

AMENDMENT TO S. 611
OFFERED BY MR. PALLONE OF NEW JERSEY

Page 5, after line 8, insert the following:

1 SEC. 5. CLARIFICATION OF STATE OR LOCAL GOVERNMENT
2 OWNERSHIP.

3 Section 101(20)(D) of the Comprehensive Environ-
4 mental Response, Compensation, and Liability Act of
5 1980 (42 U.S.C. 9601(20)(D)) is amended by striking
6 “involuntarily” after “acquired ownership or control”.

7 SEC. 6. NONPROFIT ORGANIZATION ELIGIBILITY.

8 (a) DEFINITION OF ELIGIBLE ENTITY.—Section
9 104(k)(1) of the Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980 (42 U.S.C.
11 9604(k)(1)) is amended—

12 (1) in subparagraph (G), by striking “Alaska;
13 or” and inserting “Alaska;”;

14 (2) in subparagraph (H), by striking “Indian
15 community.” and inserting “Indian community; or”;
16 and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(I) a nonprofit organization, including—

1 “(i) an organization described in sec-
2 tion 501(c)(3) of the Internal Revenue
3 Code of 1986 and exempt from taxation
4 under section 501(a) of such Code;

5 “(ii) a limited liability corporation in
6 which all managing members or all mem-
7 bers are organizations described under
8 clause (i);

9 “(iii) a limited partnership in which
10 all general partners are—

11 “(I) organizations described
12 under clause (i);

13 “(II) limited liability corporations
14 whose members are all organizations
15 described under clause (i); or

16 “(III) any combination of sub-
17 clauses (I) and (II); or

18 “(iv) a qualified community develop-
19 ment entity, as defined in section
20 45D(c)(1) of the Internal Revenue Code of
21 1986.”.

22 (b) CONFORMING AMENDMENTS.—Section 104(k) of
23 the Comprehensive Environmental Response, Compensa-
24 tion, and Liability Act of 1980 (42 U.S.C. 9604(k)) is
25 amended—

1 (1) in paragraph (3)—

2 (A) in subparagraph (A)(ii)—

3 (i) by striking “or nonprofit organiza-
4 tions”; and

5 (ii) by striking “or organization”; and

6 (B) in subparagraph (B)(ii)—

7 (i) by striking “or other nonprofit or-
8 ganization”; and

9 (ii) by striking “or nonprofit organiza-
10 tion”; and

11 (2) in paragraph (6)(A), by striking “or non-
12 profit organizations”.

13 **SEC. 7. INCREASED FUNDING LIMIT FOR DIRECT REMEDI-**
14 **ATION.**

15 Section 104(k)(3)(A) of the Comprehensive Environ-
16 mental Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9604(k)(3)(A)), as amended in section
18 6(b), is further amended—

19 (1) in clause (ii)—

20 (A) by striking “\$200,000” and inserting
21 “\$750,000”; and

22 (B) by inserting “, except that during the
23 period of fiscal years 2016 through 2020, the
24 President may, on not more than 2 occasions,
25 waive such \$750,000 limitation to permit the

1 entity to receive a grant in an amount not to
2 exceed \$1,500,000 for a site to be remediated
3 based on special circumstances, as determined
4 by the President.” after “site to be remedi-
5 ated”; and

6 (2) by adding after clause (ii) the following:

7 “The President may transfer any duties under this sub-
8 paragraph to the Administrator.”.

9 **SEC. 8. INDIRECT COSTS.**

10 Subparagraph (B) of section 104(k)(4) of the Com-
11 prehensive Environmental Response, Compensation, and
12 Liability Act of 1980 (42 U.S.C. 9604(k)(4)) is amend-
13 ed—

14 (1) in clause (i), by striking subclause (III) and
15 redesignating subclauses (IV) and (V) as subclauses
16 (III) and (IV), respectively; and

17 (2) by striking clause (ii) and inserting the fol-
18 lowing:

19 “(ii) ACCEPTABLE USE OF FUNDS.—

20 “(I) IN GENERAL.—In addition
21 to other acceptable purposes described
22 in this subsection, a grant or loan
23 under this subsection may be used for
24 payment for the costs of—

1 “(aa) investigation and iden-
2 tification of the extent of con-
3 tamination;

4 “(bb) design and perform-
5 ance of a response action; and

6 “(cc) monitoring of a nat-
7 ural resource.

8 “(II) INDIRECT COSTS.—Not
9 more than 10 percent of a grant or
10 loan under this subsection may be
11 used for the payment of indirect
12 costs.”.

13 **SEC. 9. ELIGIBILITY FOR FUNDING FOR BROWNFIELD**
14 **SITES ACQUIRED PRIOR TO JANUARY 11, 2002.**

15 Subparagraph (B) of section 104(k)(4) of the Com-
16 prehensive Environmental Response, Compensation, and
17 Liability Act of 1980 (42 U.S.C. 9604(k)(4)), as amended
18 in section 8 of this Act, is further amended by striking
19 clause (iii) and inserting the following:

20 “(iii) EXCEPTIONS.—Notwithstanding
21 clause (i)(III), the Administrator may use
22 funds made available to carry out this sub-
23 section for one or more of the following:

24 “(I) To make a grant under
25 paragraph (2) to an eligible entity

1 that acquired a brownfield site to be
2 covered by the grant on or before
3 January 11, 2002.

4 “(II) To make a grant under
5 paragraph (3) to an eligible entity if
6 such eligible entity, except as other-
7 wise provided in this subclause, satis-
8 fies all of the elements set forth in
9 section 101(40) to qualify as a bona
10 fide prospective purchaser, except that
11 the date of acquisition of the
12 brownfield site was on or before Janu-
13 ary 11, 2002. The Administrator may
14 make exceptions with regard to com-
15 pliance with the elements set forth in
16 section 101(40) based on mitigating
17 circumstances, including any of the
18 following:

19 “(aa) The brownfield site
20 was acquired prior to May 31,
21 1997, and compliance with all
22 appropriate inquiry (as required
23 under section 101(40)(B)) can-
24 not be fairly determined.

1 “(bb) A current site assess-
2 ment of the brownfield site has
3 found no evidence that the eligi-
4 ble entity caused, exacerbated, or
5 failed to exercise appropriate care
6 (as required under section
7 101(40)(D)) with respect to con-
8 tamination found at the site.

9 “(cc) The eligible entity held
10 a public hearing with respect to
11 the grant application and no sub-
12 stantive testimony was offered
13 that indicates that the eligible
14 entity caused, exacerbated, or
15 failed to exercise appropriate care
16 (as required under section
17 101(40)(D)) with respect to con-
18 tamination found at the site.

19 “(dd) There are other cir-
20 cumstances that make compli-
21 ance with the elements set forth
22 in section 101(40) impractical
23 and not in the public interest.

1 “(III) To make a grant or loan
2 under this subsection to an eligible
3 entity if such entity—

4 “(aa) acquired ownership of
5 the brownfield site at least 30
6 years prior to the date of the
7 grant or loan, but not later than
8 May 31, 1997;

9 “(bb) did not cause or con-
10 tribute to the contamination on
11 the brownfield site; and

12 “(cc) can reasonably indi-
13 cate why such entity cannot com-
14 ply with the elements set forth in
15 section 101(40) to qualify as a
16 bona fide prospective pur-
17 chaser.”.

18 **SEC. 10. MULTI-PURPOSE BROWNFIELD GRANTS.**

19 (a) **MULTI-PURPOSE GRANT PROGRAM.**—Section
20 104(k) of the Comprehensive Environmental Response,
21 Compensation, and Liability Act of 1980 (42 U.S.C.
22 9604(k)), is amended—

23 (1) by redesignating paragraph (12) as para-
24 graph (15);

1 (2) by redesignating paragraphs (4) through
2 (11), as amended, as paragraphs (5) through (12),
3 respectively; and

4 (3) by adding after paragraph (3) the following
5 new paragraph:

6 “(4) MULTI-PURPOSE BROWNFIELD GRANTS.—

7 “(A) ESTABLISHMENT OF PROGRAM.—

8 Subject to paragraphs (5) and (6), the Admin-
9 istrator shall establish a program to provide
10 multi-purpose grants to eligible entities, where
11 warranted, as determined by the Administrator
12 based on considerations under paragraph
13 (3)(C), to be used to inventory, characterize, as-
14 sess, conduct planning related to, or remediate
15 (or any combination thereof), one or more
16 brownfield sites in an area, in amounts not to
17 exceed \$1,500,000 per grant.

18 “(B) ADDITIONAL CONSIDERATIONS.—In
19 addition to the considerations under paragraph
20 (3)(C), in determining whether a multi-purpose
21 grant is warranted under the program under
22 subparagraph (A), the Administrator shall con-
23 sider the extent to which the eligible entity
24 demonstrates—

1 “(i) an overall plan for revitalization
2 of brownfield sites in the area in which the
3 multi-purpose grant will be used;

4 “(ii) the capacity to conduct the range
5 of eligible activities that will be funded by
6 the multi-purpose grant; and

7 “(iii) that a multi-purpose grant is
8 appropriate for meeting the needs of the
9 area in which the grant will be used.

10 “(C) GRANT FUNDS.—Grants provided
11 under the program established under subpara-
12 graph (A) shall be expended not later than 3
13 years after the award of grant funding to the
14 eligible entity, unless the Administrator deter-
15 mines that an extension of not more than 2
16 years is justified.

17 “(D) OWNERSHIP.—A recipient of a grant
18 under this paragraph may not use amounts
19 from such grant on remediation of a brownfield
20 site until such recipient owns such site.

21 “(E) EXISTING AUTHORITY.—Nothing in
22 this paragraph shall limit any other authority of
23 the President or the Administrator under this
24 subsection.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 104(k)(3)(A) of the Comprehensive
2 Environmental Response, Compensation, and Liabil-
3 ity Act of 1980 (42 U.S.C. 9604(k)(3)(A)), as
4 amended, is further amended by striking “Subject to
5 paragraphs (4) and (5)” and inserting “Subject to
6 paragraphs (5) and (6)”.

7 (2) Section 104(k)(3)(C) of the Comprehensive
8 Environmental Response, Compensation, and Liabil-
9 ity Act of 1980 (42 U.S.C. 9604(k)(3)(C)) is
10 amended by inserting “or paragraph (4)” after
11 “under subparagraph (A)(ii) or (B)(ii)”.

12 **SEC. 11. PROGRAM FOR SUSTAINABLE REUSE AND ALTER-**
13 **NATIVE ENERGY ON BROWNFIELD SITES.**

14 Section 104(k) of the Comprehensive Environmental
15 Response, Compensation, and Liability Act of 1980 (42
16 U.S.C. 9604(k)) is amended by adding after paragraph
17 (12), as redesignated by section 10(a)(2) of this Act, the
18 following new paragraph:

19 “(13) PROGRAM FOR SUSTAINABLE REUSE AND
20 ALTERNATIVE ENERGY ON BROWNFIELD SITES.—

21 “(A) ESTABLISHMENT AND USE OF
22 FUNDS.—The Administrator shall establish a
23 program to make grants, on a competitive
24 basis, to eligible entities to be used at one or
25 more brownfield sites for projects that reduce

1 environmental impact, increase community liv-
2 ability, and encourage sustainability, includ-
3 ing—

4 “(i) sustainable reuse planning and
5 site analysis, including—

6 “(I) site characterization and as-
7 sessment;

8 “(II) area and corridor sustain-
9 ability plans; and

10 “(III) engineering or feasibility
11 analysis of environmentally beneficial
12 site improvements;

13 “(ii) remediation;

14 “(iii) ecosystem restoration; and

15 “(iv) habitat restoration.

16 “(B) PROJECT SELECTION.—In addition to
17 the criteria under paragraph (6), in selecting
18 grant recipients under this paragraph, the Ad-
19 ministrator shall take into consideration the ex-
20 tent to which a grant will facilitate future use
21 of a brownfield site in an environmentally bene-
22 ficial and sustainable manner, including the po-
23 tential for renewable energy production and
24 green infrastructure, including greenways and
25 hike-bike trails, green buildings, and mixed use

1 and transit-oriented development in smart
2 growth locations.”.

3 **SEC. 12. STAFF FOR SMALL, DISADVANTAGED, OR RURAL**
4 **COMMUNITIES.**

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 by adding after paragraph
8 (13) (as added by section 11 of this Act) the following:

9 “(14) STAFF FOR SMALL, DISADVANTAGED, OR
10 RURAL COMMUNITIES.—The Administrator, upon
11 approval of an application made by an eligible entity
12 serving a community that has a small population, is
13 disadvantaged, or is in a rural location, and in ac-
14 cordance with the applicable provisions of sub-
15 chapter VI of chapter 33 of title 5, United States
16 Code, may assign employees of the Environmental
17 Protection Agency to such eligible entity to build
18 local capacity for the remediation and revitalization
19 of brownfield sites located in such communities. The
20 Administrator shall determine, consistent with exist-
21 ing law and regulation in effect as of the date of en-
22 actment of this paragraph, what qualifies as a com-
23 munity that has a small population, is disadvan-
24 taged, or is in a rural location for purposes of this
25 paragraph, provided that such definitions include

1 rural municipalities, municipalities with populations
2 of up to 20,000, and municipalities in which the me-
3 dian household income is at or less than $\frac{2}{3}$ of the
4 State average.”.

5 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
7 paragraph (A) of paragraph (15) (as redesignated by sec-
8 tion 10(a)(1) of this Act) of section 104(k) of the Com-
9 prehensive Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C. 9604(k)) is amended to
11 read as follows:

12 “(A) AUTHORIZATION OF APPROPRIA-
13 TIONS.—There are authorized to be appro-
14 priated to carry out this subsection—

15 “(i) \$350,000,000 for fiscal year
16 2016;

17 “(ii) \$400,000,000 for fiscal year
18 2017;

19 “(iii) \$450,000,000 for fiscal year
20 2018;

21 “(iv) \$500,000,000 for fiscal year
22 2019;

23 “(v) \$550,000,000 for fiscal year
24 2020; and

1 “(vi) \$600,000,000 for fiscal year
2 2021.”.

3 (b) PETROLEUM SET ASIDE.—Paragraph (15) of sec-
4 tion 104(k) of the Comprehensive Environmental Re-
5 sponse, Compensation, and Liability Act of 1980 (42
6 U.S.C. 9604(k)), as redesignated by section 10(a)(1) of
7 this Act and as amended by subsection (a) of this section,
8 is further amended, in subparagraph (B), by inserting “at
9 least” before “25 percent”.

10 (c) SET ASIDE FOR SUSTAINABLE REUSE.—Para-
11 graph (15) of section 104(k) of the Comprehensive Envi-
12 ronmental Response, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9604(k)), as redesignated by section
14 10(a)(1) of this Act and as amended by subsections (a)
15 and (b) of this section, is further amended by adding after
16 subparagraph (B) the following new subparagraph:

17 “(C) SET ASIDE FOR PROGRAM FOR SUS-
18 TAINABLE REUSE AND ALTERNATIVE ENERGY
19 ON BROWNFIELD SITES.—Of amounts made
20 available each fiscal year pursuant to subpara-
21 graph (A), at least 7.5 percent of such amounts
22 shall be used to carry out the program under
23 paragraph (13).”.

1 **SEC. 14. STATE RESPONSE PROGRAMS.**

2 Section 128(a)(3) of the Comprehensive Environ-
3 mental Response, Compensation, and Liability Act of
4 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-
5 lows:

6 “(3) FUNDING.—There are authorized to be ap-
7 propriated to carry out this subsection \$70,000,000
8 for fiscal year 2016, \$80,000,000 for fiscal year
9 2017, \$90,000,000 for fiscal year 2018,
10 \$100,000,000 for fiscal year 2019, \$110,000,000 for
11 fiscal year 2020, and \$120,000,000 for fiscal year
12 2021 and each fiscal year thereafter.”.

