To provide mandatory funding for the cleanup of legacy pollution, including National Priority List sites, certain abandoned coal mining sites, and formerly used defense sites, to address residential lead-based paint hazards, and to replace lead drinking water service lines, to provide grants under certain programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Booker (for himself, Mr. Schatz, Ms. Smith, Mr. Durbin, Mr. Whitehouse, Mr. Wyden, Mr. Sanders, Ms. Duckworth, Mr. Markey, Mrs. Gillibrand, Mr. Van Hollen, Ms. Warren, Mr. Blumenthal, Mr. Merkley, and Mr. Padilla) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide mandatory funding for the cleanup of legacy pollution, including National Priority List sites, certain abandoned coal mining sites, and formerly used defense sites, to address residential lead-based paint hazards, and to replace lead drinking water service lines, to provide grants under certain programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Environmental Justice Legacy Pollution Cleanup Act of 2021”.

SEC. 2. MANDATORY FUNDING FOR ENVIRONMENTAL CLEANUP AND REMEDIATION OF THREATS TO PUBLIC HEALTH.

(a) IN GENERAL.—The following amounts are appropriated, out of amounts in the Treasury not otherwise appropriated, for fiscal year 2021, to remain available through December 31, 2029:

(1) For deposit into the Abandoned Mine Reclamation Fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231), $10,000,000,000 to provide grants as expeditiously as practicable but by not later than December 31, 2029, to States and Indian Tribes for abandoned mine land and water reclamation projects under that Act (30 U.S.C. 1201 et seq.), which shall be distributed to States and Indian Tribes that have a State or Tribal program approved under section 405 of that Act (30 U.S.C. 1235) or are referred to in section 402(g)(8)(B) of that Act (30 U.S.C. 1232(g)(8)(B)): Provided, That such amount shall be allocated based on the proportion of unreclaimed eligible lands and waters the State or Indian Tribe has in the inventory main-
tained under section 403(c) of that Act (30 U.S.C. 1233(c)): Provided further, That of the funds made available by this paragraph, $50,000,000 shall be made available to the Secretary of the Interior to provide States and Indian Tribes with the financial and technical assistance necessary for the purpose of making amendments to those inventories: Provided further, That States that have made a certification under subsection (a) of section 411 of that Act (30 U.S.C. 1240a) may not use funds provided under this paragraph for the priorities described in subsections (b), (e), and (f) of that section: Provided further, That eligible Indian Tribes may use funds as described in subsections (b), (e), and (f) of section 411 of that Act (30 U.S.C. 1240a): Provided further, That the total amount of grants provided under this paragraph to each eligible Indian Tribe shall be not less than $20,000,000, to the extent that the amount needed for reclamation projects described in this paragraph on the land of the Indian Tribe is not less than $20,000,000: Provided further, That in addition to the priorities described in section 403(a) of that Act (30 U.S.C. 1233(a)), priority may also be given to reclamation projects that provide employment for former coal mine workers.
(2) For the Environmental Protection Agency—

(A) $10,000,000,000 for remedial actions at sites on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B));

(B) $10,000,000,000 for removal and remedial actions on abandoned mine land located on Federal land: Provided, That such funds may be used at a site regardless of whether the site is on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)): Provided further, That priority shall be given to removal and remedial actions on abandoned mine land located in Indian country, with respect to which the Administrator of the Environmental Protection Agency shall coordinate with the Indian Tribe on whose land the applicable site is located in selecting and prioritizing sites for such removal and remedial actions, and in carrying out such removal and remedial actions:
provided further, That none of the funds made available by this subparagraph shall be used for processing any mine waste or other substance at a conventional uranium mill for the purpose of extracting or concentrating source-material content of the waste or other substance;

(C) $45,000,000,000 for capitalization grants to State drinking water treatment revolving loan funds established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) for States to provide forgivable loans to replace lead service lines and take other actions necessary to address threats to public health as a result of heightened exposure to lead in drinking water without requiring a contribution to the cost of the replacement of those lead service lines by any individual homeowner;

(D) $25,000,000,000 for the Administrator of the Environmental Protection Agency to provide, as expeditiously as practicable but by not later than September 30, 2029, direct grants to municipalities or municipal entities for the planning, design, and construction of treatment works (as defined in section 212 of
the Federal Water Pollution Control Act (33 U.S.C. 1292)) to intercept, transport, control, treat, limit, or reuse sewage generated in municipal combined sewer systems in municipalities in which the median household income is $50,000 or less under the sewer overflow and stormwater reuse municipal grant program established under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301);

(E) $30,000,000,000 for grants to be awarded as expeditiously as practicable but by not later than September 30, 2029, under the Diesel Emissions Reduction Program under sections 792 and 793 of the Energy Policy Act of 2005 (42 U.S.C. 16132, 16133): Provided,

That not less than 80 percent of the amounts made available under this subparagraph shall be awarded as grants and shall be used to fund the replacement of diesel school buses at schools eligible for assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) with zero-emission buses, as well as charging infrastructure, with priority to be given to grants for schools that serve the highest number of stu-
students (measured in absolute numbers or in the percentage of the student population) who are eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(F) $2,000,000,000 to carry out Brownfields projects authorized by section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)): Provided, That priority shall be given to projects that include remediation of lead in soil; and

(G) $1,000,000,000 for grants to States and Indian Tribes under section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9628(a)).

(3) For the Department of Housing and Urban Development—

(A) $45,000,000,000 to provide grants as expeditiously as practicable but by not later than September 30, 2029, to States and units of local government under section 1011 of the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4852) to evaluate and re-
duce lead-based paint hazards and other housing-related health and safety hazards in low-income housing: Provided, That recipients of these funds shall provide employment and other economic opportunities to low- and very low-income persons pursuant to section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u): Provided further, That priority shall be given to States and units of local government that have lead poisoning prevention policies that are consistent with the blood lead reference value established by the Centers for Disease Control and Prevention; and

(B) $1,000,000,000 for grants under the Healthy Homes Production Grant Program for Tribal Housing, as authorized under sections 501 and 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1, 1701z–2), to identify and address housing-related health and safety hazards in Tribal communities.

(4) For the Corps of Engineers—

(A) $10,000,000,000 for environmental restoration of formerly used defense sites under
section 2701 of title 10, United States Code;
and

(B) $3,000,000,000 for the Formerly Utilized Sites Remedial Action Program of the Corps of Engineers.

(5) For the Department of Agriculture—

(A) $10,000,000,000 to provide grants as expeditiously as practicable but by not later than September 30, 2029, to private nonprofit organizations under section 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926e) for the purpose of providing subgrants to eligible individuals (as defined in subsection (a) of that section) in accordance with that section: Provided, That a private nonprofit organization that receives such a grant shall give priority to the provision of subgrants to eligible individuals (as so defined) who do not have a sanitary sewage disposal system, have a malfunctioning or improperly maintained sanitary sewage disposal system, or rely on inadequate systems, including straight pipes: Provided further, That subgrants to eligible individuals (as so defined) for household decentralized wastewater systems shall include sufficient ad-
ditional funding to cover the cost of a performance warranty with a duration of at least 5 years: Provided further, That of the funds made available by this subparagraph, $50,000,000 shall be made available to the Secretary of Agriculture for research and demonstration projects for new technologies and systems relating to household wastewater disposal that have long-term functionality in soil conditions and water table levels that have caused current technologies to malfunction prematurely; and

(B) $25,000,000,000 for the Chief of the Forest Service to provide grants as expeditiously as practicable but by not later than September 30, 2028, to States, Indian Tribes, units of local government, and private nonprofit organizations for tree planting projects in areas identified by the Bureau of the Census as an “urban area” in the most recent decennial census: Provided, That eligible uses of the grant funding shall include establishing tree nurseries, purchasing trees, site preparation, and maintaining planted trees for a period of up to 3 years: Provided further, That priority shall be given to projects that are located in low-income
communities and projects located in a neighborhood with lower tree canopy cover and higher daytime maximum temperatures.

(6) For the Indian Health Service, $3,000,000,000 for the sanitation facilities program established under section 7 of the Act of August 5, 1954 (68 Stat. 674, chapter 658; 42 U.S.C. 2004a), to provide safe drinking water and adequate sewer systems in the homes of Indians and Alaska Natives.


(c) Limitation on Expenditures.—Notwithstanding any other provision of law, the remaining balances (whether obligated or unobligated) on September 30, 2030, of amounts appropriated by this Act shall be canceled and shall not be available thereafter for obligation or expenditure for any purpose.

(d) Davis-Bacon Compliance.—
(1) IN GENERAL.—All laborers and mechanics employed on projects funded directly by or assisted in whole or in part by this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the “Davis-Bacon Act”).

(2) AUTHORITY.—With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(e) USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS.—

(1) IN GENERAL.—Subject to paragraph (2), amounts made available under this section may not be obligated for a project described in this section unless all steel, iron, and manufactured goods to be used for the project have been or will be produced in the United States.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in any case or category of cases in which the
head of the Federal department or agency overseeing a project finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) iron, steel, or the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(C) inclusion of iron, steel, and manufactured goods produced in the United States would increase the cost of the overall project by more than 25 percent.

(3) Waiver.—

(A) In general.—If the head of a Federal department or agency receives a request for a waiver under this subsection, the head of that department or agency shall—

(i) make available to the public a copy of the request and information available to the head of the department or agency concerning the request; and

(ii) allow for public input on the request for not fewer than 15 days prior to making a finding based on the request.
(B) **Electronic Access.**—The head of a department or agency receiving a request for a waiver under this subsection shall make the request and accompanying information available by electronic means, including on the official public internet website of the department or agency.

(4) **Application.**—This subsection shall be applied in accordance with United States obligations under international agreements.

(5) **Applicability.**—Nothing in this subsection supersedes or preempts any existing domestic content requirement to the extent that the existing domestic content requirement conflicts with this subsection.

(f) **Emergency Designation.**—

(1) **In general.**—The amounts provided by this section are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(2) **Designation in Senate.**—In the Senate, this section is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.