

111TH CONGRESS
1ST SESSION

H. R. 3271

To amend the Internal Revenue Code of 1986 to improve commuting and transportation options.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2009

Mr. BLUMENAUER (for himself, Mr. KIRK, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to improve commuting and transportation options.

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 “Green Routes to Work Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Increased uniform dollar limitation for all types of transportation fringe benefits.

- Sec. 3. Clarification of Federal employee benefits.
 Sec. 4. Eligibility of self-employed individuals to receive transit fringe benefits.
 Sec. 5. Parking cash-out programs.
 Sec. 6. Vanpool investment credit.
 Sec. 7. Refundable employer credit for providing tax-free transit passes to employees.
 Sec. 8. Expenditures to provide bicycle access.
 Sec. 9. Employees may receive transit passes and reimbursement of bicycle commuting expenses as excludable fringe benefits for the same month.
 Sec. 10. Deduction for expenditures to remove architectural and transportation barriers to bicycle access.
 Sec. 11. Credit for teleworking.

1 **SEC. 2. INCREASED UNIFORM DOLLAR LIMITATION FOR**
 2 **ALL TYPES OF TRANSPORTATION FRINGE**
 3 **BENEFITS.**

4 (a) IN GENERAL.—Paragraph (2) of section 132(f)
 5 of the Internal Revenue Code of 1986 (relating to limita-
 6 tion on exclusion) is amended—

7 (1) by striking “\$100” in subparagraph (A)
 8 and inserting “\$230”, and

9 (2) by striking “\$175” in subparagraph (B)
 10 and inserting “\$230”.

11 (b) INFLATION ADJUSTMENT CONFORMING AMEND-
 12 MENTS.—Subparagraph (A) of section 132(f)(6) of the In-
 13 ternal Revenue Code of 1986 (relating to inflation adjust-
 14 ment) is amended—

15 (1) by striking the last sentence,

16 (2) by striking “1999” and inserting “2010”,
 17 and

18 (3) by striking “1998” and inserting “2009”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2009.

4 **SEC. 3. CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.**

5 Section 7905 of title 5, United States Code, is
6 amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)(C) by inserting
9 “and” after the semicolon;

10 (B) in paragraph (3) by striking “; and”
11 and inserting a period; and

12 (C) by striking paragraph (4); and

13 (2) in subsection (b)(2)(A) by amending sub-
14 paragraph (A) to read as follows:

15 “(A) qualified transportation fringe as de-
16 fined in section 132(f)(1) of the Internal Rev-
17 enue Code of 1986;”.

18 **SEC. 4. ELIGIBILITY OF SELF-EMPLOYED INDIVIDUALS TO**
19 **RECEIVE TRANSIT FRINGE BENEFITS.**

20 (a) IN GENERAL.—Subparagraph (E) of section
21 132(f)(5) is amended—

22 (1) by striking “For purposes of this sub-
23 section, the term” and inserting the following:

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), the term”, and

1 (2) by adding at the end the following new
2 clause:

3 “(ii) SELF-EMPLOYED INDIVIDUALS ELIGIBLE FOR
4 TRANSIT PASS FRINGE BENEFIT.—For purposes of para-
5 graph (1)(B), such term includes an individual who is an
6 employee within the meaning of section 401(c)(1).”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2009.

10 **SEC. 5. PARKING CASH-OUT PROGRAMS.**

11 (a) IN GENERAL.—Subparagraph (C) of section
12 132(f)(5) is amended—

13 (1) by striking “The term” and inserting the
14 following:

15 “(i) IN GENERAL.—The term”.

16 (2) by adding at the end of clause (i), as
17 amended by paragraph (1), the following: “Such
18 term shall not include any parking with respect to
19 any specified employer unless such employer estab-
20 lishes a parking cash-out program.”, and

21 (3) by adding at the end the following new
22 clauses:

23 “(ii) SPECIFIED EMPLOYER.—For
24 purposes of this subparagraph, the term

1 ‘specified employer’ means any employer
2 who—

3 “(I) employs on average 50 or
4 more employees during the calendar
5 year,

6 “(II) leases the parking facilities
7 referred to in clause (i),

8 “(III) can separately determine
9 the amount paid per parking space
10 leased, and

11 “(IV) can reduce the number of
12 parking space leased (on a basis not
13 less frequently than monthly) without
14 penalty.

15 “(iii) PARKING CASH-OUT PRO-
16 GRAM.—For purposes of this subpara-
17 graph, the term ‘parking cash-out pro-
18 gram’ means a program established by the
19 employer under which—

20 “(I) the employer offers employ-
21 ees a cash allowance equal to the reg-
22 ular amount paid by the employer for
23 parking for a single employee under
24 clause (i) in lieu of the parking re-
25 ferred to in clause (i), and

1 “(II) any employee electing the
2 cash allowance shall certify to the em-
3 ployer that the employee will comply
4 with guidelines established by the em-
5 ployer to avoid neighborhood parking
6 problems and violation of such guide-
7 lines are enforced by the employer by
8 termination of eligibility of such em-
9 ployee for such cash allowance and
10 employer sponsored parking.”.

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to parking provided during cal-
13 endar years beginning after December 31, 2009.

14 **SEC. 6. VANPOOL INVESTMENT CREDIT.**

15 (a) **IN GENERAL.**—Subpart D of part IV of sub-
16 chapter A of chapter 1 of the Internal Revenue Code of
17 1986 is amended by adding at the end the following new
18 section:

19 **“SEC. 45R. QUALIFYING VANPOOL INVESTMENT CREDIT.**

20 “(a) **GENERAL RULE.**—For purposes of section 38,
21 the qualifying vanpool investment credit for any taxable
22 year is an amount equal to 10 percent of the basis of a
23 qualified commuter van placed in service by the taxpayer
24 during the taxable year.

1 “(b) QUALIFIED COMMUTER VAN.—For purposes of
2 this section, the term ‘qualified commuter van’ means a
3 vehicle—

4 “(1) the seating capacity of which is at least 8,
5 but not more than 15, adults (not including the driv-
6 er),

7 “(2) which has a 3-year class life,

8 “(3) at least 80 percent of the mileage use of
9 which can reasonably be expected to be for transpor-
10 tation described in section 132(f)(1)(A),

11 “(4) with respect to which depreciation (or am-
12 ortization in lieu of depreciation) is allowable, and

13 “(5) is originally placed in service by the tax-
14 payer before January 1, 2013.

15 “(c) CONTRACTING FOR SERVICES EXCEPTION.—

16 “(1) IN GENERAL.—In the case of an employer
17 who contracts with an unrelated person for the pro-
18 vision of transportation described in section
19 132(f)(1)(A) and who makes an election under this
20 subsection for a taxable year (in such form and
21 manner as the Secretary may by regulation pre-
22 scribe), in lieu of the amount determined under sub-
23 section (a), the qualifying vanpool investment credit
24 with respect to the taxpayer for the taxable year
25 shall be an amount equal to 10 percent of the

1 amounts paid or incurred by the employer for the
2 taxable year pursuant to such contract for the provi-
3 sion of such transportation.

4 “(2) RELATED PERSONS.—All persons treated
5 as a single employer under subsection (a) or (b) of
6 section 52 shall be treated as related persons for
7 purposes of this subsection.

8 “(3) TERMINATION.—This subsection shall not
9 apply to any amounts paid or incurred after Decem-
10 ber 31, 2012.

11 “(d) BASIS REDUCTION.—For purposes of this sub-
12 title, the basis of any property for which a credit is allow-
13 able under subsection (a) shall be reduced by the amount
14 of such credit.”.

15 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
16 NESS CREDIT.—Section 38(b) of such Code is amended
17 by striking “plus” at the end of paragraph (34), by strik-
18 ing the period at the end of paragraph (35) and inserting
19 “, plus”, and by adding at the end of following new para-
20 graph:

21 “(36) the qualifying vanpool investment credit
22 determined under section 45R(a).”.

23 (c) CONFORMING AMENDMENT.—Subsection (a) of
24 section 1016 of such Code is amended by striking “and”
25 at the end of paragraph (36), by striking the period at

1 the end of paragraph (37) and inserting “, and”, and by
 2 adding at the end the following new paragraph:

3 “(38) to the extent provided in section 45R(e),
 4 in the case of amounts with respect to which a credit
 5 has been allowed under section 45R.”

6 (d) CLERICAL AMENDMENT.—The table of sections
 7 for subpart D of part IV of subchapter A of chapter 1
 8 of such Code is amended by adding at the end the fol-
 9 lowing new item:

“Sec. 45R. Qualifying vanpool investment credit.”.

10 (e) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to property placed in service, and
 12 amounts paid or incurred, after December 31, 2009.

13 **SEC. 7. REFUNDABLE EMPLOYER CREDIT FOR PROVIDING**
 14 **TAX-FREE TRANSIT PASSES TO EMPLOYEES.**

15 (a) IN GENERAL.—Subpart C of part IV of sub-
 16 chapter A of chapter 1 of the Internal Revenue Code of
 17 1986 (relating to refundable credits) is amended by insert-
 18 ing after section 36A the following new section:

19 **“SEC. 36B. EMPLOYERS PROVIDING TAX-FREE TRANSIT**
 20 **PASSES TO EMPLOYEES.**

21 “(a) IN GENERAL.—In the case of an employer, there
 22 shall be allowed as a credit against the tax imposed by
 23 this subtitle for the taxable year an amount equal to 50
 24 percent of the amount paid or incurred by the taxpayer
 25 during the taxable year—

1 “(1) for transit passes provided to employees of
2 such employer, and

3 “(2) as cash reimbursements made to such em-
4 ployees for transit passes purchased by such employ-
5 ees.

6 “(b) LIMITATION TO TAX-FREE TRANSIT PASSES.—
7 Subsection (a) shall apply to a transit pass (or reimburse-
8 ment) provided to an employee only to the extent that the
9 employer reasonably expects that the value of such pass
10 (or the amount of such reimbursement) is excludable from
11 such employee’s income under section 132.

12 “(c) EXCLUSION OF NONTAXPAYERS.—Subsection
13 (a) shall not apply to any employer which is exempt from
14 the tax imposed by this chapter with respect to the activity
15 in which the employee is performing services for the em-
16 ployer.

17 “(d) DEFINITIONS.—Terms used in this section shall
18 have the respective meanings given such terms by section
19 132.”.

20 (b) DENIAL OF DOUBLE BENEFIT.—Section 280C of
21 such Code is amended by adding at the end the following
22 new subsection:

23 “(g) EMPLOYER CREDIT FOR PROVIDING TAX-FREE
24 TRANSIT PASSES TO EMPLOYEES.—No deduction shall be
25 allowed for that portion of the expenses (otherwise allow-

1 able as a deduction) taken into account in determining the
 2 credit under section 36B for the taxable year which is
 3 equal to the amount of the credit allowable for such tax-
 4 able year under section 36B(a).”.

5 (c) CLERICAL AMENDMENT.—The table of sections
 6 for such subpart C is amended by inserting after the item
 7 relating to section 36A the following new item:

“36B. Employers providing tax-free transit passes to employees.”.

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to transit passes provided after the
 10 date of the enactment of this Act.

11 **SEC. 8. EXPENDITURES TO PROVIDE BICYCLE ACCESS.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
 13 chapter A of chapter 1 of the Internal Revenue Code of
 14 1986, as amended by this Act, is amended by adding at
 15 the end the following new section:

16 **“SEC. 45S. EXPENDITURES TO PROVIDE BICYCLE ACCESS.**

17 “(a) IN GENERAL.—For purposes of section 38, the
 18 amount of the bicycle access credit determined under this
 19 section for any taxable year shall be an amount equal to
 20 50 percent of so much of the eligible bicycle access expend-
 21 itures for the taxable year as exceed \$250 but do not ex-
 22 ceed \$10,250.

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

24 “(1) ELIGIBLE BICYCLE ACCESS EXPENDI-
 25 TURES.—

1 “(A) IN GENERAL.—The term ‘eligible bi-
2 cycle access expenditures’ means amounts paid
3 or incurred for the purpose of improving access,
4 security, or convenience with respect to bicycle
5 travel to or from a business of the taxpayer.

6 “(B) EXPENDITURES MUST BE REASON-
7 ABLE.—Amounts paid or incurred for the pur-
8 poses described in subparagraph (A) shall in-
9 clude only expenditures which are reasonable
10 and shall not include expenditures which are
11 unnecessary to accomplish such purposes.

12 “(C) EXPENSES IN CONNECTION WITH
13 NEW CONSTRUCTION NOT ELIGIBLE.—The term
14 ‘eligible bicycle access expenditures’ shall not
15 include amounts which are paid or incurred in
16 connection with any facility first placed in serv-
17 ice after the date of the enactment of this sec-
18 tion.

19 “(2) ELIGIBLE SMALL BUSINESS.—For pur-
20 poses of this section, the term ‘eligible small busi-
21 ness’ shall have the meaning given such term by sec-
22 tion 44(b).

23 “(c) SPECIAL RULES.—Rules similar to the rules of
24 paragraphs (2), (3), (4), (6), and (7) of section 44(d) shall
25 apply for purposes of this section.

1 “(d) REGULATIONS.—The Secretary shall prescribe
2 regulations necessary to carry out the purposes of this sec-
3 tion.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subsection (b) of section 38 of such Code,
6 as amended by this Act, is amended by striking
7 “plus” at the end of paragraph (35), by striking the
8 period at the end of paragraph (36) and inserting “,
9 plus”, and by adding at the end the following new
10 paragraph:

11 “(37) the bicycle access credit determined
12 under section 45S(a).”.

13 (2) The table of sections for subpart D of part
14 IV of subchapter A of chapter 1 of such Code is
15 amended by adding at the end the following new
16 item:

“45S. Expenditures to provide bicycle access.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 the date of the enactment of this Act.

20 **SEC. 9. EMPLOYEES MAY RECEIVE TRANSIT PASSES AND**
21 **REIMBURSEMENT OF BICYCLE COMMUTING**
22 **EXPENSES AS EXCLUDABLE FRINGE BENE-**
23 **FITS FOR THE SAME MONTH.**

24 (a) IN GENERAL.—Subclause (II) of section
25 132(f)(5)(F)(iii) of the Internal Revenue Code of 1986

1 (defining qualified bicycling month) is amended by strik-
2 ing “, (B),”.

3 (b) LIMITATION.—Subparagraph (A) of section
4 132(f)(2) of such Code (relating to limitation on exclu-
5 sions) is amended by striking “and (B)” and inserting “,
6 (B), and (D)”.

7 (c) REPEAL OF CONSTRUCTIVE RECEIPT TREAT-
8 MENT OF BICYCLE COMMUTING REIMBURSEMENTS.—
9 Paragraph (4) of section 132(f) of such Code is amended
10 by striking “(other than a qualified bicycle commuting re-
11 imbursement)”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2008.

15 **SEC. 10. DEDUCTION FOR EXPENDITURES TO REMOVE AR-**
16 **CHITECTURAL AND TRANSPORTATION BAR-**
17 **RIERS TO BICYCLE ACCESS.**

18 (a) IN GENERAL.—Part VI of subchapter B of chap-
19 ter 1 of the Internal Revenue Code of 1986 is amended
20 by inserting after section 190 the following new section:

21 **“SEC. 190A. EXPENDITURES TO REMOVE ARCHITECTURAL**
22 **AND TRANSPORTATION BARRIER TO BICYCLE**
23 **ACCESS.**

24 “(a) IN GENERAL.—A taxpayer may elect (at such
25 time and in such manner as the Secretary shall by regula-

1 tion prescribe) to treat architectural and transportation
2 barrier removal expenses of the taxpayer for the taxable
3 year as expenses which are not chargeable to capital ac-
4 count. The expenditures so treated shall be allowed as a
5 deduction.

6 “(b) ARCHITECTURAL AND TRANSPORTATION BAR-
7 RIER REMOVAL EXPENSES.—For purposes of this section,
8 the term ‘architectural and transportation barrier removal
9 expenses’ means amounts paid or incurred for the purpose
10 of making any facility or public transportation vehicle
11 owned or leased by the taxpayer for use in connection with
12 his trade or business more secure, accessible to, and con-
13 venient for use by individuals traveling by bicycle.

14 “(c) LIMITATION.—The deduction allowed by sub-
15 section (a) for any taxable year shall not exceed
16 \$15,000.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Paragraph (1) of section 263(a) of such
19 Code is amended by striking “or” at the end of sub-
20 paragraph (K), by striking the period at the end of
21 subparagraph (L) and inserting “, or”, and by add-
22 ing at the end the following new subparagraph:

23 “(M) expenditures for which a deduction is
24 allowed under section 190A.”.

1 or incurred by or on behalf of an individual tele-
2 worker shall not exceed \$400.

3 “(2) REDUCTION FOR TELEWORKING LESS
4 THAN FULL YEAR.—In the case of an individual who
5 is in a teleworking arrangement for less than a full
6 taxable year, the amount referred to paragraph (1)
7 shall be reduced by an amount which bears the same
8 ratio to \$400 as the number of months in which
9 such individual is not in a teleworking arrangement
10 bears to 12. For purposes of the preceding sentence,
11 an individual shall be treated as being in a tele-
12 working arrangement for a month if the individual
13 is subject to such arrangement for any day of such
14 month.

15 “(c) DEFINITIONS.—For purposes of this section—

16 “(1) ELIGIBLE TAXPAYER.—The term ‘eligible
17 taxpayer’ means—

18 “(A) in the case of an individual, an indi-
19 vidual who performs services for an employer
20 under a teleworking arrangement, or

21 “(B) in the case of an employer, an em-
22 ployer for whom employees perform services
23 under a teleworking arrangement.

24 “(2) TELEWORKING ARRANGEMENT.—The term
25 ‘teleworking arrangement’ means an arrangement

1 under which an employee teleworks for an employer
2 at least 1 day per week.

3 “(3) QUALIFIED TELEWORKING EXPENSES.—

4 The term ‘qualified teleworking expenses’ means ex-
5 penses paid or incurred under a teleworking ar-
6 rangement—

7 “(A) for purchase or installation of any
8 electronic information or telecommunication
9 equipment which is used to enable an individual
10 to telework, or

11 “(B) for any telecommunications service,
12 or Internet access (or related services), relating
13 to the use of such equipment.

14 “(4) TELEWORK.—The term ‘telework’ means
15 to perform work functions, using electronic informa-
16 tion and communication technologies, thereby reduc-
17 ing or eliminating the physical commute to and from
18 the traditional worksite.

19 “(d) LIMITATION BASED ON AMOUNT OF TAX.—

20 “(1) LIABILITY FOR TAX.—The credit allowable
21 under subsection (a) for any taxable year shall not
22 exceed the excess (if any) of—

23 “(A) the regular tax for the taxable year,
24 reduced by the sum of the credits allowable

1 under subpart A and the preceding sections of
2 this subpart, over

3 “(B) the tentative minimum tax for the
4 taxable year.

5 “(2) CARRYFORWARD OF UNUSED CREDIT.—If
6 the amount of the credit allowable under subsection
7 (a) for any taxable year exceeds the limitation under
8 paragraph (1) for the taxable year, the excess shall
9 be carried to the succeeding taxable year and added
10 to the amount allowable as a credit under subsection
11 (a) for such succeeding taxable year.

12 “(e) SPECIAL RULES.—

13 “(1) BASIS REDUCTION.—For purposes of this
14 subtitle, the basis of any property for which a credit
15 is allowable under subsection (a) shall be reduced by
16 the amount of such credit (determined without re-
17 gard to subsection (d)).

18 “(2) RECAPTURE.—The Secretary shall, by reg-
19 ulations, provide for recapturing the benefit of any
20 credit allowable under subsection (a) with respect to
21 any property which ceases to be property eligible for
22 such credit.

23 “(3) PROPERTY USED OUTSIDE UNITED
24 STATES, ETC., NOT QUALIFIED.—No credit shall be
25 allowed under subsection (a) with respect to any

1 property referred to in section 50(b) or with respect
2 to the portion of the cost of any property taken into
3 account under section 179.

4 “(4) ELECTION NOT TO TAKE CREDIT.—No
5 credit shall be allowed under subsection (a) for any
6 expense if the taxpayer elects to have this section
7 not apply with respect to such expense.

8 “(5) DENIAL OF DOUBLE BENEFIT.—No deduc-
9 tion or credit (other than under this section) shall
10 be allowed under this chapter with respect to any ex-
11 pense which is taken into account in determining the
12 credit under this section.

13 “(f) REPORTING REQUIREMENT.—

14 “(1) IN GENERAL.—In the case of an eligible
15 taxpayer who is an employer, no credit shall be al-
16 lowed under this section for qualified teleworking ex-
17 penses of the employer with respect to such employ-
18 er’s employees unless the taxpayer submits to the
19 Secretary (in such form and manner as the Sec-
20 retary may prescribe)—

21 “(A) the survey described in paragraph
22 (2), and

23 “(B) a detailed description of the tele-
24 working policies of the employer, including a
25 description of—

1 “(i) which employees of the employer
2 are eligible to telework,

3 “(ii) any employer goals relating to
4 teleworking, and any progress with respect
5 to such goals, and

6 “(iii) any materials or resources of the
7 employer intended to promote or enable
8 teleworking.

9 “(2) CALL FOR TELEWORK DATA SURVEY.—
10 The Secretary shall, in consultation with the Office
11 of Personnel Management, establish, make publicly
12 available to taxpayers, and update as appropriate, a
13 survey designed to track teleworking trends among
14 employers allowed credits under this section.

15 “(3) REPORT TO CONGRESS.—Not later than
16 October 15 of each calendar year, the Secretary
17 shall submit to the Congress, and make publicly
18 available on the Internet and at the offices of the In-
19 ternal Revenue Service, a report, which shall include
20 a summary of the information contained in the sub-
21 missions under paragraph (1) for taxable years end-
22 ing in the previous calendar year.”.

23 (b) CONFORMING AMENDMENT.—Subsection (a) of
24 section 1016 of such Code, as amended by this Act, is
25 amended by striking “and” at the end of paragraph (37),

1 by striking the period at the end of paragraph (38) and
2 inserting “, and”, and by adding at the end the following
3 new paragraph:

4 “(39) to the extent provided in section 30E(e),
5 in the case of amounts with respect to which a credit
6 has been allowed under section 30E.”

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for subpart B of part IV of subchapter A of chapter 1
9 of such Code is amended by adding at the end the fol-
10 lowing new item:

 “Sec. 30E. Telework credit.”

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to amounts paid or incurred after
13 December 31, 2009.

○