

111TH CONGRESS
1ST SESSION

H. R. 3517

To amend titles 23 and 49, United States Code, to enhance employer involvement in transportation planning and to create and expand commuter benefit programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. SIRES (for himself, Mrs. NAPOLITANO, and Mr. CARNAHAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend titles 23 and 49, United States Code, to enhance employer involvement in transportation planning and to create and expand commuter benefit programs, 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 “Commute LESS Act
5 of 2009” or the “Commute-Leveraging Employer Support
6 and Successes Act of 2009”.

1 **SEC. 2. ENHANCING EMPLOYER INVOLVEMENT IN METRO-**
2 **POLITAN TRANSPORTATION PLANNING.**

3 (a) DESIGNATION OF METROPOLITAN PLANNING OR-
4 GANIZATIONS.—Section 5303(d)(2) of title 49, United
5 States Code, is amended—

6 (1) in subparagraph (B) by striking “and” at
7 the end;

8 (2) in subparagraph (C) by striking the period
9 at the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(D) not less than one representative des-
12 ignated by the applicable employer advisory
13 council established under subsection (q).”.

14 (b) DEVELOPMENT OF TRANSPORTATION PLAN.—

15 (1) TRANSPORTATION PLAN.—Section
16 5303(i)(2) of such title is amended by adding at the
17 end the following:

18 “(G) EMPLOYER OUTREACH AND COM-
19 MUTER BENEFIT ACTIVITIES.—Proposed activi-
20 ties and strategies to provide outreach to em-
21 ployers in the region to create and expand al-
22 ternative commuting and commuter benefit pro-
23 grams (as such term is defined under section
24 330(1) of title 23).”.

1 (2) PARTICIPATION BY INTERESTED PAR-
2 TIES.—Section 5303(i)(5)(B) of such title is amend-
3 ed—

4 (A) in clause (i) by striking “and” at the
5 end;

6 (B) in clause (ii) by striking the period at
7 the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(iii) shall identify employers and
10 transportation management organizations
11 (as such term is defined under section
12 330(l) of title 23) that are within the
13 boundaries of the metropolitan planning
14 organization and shall include strategies
15 developed to provide outreach to such em-
16 ployers and organizations and a plan to in-
17 clude the input of such employers and or-
18 ganizations in the development of the
19 transportation plan.”.

20 (c) METROPOLITAN TIP.—

21 (1) DEVELOPMENT.—Section 5303(j)(1) of
22 such title is amended by adding at the end the fol-
23 lowing:

24 “(E) EMPLOYER INVOLVEMENT.—The TIP
25 shall be developed in coordination with the ap-

1 plicable employer advisory council established
 2 under subsection (q) and shall include projects
 3 identified by such employer advisory council.”.

4 (2) CONTENTS.—Section 5303(j)(2)(A) of such
 5 title is amended by striking the period at the end
 6 and inserting “, including projects identified by the
 7 commuter trip reduction plan established under sub-
 8 section (q).”.

9 (d) EMPLOYER ADVISORY COUNCIL.—Section 5303
 10 of such title is amended by adding at the end the fol-
 11 lowing:

12 “(q) EMPLOYER ADVISORY COUNCIL.—

13 “(1) IN GENERAL.—Each metropolitan plan-
 14 ning organization shall establish an employer advi-
 15 sory council consisting of representatives of employ-
 16 ers within the boundaries of the metropolitan plan-
 17 ning organization.

18 “(2) TRANSPORTATION PLAN AND TIP RE-
 19 VIEW.—The employer advisory council shall review
 20 how long-range transportation plans and TIPs will
 21 affect commuting habits and shall develop a plan to
 22 reduce trips relating to commuting to and from work
 23 in accordance with paragraph (3).

1 “(3) COMMUTER TRIP REDUCTION PLAN.—The
2 employer advisory council shall develop a commuter
3 trip reduction plan that shall—

4 “(A) identify commuting patterns;

5 “(B) develop regional goals to reduce vehi-
6 cle miles traveled during peak commuting
7 hours;

8 “(C) develop a series of regional projects
9 and programs to achieve the goals established
10 under subparagraph (B);

11 “(D) identify existing employer-based com-
12 muting alternatives programs in the region; and

13 “(E) identify proposed employer-based
14 commuting alternatives programs to be included
15 in the transportation plan under subsection (i)
16 and TIP under subsection (j).

17 “(4) ADVISORY COUNCIL MEMBERSHIP.—The
18 employer advisory council shall consist of not less
19 than 15 representatives of employers within the
20 boundaries of the metropolitan planning organiza-
21 tion, which may include representatives of identified
22 transportation management organizations (as such
23 term is defined under section 330(l) of title 23)
24 within such boundaries. Employer advisory council
25 members shall be selected by the metropolitan plan-

1 ning organization and, to the extent practicable,
2 shall represent a diverse cross-section of employers
3 within the boundaries of the metropolitan planning
4 organization.

5 “(5) MPO MEMBERSHIP.—The employer advi-
6 sory council shall designate one member from the
7 council to be a member of the metropolitan planning
8 organization.”.

9 **SEC. 3. EMPLOYER INVESTMENT IN TRANSPORTATION AND**
10 **COMMUTER BENEFIT PROGRAM.**

11 (a) IN GENERAL.—Chapter 3 of title 23, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 **“§ 330. Employer investment in transportation and**
15 **commuter benefit program**

16 “(a) PURPOSE.—The purpose of this section is to—

17 “(1) engage employers in providing commuting
18 alternatives to employees, including carpooling, van-
19 pooling, use of transit, and teleworking;

20 “(2) leverage private investment with respect to
21 alternative commuting; and

22 “(3) reduce fuel consumption and provide en-
23 ergy independence by providing commuters with op-
24 tions for commuting to work other than driving in
25 a vehicle occupied by a single individual.

1 “(b) ESTABLISHMENT.—The Secretary shall estab-
2 lish and carry out an employer investment in transpor-
3 tation and commuter benefit program in accordance with
4 this section.

5 “(c) FUNDING.—Before making an apportionment
6 under section 104(b)(2) for a fiscal year, the Secretary
7 shall set aside, from amounts made available to carry out
8 the congestion mitigation and air quality improvement
9 program under section 149 for such fiscal year,
10 \$300,000,000 to carry out this section.

11 “(d) APPORTIONMENT.—

12 “(1) IN GENERAL.—The Secretary shall appor-
13 tion amounts made available to carry out this sec-
14 tion for a fiscal year among the States in the same
15 manner as amounts are apportioned under section
16 104(b)(3)(A).

17 “(2) MINIMUM APPORTIONMENT.—Notwith-
18 standing paragraph (1), each State shall receive a
19 minimum of $\frac{1}{2}$ of 1 percent of the funds appor-
20 tioned under this subsection.

21 “(3) SET-ASIDES.—Before making an appor-
22 tionment under paragraph (1) for a fiscal year, the
23 Secretary shall set aside not more than \$3,000,000
24 of amounts made available to carry out this section

1 for such fiscal year for the administrative expenses
2 of the Secretary in carrying out this section.

3 “(e) ELIGIBLE RECIPIENTS AND PROJECTS.—

4 “(1) IN GENERAL.—Amounts apportioned to a
5 State under this section shall be used to provide fi-
6 nancial assistance to State, regional, and local agen-
7 cies and entities, including employers and transpor-
8 tation management organizations, to create and ex-
9 pand commuter benefit programs.

10 “(2) LIMITATION.—Amounts apportioned under
11 this section shall not be used—

12 “(A) to replace or discourage existing Fed-
13 eral, State, local, or private investment in com-
14 muter benefit programs; or

15 “(B) to compete against existing Federal,
16 State, local, or private commuter benefit pro-
17 grams.

18 “(f) ADMINISTRATION OF AMOUNTS.—

19 “(1) IN GENERAL.—Amounts apportioned to a
20 State under this section shall be administered by the
21 State’s transportation department or the designee of
22 such department.

23 “(2) COORDINATION.—A State transportation
24 department shall coordinate activities carried out
25 using amounts apportioned under this section with

1 appropriate local and regional planning bodies,
2 transportation management organizations, and pub-
3 lic transportation operators.

4 “(3) TECHNICAL ASSISTANCE.—To the extent
5 practicable, a State transportation department ad-
6 ministering amounts under this section, in coordina-
7 tion with appropriate local and regional planning
8 bodies, transportation management organizations,
9 and public transportation operators, shall provide
10 technical assistance to employers and employer orga-
11 nizations to assist in the creation and expansion of
12 commuter benefit programs under this section.

13 “(g) INFORMATION CLEARINGHOUSE.—

14 “(1) IN GENERAL.—The Secretary shall make
15 grants to a national nonprofit organization engaged
16 in efforts relating to commuter benefit programs or
17 another entity to—

18 “(A) establish and operate an information
19 clearinghouse for the employer investment in
20 transportation and commuter benefit program;

21 “(B) develop an information and edu-
22 cational program with respect to the employer
23 investment in transportation and commuter
24 benefit program; and

1 “(C) provide technical assistance and dis-
2 seminate techniques and strategies used by suc-
3 cessful commuter benefit programs.

4 “(2) FUNDING.—The Secretary shall carry out
5 this subsection with amounts set aside for adminis-
6 trative expenses under subsection (d)(3).

7 “(h) TRANSFERABILITY AND FEDERAL SHARE.—

8 “(1) TRANSFERABILITY.—Funds made avail-
9 able to carry out this section shall not be transfer-
10 able and shall remain available until expended.

11 “(2) FEDERAL SHARE.—

12 “(A) IN GENERAL.—Except as provided
13 under subparagraph (B), the Federal share of
14 the cost of a project or activity under this sec-
15 tion may not exceed 80 percent.

16 “(B) EXCEPTION.—If private investment
17 is used for any portion of the non-Federal share
18 of the cost of a project or activity under this
19 section, the Federal share of such cost may not
20 exceed 90 percent.

21 “(i) TREATMENT OF PROJECTS.—Notwithstanding
22 any other provision of law, projects assisted under this
23 section shall be treated as projects on a Federal-aid sys-
24 tem under chapter 1 of title 23.

25 “(j) PERFORMANCE AND ACCOUNTABILITY.—

1 “(1) STATEWIDE GOALS.—A State receiving
2 funds apportioned under this section, in coordination
3 with metropolitan planning organizations in the
4 State, shall establish statewide goals for achieving
5 reductions in vehicle miles traveled through the im-
6 plementation of activities under this section.

7 “(2) REPORT TO SECRETARY.—Not later than
8 one year after the date of enactment of this section,
9 and annually thereafter, a State receiving funds ap-
10 portioned under this section shall submit to the Sec-
11 retary a report describing—

12 “(A) the goals for reducing vehicle miles
13 traveled under this section for the following
14 year;

15 “(B) how funds apportioned under this
16 section were utilized during the preceding year
17 and the outcome of such utilization; and

18 “(C) whether goals for reducing vehicle
19 miles traveled under this section were met for
20 the preceding year based on evaluations of ac-
21 tivities under this section.

22 “(k) REPORT TO CONGRESS.—Not later than March
23 30, 2013, the Secretary shall submit to Congress a report
24 describing—

1 “(1) the commuter benefit programs receiving
2 assistance under this section;

3 “(2) any reduction in vehicle miles traveled that
4 has been achieved as a result of such programs; and

5 “(3) whether States have been able to meet
6 goals established under subsection (j).

7 “(1) DEFINITIONS.—In this section, the following
8 definitions apply:

9 “(1) TRANSPORTATION MANAGEMENT ORGANI-
10 ZATION.—The term ‘transportation management or-
11 ganization’ means a local, regional, or statewide as-
12 sociation of employers established for the purpose of
13 providing employees with commuting options.

14 “(2) COMMUTER BENEFIT PROGRAM.—The
15 term ‘commuter benefit program’ means a program
16 designed to provide employees with alternatives to
17 driving to and from work in a vehicle occupied by a
18 single individual, including—

19 “(A) carpool programs;

20 “(B) vanpool programs;

21 “(C) transit benefit programs;

22 “(D) parking cash-out programs;

23 “(E) shuttle programs;

24 “(F) telework programs; and

1 “(G) appropriate employer-based pro-
2 grams.”.

3 (b) CLERICAL AMENDMENT.—The analysis for such
4 chapter is amended by adding at the end the following:
“330. Employer investment in transportation and commuter benefit program.”.

5 **SEC. 4. CONGESTION MITIGATION DURING PROJECT CON-**
6 **STRUCTION.**

7 Section 106 of title 23, United States Code, is
8 amended by adding at the end the following:

9 “(j) CONGESTION MITIGATION PLAN.—A recipient of
10 Federal financial assistance for a project under this title
11 with an estimated total cost of \$100,000,000 or more or
12 that will reduce traffic flow (as defined by the Secretary)
13 for more than 120 days shall prepare a congestion mitiga-
14 tion plan for such project that includes funding for
15 projects to reduce peak hour vehicle miles traveled along
16 the impacted corridor. The recipient shall create the plan
17 in coordination with the appropriate employer advisory
18 council established under section 5303(q) of title 49 and
19 the plan shall be made available to the Secretary for re-
20 view upon the request of the Secretary.”.

21 **SEC. 5. MAJOR CAPITAL INVESTMENT GRANTS OF**
22 **\$75,000,000 OR MORE.**

23 Section 5309(d) of title 49, United States Code, is
24 amended—

25 (1) in paragraph (3)—

1 (A) by striking “and” at the end of sub-
2 paragraph (J);

3 (B) by redesignating subparagraph (K) as
4 subparagraph (L); and

5 (C) by inserting after subparagraph (J)
6 the following:

7 “(K) the ability of the grant recipient and
8 the partners of such recipient to work with em-
9 ployers to get commuters to utilize the project;
10 and”;

11 (2) by redesignating paragraph (6) as para-
12 graph (7); and

13 (3) by inserting after paragraph (5) the fol-
14 lowing:

15 “(6) EMPLOYER OUTREACH.—The Secretary
16 shall require that each entity submitting a request
17 for a grant under this subsection include with the
18 request a plan for how the entity intends to work
19 with local employers and transportation management
20 organizations (as that term is defined in section
21 330(l) of title 23) to create or expand a commuter
22 benefit program (as that term is defined in such sec-
23 tion) with respect to the proposed project.”.

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