

112TH CONGRESS
2D SESSION

S. 2053

To encourage transit-oriented development, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2012

Mr. BENNET (for himself and Mr. WARNER) introduced the following bill;
which was read twice and referred to the Committee on Banking, Housing,
and Urban Affairs

A BILL

To encourage transit-oriented development, 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 “Jumpstarting Transit-
5 Oriented Development Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Transit has the potential to transform com-
9 munities into vibrant economic engines that will

1 strengthen the economic outlook for the United
2 States.

3 (2) There are more than 3,700 transit stations
4 in the United States, and communities are building
5 and proposing thousands more.

6 (3) Transit stations can be the focal point for
7 significant economic development, commonly known
8 as transit-oriented development.

9 (4) Transit-oriented development brings numer-
10 ous benefits, such as increased property values, re-
11 duced cost of living, increased business activity, and
12 reduced traffic congestion.

13 (5) Transit-oriented development that provides
14 residential opportunities affordable to families of all
15 incomes, coupled with expanded commercial and
16 business development along a transit corridor, will
17 increase transit ridership, allowing transit agencies
18 to recover more of their costs from the farebox and
19 rely less on taxpayer support.

20 (6) Despite these benefits, a lack of planning
21 capacity and financing tools at the local level are
22 major barriers to transit-oriented development.

23 (7) Given the economic potential of transit-ori-
24 ented development, it is in the interest of the Fed-
25 eral Government to work in partnership with States

1 and local communities to promote transit-oriented
 2 development.

3 **SEC. 3. TRANSIT-ORIENTED DEVELOPMENT.**

4 Chapter 53 of title 49, United States Code, is amend-
 5 ed by adding at the end the following:

6 **“§ 5341. Transit-Oriented Development Planning Pro-**
 7 **gram**

8 “(a) DEFINITIONS.—In this section, the following
 9 definitions shall apply:

10 “(1) ELIGIBLE AREA.—The term ‘eligible area’
 11 means the area within one half-mile of an existing
 12 or planned major transit facility.

13 “(2) ELIGIBLE RECIPIENT.—The term ‘eligible
 14 recipient’ means—

15 “(A) a transit agency, a unit of local gov-
 16 ernment, a metropolitan planning organization,
 17 a tribal government, and a State; and

18 “(B) an entity described in subparagraph
 19 (A), in partnership with a public or private
 20 agency or organization.

21 “(3) MAJOR TRANSIT FACILITY.—The term
 22 ‘major transit facility’ means—

23 “(A) a station that is part of a fixed-guide-
 24 way public transportation system;

1 “(B) a high-speed rail or intercity rail sta-
2 tion;

3 “(C) a transit hub; or

4 “(D) a transit center located in an other
5 than urbanized area.

6 “(4) PLANNED MAJOR TRANSIT FACILITY.—The
7 term ‘planned major transit facility’ means a major
8 transit facility for which—

9 “(A) any environmental review required
10 under this chapter or the rules of the Depart-
11 ment or the Federal Transit Administration has
12 been completed; and

13 “(B) funding for construction can be rea-
14 sonably anticipated.

15 “(5) PROGRAM.—The term ‘Program’ means
16 the program established under subsection (b).

17 “(6) TRANSIT HUB.—The term ‘transit hub’
18 means a transit station or facility connecting 3 or
19 more local or regional transit or rail lines.

20 “(b) ESTABLISHMENT OF PROGRAM.—The Secretary
21 may award grants to eligible recipients for the purpose
22 of establishing a specific, implementable strategy for
23 mixed-income, mixed-use development in an eligible area.

1 “(c) CHARACTERISTICS OF THE STRATEGY.—A spe-
2 cific, implementable strategy for mixed-income, mixed-use
3 development established under the Program shall—

4 “(1) specifically identify activities that the eligi-
5 ble recipient determines are necessary to create the
6 conditions that will lead to successful transit-ori-
7 ented development in the eligible area, which may
8 include—

9 “(A) reducing regulatory or procedural
10 barriers to private investment in eligible areas;

11 “(B) conducting a market assessment of
12 opportunities for commercial, residential, and
13 business development;

14 “(C) identifying infrastructure needs in the
15 eligible area, such as sidewalks and street im-
16 provements;

17 “(D) making community engagement ef-
18 forts; and

19 “(E) any other activity that the eligible re-
20 cipient determines is consistent with this para-
21 graph;

22 “(2) establish a schedule for implementation of
23 the activities identified under paragraph (1);

24 “(3) identify the person responsible for each ac-
25 tivity identified under paragraph (1);

1 “(4) include a financing plan for proposed in-
 2 frastructure improvements and development activi-
 3 ties, including any project costs for which funding
 4 has not been identified; and

5 “(5) establish a schedule for adoption of the
 6 strategy by relevant State, regional, local, or tribal
 7 governments.

8 “(d) EVALUATION CRITERIA.—In awarding grants
 9 under this section, the Secretary, in consultation with the
 10 Secretary of Housing and Urban Development and the
 11 Administrator of the Environmental Protection Agency,
 12 shall consider factors such as—

13 “(1) the extent to which the creation of a strat-
 14 egy under subsection (c) would help achieve—

15 “(A) increased real estate development
 16 that is accessible by pedestrians from a transit
 17 station in the eligible area;

18 “(B) increased transit ridership within the
 19 eligible area;

20 “(C) an appropriate mix of uses for the eli-
 21 gible area, determined with reference to local
 22 and regional growth and development plans;

23 “(D) preservation of affordable housing
 24 and the ongoing availability of housing in the

1 eligible area that is affordable to families with
2 a range of incomes;

3 “(E) increased access to jobs and employ-
4 ment centers using transit; and

5 “(F) transit, housing, businesses, and fa-
6 cilities in the eligible area that are accessible to
7 elderly individuals, individuals with disabilities,
8 and people of all income ranges;

9 “(2) the extent to which development of a strat-
10 egy under subsection (c) would be coordinated with
11 all relevant members of the community in which the
12 eligible area is located, including public-sector, real-
13 estate, retail, housing, commercial and economic de-
14 velopment, non-profit, and community-based organi-
15 zations or businesses;

16 “(3) how a strategy under subsection (c) would
17 be coordinated with relevant regional and local eco-
18 nomic development, land use, transportation, and
19 housing plans;

20 “(4) the location of the eligible area, to ensure
21 that eligible recipients selected to participate in the
22 Program are geographically diverse and include
23 areas having populations of various sizes;

24 “(5) the capacity of the eligible recipient and
25 any partners of the eligible recipient to implement a

1 strategy under subsection (c) to maximize the likeli-
2 hood of the successful implementation of a strategy
3 established under the Program; and

4 “(6) the extent to which funds awarded under
5 the Program would be coordinated with other Fed-
6 eral funding available to the applicant, as well as
7 non-Federal revenues, to maximize efficient use of
8 Federal funding.

9 “(e) LIMITATION ON USE OF FUNDS.—A recipient
10 of funding under the Program may not use the funding
11 to implement a strategy established under the Program.

12 “(f) RESERVATION OF FUNDS.—The Secretary may
13 reserve not more than 20 percent of the amount of a grant
14 under the Program until a strategy established under the
15 Program is adopted by all relevant State, regional, local,
16 and tribal governments in accordance with the schedule
17 established under subsection (c)(5).

18 “(g) COST SHARING.—

19 “(1) FEDERAL SHARE.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), the Federal share of the cost
22 of establishing a strategy under subsection (c)
23 to be funded using a grant under the Program
24 shall be not less than 50 percent and not more
25 than 80 percent.

1 “(B) TRIBAL GOVERNMENTS.—The Fed-
 2 eral share of the cost of establishing a strategy
 3 under subsection (c) to be funded using a grant
 4 under the Program to an eligible recipient that
 5 is a tribal government shall be 100 percent.

6 “(2) CONSIDERATIONS.—In determining the
 7 Federal share of the cost of establishing a strategy
 8 under subsection (c) to be funded using a grant
 9 under the Program, the Secretary shall consider the
 10 demonstrated need of the applicant for assistance
 11 and available resources for establishing the strategy.

12 “(3) IN-KIND CONTRIBUTIONS.—In-kind con-
 13 tributions may be used for all or part of the non-
 14 Federal share of the cost of establishing a strategy
 15 under subsection (c).

16 “(h) REPORTING REQUIREMENTS.—

17 “(1) REPORTS BY RECIPIENTS OF GRANTS.—
 18 Each recipient of a grant under the Program shall
 19 agree to establish, in coordination with the Sec-
 20 retary, performance measures, reporting require-
 21 ments, and any other requirements that the Sec-
 22 retary determines are necessary, that must be met
 23 at the end of each year in which the recipient re-
 24 ceives funds under the Program.

1 “(2) REPORTS TO CONGRESS.—The Secretary
2 shall submit to Congress an annual report that con-
3 tains—

4 “(A) a list of—

5 “(i) each recipient of a grant under
6 this section;

7 “(ii) the Federal share of the cost of
8 each strategy established using a grant
9 under this section;

10 “(iii) a description of the eligible area
11 and the activities a grant under this sec-
12 tion would support; and

13 “(iv) any eligible recipient that ap-
14 plied for but did not receive a grant under
15 this section; and

16 “(B) a report describing the outcome and
17 effectiveness of each grant made under this sec-
18 tion.

19 “(i) AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) AUTHORIZATION.—There are authorized to
21 be appropriated \$20,000,000 for each fiscal year to
22 carry out the Program.

23 “(2) LIMITATION.—Of amounts authorized for
24 the program under paragraph (1), 10 percent shall
25 be available to the Secretary for administration of

1 the program and to provide technical assistance and
 2 training for employees of eligible recipients regard-
 3 ing developing a strategy under subsection (c) and
 4 implementation of transit-oriented development.

5 **“§ 5342. Transit-Oriented Development Loan Program**

6 “(a) DEFINITIONS.—In this section, the following
 7 definitions shall apply:

8 “(1) ELIGIBLE APPLICANT.—The term ‘eligible
 9 applicant’ means an eligible recipient, as defined in
 10 section 5341.

11 “(2) ELIGIBLE AREA.—The term ‘eligible area’
 12 has the same meaning as in section 5341.

13 “(3) ELIGIBLE BORROWER.—The term ‘eligible
 14 borrower’ means—

15 “(A) an eligible recipient;

16 “(B) a corporation, partnership, joint ven-
 17 ture, or trust on behalf of which an eligible ap-
 18 plicant submits an application under subsection
 19 (c); and

20 “(C) any other legal entity undertaking a
 21 project on behalf of which an eligible applicant
 22 submits an application under subsection (c).

23 “(4) PROJECT.—The term ‘project’ means an
 24 infrastructure development project that is used to

1 support transit-oriented development in an eligible
2 area, including—

3 “(A) property enhancement, including con-
4 ducting environmental remediation, park devel-
5 opment, and open space acquisition;

6 “(B) improvement of mobility and parking,
7 including rehabilitating, or providing for addi-
8 tional, streets, transit stations, structured park-
9 ing, walkways, and bikeways;

10 “(C) utility development, including reha-
11 bilitating existing, or providing for new drinking
12 water, wastewater, electric, and gas utilities;
13 and

14 “(D) any other activities eligible under
15 joint development guidelines, as that term is de-
16 fined by the Administrator of the Federal Tran-
17 sit Administration.

18 “(5) TRANSIT-ORIENTED DEVELOPMENT.—The
19 term ‘transit-oriented development’ has the same
20 meaning as in section 5341.

21 “(b) LOANS AND LOAN GUARANTEES.—The Sec-
22 retary may make or guarantee loans under this section
23 to eligible borrowers to carry out projects.

1 “(c) APPLICATION.—An eligible applicant may sub-
 2 mit to the Secretary an application for a loan or loan guar-
 3 antee under this section—

4 “(1) to fund a project carried out by the eligible
 5 applicant; or

6 “(2) on behalf of an eligible borrower, to fund
 7 a project carried out by the eligible borrower.

8 “(d) SELECTION CRITERIA.—

9 “(1) IN GENERAL.—The Secretary may make a
 10 loan or loan guarantee under this section for a
 11 project—

12 “(A) to be carried out within an eligible
 13 area;

14 “(B) that is part of a community-wide de-
 15 velopment plan;

16 “(C) that promotes sustainable develop-
 17 ment designed to include features that reduce
 18 energy consumption and that are environ-
 19 mentally responsible; and

20 “(D) for which not less than 15 percent of
 21 any housing units constructed or substantially
 22 rehabilitated as part of a transit-oriented devel-
 23 opment supported by the project are affordable
 24 over the long term to, and occupied at time of
 25 initial occupancy by—

1 “(i) renters having incomes at or
 2 below 60 percent of the median income for
 3 the metropolitan statistical area in which
 4 the area is located; or

5 “(ii) homeowners having incomes at
 6 or below 100 percent of the median income
 7 for the metropolitan statistical area in
 8 which the area is located.

9 “(2) CONSIDERATIONS.—The Secretary, in con-
 10 sultation with the Secretary of Housing and Urban
 11 Development and the Administrator of the Environ-
 12 mental Protection Agency, shall select the recipients
 13 of loans and loan guarantees under this section
 14 based on the extent to which—

15 “(A) the transit-oriented development sup-
 16 ported by the project would—

17 “(i) encourage increased use of transit
 18 in the eligible area; and

19 “(ii) create or preserve long-term af-
 20 fordable housing units—

21 “(I) in addition to the housing
 22 units required to be made available
 23 under paragraph (1)(C); or

1 “(II) that are affordable to indi-
2 viduals having incomes below the in-
3 comes described in paragraph (1)(C);

4 “(B) the project would facilitate and en-
5 courage additional development or redevelop-
6 ment in the eligible area;

7 “(C) the relevant local government has
8 adopted policies that—

9 “(i) promote long-term affordable
10 housing; and

11 “(ii) allow high-density, mixed-use de-
12 velopment near transit stations;

13 “(D) the transit-oriented development sup-
14 ported by the project is part of a regional or
15 local comprehensive plan, including any strategy
16 developed under section 5341;

17 “(E) the eligible borrower has established
18 a reliable, dedicated revenue source to repay the
19 loan;

20 “(F) the project could not be carried out
21 without a loan or loan guarantee under this sec-
22 tion; and

23 “(G) a loan or loan guarantee under this
24 section would be used in conjunction with non-
25 Federal sources to fund the project.

1 “(e) ELIGIBLE SOURCES OF REPAYMENT.—A loan
 2 made or guaranteed under this section shall be repayable,
 3 in whole or in part, from dedicated revenue sources, which
 4 may include—

5 “(1) user fees;

6 “(2) property tax revenues;

7 “(3) sales tax revenues;

8 “(4) other revenue sources dedicated to the
 9 project by property owners and businesses; or

10 “(5) a bond or other indebtedness backed by a
 11 revenue source described in this subsection.

12 “(f) INTEREST RATE.—The Secretary shall establish
 13 an interest rate for loans made or guaranteed under this
 14 section with reference to a benchmark interest rate (yield)
 15 on marketable Treasury securities with a maturity that
 16 is similar to the loans made or guaranteed under this sec-
 17 tion.

18 “(g) MAXIMUM MATURITY.—The maturity of a loan
 19 made or guaranteed under this section may not exceed the
 20 lesser of—

21 “(1) 35 years; or

22 “(2) 90 percent of the useful life of any project
 23 to be financed by the loan, as determined by the
 24 Secretary.

25 “(h) MAXIMUM LOAN GUARANTEE RATE.—

1 “(1) IN GENERAL.—The guarantee rate on a
2 loan guaranteed under this section may not exceed
3 75 percent of the amount of the loan.

4 “(2) LOWER GUARANTEE RATE FOR LOW-RISK
5 BORROWERS.—The Secretary shall establish for
6 loans to eligible borrowers that the Secretary deter-
7 mines have less risk of default a guarantee rate that
8 is lower than the guarantee rate for loans to other
9 eligible borrowers.

10 “(i) FEES.—The Secretary shall establish fees for
11 loans made or guaranteed under this section at a level that
12 are sufficient to cover all or part of the costs to the Fed-
13 eral Government of making or guaranteeing a loan under
14 this section.

15 “(j) NONSUBORDINATION.—A loan made or guaran-
16 teed under this section may not be subordinated to the
17 claims of any holder of an obligation relating to the project
18 in the event of bankruptcy, insolvency, or liquidation.

19 “(k) COMMENCEMENT OF REPAYMENT.—The sched-
20 uled repayment of principal or interest on a loan made
21 or guaranteed under this section shall commence not later
22 than 5 years after the date of substantial completion of
23 the project, as determined by the Secretary.

24 “(l) REPAYMENT DEFERRAL FOR LOANS.—

25 “(1) IN GENERAL.—

1 “(A) LOAN MADE BY SECRETARY.—If, at
2 any time after the date of substantial comple-
3 tion of a project, the Secretary determines that
4 dedicated revenue sources of an eligible bor-
5 rower are insufficient to make the scheduled
6 loan repayments of principal and interest on a
7 loan made by the Secretary under this section,
8 the Secretary may, subject to criteria estab-
9 lished by the Secretary, allow the eligible bor-
10 rower to add unpaid principal and interest to
11 the outstanding balance of the loan.

12 “(B) LOAN GUARANTEED BY SEC-
13 RETARY.—If, at any time after the date of sub-
14 stantial completion of a project, the Secretary
15 determines that dedicated revenue sources of an
16 eligible borrower are insufficient to make the
17 scheduled loan repayments of principal and in-
18 terest on a loan guaranteed by the Secretary
19 under this section, the Secretary may, subject
20 to criteria established by the Secretary—

- 21 “(i) add unpaid principal and interest
22 to the outstanding balance of the loan; and
23 “(ii) modify the terms of the loan
24 guarantee to reflect a modification made
25 under subsection (i).

1 “(2) TREATMENT OF DEFERRED PAYMENTS.—

2 Any payment deferred under this section shall—

3 “(A) continue to accrue interest until fully
4 repaid; and

5 “(B) be scheduled to be amortized over the
6 remaining term of the loan.

7 “(m) REPORTING REQUIREMENTS.—

8 “(1) REPORTS BY RECIPIENTS OF GRANTS.—

9 Each recipient of a loan or loan guarantee under
10 this section shall provide regular status reports to
11 the Secretary.

12 “(2) REPORTS TO CONGRESS.—The Secretary
13 shall submit to Congress an annual report that con-
14 tains—

15 “(A) a list of—

16 “(i) each eligible borrower that re-
17 ceives a loan made or guaranteed under
18 this section;

19 “(ii) a description of the eligible area
20 and the activities a loan or loan guarantee
21 under this section would support; and

22 “(iii) any eligible applicant that ap-
23 plied for but did not receive a loan or loan
24 guarantee under this section; and

1 “(B) a report describing the outcome and
2 effectiveness of each loan made or guaranteed
3 under this section.

4 “(n) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated for the cost of loans and
6 loan guarantees under this section \$40,000,000 for each
7 fiscal year.”.

8 **SEC. 4. EVALUATION PROCESS AND PROGRAM CRITERIA.**

9 The Secretary shall, after providing notice and an op-
10 portunity to comment, publish policy guidance regarding
11 the evaluation process and criteria for the programs estab-
12 lished under sections 5341 and 5342 of title 49, United
13 States Code, as added by this Act.

○