

117TH CONGRESS  
1ST SESSION

# S. 873

To establish the Climate Change Advisory Commission to develop recommendations, frameworks, and guidelines for projects to respond to the impacts of climate change, to issue Federal obligations, the proceeds of which shall be used to fund projects that aid in adaptation to climate change, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

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

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## A BILL

To establish the Climate Change Advisory Commission to develop recommendations, frameworks, and guidelines for projects to respond to the impacts of climate change, to issue Federal obligations, the proceeds of which shall be used to fund projects that aid in adaptation to climate change, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Climate Change Resiliency Fund for America Act of  
6 2021”.

## 1 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.

## TITLE I—CLIMATE CHANGE ADVISORY COMMISSION

- Sec. 101. Establishment of Climate Change Advisory Commission.  
 Sec. 102. Duties.  
 Sec. 103. Commission personnel matters.  
 Sec. 104. Funding.  
 Sec. 105. Termination.

## TITLE II—CLIMATE CHANGE RESILIENCY FUND

- Sec. 201. Climate Change Resiliency Fund.  
 Sec. 202. Compliance with Davis-Bacon Act.  
 Sec. 203. Funding.

## TITLE III—REVENUE

- Sec. 301. Climate Change Obligations.  
 Sec. 302. Promotion.

2 **SEC. 2. DEFINITIONS.**

3 In this Act:

4 (1) COMMISSION.—The term “Commission”  
 5 means the Climate Change Advisory Commission es-  
 6 tablished by section 101(a).

7 (2) COMMUNITY OF COLOR.—The term “com-  
 8 munity of color” means a geographically distinct  
 9 area in which the population of any of the following  
 10 categories of individuals is higher than the average  
 11 populations of that category for the State in which  
 12 the community is located:

13 (A) Black.

14 (B) African American.

15 (C) Asian.

16 (D) Pacific Islander.

1 (E) Other non-White race.

2 (F) Hispanic.

3 (G) Latino.

4 (H) Linguistically isolated.

5 (3) ELIGIBLE ENTITY.—The term “eligible enti-  
6 ty” includes—

7 (A) a Federal agency;

8 (B) a State or group of States;

9 (C) a unit of local government or a group  
10 of local governments;

11 (D) a utility district;

12 (E) a Tribal government or a consortium  
13 of Tribal governments;

14 (F) a State or regional transit agency or a  
15 group of State or regional transit agencies;

16 (G) a nonprofit organization;

17 (H) a special purpose district or public au-  
18 thority, including a port authority; and

19 (I) any other entity, as determined by the  
20 Secretary.

21 (4) ENVIRONMENTAL JUSTICE COMMUNITY.—

22 The term “environmental justice community” means  
23 a community with significant representation of com-  
24 munities of color, low-income communities, or Tribal  
25 and indigenous communities that experiences, or is

1 at risk of experiencing, higher or more adverse  
2 human health or environmental effects.

3 (5) FRONTLINE COMMUNITY.—The term  
4 “frontline community” means a low-income commu-  
5 nity, a community of color, or a Tribal community  
6 that is disproportionately impacted or burdened by  
7 climate change or a phenomenon associated with cli-  
8 mate change, including such a community that was  
9 or is at risk of being disproportionately impacted or  
10 burdened by climate change or a phenomenon associ-  
11 ated with climate change earlier than other such  
12 communities.

13 (6) FUND.—The term “Fund” means the Cli-  
14 mate Change Resiliency Fund established by section  
15 201(a)(1).

16 (7) LOW-INCOME COMMUNITY.—The term “low-  
17 income community” means any census block group  
18 in which 30 percent or more of the population are  
19 individuals with an annual household income equal  
20 to, or less than, the greater of—

21 (A) an amount equal to 80 percent of the  
22 median household income of the area in which  
23 the household is located, as reported by the De-  
24 partment of Housing and Urban Development;  
25 and

1 (B) 200 percent of the Federal poverty  
2 line.

3 (8) PROJECT.—The term “project” means a  
4 project for a qualified climate change adaptation  
5 purpose performed by an eligible entity under sec-  
6 tion 201(b).

7 (9) QUALIFIED CLIMATE CHANGE ADAPTATION  
8 PURPOSE.—

9 (A) IN GENERAL.—The term “qualified cli-  
10 mate change adaptation purpose” means an ob-  
11 jective with a demonstrated intent to reduce the  
12 economic, social, and environmental impact of  
13 the adverse effects of climate change.

14 (B) INCLUSIONS.—The term “qualified cli-  
15 mate change adaptation purpose” includes in-  
16 frastructure resiliency and mitigation, improved  
17 disaster response, and ecosystem protection,  
18 which may be accomplished through activities  
19 or projects with objectives such as—

20 (i) reducing risks or enhancing resil-  
21 ience to sea level rise, extreme weather  
22 events, fires, drought, flooding, heat island  
23 impacts, or worsened indoor or outdoor air  
24 quality;

1 (ii) protecting farms and the food  
2 supply from climate impacts;

3 (iii) reducing risks of food insecurity  
4 that would otherwise result from climate  
5 change;

6 (iv) ensuring that disaster and public  
7 health plans account for more severe  
8 weather;

9 (v) reducing risks from geographical  
10 change to disease vectors, pathogens,  
11 invasive species, and the distribution of  
12 pests; and

13 (vi) other projects or activities, as de-  
14 termined to be appropriate by the Commis-  
15 sion.

16 (10) SECRETARY.—The term “Secretary”  
17 means the Secretary of Commerce.

18 (11) STATE.—The term “State” means a State,  
19 the District of Columbia, the Commonwealth of  
20 Puerto Rico, and any other territory or possession of  
21 the United States.

1           **TITLE I—CLIMATE CHANGE**  
2           **ADVISORY COMMISSION**

3   **SEC. 101. ESTABLISHMENT OF CLIMATE CHANGE ADVISORY**  
4           **COMMISSION.**

5           (a) **IN GENERAL.**—There is established a commission  
6 to be known as the “Climate Change Advisory Commis-  
7 sion”.

8           (b) **MEMBERSHIP.**—The Commission shall be com-  
9 posed of 11 members—

10           (1) who shall be selected from the public and  
11 private sectors and institutions of higher education;  
12 and

13           (2) of whom—

14           (A) 3 shall be appointed by the President,  
15 in consultation with the National Climate Task  
16 Force;

17           (B) 2 shall be appointed by the Speaker of  
18 the House of Representatives;

19           (C) 2 shall be appointed by the minority  
20 leader of the House of Representatives;

21           (D) 2 shall be appointed by the majority  
22 leader of the Senate; and

23           (E) 2 shall be appointed by the minority  
24 leader of the Senate.

1 (c) TERMS.—Each member of the Commission shall  
2 be appointed for the life of the Commission.

3 (d) INITIAL APPOINTMENTS.—Each member of the  
4 Commission shall be appointed not later than 90 days  
5 after the date of enactment of this Act.

6 (e) VACANCIES.—A vacancy on the Commission—

7 (1) shall not affect the powers of the Commis-  
8 sion; and

9 (2) shall be filled in the manner in which the  
10 original appointment was made.

11 (f) INITIAL MEETING.—Not later than 30 days after  
12 the date on which all members of the Commission have  
13 been appointed, the Commission shall hold the initial  
14 meeting of the Commission.

15 (g) MEETINGS.—The Commission shall meet at the  
16 call of the Chairperson.

17 (h) QUORUM.—A majority of the members of the  
18 Commission shall constitute a quorum, but a lesser num-  
19 ber of members may hold hearings.

20 (i) CHAIRPERSON AND VICE CHAIRPERSON.—The  
21 Commission shall select a Chairperson and Vice Chair-  
22 person from among the members of the Commission.

23 **SEC. 102. DUTIES.**

24 The Commission shall—

1           (1) establish recommendations, frameworks,  
2           and guidelines for a Federal investment program  
3           funded by revenue from climate change obligations  
4           issued under section 301 for eligible entities that—

5                   (A) improve and adapt energy, transpor-  
6                   tation, water, and general infrastructure im-  
7                   pacted or expected to be impacted due to cli-  
8                   mate variability; and

9                   (B) integrate best available science, data,  
10                  standards, models, and trends that improve the  
11                  resiliency of infrastructure systems described in  
12                  subparagraph (A); and

13          (2) in consultation with the Council on Environ-  
14          mental Quality and the White House Environmental  
15          Justice Interagency Council, identify categories of  
16          the most cost-effective investments and projects that  
17          emphasize multiple benefits to human health, com-  
18          merce, and ecosystems while ensuring that the Com-  
19          mission engages in early and meaningful community  
20          stakeholder involvement opportunities during the de-  
21          velopment of the recommendations, frameworks, and  
22          guidelines established under paragraph (1).

23 **SEC. 103. COMMISSION PERSONNEL MATTERS.**

24          (a) COMPENSATION OF MEMBERS.—

1           (1) NON-FEDERAL EMPLOYEES.—A member of  
2           the Commission who is not an officer or employee of  
3           the Federal Government shall be compensated at a  
4           rate equal to the daily equivalent of the annual rate  
5           of basic pay prescribed for level IV of the Executive  
6           Schedule under section 5315 of title 5, United  
7           States Code, for each day (including travel time)  
8           during which the member is engaged in the perform-  
9           ance of the duties of the Commission.

10           (2) FEDERAL EMPLOYEES.—A member of the  
11           Commission who is an officer or employee of the  
12           Federal Government shall serve without compensa-  
13           tion in addition to the compensation received for the  
14           services of the member as an officer or employee of  
15           the Federal Government.

16           (b) TRAVEL EXPENSES.—A member of the Commis-  
17           sion shall be allowed travel expenses, including per diem  
18           in lieu of subsistence, at rates authorized for an employee  
19           of an agency under subchapter I of chapter 57 of title  
20           5, United States Code, while away from the home or reg-  
21           ular place of business of the member in the performance  
22           of the duties of the Commission.

23           (c) STAFF.—

24           (1) IN GENERAL.—The Chairperson of the  
25           Commission may, without regard to the civil service

1 laws (including regulations), appoint and terminate  
2 such personnel as are necessary to enable the Com-  
3 mission to perform the duties of the Commission.

4 (2) COMPENSATION.—

5 (A) IN GENERAL.—Except as provided in  
6 subparagraph (B), the Chairperson of the Com-  
7 mission may fix the compensation of personnel  
8 without regard to the provisions of chapter 51  
9 and subchapter III of chapter 53 of title 5,  
10 United States Code, relating to classification of  
11 positions and General Schedule pay rates.

12 (B) MAXIMUM RATE OF PAY.—The rate of  
13 pay for personnel shall not exceed the rate pay-  
14 able for level V of the Executive Schedule under  
15 section 5316 of title 5, United States Code.

16 **SEC. 104. FUNDING.**

17 The Commission shall use amounts in the Fund to  
18 pay for all administrative expenses of the Commission.

19 **SEC. 105. TERMINATION.**

20 The Commission shall terminate on such date as the  
21 Commission determines after the Commission carries out  
22 the duties of the Commission under section 102.

1           **TITLE II—CLIMATE CHANGE**  
2                           **RESILIENCY FUND**

3   **SEC. 201. CLIMATE CHANGE RESILIENCY FUND.**

4           (a) ESTABLISHMENT.—

5                   (1) IN GENERAL.—There is established in the  
6           Treasury of the United States the “Climate Change  
7           Resiliency Fund”.

8                   (2) USE OF AMOUNTS.—

9                           (A) IN GENERAL.—The Secretary shall use  
10           not less than 40 percent of the amounts in the  
11           Fund to fund projects that benefit communities  
12           that experience disproportionate impacts from  
13           climate change, including environmental justice  
14           communities, frontline communities, and low-in-  
15           come communities.

16                           (B) MAINTENANCE OF EFFORT.—All  
17           amounts deposited in the Fund in accordance  
18           with section 301(a) shall only be used—

19                                   (i) to fund new projects in accordance  
20                                   with this section; and

21                                   (ii) for administrative expenses of the  
22           Commission authorized under section 104.

23                   (3) RESPONSIBILITY OF SECRETARY.—The Sec-  
24           retary shall take such action as the Secretary deter-

1 mines necessary to assist in implementing the Fund  
2 in accordance with this section.

3 (b) CLIMATE CHANGE ADAPTATION PROJECTS.—

4 The Secretary, in consultation with the Commission, shall  
5 carry out a program to provide funds to eligible entities  
6 to carry out projects for a qualified climate change adapta-  
7 tion purpose.

8 (c) APPLICATIONS.—

9 (1) IN GENERAL.—An eligible entity desiring  
10 funds under subsection (b) shall, with respect to a  
11 project, submit to the Secretary an application at  
12 such time, in such manner, and containing such in-  
13 formation as the Secretary may require.

14 (2) CONTENTS.—An application submitted by  
15 an eligible entity under this subsection shall include  
16 data relating to any benefits the eligible entity ex-  
17 pects the project to provide to the community in  
18 which the applicable project is performed, such as—

19 (A) an economic impact; or

20 (B) improvements to public health.

21 (3) TECHNICAL ASSISTANCE.—The Secretary  
22 shall offer technical assistance to eligible entities  
23 preparing applications under this subsection.

24 (d) SELECTION.—

1           (1) IN GENERAL.—The Secretary shall select el-  
2           igible entities to receive funds to carry out projects  
3           under this section based on criteria and guidelines  
4           determined and published by the Commission under  
5           section 102.

6           (2) PRIORITY.—In selecting eligible entities  
7           under paragraph (1), the Secretary shall give pri-  
8           ority to eligible entities planning to perform projects  
9           that will serve areas with the greatest need.

10          (e) NON-FEDERAL FUNDING REQUIREMENT.—

11           (1) IN GENERAL.—Subject to paragraphs (2)  
12           and (3), in order to receive funds under this section,  
13           an eligible entity shall provide funds for a project in  
14           an amount that is equal to not less than 25 percent  
15           of the amount of funds provided under this section.

16           (2) WAIVER.—The Secretary may waive all or  
17           part of the matching requirement under paragraph  
18           (1) for an eligible entity, especially an eligible entity  
19           performing a project benefitting a low-income com-  
20           munity or an environmental justice community, if  
21           the Secretary determines that—

22                   (A) there are no reasonable means avail-  
23                   able through which the eligible entity can meet  
24                   the matching requirement; or

1 (B) the probable benefit of the project out-  
2 weighs the public interest of the matching re-  
3 quirement.

4 (3) NO-MATCH PROJECTS.—

5 (A) IN GENERAL.—The Secretary shall  
6 award not less than 10 percent and not more  
7 than 40 percent of the total funds awarded  
8 under this section to eligible entities to which  
9 the matching requirement under paragraph (1)  
10 shall not apply.

11 (B) PRIORITY.—The Secretary shall give  
12 priority for funding under subparagraph (A) to  
13 an eligible entity performing a project in a com-  
14 munity experiencing a disproportionate impact  
15 of climate change, including—

16 (i) an environmental justice commu-  
17 nity;

18 (ii) a low-income community; or

19 (iii) a community of color.

20 (f) APPLICABILITY OF FEDERAL LAW.—Nothing in  
21 this Act shall be construed to waive the requirements of  
22 any Federal law or regulation that would otherwise apply  
23 to a project that receives funds under this section.

1 **SEC. 202. COMPLIANCE WITH DAVIS-BACON ACT.**

2 (a) IN GENERAL.—All laborers and mechanics em-  
 3 ployed by contractors and subcontractors on projects fund-  
 4 ed directly by, or assisted in whole or in part by and  
 5 through, the Fund shall be paid wages at rates not less  
 6 than those prevailing on projects of a character similar  
 7 in the locality as determined by the Secretary of Labor  
 8 in accordance with subchapter IV of chapter 31 of part  
 9 A of title 40, United States Code.

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

16 **SEC. 203. FUNDING.**

17 To carry out the program under section 201(b), the  
 18 Secretary, in addition to amounts in the Fund, may use  
 19 amounts that have been made available to the Secretary  
 20 and are not otherwise obligated.

21 **TITLE III—REVENUE**

22 **SEC. 301. CLIMATE CHANGE OBLIGATIONS.**

23 (a) IN GENERAL.—Not later than 6 months after the  
 24 date of the enactment of this Act, the Secretary of the  
 25 Treasury or the Secretary’s delegate (referred to in this  
 26 title as the “Secretary”) shall issue obligations under

1 chapter 31 of title 31, United States Code (referred to  
2 in this title as “climate change obligations”), the proceeds  
3 from which shall be deposited in the Fund.

4 (b) FULL FAITH AND CREDIT.—Payment of interest  
5 and principal with respect to any climate change obliga-  
6 tion issued under this section shall be made from the gen-  
7 eral fund of the Treasury of the United States and shall  
8 be backed by the full faith and credit of the United States.

9 (c) EXEMPTION FROM LOCAL TAXATION.—All cli-  
10 mate change obligations issued by the Secretary, and the  
11 interest on or credits with respect to such obligations,  
12 shall not be subject to taxation by any State, county, mu-  
13 nicipality, or local taxing authority.

14 (d) AMOUNT OF CLIMATE CHANGE OBLIGATIONS.—

15 (1) IN GENERAL.—Except as provided in para-  
16 graph (2), the aggregate face amount of the climate  
17 change obligations issued annually under this section  
18 shall be \$200,000,000.

19 (2) ADDITIONAL OBLIGATIONS.—For any cal-  
20 endar year in which all of the obligations issued pur-  
21 suant to paragraph (1) have been purchased, the  
22 Secretary may issue additional climate change obli-  
23 gations during such calendar year, provided that the  
24 aggregate face amount of such additional obligations  
25 does not exceed \$800,000,000.

1 (e) FUNDING.—The Secretary shall use funds made  
2 available to the Secretary and not otherwise obligated to  
3 carry out the purposes of this section.

4 **SEC. 302. PROMOTION.**

5 (a) IN GENERAL.—The Secretary shall promote the  
6 purchase of climate change obligations through such  
7 means as are determined appropriate by the Secretary,  
8 with the amount expended for such promotion not to ex-  
9 ceed \$10,000,000 for any fiscal year during the period of  
10 fiscal years 2022 through 2026.

11 (b) DONATED ADVERTISING.—In addition to any ad-  
12 vertising paid for with funds made available under sub-  
13 section (c), the Secretary shall solicit and may accept the  
14 donation of advertising relating to the sale of climate  
15 change obligations.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—For each  
17 fiscal year during the period of fiscal years 2022 through  
18 2026, there is authorized to be appropriated \$10,000,000  
19 to carry out the purposes of this section.

○