

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1758**

OFFERED BY ~~Mr. [REDACTED]~~
MR. KATKO OF NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Brownfields Reauthor-
3 ization Act of 2017”.

**4 SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERN-
5 MENTAL ENTITIES.**

6 Section 101(20)(D) of the Comprehensive Environ-
7 mental Response, Compensation, and Liability Act of
8 1980 (42 U.S.C. 9601(20)(D)) is amended—

9 (1) by striking “ownership or control” and all
10 that follows through “by virtue” and inserting “own-
11 ership or control through seizure or otherwise in
12 connection with law enforcement activity, or through
13 bankruptcy, tax delinquency, abandonment, or other
14 circumstances in which the government acquires title
15 by virtue”; and

16 (2) by inserting “or fails to exercise appropriate
17 care (as described in paragraph (40)(D)) following
18 acquisition,” after “from the facility,”.

1 **SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.**

2 Section 101(39)(D)(ii)(II) of the Comprehensive En-
3 vironmental Response, Compensation, and Liability Act of
4 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by
5 amending item (bb) to read as follows:

6 “(bb) is a site for which there is no
7 viable responsible party and that is deter-
8 mined by the Administrator or the State,
9 as appropriate, to be a site that will be as-
10 sessed, investigated, or cleaned up by a
11 person that is not potentially liable for
12 cleaning up the site under this Act or any
13 other law pertaining to the cleanup of pe-
14 troleum products; and”.

15 **SEC. 4. CLARIFICATION OF LEASEHOLDER INTEREST.**

16 Section 101(40) of the Comprehensive Environmental
17 Response, Compensation, and Liability Act of 1980 (42
18 U.S.C. 9601(40)) is amended—

19 (1) in the matter preceding subparagraph (A),
20 by striking “(or a tenant of a person) that acquires
21 ownership of” and inserting “who acquires owner-
22 ship of, or a leasehold interest in,”;

23 (2) in subparagraph (A), by inserting “or the
24 leasehold interest in the facility” before the period at
25 the end;

26 (3) in subparagraph (B)—

1 (Δ) in clause (ii), by inserting “with re-
2 spect to a person who acquires ownership of a
3 facility. The Administrator shall establish
4 standards and practices with respect to a per-
5 son who acquires a leasehold interest in a facil-
6 ity” before the period at the end; and

7 (B) in clause (iii), by inserting “, or acqui-
8 sition of a leasehold interest,” after “time of
9 purchase”;

10 (4) in subparagraph (H)(i)(II), by inserting “,
11 by the instruments by which the leasehold interest in
12 the facility is acquired after January 11, 2002,”
13 after “financed”; and

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

15 “(I) LEASEHOLDERS.—In the case of a
16 person holding a leasehold interest in a facil-
17 ity—

18 “(i) the leasehold interest in the facil-
19 ity—

20 “(I) is for a term of not less than
21 5 years; and

22 “(II) grants the person control
23 of, and access to, the facility; and

1 “(ii) the person is responsible for the
2 management of all hazardous substances
3 at the facility.”.

4 **SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
5 **ZATIONS.**

6 (a) NONPROFIT ORGANIZATIONS.—Section 104(k)(1)
7 of the Comprehensive Environmental Response, Com-
8 pensation, and Liability Act of 1980 (42 U.S.C.
9 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

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

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

7 (b) CONFORMING AMENDMENTS.—Section 104(k)(3)
8 of the Comprehensive Environmental Response, Com-
9 pensation, and Liability Act of 1980 (42 U.S.C.
10 9604(k)(3)) is amended—

11 (1) in subparagraph (A)(ii)—

12 (A) by striking “or nonprofit organiza-
13 tions”; and

14 (B) by striking “entity or organization”
15 and inserting “eligible entity”; and

16 (2) in subparagraph (B)(ii)—

17 (A) by striking “or other nonprofit organi-
18 zation”; and

19 (B) by striking “or nonprofit organiza-
20 tion”.

21 **SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD**
22 **SITES.**

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

1 (1) in paragraph (2), by adding at the end the
2 following:

3 “(C) EXEMPTION FOR CERTAIN PUBLICLY
4 OWNED BROWNFIELD SITES.—Notwithstanding
5 any other provision of law, an eligible entity de-
6 scribed in any of subparagraphs (A) through
7 (H) of paragraph (1) may receive a grant under
8 this paragraph for property acquired by that el-
9 igible entity prior to January 11, 2002, even if
10 such eligible entity does not qualify as a bona
11 fide prospective purchaser, so long as the eligi-
12 ble entity has not caused or contributed to a re-
13 lease or threatened release of a hazardous sub-
14 stance at the property.”;

15 (2) in paragraph (3), by adding at the end the
16 following:

17 “(E) EXEMPTION FOR CERTAIN PUBLICLY
18 OWNED BROWNFIELD SITES.—Notwithstanding
19 any other provision of law, an eligible entity de-
20 scribed in any of subparagraphs (A) through
21 (H) of paragraph (1) may receive a grant or
22 loan under this paragraph for property acquired
23 by that eligible entity prior to January 11,
24 2002, even if such eligible entity does not qual-
25 ify as a bona fide prospective purchaser, so long

1 as the eligible entity has not caused or contrib-
2 uted to a release or threatened release of a haz-
3 ardous substance at the property.”; and
4 (3) in paragraph (4)(B)(iii)—
5 (A) by striking “up to 25 percent of the”;
6 and
7 (B) by inserting “described in any of sub-
8 paragraphs (A) through (H) of paragraph (1)”
9 after “eligible entities”.

10 **SEC. 7. REMEDIATION GRANT ENHANCEMENT.**

11 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
12 ronmental Response, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
14 ing “\$200,000 for each site to be remediated” and insert-
15 ing “\$600,000 for each site to be remediated, which limit
16 may be waived by the Administrator, but not to exceed
17 a total of \$950,000 for each site, based on the anticipated
18 level of contamination, size, or ownership status of the
19 site”.

20 **SEC. 8. MULTIPURPOSE BROWNFIELDS GRANTS.**

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

24 (1) by redesignating paragraphs (4) through
25 (12) as paragraphs (5) through (13), respectively;

1 (2) in paragraph (3)(A), by striking “Subject to
2 paragraphs (4) and (5)” and inserting “Subject to
3 paragraphs (5) and (6)”;

4 (3) by inserting after paragraph (3) the fol-
5 lowing:

6 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (D) and paragraphs (5) and (6), the Ad-
9 ministrator shall establish a program to provide
10 multipurpose grants to an eligible entity based
11 on the criteria under subparagraph (C) and the
12 considerations under paragraph (3)(C), to carry
13 out inventory, characterization, assessment,
14 planning, or remediation activities at 1 or more
15 brownfield sites in an area proposed by the eli-
16 gible entity.

17 “(B) GRANT AMOUNTS.—

18 “(i) INDIVIDUAL GRANT AMOUNTS.—

19 A grant awarded under this paragraph
20 may not exceed \$950,000.

21 “(ii) CUMULATIVE GRANT
22 AMOUNTS.—The total amount of grants
23 awarded for each fiscal year under this
24 paragraph may not exceed 15 percent of

1 the amounts made available for the fiscal
2 year to carry out this subsection.

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

7 “(i) to provide an overall plan for re-
8 vitalization of the 1 or more brownfield
9 sites in the proposed area in which the
10 multipurpose grant will be used;

11 “(ii) to demonstrate a capacity to con-
12 duct the range of activities that will be
13 funded by the multipurpose grant; and

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

17 “(D) CONDITION.—As a condition of re-
18 ceiving a grant under this paragraph, each eli-
19 gible entity shall expend the full amount of the
20 grant not later than the date that is 5 years
21 after the date on which the grant is awarded to
22 the eligible entity, unless the Administrator pro-
23 vides an extension.”; and

24 (4) by striking “(2) or (3)” each place it ap-
25 pears and inserting “(2), (3), or (4)”.

1 **SEC. 9. ADMINISTRATIVE COSTS FOR GRANT RECIPIENTS.**

2 Paragraph (5) 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 8 of this Act) is amended—

6 (1) in subparagraph (B)—

7 (A) in clause (i)—

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

9 (ii) by redesignating subclauses (IV)
10 and (V) as subclauses (III) and (IV), re-
11 spectively;

12 (B) by striking clause (ii);

13 (C) by redesignating clause (iii) as clause
14 (ii); and

15 (D) in clause (ii) (as redesignated by sub-
16 paragraph (C) of this paragraph), by striking
17 “Notwithstanding clause (i)(IV)” and inserting
18 “Notwithstanding clause (i)(III)”; and

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

20 “(E) ADMINISTRATIVE COSTS.—

21 “(i) IN GENERAL.—An eligible entity
22 may use up to 5 percent of the amounts
23 made available under a grant or loan
24 under this subsection for administrative
25 costs.

1 “(ii) RESTRICTION.—For purposes of
2 clause (i), the term ‘administrative costs’
3 does not include—

4 “(I) investigation and identifica-
5 tion of the extent of contamination of
6 a brownfield site;

7 “(II) design and performance of
8 a response action; or

9 “(III) monitoring of a natural re-
10 source.”.

11 **SEC. 10. BROWNFIELDS FUNDING.**

12 Paragraph (13) of section 104(k) of the Comprehen-
13 sive Environmental Response, Compensation, and Liabil-
14 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
15 section 8 of this Act) is amended to read as follows:

16 “(13) AUTHORIZATION OF APPROPRIATIONS.—
17 There is authorized to be appropriated to carry out
18 this subsection \$200,000,000 for each of fiscal years
19 2018 through 2022.”.

20 **SEC. 11. STATE RESPONSE PROGRAM FUNDING.**

21 Section 128(a)(3) of the Comprehensive Environ-
22 mental Response, Compensation, and Liability Act of
23 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-
24 lows:

1 “(3) FUNDING.—There is authorized to be ap-
2 propriated to carry out this subsection \$50,000,000
3 for each of fiscal years 2018 through 2022.”.

