

115TH CONGRESS  
1ST SESSION

# S. 822

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

APRIL 4, 2017

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

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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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Brownfields Utiliza-  
5 tion, Investment, and Local Development Act of 2017” 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), in the matter pre-  
12          ceding clause (i), by striking “subject to paragraphs  
13          (4) and (5)” and inserting “subject to paragraphs  
14          (5) and (6)”; and

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

17           “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

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

1 “(B) GRANT AMOUNTS.—

2 “(i) INDIVIDUAL GRANT AMOUNTS.—

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

5 “(ii) CUMULATIVE GRANT

6 AMOUNTS.—The total amount of grants

7 awarded for each fiscal year under this

8 paragraph shall not exceed 15 percent of

9 the funds made available for the fiscal year

10 to carry out this subsection.

11 “(C) CRITERIA.—In awarding a grant

12 under this paragraph, the Administrator shall

13 consider the extent to which an eligible entity is

14 able—

15 “(i) to provide an overall plan for re-

16 vitalization of the 1 or more brownfield

17 sites in the proposed area in which the

18 multipurpose grant will be used;

19 “(ii) to demonstrate a capacity to con-

20 duct the range of eligible activities that

21 will be funded by the multipurpose grant;

22 and

23 “(iii) to demonstrate that a multipur-

24 pose grant will meet the needs of the 1 or

25 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)), so long as the eligible entity has not  
25           caused or contributed to a release or threatened

1 release of a hazardous substance at the prop-  
 2 erty.”.

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

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

13 **SEC. 6. ALLOWING ADMINISTRATIVE COSTS FOR GRANT**  
 14 **RECIPIENTS.**

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

19 (1) in subparagraph (B)—

20 (A) in clause (i)—

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

22 (ii) by redesignating subclauses (IV)

23 and (V) as subclauses (III) and (IV), re-  
 24 spectively;

25 (B) by striking clause (ii);

1 (C) by redesignating clause (iii) as clause  
2 (ii); and

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

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

8 “(E) ADMINISTRATIVE COSTS.—

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

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

17 “(I) investigation and identifica-  
18 tion of the extent of contamination;

19 “(II) design and performance of  
20 a response action; or

21 “(III) monitoring of a natural re-  
22 source.”.

1 **SEC. 7. SMALL COMMUNITY TECHNICAL ASSISTANCE**  
 2 **GRANTS.**

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

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

9 “(i) DEFINITIONS.—In this subpara-  
 10 graph:

11 “(I) DISADVANTAGED AREA.—  
 12 The term ‘disadvantaged area’ means  
 13 an area with an annual median house-  
 14 hold income that is less than 80 per-  
 15 cent of the statewide annual median  
 16 household income, as determined by  
 17 the latest available decennial census.

18 “(II) SMALL COMMUNITY.—The  
 19 term ‘small community’ means a com-  
 20 munity with a population of not more  
 21 than 15,000 individuals, as deter-  
 22 mined by the latest available decennial  
 23 census.

24 “(ii) ESTABLISHMENT OF PRO-  
 25 GRAM.—The Administrator shall establish



1 a program to provide grants that pro-  
2 vide,”; and

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

4 “(iii) SMALL OR DISADVANTAGED  
5 COMMUNITY RECIPIENTS.—

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

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

21 **SEC. 8. WATERFRONT BROWNFIELDS GRANTS.**

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

1 “(11) WATERFRONT BROWNFIELD SITES.—

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

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

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

13 “(ii) give consideration to waterfront  
14 brownfield sites.”.

15 **SEC. 9. CLEAN ENERGY 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)) (as amended by section 8) is amended  
19 by inserting after paragraph (11) the following:

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

22 “(A) DEFINITION OF CLEAN ENERGY  
23 PROJECT.—In this paragraph, the term ‘clean  
24 energy project’ means—

1 “(i) a facility that generates renew-  
2 able electricity from wind, solar, or geo-  
3 thermal energy; and

4 “(ii) any energy efficiency improve-  
5 ment project at a facility, including com-  
6 bined heat and power and district energy.

7 “(B) ESTABLISHMENT.—The Adminis-  
8 trator shall establish a program to provide  
9 grants—

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

16 “(ii) to capitalize a revolving loan  
17 fund for the purposes described in clause  
18 (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 Comprehen-  
23 sive Environmental Response, Compensation, and Liabil-  
24 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by

1 section 3(1)) is amended by adding at the end the fol-  
2 lowing:

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

14 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

15       (a) BROWNFIELDS REVITALIZATION FUNDING.—  
16 Paragraph (15)(A) 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 striking “2006” and inserting  
20 “2020”.

21       (b) STATE RESPONSE PROGRAMS.—Section  
22 128(a)(3) of the Comprehensive Environmental Response,  
23 Compensation, and Liability Act of 1980 (42 U.S.C.

1 9628(a)(3)) is amended by striking “2006” and inserting  
2 “2020”.

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