

# Calendar No. 416

113TH CONGRESS  
2D SESSION

# S. 491

[Report No. 113-186]

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 7, 2013

Mr. LAUTENBERG (for himself, Mr. INHOFE, Mr. UDALL of New Mexico, Mr. CRAPO, Ms. HIRONO, Mr. MERKLEY, Mr. BROWN, Mr. SCHATZ, Mr. WHITEHOUSE, Mrs. GILLIBRAND, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 5, 2014

Reported by Mrs. BOXER, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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## 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 2013” 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-

1           tions whose sole members are organizations de-  
2           scribed in subparagraph (I); or

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

6 **SEC. 3. MULTIPURPOSE BROWNFIELDS GRANTS.**

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

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

13           (2) in paragraph (3)(A), by striking “subject to  
14           paragraphs (4) and (5)” and inserting “subject to  
15           paragraphs (5) and (6)”; and

16           (3) by inserting after paragraph (3) the fol-  
17           lowing:

18                   “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

19                           “(A) IN GENERAL.—Subject to subpara-  
20                   graph (D) and paragraphs (5) and (6), the Ad-  
21                   ministrators shall establish a program to provide  
22                   multipurpose grants to an eligible entity based  
23                   on the considerations under paragraph (3)(C),  
24                   to carry out inventory, characterization, assess-

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

3           “(B) GRANT AMOUNTS.—

4           “(i) INDIVIDUAL GRANT AMOUNTS.—

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

7           “(ii)           CUMULATIVE           GRANT

8           AMOUNTS.—The total amount of grants  
9           awarded for each fiscal year under this  
10          paragraph shall not exceed 15 percent of  
11          the funds made available for the fiscal year  
12          to carry out this subsection.

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

17                 “(i) to provide an overall plan for re-  
18                 vitalization of the 1 or more brownfield  
19                 sites in the proposed area in which the  
20                 multipurpose grant will be used;

21                 “(ii) to demonstrate a capacity to con-  
22                 duct the range of eligible activities that  
23                 will be funded by the multipurpose grant;  
24                 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 redesi-  
8 gnated by section 3(1)) is amended—

9 (1) by striking “The Administrator” and insert-  
10 ing the following:

11 “(i) IN GENERAL.—The Adminis-  
12 trator”; and

13 (2) by inserting after clause (i) (as added by  
14 paragraph (1)) the following:

15 “(ii) SMALL COMMUNITY RECIPI-  
16 ENTS.—In carrying out the program under  
17 clause (i), the Administrator shall give pri-  
18 ority to small communities, Indian tribes,  
19 rural areas, or low-income areas with a  
20 population of not more than 15,000 indi-  
21 viduals, as determined by the latest avail-  
22 able decennial census.”.

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

1                   “(i) *DEFINITIONS.*—*In this subpara-*  
2                   *graph:*

3                   “(I) *DISADVANTAGED AREA.*—*The*  
4                   *term ‘disadvantaged area’ means an*  
5                   *area with an annual median household*  
6                   *income that is less than 80 percent of*  
7                   *the State-wide annual median house-*  
8                   *hold income, as determined by the lat-*  
9                   *est available decennial census.*

10                   “(II) *SMALL COMMUNITY.*—*The*  
11                   *term ‘small community’ means a com-*  
12                   *munity with a population of not more*  
13                   *than 15,000 individuals, as determined*  
14                   *by the latest available decennial cen-*  
15                   *sus.*

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

20                   “(iii) *SMALL OR DISADVANTAGED COM-*  
21                   *MUNITY RECIPIENTS.*—

22                   “(I) *IN GENERAL.*—*Subject to*  
23                   *subclause (II), in carrying out the pro-*  
24                   *gram under clause (ii), the Adminis-*  
25                   *trator shall use not more than*

1                   \$600,000 of the amounts made avail-  
 2                   able to carry out this paragraph to  
 3                   provide grants to States that receive  
 4                   amounts under section 128(a) to assist  
 5                   small communities, Indian tribes,  
 6                   rural areas, or disadvantaged areas in  
 7                   achieving the purposes described in  
 8                   clause (i).

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

12 **SEC. 8. WATERFRONT BROWNFIELDS GRANTS.**

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

17                   “(11) WATERFRONT BROWNFIELD SITES.—

18                   “(A) DEFINITION OF WATERFRONT  
 19   BROWNFIELD SITE.—In this paragraph, the  
 20   term ‘waterfront brownfield site’ means a  
 21   brownfield site that is adjacent to a body of  
 22   water or a federally designated floodplain.

23                   “(B) REQUIREMENTS.—In providing  
 24   grants under this subsection, the Administrator  
 25   shall—

1                   “(i) take into consideration whether  
2                   the brownfield site to be served by the  
3                   grant is a waterfront brownfield site; and

4                   “(ii) give consideration to waterfront  
5                   brownfield sites.”.

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

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

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

13                   “(A) DEFINITION OF CLEAN ENERGY  
14 PROJECT.—In this paragraph, the term ‘clean  
15 energy project’ means—

16                   “(i) a facility that generates renew-  
17 able electricity from wind, solar, or geo-  
18 thermal energy; and

19                   “(ii) any energy efficiency improve-  
20 ment project at a facility, including com-  
21 bined heat and power and district energy.

22                   “(B) ESTABLISHMENT.—The Adminis-  
23 trator shall establish a program to provide  
24 grants—

1           “(i) to eligible entities to carry out in-  
2           ventory, characterization, assessment,  
3           planning, feasibility analysis, design, or re-  
4           mediation activities to locate a clean en-  
5           ergy project at 1 or more brownfield sites;  
6           and

7           “(ii) to capitalize a revolving loan  
8           fund for the purposes described in clause  
9           (i).

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

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

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

18           “(C) TARGETED FUNDING.—Of the  
19           amounts made available under subparagraph  
20           (A) for a fiscal year, the Administrator may use  
21           not more than \$2,000,000 to provide grants to  
22           States for purposes authorized under section  
23           128(a), subject to the condition that each State  
24           that receives a grant under this subparagraph  
25           shall have used at least 50 percent of the

1 amounts made available to that State in the  
2 previous fiscal year to carry out assessment and  
3 remediation activities under section 128(a).”.

4 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) BROWNFIELDS REVITALIZATION FUNDING.—  
6 Paragraph (15)(A) of section 104(k) of the Comprehen-  
7 sive Environmental Response, Compensation, and Liabil-  
8 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by  
9 section 3(1)) is amended by striking “2006” and inserting  
10 “2016”.

11 (b) STATE RESPONSE PROGRAMS.—Section  
12 128(a)(3) of the Comprehensive Environmental Response,  
13 Compensation, and Liability Act of 1980 (42 U.S.C.  
14 9628(a)(3)) is amended by striking “2006” and inserting  
15 “2016”.

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## **A BILL**

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

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JUNE 5, 2014

Reported with amendments