

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

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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 \_\_\_\_\_

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**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.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. MANDATORY FUNDING FOR ENVIRONMENTAL**  
5 **CLEANUP AND REMEDIATION OF THREATS**  
6 **TO PUBLIC HEALTH.**

7 (a) IN GENERAL.—The following amounts are appro-  
8 priated, out of amounts in the Treasury not otherwise ap-  
9 propriated, for fiscal year 2021, to remain available  
10 through December 31, 2029:

11 (1) For deposit into the Abandoned Mine Rec-  
12 lamation Fund established by section 401 of the  
13 Surface Mining Control and Reclamation Act of  
14 1977 (30 U.S.C. 1231), \$10,000,000,000 to provide  
15 grants as expeditiously as practicable but by not  
16 later than December 31, 2029, to States and Indian  
17 Tribes for abandoned mine land and water reclama-  
18 tion projects under that Act (30 U.S.C. 1201 et  
19 seq.), which shall be distributed to States and Indian  
20 Tribes that have a State or Tribal program ap-  
21 proved under section 405 of that Act (30 U.S.C.  
22 1235) or are referred to in section 402(g)(8)(B) of  
23 that Act (30 U.S.C. 1232(g)(8)(B)): *Provided*, That  
24 such amount shall be allocated based on the propor-  
25 tion of unreclaimed eligible lands and waters the  
26 State or Indian Tribe has in the inventory main-

1       tained under section 403(c) of that Act (30 U.S.C.  
2       1233(c)): *Provided further*, That of the funds made  
3       available by this paragraph, \$50,000,000 shall be  
4       made available to the Secretary of the Interior to  
5       provide States and Indian Tribes with the financial  
6       and technical assistance necessary for the purpose of  
7       making amendments to those inventories: *Provided*  
8       *further*, That States that have made a certification  
9       under subsection (a) of section 411 of that Act (30  
10      U.S.C. 1240a) may not use funds provided under  
11      this paragraph for the priorities described in sub-  
12      sections (b), (e), and (f) of that section: *Provided*  
13      *further*, That eligible Indian Tribes may use funds  
14      as described in subsections (b), (e), and (f) of sec-  
15      tion 411 of that Act (30 U.S.C. 1240a): *Provided*  
16      *further*, That the total amount of grants provided  
17      under this paragraph to each eligible Indian Tribe  
18      shall be not less than \$20,000,000, to the extent  
19      that the amount needed for reclamation projects de-  
20      scribed in this paragraph on the land of the Indian  
21      Tribe is not less than \$20,000,000: *Provided further*,  
22      That in addition to the priorities described in section  
23      403(a) of that Act (30 U.S.C. 1233(a)), priority  
24      may also be given to reclamation projects that pro-  
25      vide employment for former coal mine workers.

1 (2) For the Environmental Protection Agency—

2 (A) \$10,000,000,000 for remedial actions  
3 at sites on the National Priorities List devel-  
4 oped by the President in accordance with sec-  
5 tion 105(a)(8)(B) of the Comprehensive Envi-  
6 ronmental Response, Compensation, and Liabil-  
7 ity Act of 1980 (42 U.S.C. 9605(a)(8)(B));

8 (B) \$10,000,000,000 for removal and re-  
9 medial actions on abandoned mine land located  
10 on Federal land: *Provided*, That such funds  
11 may be used at a site regardless of whether the  
12 site is on the National Priorities List developed  
13 by the President in accordance with section  
14 105(a)(8)(B) of the Comprehensive Environ-  
15 mental Response, Compensation, and Liability  
16 Act of 1980 (42 U.S.C. 9605(a)(8)(B)): *Pro-*  
17 *vided further*, That priority shall be given to re-  
18 moval and remedial actions on abandoned mine  
19 land located in Indian country, with respect to  
20 which the Administrator of the Environmental  
21 Protection Agency shall coordinate with the In-  
22 dian Tribe on whose land the applicable site is  
23 located in selecting and prioritizing sites for  
24 such removal and remedial actions, and in car-  
25 rying out such removal and remedial actions:

1           *Provided further,* That none of the funds made  
2           available by this subparagraph shall be used for  
3           processing any mine waste or other substance  
4           at a conventional uranium mill for the purpose  
5           of extracting or concentrating source-material  
6           content of the waste or other substance;

7                   (C) \$45,000,000,000 for capitalization  
8           grants to State drinking water treatment re-  
9           volving loan funds established under section  
10          1452 of the Safe Drinking Water Act (42  
11          U.S.C. 300j-12) for States to provide forgivable  
12          loans to replace lead service lines and take  
13          other actions necessary to address threats to  
14          public health as a result of heightened exposure  
15          to lead in drinking water without requiring a  
16          contribution to the cost of the replacement of  
17          those lead services lines by any individual home-  
18          owner;

19                   (D) \$25,000,000,000 for the Adminis-  
20          trator of the Environmental Protection Agency  
21          to provide, as expeditiously as practicable but  
22          by not later than September 30, 2029, direct  
23          grants to municipalities or municipal entities  
24          for the planning, design, and construction of  
25          treatment works (as defined in section 212 of

1 the Federal Water Pollution Control Act (33  
2 U.S.C. 1292)) to intercept, transport, control,  
3 treat, limit, or reuse sewage generated in mu-  
4 nicipal combined sewer systems in municipali-  
5 ties in which the median household income is  
6 \$50,000 or less under the sewer overflow and  
7 stormwater reuse municipal grant program es-  
8 tablished under section 221 of the Federal  
9 Water Pollution Control Act (33 U.S.C. 1301);  
10 (E) \$30,000,000,000 for grants to be  
11 awarded as expeditiously as practicable but by  
12 not later than September 30, 2029, under the  
13 Diesel Emissions Reduction Program under sec-  
14 tions 792 and 793 of the Energy Policy Act of  
15 2005 (42 U.S.C. 16132, 16133): *Provided,*  
16 That not less than 80 percent of the amounts  
17 made available under this subparagraph shall  
18 be awarded as grants and shall be used to fund  
19 the replacement of diesel school buses at schools  
20 eligible for assistance under part A of title I of  
21 the Elementary and Secondary Education Act  
22 of 1965 (20 U.S.C. 6311 et seq.) with zero-  
23 emission buses, as well as charging infrastruc-  
24 ture, with priority to be given to grants for  
25 schools that serve the highest number of stu-

1           dents (measured in absolute numbers or in the  
2           percentage of the student population) who are  
3           eligible for free or reduced price lunches under  
4           the Richard B. Russell National School Lunch  
5           Act (42 U.S.C. 1751 et seq.);

6           (F) \$2,000,000,000 to carry out  
7           Brownfields projects authorized by section  
8           104(k) of the Comprehensive Environmental  
9           Response, Compensation, and Liability Act of  
10          1980 (42 U.S.C. 9604(k)): *Provided*, That pri-  
11          ority shall be given to projects that include re-  
12          mediation of lead in soil; and

13          (G) \$1,000,000,000 for grants to States  
14          and Indian Tribes under section 128(a) of the  
15          Comprehensive Environmental Response, Com-  
16          pensation, and Liability Act of 1980 (42 U.S.C.  
17          9628(a)).

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

20               (A) \$45,000,000,000 to provide grants as  
21               expeditiously as practicable but by not later  
22               than September 30, 2029, to States and units  
23               of local government under section 1011 of the  
24               Residential Lead-Based Paint Hazard Reduc-  
25               tion Act (42 U.S.C. 4852) to evaluate and re-

1           duce lead-based paint hazards and other hous-  
2           ing-related health and safety hazards in low-in-  
3           come housing: *Provided*, That recipients of  
4           these funds shall provide employment and other  
5           economic opportunities to low- and very low-in-  
6           come persons pursuant to section 3 of the  
7           Housing and Urban Development Act of 1968  
8           (12 U.S.C. 1701u): *Provided further*, That pri-  
9           ority shall be given to States and units of local  
10          government that have lead poisoning prevention  
11          policies that are consistent with the blood lead  
12          reference value established by the Centers for  
13          Disease Control and Prevention; and

14                 (B) \$1,000,000,000 for grants under the  
15                 Healthy Homes Production Grant Program for  
16                 Tribal Housing, as authorized under sections  
17                 501 and 502 of the Housing and Urban Devel-  
18                 opment Act of 1970 (12 U.S.C. 1701z-1,  
19                 1701z-2), to identify and address housing-re-  
20                 lated health and safety hazards in Tribal com-  
21                 munities.

22           (4) For the Corps of Engineers—

23                 (A) \$10,000,000,000 for environmental  
24                 restoration of formerly used defense sites under

1 section 2701 of title 10, United States Code;  
2 and

3 (B) \$3,000,000,000 for the Formerly Utili-  
4 zed Sites Remedial Action Program of the  
5 Corps of Engineers.

6 (5) For the Department of Agriculture—

7 (A) \$10,000,000,000 to provide grants as  
8 expeditiously as practicable but by not later  
9 than September 30, 2029, to private nonprofit  
10 organizations under section 306E of the Con-  
11 solidated Farm and Rural Development Act (7  
12 U.S.C. 1926e) for the purpose of providing sub-  
13 grants to eligible individuals (as defined in sub-  
14 section (a) of that section) in accordance with  
15 that section: *Provided*, That a private nonprofit  
16 organization that receives such a grant shall  
17 give priority to the provision of subgrants to eli-  
18 gible individuals (as so defined) who do not  
19 have a sanitary sewage disposal system, have a  
20 malfunctioning or improperly maintained sani-  
21 tary sewage disposal system, or rely on inad-  
22 equate systems, including straight pipes: *Pro-*  
23 *vided further*, That subgrants to eligible individ-  
24 uals (as so defined) for household decentralized  
25 wastewater systems shall include sufficient ad-

1           ditional funding to cover the cost of a perform-  
2           ance warranty with a duration of at least 5  
3           years: *Provided further*, That of the funds made  
4           available by this subparagraph, \$50,000,000  
5           shall be made available to the Secretary of Ag-  
6           riculture for research and demonstration  
7           projects for new technologies and systems relat-  
8           ing to household wastewater disposal that have  
9           long-term functionality in soil conditions and  
10          water table levels that have caused current  
11          technologies to malfunction prematurely; and

12                   (B) \$25,000,000,000 for the Chief of the  
13          Forest Service to provide grants as expedi-  
14          tiously as practicable but by not later than Sep-  
15          tember 30, 2028, to States, Indian Tribes,  
16          units of local government, and private nonprofit  
17          organizations for tree planting projects in areas  
18          identified by the Bureau of the Census as an  
19          “urban area” in the most recent decennial cen-  
20          sus: *Provided*, That eligible uses of the grant  
21          funding shall include establishing tree nurs-  
22          eries, purchasing trees, site preparation, and  
23          maintaining planted trees for a period of up to  
24          3 years: *Provided further*, That priority shall be  
25          given to projects that are located in low-income

1 communities and projects located in a neighbor-  
2 hood with lower tree canopy cover and higher  
3 daytime maximum temperatures.

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

10 (b) WAIVER OF MATCHING FUNDS REQUIRE-  
11 MENTS.—Notwithstanding any other provision of law, in-  
12 cluding section 104(k)(10)(B)(iii) of the Comprehensive  
13 Environmental Response, Compensation, and Liability Act  
14 of 1980 (42 U.S.C. 9604(k)(10)(B)(iii)) and section  
15 793(c)(3) of the Energy Policy Act of 2005 (42 U.S.C.  
16 16133(c)(3)), no matching funds requirement or matching  
17 funds incentive shall apply to amounts made available  
18 under subsection (a).

19 (c) LIMITATION ON EXPENDITURES.—Notwith-  
20 standing any other provision of law, the remaining bal-  
21 ances (whether obligated or unobligated) on September  
22 30, 2030, of amounts appropriated by this Act shall be  
23 canceled and shall not be available thereafter for obliga-  
24 tion or expenditure for any purpose.

25 (d) DAVIS-BACON COMPLIANCE.—

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

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

16           (e) USE OF AMERICAN IRON, STEEL, AND MANUFAC-  
17           TURED GOODS.—

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

24           (2) EXCEPTIONS.—Paragraph (1) shall not  
25           apply in any case or category of cases in which the

1 head of the Federal department or agency overseeing  
2 a project finds that—

3 (A) applying paragraph (1) would be in-  
4 consistent with the public interest;

5 (B) iron, steel, or the relevant manufac-  
6 tured goods are not produced in the United  
7 States in sufficient and reasonably available  
8 quantities and of a satisfactory quality; or

9 (C) inclusion of iron, steel, and manufac-  
10 tured goods produced in the United States  
11 would increase the cost of the overall project by  
12 more than 25 percent.

13 (3) WAIVER.—

14 (A) IN GENERAL.—If the head of a Fed-  
15 eral department or agency receives a request for  
16 a waiver under this subsection, the head of that  
17 department or agency shall—

18 (i) make available to the public a copy  
19 of the request and information available to  
20 the head of the department or agency con-  
21 cerning the request; and

22 (ii) allow for public input on the re-  
23 quest for not fewer than 15 days prior to  
24 making a finding based on the request.

1           (B) ELECTRONIC ACCESS.—The head of a  
2           department or agency receiving a request for a  
3           waiver under this subsection shall make the re-  
4           quest and accompanying information available  
5           by electronic means, including on the official  
6           public internet website of the department or  
7           agency.

8           (4) APPLICATION.—This subsection shall be ap-  
9           plied in accordance with United States obligations  
10          under international agreements.

11          (5) APPLICABILITY.—Nothing in this sub-  
12          section supersedes or preempts any existing domestic  
13          content requirement to the extent that the existing  
14          domestic content requirement conflicts with this sub-  
15          section.

16          (f) EMERGENCY DESIGNATION.—

17           (1) IN GENERAL.—The amounts provided by  
18           this section are designated as an emergency require-  
19           ment pursuant to section 4(g) of the Statutory Pay-  
20           As-You-Go Act of 2010 (2 U.S.C. 933(g)).

21           (2) DESIGNATION IN SENATE.—In the Senate,  
22           this section is designated as an emergency require-  
23           ment pursuant to section 4112(a) of H. Con. Res.  
24           71 (115th Congress), the concurrent resolution on  
25           the budget for fiscal year 2018.