14 *ning, feasibility analysis, design, or remedi-*
 15 *ation activities to locate a clean energy*
 16 *project at 1 or more brownfield sites; and*

17 “(ii) *to capitalize a revolving loan*
 18 *fund for the purposes described in clause (i).*

19 “(C) *MAXIMUM AMOUNT.—A grant under*
 20 *this paragraph shall not exceed \$500,000.”.*

21 **SEC. 10. TARGETED FUNDING FOR STATES.**

22 *Paragraph (15) of section 104(k) of the Comprehensive*
 23 *Environmental Response, Compensation, and Liability Act*
 24 *of 1980 (42 U.S.C. 9604(k)) (as redesignated by section*
 25 *3(1)) is amended by adding at the end the following:*

1 “(C) *TARGETED FUNDING.*—Of the amounts
 2 made available under subparagraph (A) for a
 3 fiscal year, the Administrator may use not more
 4 than \$2,000,000 to provide grants to States for
 5 purposes authorized under section 128(a), subject
 6 to the condition that each State that receives a
 7 grant under this subparagraph shall have used
 8 at least 50 percent of the amounts made avail-
 9 able to that State in the previous fiscal year to
 10 carry out assessment and remediation activities
 11 under section 128(a).”.

12 **SEC. 11. CLARIFICATION OF OWNER OR OPERATOR.**

13 (a) *ACQUISITION BY STATE OR LOCAL GOVERNMENT*
 14 *AS SOVEREIGN.*—

15 (1) *OWNER OR OPERATOR.*—Section 101(20) of
 16 the Comprehensive Environmental Response, Com-
 17 pensation, and Liability Act of 1980 (42 U.S.C.
 18 9601(20)) is amended—

19 (A) in subparagraph (A), in the first sen-
 20 tence, by striking “due to bankruptcy” and all
 21 that follows through “local government,” and in-
 22 serting “to a unit of State or local government
 23 through seizure or otherwise in connection with
 24 law enforcement activity; through bankruptcy,
 25 tax delinquency, abandonment, or escheat;

1 *through any other involuntary transfer or acqui-*
 2 *sition; through the exercise of eminent domain*
 3 *authority by purchase or condemnation; or*
 4 *through other circumstances in which the unit of*
 5 *State or local government acquires title by virtue*
 6 *of its function as a sovereign,”;*

7 *(B) in subparagraph (C), by striking “sec-*
 8 *tion 107(a)(3) or (4)” and inserting “paragraph*
 9 *(3) or (4) of section 107(a),”; and*

10 *(C) in subparagraph (D), in the first sen-*
 11 *tence, by striking “which acquired” and all that*
 12 *follows through “by virtue” and inserting “that*
 13 *acquired ownership or control through seizure or*
 14 *otherwise in connection with law enforcement ac-*
 15 *tivity; through bankruptcy, tax delinquency,*
 16 *abandonment, or escheat; through any other in-*
 17 *voluntary transfer or acquisition; through the ex-*
 18 *ercise of eminent domain authority by purchase*
 19 *or condemnation; or through other circumstances*
 20 *in which the government acquires title by vir-*
 21 *tue”.*

22 (2) *CONTRACTUAL RELATIONSHIP.—Section*
 23 *101(35)(A) of the Comprehensive Environmental Re-*
 24 *sponse, Compensation, and Liability Act of 1980 (42*
 25 *U.S.C. 9601(35)(A)) is amended—*

(A) in the matter preceding clause (i), by striking “clause (i), (ii), or (iii)” and inserting “clause (i) or (ii)”;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

(b) *ALASKA NATIVE VILLAGE AND NATIVE CORPORATION RELIEF*.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended—

(1) by redesignating subparagraphs (E) through (G) as subparagraphs (F) through (H), respectively, and indenting appropriately;

(2) by inserting after subparagraph (D) the following:

“(E) *EXCLUSION OF CERTAIN ALASKA NATIVE VILLAGES AND NATIVE CORPORATIONS*.—

“(i) *IN GENERAL*.—The term ‘owner or operator’ does not include—

“(I) a Native village or Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) that received a contaminated facility from the United States Govern-

1 *ment under that Act (43 U.S.C. 1601*
2 *et seq.); or*

3 “(II) *a successor in interest to a*
4 *contaminated facility referred to in*
5 *subclause (I) that was conveyed to the*
6 *successor in interest under section*
7 *14(c) of that Act (43 U.S.C. 1613(c)).*

8 “(ii) *APPLICABILITY.—Clause (i) does*
9 *not apply to any Native village, Native*
10 *Corporation, or successor in interest that*
11 *has caused or contributed to the release or*
12 *threatened release of a hazardous substance*
13 *from a contaminated facility referred to in*
14 *that clause.*

15 “(iii) *LIABILITY.—Any Native village,*
16 *Native Corporation, or successor in interest*
17 *that causes or contributes to the release or*
18 *threatened release of a hazardous substance*
19 *from a contaminated facility referred to in*
20 *clause (i) shall be subject to the provisions*
21 *of this Act in the same manner and to the*
22 *same extent, procedurally and substantively,*
23 *as any nongovernmental entity, including*
24 *liability under section 107.”;*

(3) in subparagraph (G) (as so redesignated), in the matter preceding clause (i), by striking “subparagraph (E)” and inserting “subparagraph (F)”; and

(4) in clause (i)(II) of subparagraph (H) (as so redesignated), by striking “1813)” and inserting “1813))”.

(c) *PROSPECTIVE PURCHASERS AND LESSEES.*—

(1) *BONA FIDE PROSPECTIVE PURCHASER.*—Section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(40)) is amended—

(A) in subparagraph (B)—

(i) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting appropriately;

(ii) in subclause (I) (as so redesignated), by striking “clauses (ii) and (iii)” and inserting “subclauses (II) and (III)”;

(iii) in subclause (II) (as so redesignated), by striking “subparagraph” and inserting “clause”; and

(iv) in subclause (III) (as so redesignated), by striking “subparagraph” and inserting “clause”;

1 (B) in subparagraph (D), by redesignating
 2 clauses (i) through (iii) as subclauses (I) through
 3 (III), respectively, and indenting appropriately;

4 (C) in subparagraph (F), by redesignating
 5 clauses (i) and (ii) as subclauses (I) and (II), re-
 6 spectively, and indenting appropriately;

7 (D) in subparagraph (H)—

8 (i) in clause (i)—

9 (I) in subclause (II), by inserting
 10 “, by a tenancy, by the instruments by
 11 which a leasehold interest in the facil-
 12 ity is created,” after “financed”; and

13 (II) by redesignating subclauses
 14 (I) and (II) as items (aa) and (bb), re-
 15 spectively, and indenting appro-
 16 priately; and

17 (ii) by redesignating clauses (i) and
 18 (ii) as subclauses (I) and (II), respectively,
 19 and indenting appropriately;

20 (E) by redesignating subparagraphs (B)
 21 through (H) as clauses (ii) through (viii), respec-
 22 tively, and indenting appropriately;

23 (F) by striking the paragraph designation
 24 and heading and all that follows through “All

1 *disposal of” in subparagraph (A) and inserting*
 2 *the following:*

3 “(40) *BONA FIDE PROSPECTIVE PURCHASER.*—

4 “(A) *IN GENERAL.*—*The term ‘bona fide*
 5 *prospective purchaser’ means—*

6 “(i) *a person that—*

7 “(I) *after January 11, 2002, ac-*
 8 *quires ownership of a facility; and*

9 “(II) *establishes by a preponder-*
 10 *ance of the evidence each of the criteria*
 11 *described in clauses (i) through (viii)*
 12 *of subparagraph (B);*

13 “(ii) *a tenant of a person described in*
 14 *clause (i);*

15 “(iii) *a tenant of a person that—*

16 “(I) *formerly met the criteria de-*
 17 *scribed in clause (i) but no longer*
 18 *meets that criteria due to a factor un-*
 19 *related to any action of the tenant; and*

20 “(II) *establishes by a preponder-*
 21 *ance of the evidence each of the criteria*
 22 *described in clauses (i), (iii), (iv), (v),*
 23 *(vi), (vii), and (viii) of subparagraph*
 24 *(B); and*

25 “(iv) *a person that—*

1 “(I) holds a leasehold interest in a
2 facility; and

3 “(II) establishes by a preponder-
4 ance of the evidence each of the criteria
5 described in clauses (i) through (viii)
6 of subparagraph (B).

7 “(B) CRITERIA.—The criteria described in
8 this subparagraph are as follows:

9 “(i) DISPOSAL PRIOR TO ACQUI-
10 TION.—All disposal of”; and

11 (G) by adding at the end the following:

12 “(C) SPECIAL RULE.—With respect to a fa-
13 cility, in any case in which the ownership or
14 operational control held by a person is estab-
15 lished by a tenancy or lease, the person shall be
16 considered to be a bona fide prospective pur-
17 chaser only if the person establishes by a prepon-
18 derance of the evidence that the tenancy or lease
19 is not designed to avoid liability under this Act
20 by any person that—

21 “(i) does not meet the criteria applica-
22 ble to that person under subparagraph (B);
23 or

24 “(ii) is liable under paragraph (3) or
25 (4) of section 107(a).”.

1 (2) *LIMITATION ON LIABILITY.*—Section
 2 107(r)(1) of the Comprehensive Environmental Re-
 3 sponse, Compensation, and Liability Act of 1980 (42
 4 U.S.C. 9607(r)(1)) is amended by striking “pur-
 5 chaser’s” and inserting “bona fide prospective pur-
 6 chaser”.

7 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) *BROWNFIELDS REVITALIZATION FUNDING.*—Para-
 9 graph (15)(A) of section 104(k) of the Comprehensive Envi-
 10 ronmental Response, Compensation, and Liability Act of
 11 1980 (42 U.S.C. 9604(k)) (as redesignated by section 3(1))
 12 is amended by striking “2006” and inserting “2020”.

13 (b) *STATE RESPONSE PROGRAMS.*—Section 128(a)(3)
 14 of the Comprehensive Environmental Response, Compensa-
 15 tion, and Liability Act of 1980 (42 U.S.C. 9628(a)(3)) is
 16 amended by striking “2006” and inserting “2020”.

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[Report No. 115–148]

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to modify provisions relating to grants, and for other purposes.

SEPTEMBER 7, 2017

Reported with an amendment