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PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) CLASSIFICATION OF BUDGETARY EFFECTS.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this division and each succeeding division shall not be estimated—

(1) for purposes of section 251 of such Act; and

(2) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.

## DIVISION N—BUILD ACT

### SECTION 1. SHORT TITLE.

This division may be cited as the “Brownfields Utilization, Investment, and Local Development Act of 2018” or the “BUILD Act”.

### SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERNMENTAL ENTITIES.

Section 101(20)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by striking “ownership or control” and all that follows through “by virtue” and inserting “ownership or control through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government acquires title by virtue”.

### SEC. 3. ALASKA NATIVE VILLAGE AND NATIVE CORPORATION RELIEF.

Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended—

(1) by redesignating subparagraphs (E) through (G) as subparagraphs (F) through (H), respectively;

(2) by inserting after subparagraph (D) the following:

“(E) EXCLUSION OF CERTAIN ALASKA NATIVE VILLAGES AND NATIVE CORPORATIONS.—

“(i) IN GENERAL.—The term ‘owner or operator’ does not include, with respect to a facility conveyed to a Native village or Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act) under the Alaska Native Claims Settlement Act—

“(I) the Native village or Native Corporation that received the facility from the United States Government; or

“(II) a successor in interest to which the facility was conveyed under section 14(c) of such Act.

“(ii) LIMITATION.—The exclusion provided under this subparagraph shall not apply to any entity described in clause (i) that causes or contributes to

a release or threatened release of a hazardous substance from the facility conveyed as described in such clause.”;

(3) in subparagraph (G) (as so redesignated), in the matter preceding clause (i), by striking “subparagraph (E)” and inserting “subparagraph (F)”;

(4) in clause (i)(II) of subparagraph (H) (as so redesignated), by striking “1813” and inserting “1813)”.

#### **SEC. 4. PETROLEUM BROWNFIELD ENHANCEMENT.**

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

“(bb) is a site for which there is no viable responsible party and that is determined by the Administrator or the State, as appropriate, to be a site that will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site under this Act or any other law pertaining to the cleanup of petroleum products; and”.

#### **SEC. 5. PROSPECTIVE PURCHASERS AND LESSEES.**

(a) **BONA FIDE PROSPECTIVE PURCHASER.**—Section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(40)) is amended—

(1) in subparagraph (B)—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting appropriately;

(B) in subclause (I) (as so redesignated), by striking “clauses (ii) and (iii)” and inserting “subclauses (II) and (III)”;

(C) in subclause (II) (as so redesignated), by striking “subparagraph” and inserting “clause”; and

(D) in subclause (III) (as so redesignated), by striking “subparagraph” and inserting “clause”;

(2) in subparagraph (D), by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting appropriately;

(3) in subparagraph (F), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately;

(4) in subparagraph (H)—

(A) in clause (i)—

(i) in subclause (II), by inserting “, by a tenancy, by the instruments by which a leasehold interest in the facility is created,” after “financed”; and

(ii) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting appropriately; and

(B) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately;

(5) by redesignating subparagraphs (B) through (H) as clauses (ii) through (viii), respectively, and indenting appropriately; and

(6) by striking the paragraph designation and heading and all that follows through “All disposal of” in subparagraph (A) and inserting the following:

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“(40) BONA FIDE PROSPECTIVE PURCHASER.—

“(A) IN GENERAL.—The term ‘bona fide prospective purchaser’ means, with respect to a facility—

“(i) a person who—

“(I) acquires ownership of the facility after January 11, 2002; and

“(II) establishes by a preponderance of the evidence each of the criteria described in clauses (i) through (viii) of subparagraph (B); and

“(ii) a person—

“(I) who acquires a leasehold interest in the facility after January 11, 2002;

“(II) who establishes by a preponderance of the evidence that the leasehold interest is not designed to avoid liability under this Act by any person; and

“(III) with respect to whom any of the following conditions apply:

“(aa) The owner of the facility that is subject to the leasehold interest is a person described in clause (i).

“(bb)(AA) The owner of the facility that is subject to the leasehold interest was a person described in clause (i) at the time the leasehold interest was acquired, but can no longer establish by a preponderance of the evidence each of the criteria described in clauses (i) through (viii) of subparagraph (B) due to circumstances unrelated to any action of the person who holds the leasehold interest; and

“(BB) the person who holds the leasehold interest establishes by a preponderance of the evidence each of the criteria described in clauses (i), (iii), (iv), (v), (vi), (vii), and (viii) of subparagraph (B).

“(cc) The person who holds the leasehold interest establishes by a preponderance of the evidence each of the criteria described in clauses (i) through (viii) of subparagraph (B).

“(B) CRITERIA.—The criteria described in this subparagraph are as follows:

“(i) DISPOSAL PRIOR TO ACQUISITION.—All disposal of”.

(b) LIMITATION ON LIABILITY.—Section 107(r)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(r)(1)) is amended by striking “purchaser’s” and inserting “bona fide prospective purchaser”.

**SEC. 6. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANIZATIONS.**

Section 104(k)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(1)) is amended—

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

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