

113TH CONGRESS
1ST SESSION

S. 491

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

MARCH 7, 2013

Mr. LAUTENBERG (for himself, Mr. INHOFE, Mr. UDALL of New Mexico, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Brownfields Utiliza-
5 tion, Investment, and Local Development Act of 2013” or
6 the “BUILD Act”.

1 **SEC. 2. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
2 **ZATIONS.**

3 Section 104(k)(1) of the Comprehensive Environ-
4 mental Response, Compensation, and Liability Act of
5 1980 (42 U.S.C. 9604(k)(1)) is amended—

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

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

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

11 “(I) an organization described in section
12 501(c)(3) of the Internal Revenue Code of 1986
13 and exempt from taxation under section 501(a)
14 of that Code;

15 “(J) a limited liability corporation in which
16 all managing members are organizations de-
17 scribed in subparagraph (I) or limited liability
18 corporations whose sole members are organiza-
19 tions described in subparagraph (I);

20 “(K) a limited partnership in which all
21 general partners are organizations described in
22 subparagraph (I) or limited liability corpora-
23 tions whose sole members are organizations de-
24 scribed in subparagraph (I); or

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

4 **SEC. 3. MULTIPURPOSE BROWNFIELDS GRANTS.**

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

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

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

14 (3) by inserting after paragraph (3) the fol-
15 lowing:

16 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

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

25 “(B) GRANT AMOUNTS.—

1 “(i) INDIVIDUAL GRANT AMOUNTS.—
2 Each grant awarded under this paragraph
3 shall not exceed \$950,000.

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

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

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

18 “(ii) to demonstrate a capacity to con-
19 duct the range of eligible activities that
20 will be funded by the multipurpose grant;
21 and

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

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

9 **SEC. 4. TREATMENT OF CERTAIN PUBLICLY OWNED**
10 **BROWNFIELD SITES.**

11 Section 104(k)(2) of the Comprehensive Environ-
12 mental Response, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9604(k)(2)) is amended by adding at the
14 end the following:

15 “(C) EXEMPTION FOR CERTAIN PUBLICLY
16 OWNED BROWNFIELD SITES.—Notwithstanding
17 any other provision of law, an eligible entity
18 that is a governmental entity may receive a
19 grant under this paragraph for property ac-
20 quired by that governmental entity prior to
21 January 11, 2002, even if the governmental en-
22 tity does not qualify as a bona fide prospective
23 purchaser (as that term is defined in section
24 101(40)).”.

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

2 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
 3 ronmental Response, Compensation, and Liability Act of
 4 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
 5 ing “\$200,000 for each site to be remediated” and insert-
 6 ing “\$500,000 for each site to be remediated, which limit
 7 may be waived by the Administrator, but not to exceed
 8 a total of \$650,000 for each site, based on the anticipated
 9 level of contamination, size, or ownership status of the
 10 site”.

11 **SEC. 6. ALLOWING ADMINISTRATIVE COSTS FOR GRANT**
 12 **RECIPIENTS.**

13 Paragraph (5) 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—

17 (1) in subparagraph (B)—

18 (A) in clause (i)—

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

20 (ii) by redesignating subclauses (IV)

21 and (V) as subclauses (III) and (IV), re-
 22 spectively;

23 (B) by striking clause (ii);

24 (C) by redesignating clause (iii) as clause
 25 (ii); and

1 (D) in clause (ii) (as redesignated by sub-
2 paragraph (C)), by striking “Notwithstanding
3 clause (i)(IV)” and inserting “Notwithstanding
4 clause (i)(III)”;

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

6 “(E) ADMINISTRATIVE COSTS.—

7 “(i) IN GENERAL.—An eligible entity
8 may use up to 8 percent of the amounts
9 made available under a grant or loan
10 under this subsection for administrative
11 costs.

12 “(ii) RESTRICTION.—For purposes of
13 clause (i), the term ‘administrative costs’
14 does not include—

15 “(I) investigation and identifica-
16 tion of the extent of contamination;

17 “(II) design and performance of
18 a response action; or

19 “(III) monitoring of a natural re-
20 source.”.

21 **SEC. 7. SMALL COMMUNITY TECHNICAL ASSISTANCE.**

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

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

3 “(i) IN GENERAL.—The Adminis-
4 trator”; and

5 (2) by inserting after clause (i) (as added by
6 paragraph (1)) the following:

7 “(ii) SMALL COMMUNITY RECIPI-
8 ENTS.—In carrying out the program under
9 clause (i), the Administrator shall give pri-
10 ority to small communities, Indian tribes,
11 rural areas, or low-income areas with a
12 population of not more than 15,000 indi-
13 viduals, as determined by the latest avail-
14 able decennial census.”.

15 **SEC. 8. WATERFRONT BROWNFIELDS GRANTS.**

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

20 “(11) WATERFRONT BROWNFIELD SITES.—

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

1 “(B) REQUIREMENTS.—In providing
2 grants under this subsection, the Administrator
3 shall—

4 “(i) take into consideration whether
5 the brownfield site to be served by the
6 grant is a waterfront brownfield site; and

7 “(ii) give consideration to waterfront
8 brownfield sites.”.

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

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

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

16 “(A) DEFINITION OF CLEAN ENERGY
17 PROJECT.—In this paragraph, the term ‘clean
18 energy project’ means—

19 “(i) a facility that generates renew-
20 able electricity from wind, solar, or geo-
21 thermal energy; and

22 “(ii) any energy efficiency improve-
23 ment project at a facility, including com-
24 bined heat and power and district energy.

1 “(B) ESTABLISHMENT.—The Adminis-
2 trator shall establish a program to provide
3 grants—

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

10 “(ii) to capitalize a revolving loan
11 fund for the purposes described in clause
12 (i).

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

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

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

21 “(C) TARGETED FUNDING.—Of the
22 amounts made available under subparagraph
23 (A) for a fiscal year, the Administrator may use
24 not more than \$2,000,000 to provide grants to
25 States for purposes authorized under section

1 128(a), subject to the condition that each State
2 that receives a grant under this subparagraph
3 shall have used at least 50 percent of the
4 amounts made available to that State in the
5 previous fiscal year to carry out assessment and
6 remediation activities under section 128(a).”.

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) BROWNFIELDS REVITALIZATION FUNDING.—
9 Paragraph (15)(A) of section 104(k) of the Comprehen-
10 sive Environmental Response, Compensation, and Liabil-
11 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
12 section 3(1)) is amended by striking “2006” and inserting
13 “2016”.

14 (b) STATE RESPONSE PROGRAMS.—Section
15 128(a)(3) of the Comprehensive Environmental Response,
16 Compensation, and Liability Act of 1980 (42 U.S.C.
17 9628(a)(3)) is amended by striking “2006” and inserting
18 “2016”.

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