

117TH CONGRESS
1ST SESSION

S. 1271

To reauthorize the Clean School Bus Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2021

Mr. PADILLA (for himself, Mr. WARNOCK, Ms. SMITH, Mr. SANDERS, Mrs. FEINSTEIN, Mr. MARKEY, Mr. WYDEN, Mr. MERKLEY, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To reauthorize the Clean School Bus Program, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Commute for
5 Kids Act of 2021”.

6 **SEC. 2. CLEAN SCHOOL BUS PROGRAM.**

7 (a) IN GENERAL.—Section 741 of the Energy Policy
8 Act of 2005 (42 U.S.C. 16091) is amended to read as
9 follows:

1 **“SEC. 741. CLEAN SCHOOL BUS PROGRAM.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ADMINISTRATOR.—The term ‘Adminis-
4 trator’ means the Administrator of the Environ-
5 mental Protection Agency.

6 “(2) CLEAN SCHOOL BUS.—The term ‘clean
7 school bus’ means a school bus with a drivetrain
8 that produces, under any possible operational mode
9 or condition, zero exhaust emissions of—

10 “(A) any air pollutant that is listed pursu-
11 ant to section 108(a) of the Clean Air Act (42
12 U.S.C. 7408(a)) (or any precursor to such an
13 air pollutant); and

14 “(B) any greenhouse gas.

15 “(3) COMMUNITY OF COLOR.—The term ‘com-
16 munity of color’ means any geographically distinct
17 area the population of color of which is higher than
18 the average population of color of the State in which
19 the community is located.

20 “(4) ELIGIBLE CONTRACTOR.—The term ‘eligi-
21 ble contractor’ means a contractor that is a for-prof-
22 it, not-for-profit, or nonprofit entity that has the ca-
23 pacity—

24 “(A) to sell clean school buses, or charging
25 or other equipment needed to charge or main-
26 tain clean school buses, to individuals or enti-

1 ties that own a school bus or fleet of school
2 buses; or

3 “(B) to arrange financing for a sale de-
4 scribed in subparagraph (A).

5 “(5) ELIGIBLE RECIPIENT.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), the term ‘eligible recipient’ means—

8 “(i) 1 or more local or State govern-
9 mental entities responsible for—

10 “(I) providing school bus service
11 to 1 or more public school systems; or

12 “(II) the purchase of school
13 buses;

14 “(ii) a tribally controlled school (as
15 defined in section 5212 of the Tribally
16 Controlled Schools Act of 1988 (25 U.S.C.
17 2511));

18 “(iii) a nonprofit school transportation
19 association; or

20 “(iv) 1 or more contracting entities
21 that provide school bus service to 1 or
22 more public school systems.

23 “(B) SPECIAL REQUIREMENTS.—In the
24 case of eligible recipients described in clauses

(iii) and (iv) of subparagraph (A), the Administrator—

“(i) shall establish timely and appropriate requirements for notice to the public school systems that would be served by school buses purchased using an award under subsection (b)(1); and

“(ii) may establish timely and appropriate requirements for approval by the public school systems that would be served by school buses purchased using an award under subsection (b)(1).

“(6) INDIGENOUS COMMUNITY.—The term ‘indigenous community’ means—

“(A) a federally recognized Indian Tribe;

“(B) a State-recognized Indian Tribe;

“(C) an Alaska Native or Native Hawaiian community or organization; or

“(D) any other community of indigenous people, including communities in other countries.

“(7) LOW INCOME.—The term ‘low income’ means an annual household income equal to, or less than, the greater of—

1 “(A) an amount equal to 80 percent of the
2 median income of the area in which the house-
3 hold is located, as reported by the Department
4 of Housing and Urban Development; and

5 “(B) 200 percent of the Federal poverty
6 line.

7 “(8) LOW-INCOME COMMUNITY.—The term
8 ‘low-income community’ means any census block
9 group in which 30 percent or more of the population
10 are individuals with low income.

11 “(9) SCHOOL BUS.—The term ‘school bus’ has
12 the meaning given the term ‘schoolbus’ in section
13 30125(a) of title 49, United States Code.

14 “(10) SCRAP.—

15 “(A) IN GENERAL.—The term ‘scrap’, with
16 respect to a school bus engine replaced using an
17 award under subsection (b)(1), means to recy-
18 cle, crush, or shred the engine within such pe-
19 riod and in such manner as determined by the
20 Administrator.

21 “(B) EXCLUSION.—The term ‘scrap’ does
22 not include selling, leasing, exchanging, or oth-
23 erwise disposing of an engine described in sub-
24 paragraph (A) for use in another motor vehicle
25 in any location.

1 “(b) PROGRAM FOR REPLACEMENT OF EXISTING
2 SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

3 “(1) ESTABLISHMENT.—The Administrator, in
4 consultation with the Secretary, shall establish a
5 program for—

6 “(A) making awards, on a competitive
7 basis, of grants, rebates, and low-cost revolving
8 loans to eligible recipients for the replacement
9 of existing school buses that are not clean
10 school buses with clean school buses; and

11 “(B) making awards of contracts to eligi-
12 ble contractors for providing rebates and low-
13 cost revolving loans for the replacement of ex-
14 isting school buses that are not clean school
15 buses with clean school buses.

16 “(2) APPLICATIONS.—

17 “(A) IN GENERAL.—An applicant for an
18 award under paragraph (1) shall submit to the
19 Administrator an application at such time, in
20 such manner, and containing such information
21 as the Administrator may require, including—

22 “(i) a written assurance that—

23 “(I) all laborers and mechanics
24 employed by contractors or sub-
25 contractors during construction, alter-

1 ation, or repair, or at any manufac-
2 turing operation, that is financed, in
3 whole or in part, by an award under
4 paragraph (1), shall be paid wages at
5 rates not less than those prevailing in
6 a similar firm or on similar construc-
7 tion in the locality, as determined by
8 the Secretary of Labor in accordance
9 with subchapter IV of chapter 31 of
10 title 40, United States Code; and

11 “(II) the applicant agrees to the
12 authority of the Secretary of Labor
13 described in subparagraph (B);

14 “(ii) a certification that no public
15 work or service normally performed by a
16 public employee will be privatized or sub-
17 contracted in carrying out a project funded
18 by the award;

19 “(iii) to ensure a fair assessment of
20 workforce impact related to an award
21 under paragraph (1), a detailed accounting
22 with respect to relevant employees, includ-
23 ing employees in each of management, ad-
24 ministration, operations, and maintenance,

1 of the eligible recipient at the time of the
2 application, including—

3 “(I) the number of employees, or-
4 ganized by salary;

5 “(II) the bargaining unit status
6 of each employee;

7 “(III) the full-time or part-time
8 status of each employee; and

9 “(IV) the job title of each em-
10 ployee; and

11 “(iv) a description of coordination and
12 advance planning with the local electricity
13 provider.

14 “(B) AUTHORITY OF SECRETARY OF
15 LABOR.—For any project or activity carried out
16 by a recipient of an award under paragraph (1),
17 the Secretary of Labor shall, with respect to the
18 labor standards described in subparagraph
19 (A)(i)(I), have the authority and functions set
20 forth in Reorganization Plan Numbered 14 of
21 1950 (64 Stat. 1267; 5 U.S.C. App.) and sec-
22 tion 3145 of title 40, United States Code.

23 “(3) ELIGIBLE MANUFACTURERS.—

24 “(A) IN GENERAL.—The Administrator
25 shall maintain and make publicly available a list

1 of manufacturers of clean school buses from
2 whom recipients of awards under paragraph (1)
3 may purchase clean school buses.

4 “(B) CRITERIA.—The Administrator shall
5 establish a process by which manufacturers may
6 seek inclusion on the list established under sub-
7 paragraph (A), which shall include the submis-
8 sion of such information as the Administrator
9 may require, including—

10 “(i) a disclosure of whether there has
11 been any administrative merits determina-
12 tion, arbitral award or decision, or civil
13 judgment, as defined in guidance issued by
14 the Secretary of Labor, rendered against
15 the manufacturer in the preceding 3 years
16 for violations of applicable labor, employ-
17 ment, civil rights, or health and safety
18 laws; and

19 “(ii) specific information regarding—

20 “(I) the actions the manufacturer
21 will take to demonstrate compliance
22 with and, where possible, exceedance
23 of, requirements under applicable
24 labor, employment, civil rights, and
25 health and safety laws; and

1 “(II) actions the manufacturer
2 will take to ensure that the direct sup-
3 pliers of the manufacturer dem-
4 onstrate compliance with applicable
5 labor, employment, civil rights, and
6 health and safety laws.

7 “(4) PRIORITY OF APPLICATIONS.—

8 “(A) HIGHEST PRIORITY.—In making
9 awards under paragraph (1), the Administrator
10 shall give highest priority to applicants that
11 propose to replace school buses that serve the
12 highest number of students (measured in abso-
13 lute numbers or in the percentage of student
14 population) who are eligible for free or reduced
15 price lunches under the Richard B. Russell Na-
16 tional School Lunch Act (42 U.S.C. 1751 et
17 seq.).

18 “(B) ADDITIONAL PRIORITY.—In making
19 awards under paragraph (1), after taking into
20 account the priority described in subparagraph
21 (A), the Administrator shall give priority to ap-
22 plicants that propose to complement the assist-
23 ance received through the award by securing
24 additional sources of funding for the activities

1 supported through the award, such as
2 through—

3 “(i) public-private partnerships with
4 electric companies;

5 “(ii) grants from other entities; or

6 “(iii) the issuance of school bonds.

7 “(5) USE OF SCHOOL BUS FLEET.—All clean
8 school buses purchased with an award under para-
9 graph (1) shall—

10 “(A) be operated as part of the school bus
11 fleet for which the award was made for not less
12 than 5 years;

13 “(B) be maintained, operated, charged,
14 and fueled according to manufacturer rec-
15 ommendations or State requirements; and

16 “(C) not be manufactured or retrofitted
17 with, or otherwise have installed, a power unit
18 or other technology that creates air pollution
19 within the school bus, such as an unvented die-
20 sel passenger heater.

21 “(6) AWARDS.—

22 “(A) AWARD AMOUNT.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii) and subparagraph (D), the Adminis-
25 trator may make an award under para-

graph (1) in an amount not more than the amount that is 100 percent of the replacement costs for clean school buses.

“(ii) LIMITATION.—The replacement costs described in clause (i) shall not exceed an amount equal to 110 percent of the difference between—

“(I) the cost of a clean school bus; and

“(II) the cost of a diesel school bus.

“(B) STRUCTURING AWARDS.—In making an award under paragraph (1)(A), the Administrator shall decide whether to award a grant, rebate, or low-cost revolving loan, or a combination thereof, based primarily on—

“(i) how best to facilitate replacing existing school buses that are not clean school buses with clean school buses; and

“(ii) the preference of the eligible recipient.

“(C) INCLUDED COSTS.—An award under paragraph (1) may be used to pay for—

1 “(i) acquisition and labor costs for
 2 charging or other infrastructure needed to
 3 charge or maintain clean school buses;

4 “(ii) workforce development and train-
 5 ing to support the maintenance, charging,
 6 and operations of electric school buses; and

7 “(iii) planning and technical activities
 8 to support the adoption and deployment of
 9 clean school buses.

10 “(D) EXCEPTION FOR CONTRACTING ENTI-
 11 TIES.—

12 “(i) IN GENERAL.—Subject to clause
 13 (ii), in the case of an award under para-
 14 graph (1) to an eligible recipient described
 15 in subsection (a)(5)(A)(iv), the Adminis-
 16 trator may make an award for up to 70
 17 percent of the replacement costs for clean
 18 school buses.

19 “(ii) EXCEPTION.—If an eligible re-
 20 cipient described in subsection
 21 (a)(5)(A)(iv) demonstrates, to the satisfac-
 22 tion of the Administrator, that the labor
 23 standards of the eligible recipient are equal
 24 to or exceed those of the public school sys-
 25 tem that would be served by the clean

1 school buses purchased with an award
2 under paragraph (1), the Administrator
3 may make an award to the eligible recipi-
4 ent for up to 90 percent of the replacement
5 costs for clean school buses.

6 “(E) REQUIREMENTS.—The Administrator
7 shall require, as a condition of receiving an
8 award under paragraph (1), that an award re-
9 cipient—

10 “(i) does not, as a result of receiving
11 the award—

12 “(I) lay off, transfer, or demote
13 any current employee; or

14 “(II) reduce the salary or bene-
15 fits of any current employee or worsen
16 the conditions of work of any current
17 employee; and

18 “(ii) provides current employees with
19 training to effectively operate, maintain, or
20 otherwise adapt to new technologies relat-
21 ing to clean school buses.

22 “(F) BUY AMERICA.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), any clean school bus or
25 electric vehicle supply equipment pur-

1 chased using an award under paragraph
2 (1) shall comply with section 5323(j) of
3 title 49, United States Code.

4 “(ii) EXCEPTIONS.—

5 “(I) WAIVER.—Subject to sub-
6 clause (II), the Administrator may
7 provide a waiver to the requirements
8 described in clause (i) in the same
9 manner and to the same extent as the
10 Secretary of Transportation may pro-
11 vide a waiver under section 5323(j)(2)
12 of title 49, United States Code.

13 “(II) PERCENTAGE OF COMPO-
14 NENTS AND SUBCOMPONENTS.—The
15 Administrator may grant a waiver in
16 accordance with section 5323(j)(2)(C)
17 of title 49, United States Code, when
18 an award recipient purchases a clean
19 school bus or electric vehicle supply
20 equipment using an award under
21 paragraph (1) for which the cost of
22 components and subcomponents pro-
23 duced in the United States—

24 “(aa) for each of fiscal years
25 2021 through 2025, is more than

1 60 percent of the cost of all com-
2 ponents of the clean school bus;
3 and

4 “(bb) for fiscal year 2025
5 and each fiscal year thereafter, is
6 more than 70 percent of the cost
7 of all components of the clean
8 school bus.

9 “(7) DEPLOYMENT AND DISTRIBUTION.—The
10 Administrator shall—

11 “(A) to the maximum extent practicable,
12 achieve nationwide deployment of clean school
13 buses through the program under paragraph
14 (1);

15 “(B) ensure, as practicable, a broad geo-
16 graphic distribution of awards under paragraph
17 (1) each fiscal year;

18 “(C) solicit early applications for large-
19 scale deployments and, as soon as reasonably
20 practicable, make awards for at least 1 such
21 large scale deployment in a rural location and
22 another in an urban location, on the condition
23 that each such award recipient—

24 “(i) participate in the development of
25 best practices, lessons learned, and other

1 information sharing to guide the imple-
2 mentation of the program under paragraph
3 (1), including relating to building out asso-
4 ciated infrastructure; and

5 “(ii) cooperate as specified in sub-
6 paragraph (D); and

7 “(D) develop, in cooperation with award
8 recipients, resources for future recipients of
9 awards under paragraph (1).

10 “(8) SCRAPPAGE.—

11 “(A) IN GENERAL.—The Administrator
12 shall require an award recipient to verify, not
13 later than 1 year after receiving a clean school
14 bus purchased using an award under paragraph
15 (1), that the engine of the replaced school bus
16 has been scrapped.

17 “(B) EXCEPTION.—Subject to such condi-
18 tions that the Administrator determines appro-
19 priate and giving consideration to public health
20 and the goal of reducing emissions of pollut-
21 ants, the Administrator may waive the require-
22 ments of subparagraph (A) for school buses
23 that meet—

24 “(i) the emission standards applicable
25 to a new school bus as of the date of en-

1 actment of the Clean Commute for Kids
2 Act of 2021; or

3 “(ii) subsequent emission standards
4 that are at least as stringent as the stand-
5 ards described in clause (i).

6 “(c) EDUCATION AND OUTREACH.—

7 “(1) IN GENERAL.—Not later than 90 days
8 after the date of enactment of the Clean Commute
9 for Kids Act of 2021, the Administrator shall de-
10 velop an education and outreach program to promote
11 and explain the award program under subsection
12 (b)(1).

13 “(2) COORDINATION WITH STAKEHOLDERS.—

14 The education and outreach program under para-
15 graph (1) shall be designed and conducted in con-
16 junction with interested national school bus trans-
17 portation associations, labor unions, electric utilities,
18 manufacturers of clean school buses, manufacturers
19 of components of clean school buses, clean transpor-
20 tation nonprofit organizations, and other stake-
21 holders.

22 “(3) COMPONENTS.—The education and out-
23 reach program under paragraph (1) shall—

24 “(A) inform, encourage, and support po-
25 tential award recipients on the process of apply-

1 ing for awards and fulfilling the requirements
2 of awards;

3 “(B) describe the available technologies
4 and the benefits of the technologies;

5 “(C) explain the benefits of participating
6 in the award program under subsection (b)(1);

7 “(D) make available information regarding
8 best practices, lessons learned, and technical
9 and other information with respect to—

10 “(i) clean school bus acquisition and
11 deployment;

12 “(ii) the build-out of associated infra-
13 structure and advance planning with the
14 local electricity supplier;

15 “(iii) workforce development and
16 training; and

17 “(iv) any other information that, in
18 the judgment of the Administrator, is rel-
19 evant to transitioning to and deploying
20 clean school buses;

21 “(E) make available the information pro-
22 vided by the Secretary pursuant to subsection
23 (d);

24 “(F) in consultation with the Secretary,
25 make information available about how clean

1 school buses can be part of building community
 2 resilience to the effects of climate change; and
 3 “(G) include, as appropriate, information
 4 from the annual report required under sub-
 5 section (e).

6 “(d) DOE ASSISTANCE.—

7 “(1) INFORMATION GATHERING.—

8 “(A) IN GENERAL.—The Secretary shall
 9 gather information with respect to—

10 “(i) vehicle-to-grid technology, includ-
 11 ing best practices and use-case scenarios;

12 “(ii) the use of clean school buses for
 13 community resilience; and

14 “(iii) technical aspects of clean school
 15 bus management and deployment.

16 “(B) SHARING WITH EPA.—Not less fre-
 17 quently than annually, the Secretary shall share
 18 the information gathered under subparagraph
 19 (A) with the Administrator.

20 “(2) TECHNICAL ASSISTANCE.—The Secretary
 21 shall, in response to a request from the Adminis-
 22 trator, or from an applicant for or recipient of an
 23 award under subsection (b)(1), provide technical as-
 24 sistance in the development of an application for or
 25 the use of an award under subsection (b)(1).

1 “(e) ANNUAL REPORT.—Not later than January 31
2 of each year after a year for which funds were appro-
3 priated to carry out this section, the Administrator shall
4 submit to Congress a report that—

5 “(1) evaluates the implementation of this sec-
6 tion;

7 “(2) describes—

8 “(A) the total number of applications re-
9 ceived for awards under subsection (b)(1);

10 “(B) the number of clean school buses re-
11 quested in the applications described in sub-
12 paragraph (A);

13 “(C) the awards made under subsection
14 (b)(1) and the criteria used to select the award
15 recipients;

16 “(D) the awards made under subsection
17 (b)(1) for charging and fueling infrastructure;

18 “(E) ongoing compliance with the commit-
19 ments made by manufacturers on the list main-
20 tained by the Administrator under subsection
21 (b)(3)(A);

22 “(F) the estimated effect of the awards
23 under subsection (b)(1) on emission of air pol-
24 lutants, including greenhouse gases; and

1 “(G) any other information the Adminis-
2 trator considers appropriate; and

3 “(3) describes any waiver granted under sub-
4 section (b)(6)(F)(ii) during the preceding year.

5 “(f) AUTHORIZATION OF APPROPRIATIONS.—

6 “(1) IN GENERAL.—There is authorized to be
7 appropriated to the Administrator to carry out this
8 section, to remain available until expended,
9 \$2,500,000,000 for each of fiscal years 2022
10 through 2031.

11 “(2) USE OF FUND REQUIREMENTS.—

12 “(A) ALLOCATION.—Of the amount made
13 available under paragraph (1) for a fiscal year,
14 not less than \$1,000,000,000 shall be used for
15 awards under subsection (b)(1) to eligible re-
16 cipients proposing to replace school buses that
17 serve a community of color, an indigenous com-
18 munity, a low-income community, or a commu-
19 nity located in an air quality area designated
20 pursuant to section 107 of the Clean Air Act
21 (42 U.S.C. 7407) as nonattainment.

22 “(B) ADMINISTRATIVE COSTS.—Of the
23 amounts made available under paragraph (1)
24 for a fiscal year, the Administrator may use not

1 more than 2 percent for the administrative
2 costs of carrying out this section.”.

3 (b) REPEAL OF REDUNDANT AUTHORIZATION.—

4 (1) IN GENERAL.—Section 6015 of the Safe,
5 Accountable, Flexible, Efficient Transportation Eq-
6 uity Act: A Legacy for Users (42 U.S.C. 16091a) is
7 repealed.

8 (2) CONFORMING AMENDMENT.—The table of
9 contents in section 1(b) of the Safe, Accountable,
10 Flexible, Efficient Transportation Equity Act: A
11 Legacy for Users (Public Law 109–59; 119 Stat.
12 1144) is amended by striking the item relating to
13 section 6015.

○