

117TH CONGRESS  
1ST SESSION

# H. R. 2205

To amend title 49, United States Code, to provide grants and develop value capture policy.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2021

Mr. DESAULNIER introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to provide grants and develop value capture policy.

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 “Incentivizing Value  
5 Capture for Greener Transportation Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In 2018, greenhouse gas emissions (GHG)  
9 rose sharply by 3.4 percent, the second-largest an-  
10 nual gain in more than 20 years, and GHG emis-

1        sions have grown by approximately 1.5 percent every  
2        year over the last decade.

3            (2) Greenhouse gas emissions from the trans-  
4        portation sector, including cars and trucks, are the  
5        largest source of GHG emissions in the United  
6        States with the transportation sector emitting  
7        1,900,000,000 tons of carbon dioxide (CO<sub>2</sub>) annu-  
8        ally.

9            (3) Annual vehicle miles traveled (VMT) in the  
10       United States have nearly tripled since 1971, rising  
11       to 3,210,000,000,000 in 2018.

12           (4) Consequently, in 2018, Americans lost an  
13       average of 97 hours a year due to congestion, cost-  
14       ing them nearly \$87,000,000,000.

15           (5) Residents in communities located near high-  
16       capacity transit are twice as likely not to own a car  
17       as residents who live elsewhere, and they own half  
18       as many cars per household.

19           (6) Increasing transit ridership and improving  
20       our transit systems in urban, suburban, and exurban  
21       areas, using innovative solutions such as land value  
22       capture, will help reduce VMT, congestion, GHG  
23       emissions, and reliance on fossil fuels and vehicles.  
24       By reducing such factors, the United States can help  
25       curb the effects of climate change.

1 **SEC. 3. VALUE CAPTURE POLICY AND PLANNING PRO-**  
2 **GRAM.**

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

5 **“SEC. 5341. TECHNICAL ASSISTANCE AND VALUE CAPTURE**  
6 **POLICY.**

7 **“(a) TECHNICAL ASSISTANCE AND POLICY DEVEL-**  
8 **OPMENT.—**

9 **“(1) TECHNICAL ASSISTANCE GRANTS.—**The  
10 Secretary may make a grant available to a State or  
11 local government if the Secretary determines that  
12 such grant will assist recipients under this section  
13 to—

14 **“(A)** develop more State and local value  
15 capture mechanisms for long-term funding that  
16 promote mobility, public transportation, and af-  
17 fordable transit-oriented development;

18 **“(B)** improve public transportation and  
19 mobility; and

20 **“(C)** develop strategic partnerships that  
21 create greater self-help capacity that leads to  
22 greater long term and robust investments in  
23 public transportation, mobility, inclusive eco-  
24 nomic development, and affordable transit-ori-  
25 ented development.

1           “(2) PERFORMANCE BENCHMARKS AND MAIN-  
2           TENANCE OF EFFORT.—

3           “(A) PERFORMANCE BENCHMARKS.—To  
4           be eligible for a grant under this section, the  
5           grantee shall include in its application an expla-  
6           nation of how the grant funds will demonstrably  
7           increase transit capacity and ridership and re-  
8           duce carbon dioxide emissions, vehicle miles  
9           traveled, and congestion.

10          “(B) MAINTENANCE OF EFFORT.—

11          “(i) IN GENERAL AND POSSIBLE RE-  
12          DUCTION.—In addition to the eligibility re-  
13          quirements of subparagraph (A), a grantee  
14          also needs to include in its application a  
15          certification to maintain the same funding  
16          level as the aggregate expenditures at or  
17          above the average level of expenditures in  
18          the 2 fiscal years prior to the date of en-  
19          actment of this section. If a State or local  
20          government that receives a grant under  
21          this section reduces its combined fiscal ef-  
22          fort for value capture initiatives and pro-  
23          grams or the aggregate expenditures with-  
24          in the State or local government to support  
25          value capture, public transportation, or af-

1           fordable transit-oriented development pro-  
2           grams for any fiscal year that a State or  
3           local government receives a grant author-  
4           ized under this section relative to the pre-  
5           vious fiscal year, the Secretary, except as  
6           provided in clause (ii), shall reduce support  
7           for such State or local government under  
8           this section by the same amount as the de-  
9           cline in State or local effort for such fiscal  
10          year.

11                 “(ii) WAIVER.—The Secretary may  
12           waive the requirements of this subpara-  
13           graph if—

14                         “(I) the Secretary determines  
15           that a waiver would be appropriate  
16           due to a precipitous decline in the fi-  
17           nancial resources of a State or local  
18           government as a result of unforeseen  
19           economic hardship or a natural dis-  
20           aster that has necessitated across-the-  
21           board reductions in State or local  
22           services, including value capture, pub-  
23           lic transportation, and affordable  
24           transit-oriented development pro-  
25           grams; or

1 “(II) due to the circumstances of  
2 a State or local government requiring  
3 reductions in specific programs, if the  
4 State or local government presents to  
5 the Secretary a justification and dem-  
6 onstration why other programs could  
7 not be reduced and how value capture,  
8 public transportation, and affordable  
9 transit-oriented development programs  
10 in the State will not be disproportion-  
11 ately harmed by such State or local  
12 action.

13 “(3) DAVIS-BACON.—The Secretary shall en-  
14 sure that laborers and mechanics employed by con-  
15 tractors and subcontractors in construction work fi-  
16 nanced by a grant made under this section will be  
17 paid wages not less than those prevailing on similar  
18 construction in the locality, as determined by the  
19 Secretary of Labor under subchapter IV of chapter  
20 31 of title 40 (commonly known as the ‘Davis-Bacon  
21 Act’).

22 “(4) ENFORCEMENT.—The Secretary may re-  
23 voke grant funds provided under this section if a  
24 grantee fails to implement the maintenance of effort

1 under paragraph (2)(B) and Davis-Bacon provisions  
2 referred to paragraph (3).

3 “(5) EVALUATION.—Not later than 3 years  
4 after receiving a grant under this section, the grant-  
5 ee shall assess the effectiveness of the use of the  
6 funds by evaluating whether the funds created a de-  
7 monstrable increase in transit capacity and ridership  
8 and a reduction in carbon dioxide emissions, vehicle  
9 miles traveled, and congestion.

10 “(6) TECHNICAL ASSISTANCE.—The Secretary,  
11 through a competitive bid process, may enter into  
12 contracts, cooperative agreements, and other agree-  
13 ments with national nonprofit organizations and uni-  
14 versities that have the appropriate demonstrated ca-  
15 pacity to provide value capture-related technical as-  
16 sistance under this subsection, including guidance on  
17 implementing foreign value capture models within  
18 the United States.

19 “(7) SUPPLEMENT NOT SUPPLANT.—Grant  
20 funds received under this section shall be used to  
21 supplement and not supplant other Federal, State,  
22 and local public funds expended on public value cap-  
23 ture and affordable transit-oriented development  
24 programs in the State or local government.

1           “(8) VALUE CAPTURE POLICY REQUIRE-  
2           MENTS.—

3                   “(A) VALUE CAPTURE POLICY.—Not later  
4           than October 1 of the fiscal year that begins 2  
5           years after the date of enactment of this sec-  
6           tion, the Secretary, in collaboration with State  
7           departments of transportation, metropolitan  
8           planning organizations, and regional council of  
9           governments, shall establish voluntary and con-  
10          sensus-based value capture standards, policies,  
11          and best practices for State and local value cap-  
12          ture mechanisms that promote greater invest-  
13          ments in public transportation and affordable  
14          transit-oriented development.

15                  “(B) REPORT.—Not later than 15 months  
16          after the date of enactment of this section, the  
17          Secretary shall make available to the public a  
18          report cataloging examples of State and local  
19          laws and policies that provide for value capture  
20          and value sharing that promote greater invest-  
21          ment in public transportation and affordable  
22          transit-oriented development.

23                  “(C) BEST PRACTICES.—Based on the re-  
24          port required under subparagraph (B), the Sec-  
25          retary shall identify and disseminate examples



1 of best practices where States and local govern-  
2 ments have adopted value capture and value  
3 sharing mechanisms that have successfully pro-  
4 vided for greater investment in public transpor-  
5 tation and affordable transit-oriented develop-  
6 ment.

7 “(b) DEFINITIONS.—For purposes of this section—

8 “(1) the term ‘value capture’ means capturing  
9 a portion of the incremental economic value created  
10 by government investments, activities, and policies  
11 that may generate alternative revenue streams, as-  
12 sets, or other financial value for which could assist  
13 in funding those investments and activities;

14 “(2) the term ‘transit-oriented development’  
15 means a mix of commercial, residential, office, and  
16 entertainment centered around or located near a  
17 public transportation station that promotes afford-  
18 able housing and commercial space;

19 “(3) the term ‘affordable housing’ means hous-  
20 ing, the cost of which does not exceed 30 percent of  
21 the income of a family; and

22 “(4) the term ‘affordable commercial space’  
23 means commercial space dedicated to either protect

- 1 or promote small and disadvantage businesses pro-
- 2 vided below market rent value.”.

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