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

IN THE SENATE OF THE UNITED STATES

Mr. Padilla introduced the following bill; which was read twice and referred to the Committee on ____________

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
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Clean Commute for
6 Kids Act of 2021”.

7 SEC. 2. CLEAN SCHOOL BUS PROGRAM.
8 (a) IN GENERAL.—Section 741 of the Energy Policy
9 Act of 2005 (42 U.S.C. 16091) is amended to read as
10 follows:

11 “SEC. 741. CLEAN SCHOOL BUS PROGRAM.
12 “(a) DEFINITIONS.—In this section:
“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

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

“(A) any air pollutant that is listed pursuant to section 108(a) of the Clean Air Act (42 U.S.C. 7408(a)) (or any precursor to such an air pollutant); and

“(B) any greenhouse gas.

“(3) COMMUNITY OF COLOR.—The term ‘community of color’ means any geographically distinct area the population of color of which is higher than the average population of color of the State in which the community is located.

“(4) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means a contractor that is a for-profit, not-for-profit, or nonprofit entity that has the capacity—

“(A) to sell clean school buses, or charging or other equipment needed to charge or maintain clean school buses, to individuals or enti-
ties that own a school bus or fleet of school buses; or

“(B) to arrange financing for a sale described in subparagraph (A).

“(5) ELIGIBLE RECIPIENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘eligible recipient’ means—

“(i) 1 or more local or State governmental entities responsible for—

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

“(II) the purchase of school buses;

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

“(iii) a nonprofit school transportation association; or

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

“(B) SPECIAL REQUIREMENTS.—In the 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—
“(A) an amount equal to 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development; and

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

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

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

“(10) SCRAP.—

“(A) IN GENERAL.—The term ‘scrap’, with respect to a school bus engine replaced using an award under subsection (b)(1), means to recycle, crush, or shred the engine within such period and in such manner as determined by the Administrator.

“(B) EXCLUSION.—The term ‘scrap’ does not include selling, leasing, exchanging, or otherwise disposing of an engine described in subparagraph (A) for use in another motor vehicle in any location.
“(b) Program for Replacement of Existing School Buses with Clean School Buses.—

“(1) Establishment.—The Administrator, in consultation with the Secretary, shall establish a program for—

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

“(B) making awards of contracts to eligible contractors for providing rebates and low-cost revolving loans for the replacement of existing school buses that are not clean school buses.

“(2) Applications.—

“(A) In general.—An applicant for an award under paragraph (1) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—

“(i) a written assurance that—

“(I) all laborers and mechanics employed by contractors or sub-contractors during construction, alter-
ation, or repair, or at any manufac-
turing operation, that is financed, in
whole or in part, by an award under
paragraph (1), shall be paid wages at
rates not less than those prevailing in
a similar firm or on similar construc-
tion in the locality, as determined by
the Secretary of Labor in accordance
with subchapter IV of chapter 31 of
title 40, United States Code; and

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

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

“(iii) to ensure a fair assessment of
workforce impact related to an award
under paragraph (1), a detailed accounting
with respect to relevant employees, includ-
ing employees in each of management, ad-
ministration, operations, and maintenance,
of the eligible recipient at the time of the application, including—

“(I) the number of employees, organized by salary;

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

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

“(IV) the job title of each employee; and

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

“(B) Authority of Secretary of Labor.—For any project or activity carried out by a recipient of an award under paragraph (1), the Secretary of Labor shall, with respect to the labor standards described in subparagraph (A)(i)(I), 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.

“(3) Eligible Manufacturers.—

“(A) In general.—The Administrator shall maintain and make publicly available a list
of manufacturers of clean school buses from whom recipients of awards under paragraph (1) may purchase clean school buses.

“(B) CRITERIA.—The Administrator shall establish a process by which manufacturers may seek inclusion on the list established under subparagraph (A), which shall include the submission of such information as the Administrator may require, including—

“(i) a disclosure of whether there has been any administrative merits determination, arbitral award or decision, or civil judgment, as defined in guidance issued by the Secretary of Labor, rendered against the manufacturer in the preceding 3 years for violations of applicable labor, employment, civil rights, or health and safety laws; and

“(ii) specific information regarding—

“(I) the actions the manufacturer will take to demonstrate compliance with and, where possible, exceedance of, requirements under applicable labor, employment, civil rights, and health and safety laws; and
“(II) actions the manufacturer will take to ensure that the direct sup-
pliers of the manufacturer dem-
onstrate compliance with applicable labor, employment, civil rights, and health and safety laws.

“(4) Priority of Applications.—

“(A) Highest priority.—In making awards under paragraph (1), the Administrator shall give highest priority to applicants that propose to replace school buses that serve the highest number of students (measured in absolute numbers or in the percentage of 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.).

“(B) Additional priority.—In making awards under paragraph (1), after taking into account the priority described in subparagraph (A), the Administrator shall give priority to applicants that propose to complement the assistance received through the award by securing additional sources of funding for the activities
supported through the award, such as
through—

“(i) public-private partnerships with
electric companies;
“(ii) grants from other entities; or
“(iii) the issuance of school bonds.

“(5) USE OF SCHOOL BUS FLEET.—All clean
school buses purchased with an award under para-

“(A) be operated as part of the school bus
fleet for which the award was made for not less
than 5 years;
“(B) be maintained, operated, charged,
and fueled according to manufacturer rec-
ommendations or State requirements; and
“(C) not be manufactured or retrofitted
with, or otherwise have installed, a power unit
or other technology that creates air pollution
within the school bus, such as an unvented die-
sel passenger heater.

“(6) AWARDS.—
“(A) AWARD AMOUNT.—
“(i) IN GENERAL.—Subject to clause
(ii) and subparagraph (D), the Adminis-
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—
“(i) acquisition and labor costs for charging or other infrastructure needed to charge or maintain clean school buses;

“(ii) workforce development and training to support the maintenance, charging, and operations of electric school buses; and

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

“(D) EXCEPTION FOR CONTRACTING ENTITIES.—

“(i) IN GENERAL.—Subject to clause (ii), in the case of an award under paragraph (1) to an eligible recipient described in subsection (a)(5)(A)(iv), the Administrator may make an award for up to 70 percent of the replacement costs for clean school buses.

“(ii) EXCEPTION.—If an eligible recipient described in subsection (a)(5)(A)(iv) demonstrates, to the satisfaction of the Administrator, that the labor standards of the eligible recipient are equal to or exceed those of the public school system that would be served by the clean
school buses purchased with an award under paragraph (1), the Administrator may make an award to the eligible recipient for up to 90 percent of the replacement costs for clean school buses.

“(E) REQUIREMENTS.—The Administrator shall require, as a condition of receiving an award under paragraph (1), that an award recipient—

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

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

“(II) reduce the salary or benefits of any current employee or worsen the conditions of work of any current employee; and

“(ii) provides current employees with training to effectively operate, maintain, or otherwise adapt to new technologies relating to clean school buses.

“(F) BUY AMERICA.—

“(i) IN GENERAL.—Except as provided in clause (ii), any clean school bus or electric vehicle supply equipment pur-
chased using an award under paragraph (1) shall comply with section 5323(j) of title 49, United States Code.

“(ii) EXCEPTIONS.—

“(I) WAIVER.—Subject to subclause (II), the Administrator may provide a waiver to the requirements described in clause (i) in the same manner and to the same extent as the Secretary of Transportation may provide a waiver under section 5323(j)(2) of title 49, United States Code.

“(II) PERCENTAGE OF COMPONENTS AND SUBCOMPONENTS.—The Administrator may grant a waiver in accordance with section 5323(j)(2)(C) of title 49, United States Code, when an award recipient purchases a clean school bus or electric vehicle supply equipment using an award under paragraph (1) for which the cost of components and subcomponents produced in the United States—

“(aa) for each of fiscal years 2021 through 2025, is more than
60 percent of the cost of all components of the clean school bus; and

"(bb) for fiscal year 2025 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the clean school bus.

"(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

"(A) to the maximum extent practicable, achieve nationwide deployment of clean school buses through the program under paragraph (1);

"(B) ensure, as practicable, a broad geographic distribution of awards under paragraph (1) each fiscal year;

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

"(i) participate in the development of best practices, lessons learned, and other
information sharing to guide the implementation of the program under paragraph (1), including relating to building out associated infrastructure; and

“(ii) cooperate as specified in subparagraph (D); and

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

“(8) Scrappage.—

“(A) In general.—The Administrator shall require an award recipient to verify, not later than 1 year after receiving a clean school bus purchased using an award under paragraph (1), that the engine of the replaced school bus has been scrapped.

“(B) Exception.—Subject to such conditions that the Administrator determines appropriate and giving consideration to public health and the goal of reducing emissions of pollutants, the Administrator may waive the requirements of subparagraph (A) for school buses that meet—

“(i) the emission standards applicable to a new school bus as of the date of en-
actment of the Clean Commute for Kids Act of 2021; or

“(ii) subsequent emission standards that are at least as stringent as the standards described in clause (i).

“(e) EDUCATION AND OUTREACH.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Clean Commute for Kids Act of 2021, the Administrator shall develop an education and outreach program to promote and explain the award program under subsection (b)(1).

“(2) COORDINATION WITH STAKEHOLDERS.—The education and outreach program under paragraph (1) shall be designed and conducted in conjunction with interested national school bus transportation associations, labor unions, electric utilities, manufacturers of clean school buses, manufacturers of components of clean school buses, clean transportation nonprofit organizations, and other stakeholders.

“(3) COMPONENTS.—The education and outreach program under paragraph (1) shall—

“(A) inform, encourage, and support potential award recipients on the process of apply-
ing for awards and fulfilling the requirements of awards;

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

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

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

“(i) clean school bus acquisition and deployment;

“(ii) the build-out of associated infrastructure and advance planning with the local electricity supplier;

“(iii) workforce development and training; and

“(iv) any other information that, in the judgment of the Administrator, is relevant to transitioning to and deploying clean school buses;

“(E) make available the information provided by the Secretary pursuant to subsection (d);

“(F) in consultation with the Secretary, make information available about how clean
school buses can be part of building community resilience to the effects of climate change; and

“(G) include, as appropriate, information from the annual report required under subsection (e).

“(d) DOE ASSISTANCE.—

“(1) INFORMATION GATHERING.—

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

“(i) vehicle-to-grid technology, including best practices and use-case scenarios;

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

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

“(B) SHARING WITH EPA.—Not less frequently than annually, the Secretary shall share the information gathered under subparagraph (A) with the Administrator.

“(2) TECHNICAL ASSISTANCE.—The Secretary shall, in response to a request from the Administrator, or from an applicant for or recipient of an award under subsection (b)(1), provide technical assistance in the development of an application for or the use of an award under subsection (b)(1).
“(e) ANNUAL REPORT.—Not later than January 31 of each year after a year for which funds were appropriated to carry out this section, the Administrator shall submit to Congress a report that—

“(1) evaluates the implementation of this section;

“(2) describes—

“(A) the total number of applications received for awards under subsection (b)(1);

“(B) the number of clean school buses requested in the applications described in subparagraph (A);

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

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

“(E) ongoing compliance with the commitments made by manufacturers on the list maintained by the Administrator under subsection (b)(3)(A);

“(F) the estimated effect of the awards under subsection (b)(1) on emission of air pollutants, including greenhouse gases; and
“(G) any other information the Administrator considers appropriate; and

“(3) describes any waiver granted under subsection (b)(6)(F)(ii) during the preceding year.

“(f) Authorization of Appropriations.—

“(1) In general.—There is authorized to be appropriated to the Administrator to carry out this section, to remain available until expended, $2,500,000,000 for each of fiscal years 2022 through 2031.

“(2) Use of fund requirements.—

“(A) Allocation.—Of the amount made available under paragraph (1) for a fiscal year, not less than $1,000,000,000 shall be used for awards under subsection (b)(1) to eligible recipients proposing to replace school buses that serve a community of color, an indigenous community, a low-income community, or a community located in an air quality area designated pursuant to section 107 of the Clean Air Act (42 U.S.C. 7407) as nonattainment.

“(B) Administrative costs.—Of the amounts made available under paragraph (1) for a fiscal year, the Administrator may use not
more than 2 percent for the administrative
costs of carrying out this section.”.

(b) Repeal of Redundant Authorization.—

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

(2) Conforming Amendment.—The table of
contents in section 1(b) of the Safe, Accountable,
Flexible, Efficient Transportation Equity Act: A
1144) is amended by striking the item relating to
section 6015.