REPORT OF THE
DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION ON

Qualified Transportation Fringe Benefits Programs in Virginia

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

HOUSE DOCUMENT NO. 41

COMMONWEALTH OF VIRGINIA
RICHMOND
1994

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Preface - HJR 486 Report

This study presents work directed by the Virginia Department of Rail and Public Transportation with the Secretary of Transportation's office. David Berg provided primary VDRPT staff to the effort, with assistance from Gary Kuykendall. Tony Anthony of the Office of the Secretary of Transportation and Joe Price, an intern to that office, also provided extensive support to this effort.

Individuals below and in most cases others within the agencies they represent provided additional work and oversight for this effort.

Michael T. Barton	-	Department of Planning and Budget
Nathan J. Broocke	-	Department of General Services
Jennifer S. Byrd	-	Department of Mines, Minerals & Energy
Jon C. Hatfield	-	Department of General Services
James F. Hayes	-	Attorney General's Office
William H. Leighty	-	Division of Motor Vehicles
Shawn S. King	-	Department of Environmental Quality
Stacey D. McCracken	-	Department of Transportation
James E. Sydnor	-	Department of Environmental Quality
Ronald W. Thompson	-	Division of Motor Vehicles
Robert B. Weaver	-	Department of Personnel and Training
Gregory A. Whirley	-	Department of Transportation

We would like to acknowledge the efforts of:

- Secretary of Transportation John G. Milliken for his support and direct encouragement of transit and ridesharing in Virginia. Through his leadership, three, non-general funded agencies within his Secretariat initiated tax-free transit benefit programs for their employees in 1993. The three agency programs (Division of Motor Vehicles, Department of Rail and Public Transportation and Department of Transportation) benefit over 300 state employees and have resulted in approximately 100 new transit riders in the Richmond area.

- Bob Weaver of the Department of Personnel and Training for developing, administering, analyzing and presenting the results of the state employee transit pass survey. His work took considerable time and effort and provided the information necessary to move the program forward.

- Tony Anthony in the Office of the Secretary of Transportation for his guidance and advice in coordinating the work of the Transit Pass Task Force.

Executive Summary

Introduction

House Joint Resolution 486 of the 1993 Acts of the General Assembly requested the Virginia Department of Rail and Public Transportation (VDRPT) to study the tax-free transit benefits of the 1992 National Energy Policy Act. We did so combining the study with other Department efforts to implement Governor Wilder's Virginia Energy Plan; provide comments on administrative interpretation of the National Energy Policy Act, and to encourage the U.S. Congress to continue the federal transit benefit program.

The study addressed the following elements of HJR 486:

1. **Examined the 1992 National Energy Policy Act**

   The Act established a "Qualified Transportation Fringe Benefit" (QTFB) in the I.R.S. Code which changed the tax treatment of employer provided transit and parking benefits. It increased the tax-free transit benefits an employer can provide to $60 per month and made vanpoolers eligible for the benefit. In addition, it established a tax-free, "qualified parking" benefit of up to $155 per month for transit users, vanpoolers and carpoolers. Conversely, the legislation established that employer-provided parking valued at more than $155 per month is now taxable.

   The examination also included related legislation, known as the "Mikulski Amendment", which permits federal agencies to participate in state or local government programs that encourage their employees to use public transportation. The amendment was passed in November, 1990 and expires on December 31, 1993.

   Due to the importance of these acts to Virginians, we participated in the national debate involving the interpretation of the National Energy Policy Act and the revision and re-authorization of the federal agency transit benefit program.

2. **Followed the Division of Motor Vehicles Pilot Program and Others**

   DMV initiated a four month pilot "Transit Fare Discount" program for employees in their Richmond Central Office on January 1, 1993. Sixty-Six DMV employees enrolled in the program which offered transit users a $20 discount on a $30 book of transit tickets. The successful pilot became a permanent program in May 1993 and has been expanded to other DMV offices throughout the state.

Two other state agency transit benefit programs began after the DMV pilot project. The Virginia Department of Rail and Public Transportation started a similar program February 1, 1993, and the Virginia Department of Transportation started one August 1, 1993. All three programs successfully encouraged state employees to use transit, vanpools or carpools. VDOT's Richmond Central Office program has encouraged 88 employees to use transit, almost doubling the number using transit (from 93 to 181 bus riders) Currently, 14.6% of VDOT's Central Office employees travel to work by bus.

Additionally we investigated private sector participation in transit benefit programs in Virginia and other states. There are many successful programs. For example, nearly 300 private sector businesses and 84 federal agencies, representing over 50,000 employees in the Washington, DC metropolitan area, participate in the regions "Metrochek" transit discount program.

3. Developed Findings from the Review of Existing Programs

Transit pass programs based on the qualified transportation fringe benefit provisions of the I.R.S. Code are easy to implement in both the private and public sectors. Cooperation among public and private employers helps assure successful programs, particularly in large urban areas. Governments often serve as catalysts to encourage private sector participation in these programs.

4. Recommend Programs in the Commonwealth

We determined that state general fund agencies need specific budgetary or statutory authority to begin these employee benefit programs. After reviewing alternatives, the advisory committee recommended language be placed in the Governor's 1994 Recommended Budget to enable state agencies to implement qualified transportation fringe benefit programs for their employees. If passed, general fund agencies could begin qualified transportation fringe benefit programs effective July 1, 1994.

Purpose

House Joint Resolution 486 of the 1993 Acts of the General Assembly requested the Virginia Department of Rail and Public Transportation (VDRPT) to study the tax-free benefits allowed under the 1992 National Energy Policy Act. (See Appendix A).

This report describes how we fulfilled that request while continuing work by Virginia's public transportation community to promote the tax-free transit benefit. It further describes how the VDRPT continued implementation of an element of the Virginia Energy Plan, Executive Order 37 by Governor Wilder, which calls for the development of a state agency transit discount pass program for state agencies in major urban areas. (See Appendix A).

The following chapters address the three elements requested in HRJ-486:

- Examine the tax-free benefits in the 1992 National Energy Policy Act;
- Follow the Division of Motor Vehicles pilot program; and
- Recommend programs for the Commonwealth.

We examined the "Qualified Transportation Fringe Benefits" provisions of the 1992 National Energy Policy Act. Our examination included related legislation, known as the "Mikulski Amendment" which was authorized to benefit to federal employees. Due to the importance of these two acts to Virginians, we went beyond examination to participation in the national debate involving these new benefits.

The National Energy Policy Act of 1992 established the "Qualified Transportation Fringe Benefit" (QTFB) in the I.R.S. Code.[1] This legislation changed the tax treatment of employer-provided transit and parking benefits. It increased the level of tax-free transit benefits an employer can provide from $21 to $60 a month and made vanpoolers eligible for the $60 per month benefit. In addition, it established a tax-free, "qualified parking" benefit of up to $155 per month for transit users, vanpoolers and carpoolers. Conversely, the legislation established that employer-provided parking valued at more than $155 per month is now taxable. These QTFB's are indexed to the rate of inflation, beginning in 1994.

Simultaneously with the conduct of this study, the federal government spent considerable time developing the regulations to govern enactment. We participated in a nationwide effort to assure timely and favorable regulations for the QTFB. Technical questions arose during early attempts to implement the QTFB, such as the eligibility of vanpools for the benefits, how to treat the parking benefit portion of the QTFB, and others. At several critical junctures, Secretary of Transportation John Milliken sent letters in support of regulatory language favorable to Virginians.[2]

Although the regulations are still in draft form, they are considered favorable. VDRPT staff continue to monitor their development, and will make them generally available throughout the Commonwealth once available.

The second legislation (**Appendix C**) examined is commonly known as The

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[1] See Appendix A for the National Energy Policy Act of 1992, Title XIX-Revenue Provisions, Subtitle A - Energy Conservation and Production Incentives, Sec 1911. Note especially: Treatment of Employer-Provided Transportation Benefits. (b) Qualified Transportation Fringe.

[2] Letters from Secretary of Transportation John Milliken are attached and found in Appendix B.

Mikulski Amendment, which "authorizes federal agencies to participate in state or local government programs that encourage employees to use public transportation."[3] This established authority for non-military federal agencies to offer a transportation benefit to their employees if a local program is in place. The Mikulski legislation was enacted by Congress in November 1990.

Under the federal code, special provision must be made to offer benefits to federal employees. There are 275,000 non-military federal employees in Virginia, a major component of the Commonwealth's work force, most working in the large urban areas.[4] Virginia's worst congestion occurs in our large urban areas where the Commonwealth also finds itself in non-compliance with the mandates of the Clean Air Act Amendments of 1990. Although these social impacts of both the QTFB and Mikulski are hard to quantify for these two legislative mandates,[5] use of the transportation benefit by large numbers of employees could help alleviate both conditions.

The Mikulski amendment expired on December 31, 1993. On December 3, 1993 President Clinton signed the "Federal Employees Clean Air Incentives Act" which both continued and expanded the transportation benefits federal agencies can offer their employees. This new act makes the military eligible for such programs, and expands the scope of current law by permitting incentives for vanpoolers, bicyclists, flex-time, preferential parking for carpools and vanpools, and even includes preference in agency provided child-care to non-SOV commuters. The Department of Rail and Public Transportation will include these expanded options in future programs geared to federal employees.

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[3] Testimony Kenneth M. Mead, Director, Transportation Issues, Resources, Community, and Economic Development Division, Thursday, September 23, 1993, referring to Section 629 (a) of the Treasury, Postal Service and General Government Appropriations Act of 1991. As published in GAO - MASS TRANSIT: Federal Participation in Transit Benefit Programs.

[4] Federal Service Employees and Retirees, prepared by the Federal Government Task Force for the 103rd Congress, 1st Session.

[5] Mass Transit, Federal Participation in Transit Benefit Programs, General Accounting Office Report to Selected Members of Congress, September, 1993.

We followed the Department of Motor Vehicles program as a model for implementation of transportation benefit programs in two other transportation departments. We conducted a survey of state employees to provide a basis for promotion of these programs statewide, and we examined similar programs throughout Virginia and in other states as a basis to promote such programs in the private sector[6].

The DMV began a four month pilot "Transit Fare Discount Program" for employees of their central office in Richmond, Virginia starting January 1, 1993. This successful pilot became a permanent program in May, 1993, and is currently expanding to other DMV locations throughout the state.

Two other state programs have started since the DMV pilot project, each based on the DMV pilot. Virginia Department of Rail and Public Transportation began its program February 1, 1993. One third of this small department's staff participate in the program. VDOT's program started August 1, 1993, and offered the innovation of paying the parking fees for carpools of 3 or more persons. This is a statewide program for all VDOT locations. Most usage for this program is found in the Central office in Richmond, with 181 bus users, 26 vanpoolers, and 35 for parking. VDOT reports 30% of their bus user participants switched from driving alone to work to riding the bus. More information on these programs and their early results appear in the report Transit Discount Programs Summary and Review as **Appendix D.**

One major task undertaken for this study by the Transit Pass Program Task Force (previously described) focused on developing transit pass programs for state employees. To accomplish that end, they conducted a survey of state employees. The Department of Personnel and Training carried out the survey and reported their findings (see **Appendix E** for the result of this effort) to the group. These findings, combined with other results of this study as reported here, formed the basis for actions recommended to broaden state participation in transit pass programs.

Private sector participation in transit benefit programs appears in several section of **Appendix D.** Aside from the support for these programs already

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[6] For more information on all of these, see Transit Discount Programs Summary and Review, by Joseph R. Price, Governor's Fellow, Office of the Secretary of Transportation, as edited by Gary Kuykendall, Department of Rail and Public Transportation.

provided and identified there, VDRPT staff:

Have made available the particulars of these pilot programs as examples to private sector employers wishing to implement similar programs.

Offer continuing support, mostly through the Ridesharing programs statewide, to private sector employers wishing to implement similar programs.

Manage grant programs being used to support private sector participation in these programs. Grant programs which currently support projects to this end include State Aid for Ridesharing, the Transportation Efficiency Improvement Fund, and some Congestion Management Air Quality funding to ridesharing agencies in Northern Virginia.

The review of transit pass programs by the Task Force revealed that general fund state agencies are not authorized by the budget process to undertake additional, unprogrammed activities.

The Task Force looked at several alternatives to implement transit pass programs. First, the 1993 Virginia Acts of the Assembly (Budget Bill) allows the Governor to implement "new services" if authorized in writing and within the amounts and general purposes of the appropriations act. Such an approach would provide a temporary authorization for state agencies to implement transit pass programs. Second, a more enduring alternative would be to place statutory authority in the 1994 Budget Bill. Finally, a change to the Code of Virginia would provide permanent authorization to provide these programs.

The Task Force also considered the need and benefit of establishing earmarked funds for these programs. They recommended empowering all agencies to implement the program within their own budgets and not provide a special, centralized fund for this purpose.

Our final recommendation to enable state agencies to implement qualified transportation benefit programs is through the 1994 Budget Bill. This authorization, if enacted, would become effective July 1, 1994 and would be within funds appropriated for state agencies. This approach will have little operational impact on state agencies or their operating budgets yet will allow wide implementation of these important programs. Proposed guidelines for the program have been established (Appendix F) and existing staff of state agencies, with assistance and guidance from the Department of Rail and Public Transportation, will be able to administer the program.

Abstracts to Appendices for HJR 486 Report, 1993

Appendix A:

HJR 486:

Presented in its entirety.

1992 National Energy Policy Act:

Section 132(f) establishing the "Qualified Transportation Fringe Benefits" within the I.R.S. Code.

Executive Order Thirty-Seven (91):

In its entirety, dated September 18, 1991 and signed by Lawrence Douglas Wilder, Governor.

Virginia Energy Plan, Objective D, "To increase awareness of energy efficiency and conservation," and specific focus on item #11:

"The Department of General Services and the Department of Transportation, in cooperation with the State Air Pollution Control Board, will promote the use of public transportation services, carpooling, vanpooling and rail through, for example, establishing a preferential parking program for carpools and vanpools on all state parking lots and developing a state agency transit discount pass program for state employees in major urban areas."

Appendix B:

Letters, John G. Milliken, Secretary of Transportation:

March 9, 1993 to The Honorable Federico Peña, Secretary, U. S. Department of Transportation.

This letter addresses specific issues of concern to Virginia of the federal government's participation in qualified transportation fringe benefits allowed under the Mikulski Amendments.

August 10, 1993 to The Honorable Lloyd Bentsen, Secretary, U. S. Department of the Treasury.

The letter urges timely release of regulations to the implementation of the qualified transportation fringe benefits nationwide.

August 17, 1993 to The Honorable Eleanor Holmes Norton, Chairman, Subcommittee on Compensation and Employee Benefits.

In this letter Secretary Milliken offers strong support for enactment of legislation to extend federal participation in the qualified transportation fringe benefits programs, suggesting such extension would "buttress our focus on providing energy efficient, environmentally sound, dependable transportation choices throughout Virginia."

September 13, 1993 to John G. Milliken from Barbara A. Mikulski, United States Senator from Maryland.

An expression of thanks for support including expression of particular interest "...in your comments concerning the relevance of this law to compliance with the Clean Air Act by local jurisdictions."

Appendix C

Mikulski Amendment, Public Law 101- 509 Nov. 5, 1990, Section 629.

H. R. 3318:

"To amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles," introduced by Ms. Norton on October 20, 1993.

Federal Employees Clean Air Incentives Act, Report 103-356, Part 1 of the 103rd Congress, 1st Session, November 10, 1993.

Appendix D

Transit Discount Programs Summary and Review

Tidewater Regional Transit: Commuter Check®
TRT Private Sector Participants
Success of Transit Program
Selling a Transit Pass Program
Washington Metropolitan Transit Authority: Metrochek
WMATA Private Sector Participants:
Geico Insurance
Park Center Management

Department of Motor Vehicles: Transit Discount Program

Out of State Transit Pass Programs
Metropolitan Boston Transit Authority
Miami\Metro Dade Transit Agency
Connecticut Transit

Appendix E

Summary of State Employee Survey and Analysis

The methodology and findings from this survey are presented, including explanation of the cost impacts of the recommendations of this report.

Appendix F

Proposed Guidelines for a State Agency Transit and Ridesharing Incentive Program

The proposed guidelines for implementing these programs. These two pages could serve as the introduction and outline for developing a more detailed handbook to implementation.

APPENDIX A

House Joint Resolution 486
1992 National Energy Policy Act
Virginia Energy Plan

GENERAL ASSEMBLY OF VIRGINIA--1993 SESSION

HOUSE JOINT RESOLUTION NO. 486

Requesting the Virginia Department of Rail and Public Transportation to study the tax-free transit benefits allowed under the 1992 National Energy Policy Act.

Agreed to by the House of Delegates, February 7, 1993
Agreed by the Senate, February 16, 1993

WHEREAS, there is a growing national emphasis on mass transit for environmental and economic reasons; and

WHEREAS, Congress is encouraging the use of mass transit by passing laws such as the 1992 National Energy Policy Act which includes tax-free transit benefits; and

WHEREAS, the tax-free transit benefits may be provided as commuter subsidies by employers to employees who use mass transit to travel to work; and

WHEREAS, the Division of Motor Vehicles started a pilot program on January 1, 1993, offering the tax-free transit benefits to its employees; and

WHEREAS, the Virginia Department of Rail and Public Transportation is responsible for promoting the use of public transportation and passenger and freight rail services; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia Department of Rail and Public Transportation be hereby requested to: (i) examine the tax-free transit benefits in the 1992 National Energy Policy Act; (ii) follow the Division of Motor Vehicles' pilot program in order to encourage the implementation of similar programs by private employers as well as other state agencies; and (iii) recommend programs in the Commonwealth that will use the federal tax-free transit benefits to their maximum advantage.

The Department shall complete its work in time to submit its findings and recommendations to the Governor and the 1994 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

[*Caution: Code Sec. 132(f), below, as added by P.L. 102-486, applies to benefits provided after December 31, 1992.—CCH.*]

[Sec. 132(f)]

(f) QUALIFIED TRANSPORTATION FRINGE.—

(1) IN GENERAL.—For purposes of this section, the term "qualified transportation fringe" means any of the following provided by an employer to an employee:

(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

(B) Any transit pass.

(C) Qualified parking.

(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

(B) $155 per month in the case of qualified parking.

(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term "qualified transportation fringe" includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TRANSIT PASS.—The term "transit pass" means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

(i) on mass transit facilities (whether or not publicly owned), or

(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

(B) COMMUTER HIGHWAY VEHICLE.—The term "commuter highway vehicle" means any highway vehicle—

(i) the seating capacity of which is at least 6 adults (not including the driver), and

(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

(C) QUALIFIED PARKING.—The term "qualified parking" means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

(E) EMPLOYEE.—For purposes of this subsection, the term "employee" does not include an individual who is an employee within the meaning of section 401(c)(1).

(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "calendar year 1992" for "calendar year 1989" in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms "working condition fringe" and "de minimis fringe" shall not include any qualified transportation fringe (determined without regard to paragraph (2)).

P.L. 102-486, § 1911(b):

Act Sec. 1911(b) amended Code Sec. 132 by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) new subsection (f) to read as above.

The above amendment applies to benefits provided after December 31, 1992.

COMMONWEALTH of VIRGINIA

Lawrence Douglas Wilder
Governor

Office of the Governor
Richmond 23219

EXECUTIVE ORDER THIRTY-SEVEN (91)

VIRGINIA ENERGY PLAN

By virtue of the authority vested in me as Governor by Section 2.1-41.1 of the Code of Virginia to formulate and administer policy in the executive branch, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct all executive branch Secretaries and their respective agencies to implement the Virginia Energy Plan consistent with their statutory authority in order to help secure an energy-efficient future for Virginia.

A comprehensive statewide approach is critical to Virginia's energy conservation. Such an approach has the potential to: reduce consumption of energy resources; extend the use of coal, oil and gas reserves; improve energy efficiency; reduce environmental impacts; preserve natural resources; and secure independence from foreign oil. The Virginia Energy Plan addresses a statewide program which focuses on energy efficiency and conservation through production, management planning, awareness, transportation, and fuel alternatives.

The Virginia Energy Plan is applicable to all state agencies to the extent it is consistent with the statutory authority of those agencies. I hereby assign specific responsibilities for the implementation of the Virginia Energy Plan to the following:

RESPONSIBILITIES OF THE SECRETARY OF ECONOMIC DEVELOPMENT

The Secretary of Economic Development shall be responsible for providing guidance and direction for energy policy and conservation planning.

The Secretary of Economic Development shall:

1. Comprehensively integrate the Governor's energy conservation and efficiency policy into the operations and programs of state government through the Virginia Energy Plan;

2. Coordinate with other Secretaries where activities and programs are shared among secretarial areas;

3. Provide general guidance to the Department of Mines, Minerals and Energy and report on accomplishments under the Virginia Energy Plan to the Governor;

4. Approve annual updates and any modifications to the Virginia Energy Plan to maintain consistency with the policy direction of the Governor and to enhance the accomplishment of the goals and objectives;

5. Resolve differences between participating agencies when agreement cannot be reached among them; and

6. Serve as liaison with Virginia businesses to obtain their expertise, assistance and cooperation in advancing energy efficiency and alternative fuels in Virginia.

RESPONSIBILITIES OF THE DEPARTMENT OF MINES, MINERALS AND ENERGY

Responsibility for coordinating and implementing the Virginia Energy Plan shall be with the Department of Mines, Minerals and Energy (DMME).

DMME shall:

1. Review, revise and maintain the Virginia Energy Plan through a collaborative process among state agencies;

2. Execute the strategies designated to it;

3. Draw on expertise of other agencies, where appropriate, to ensure the successful execution of the Virginia Energy Plan strategies;

4. Develop an energy planning process and coordinate the development of an energy management plan for each agency, based on the Virginia Energy Plan; and

5. Provide guidance and training to other agencies, when needed, to successfully execute the Virginia Energy Plan.

RESPONSIBILITIES OF ALL EXECUTIVE BRANCH AGENCIES

To accomplish the goals, objectives, and strategies of the Virginia Energy Plan, each agency shall:

1. Execute the strategies designated to the agency in the Virginia Energy Plan;

2. Designate an energy manager(s) and authorize staff involvement in the accomplishment of the Virginia Energy Plan, including participation in task forces, training, plan development, and plan execution;

3. Develop an energy management plan consistent with the process coordinated by DMME;

4. Implement the energy management plan in an orderly and timely manner and undertake modification of internal agency operations and programs consistent with the goals and objectives of the plan and state law; and

5. Monitor and report progress on accomplishing the energy management plan to DMME as requested.

This Executive Order is effective upon its signing and will remain in full force and effect until June 30, 1994, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 18th day of September 1991.

Governor

Attested:

Secretary of the Commonwealth

The Virginia Energy Plan

August 20, 1991

5. The Secretary of Natural Resources will recommend to the State Corporation Commission methods to assess the costs of environmental externalities in the review of utility cases.

6. The Department of Mines, Minerals and Energy will assess the economic and environmental potential for sustainable, large-scale biomass production in Virginia.

OBJECTIVE D
To increase awareness of energy efficiency and conservation

STRATEGIES

1. The Department of Mines, Minerals and Energy will provide training and technical support for all agency energy managers.

2. The Department of Education will coordinate with Virginia Energy Education Development to integrate energy education into the curriculum for grades K-12.

3. The Council on Higher Education will work with state colleges and universities to incorporate courses in energy conservation, management, and efficiency in all relevant professional curricula.

4. The Virginia Community College System will develop and provide technical training in emerging energy fields.

5. The Department of Education and the Department of Motor Vehicles will incorporate energy-efficient driving techniques into driver education.

6. The Department of Mines, Minerals and Energy will evaluate potential energy savings achieved by offering work alternatives to state employees, including on-site day care, trip reduction, satellite work centers, and telecommunications.

7. The Department of Mines, Minerals and Energy will institute a "recognition of excellence" award for facility energy managers.

8. Each agency will encourage employees to submit ESP suggestions for energy efficiency and conservation in state government.

9. The Department of Mines, Minerals and Energy will offer the toll-free Energy Hotline to answer questions on energy-related issues and assist consumers in the identification of fraudulent claims.

10. The Department of Mines, Minerals and Energy will distribute seasonal public service announcements to promote energy efficiency and conservation through the radio and newspaper media.

11. The Department of General Services and the Department of Transportation, in cooperation with the State Air Pollution Control Board, will promote the use of public transportation services, carpooling, vanpooling and rail through, for example, establishing a preferential parking program for carpools and vanpools on all state parking lots and developing a state agency transit discount pass program for state employees in major urban areas.

12. The Department of Mines, Minerals and Energy will co-sponsor the Virginia Energy Awards Program.

13. The Council on the Environment will promote and help incorporate an energy awareness component in the environmental education program it coordinates and promotes throughout the Commonwealth.

14. The Department of Agriculture and Consumer Services will provide consumer protection services to discourage the adoption of ineffective measures of energy conservation.

15. The Secretary of Economic Development will integrate the expertise, assistance, and cooperation of Virginia business and community leaders to advance the development, implementation, and acceptance of energy efficiency in Virginia.

OBJECTIVE E
To integrate planning for energy management.

STRATEGIES

1. The Department of Mines, Minerals and Energy will monitor energy supply and demand throughout Virginia for contingency planning purposes.

2. The Department of Mines, Minerals and Energy and the Department of Emergency Services will expand the Virginia Energy Guard Contingency Plan to include other fuel sources.

3. The Department of Mines, Minerals and Energy will coordinate the development and implementation of energy policy and planning for the Commonwealth of Virginia.

4. The Governor will direct each agency to develop and adopt an energy management planning process to accomplish a 25% reduction in energy consumption by 1998, measured against 1990 consumption levels.

5. Each agency will identify an energy manager, evaluate program policies and regulations with respect to energy efficiency, make recommendations to revise programs, and implement upon approval.

APPENDIX B

Secretary of Transportation Letters

DEC 2 2 1993

COMMONWEALTH *of* VIRGINIA

John G. Milliken
Secretary of Transportation

Office of the Governor
Richmond 23219

(804) 786-8032
TDD (804) 786-7765

March 9, 1993

The Honorable Federico Peña
Secretary of Transportation
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Secretary Peña:

Through this letter I am asking your help in resolving issues raised by Virginia vanpool commuters concerning U.S. DOT commute to work benefit policies. Specifically, the Virginia Van Pool Association (VVPA), representing approximately 4,500 Virginia commuters, has requested my office to contact you on this issue.

First, let me commend the United States Department of Transportation as one of the first federal agencies to implement the Mikulski legislation, allowing commute to work benefits for federal employees. This was before enactment of the Comprehensive National Energy Policy Act of 1992 allowing even more liberal benefits for all commuters.

The Office of Management and Budget issued guidance for federal agency participation under the Mikulski legislation on June 12, 1992. That guidance clarified to all heads of departments and agencies that federal employees could receive either a parking benefit or a commute to work benefit, but not both. It is the interpretation of this guidance in the case of vanpooling that is causing the concerns expressed to me. We seek your help in clarifying the guidance for the benefit of Virginia vanpool commuters.

The commute to work benefit program at U.S. DOT asks all commuters riding in a van vehicle parked in a federal facility to choose either a place to park, or a commute to work benefit. Asking vanpoolers to choose between a parking space at a federal facility or a commute to work benefit while parking elsewhere is often impractical. My staff report numerous instances both within the District of Columbia and in Northern Virginia employment centers where convenient vanpool parking is simply unavailable. Many parking structures, for instance, do not have the vehicle height clearances required by vanpool vehicles. Therefore, there is often no practical "other" place to park.

Vanpooling is an important component of the commute choices in Virginia. Vanpooling is not an easy choice, for it is common knowledge that vanpooling requires extensive cooperation and coordination by all concerned. In Virginia, both the Virginia Department of Transportation and the Virginia Department of Rail and Public Transportation provide facilities and services to assist vanpoolers. It is perhaps for this reason that the Virginia Van Pool Association, the largest association of independent vanpoolers in the nation, has requested our help to resolve this issue.

It may be preferable to seek a resolution of this issue under current guidance. If one cannot be found, a clarification of policy guidance from OMB may be in order.

Under current guidance, it may be worth a second look at the policy first issued by OMB on June 12, 1992. For instance, volunteer vanpool drivers are generally understood to take full responsibility for payment of vanpooling bills, such as for parking. Contributions from the riders in fact reimburse the driver or owner for costs. Perhaps a means can be found under current guidance to hold the vanpool driver fully responsible for parking charges, while allowing all of the riders to receive the commute benefits we all wish them to have.

If this is not possible, clarification from OMB may be helpful. While the original OMB guidance was written for the Mikulski legislation, subsequent enactment of the Energy Policy Act of 1992 with its "Qualified Transportation Fringe" may further justify revisiting this policy.

A meeting of those concerned may be helpful. My staff of the Virginia Department of Rail and Public Transportation are available to assist in such a meeting.

Sincerely,

John G. Milliken

JGM/cmg

cc: list attached

cc: Mr. Frank Hodsoll, Deputy Director for Management
Office of Management and Budget

Mr. Ronald Kirby
Metropolitan Washington Council of Governments

Mr. Leo J. Bevon, Director
Virginia Department of Rail and Public Transportation

Mr. Ray D. Pethtel, Commissioner
Virginia Department of Transportation

Mr. Barry Sherry, President
Virginia Van Pool Association

Mr. Dan Reichard, National President
Association for Commuter Transportation

Mr. Gary Kuykendall, Chesapeake Chapter President
Association for Commuter Transportation

Mr. Douglas McDonald
VPSI Commuter Vanpools, Inc.

Ms. Lauretta Ruest, Rideshare Program Manager
Potomac Rappahannock Transportation Commission

AUG 10 1993

COMMONWEALTH of VIRGINIA

John G. Milliken
Secretary of Transportation

Office of the Governor
Richmond 23219

(804) 786-8032
TDD (804) 786-7765

August 10, 1993

The Honorable Lloyd Bentsen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Bentsen:

The Commonwealth of Virginia applauded the passage of the Comprehensive National Energy Policy Act of 1992 with its "qualified transportation fringe benefit" provision. That tax code provision allows a non-taxable employer-provided transportation fringe benefit of up to $60.00 per month. We believe that employers across the Commonwealth and especially in our heavily congested urban areas will make use of this new provision of federal law, thereby encouraging employees to commute to work using transit and vanpooling.

The Internal Revenue Service has developed a Notice of Questions and Answers as a first step in the rule making process for the Energy Policy Act which includes the qualified transportation fringe benefits. But the final rules to guide implementation of this new benefit provision have not yet been promulgated. Their timely release is important so that Virginia and its employers can move ahead with the commuter benefits program with assurance that tax implications are thoroughly documented.

Please act to assure that final regulations are published on the transportation commute benefits program as soon as possible.

Sincerely,

John G. Milliken

JGM/cmg

cc: Mr. Leo J. Bevon, Director
Virginia Department of Rail and Public Transportation

Mr. Ray D. Pethtel, Commissioner
Virginia Department of Transportation

Mr. Chip Highsmith
Virginia Liaison Office

COMMONWEALTH of VIRGINIA

John G. Milliken
Secretary of Transportation

Office of the Governor
Richmond 23219

(804) 786-8032
TDD (804) 786-7765

August 17, 1993

The Honorable Eleanor Holmes Norton
Chairman
Subcommittee on Compensation and Employee Benefits
Committee on Post Office and Civil Service
209 Cannon House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Norton:

I am writing to urge enactment by December 31, 1993, legislation to extend and make permanent the incentive program encouraging federal employees to use public transportation, consistent with the goals established in the Clean Air and Energy Policy Acts. Such legislation would be consistent with benefits private employers offer under the Energy Policy Act.

Enactment of this legislation is very important to Virginia as we are undertaking a substantial effort to expand our statewide workplace transit benefits program. This is one transportation management initiative we can take to bring into compliance areas that have large concentrations of federal workers and have not achieved Clean Air Act standards. This legislation is particularly important to the Hampton Roads and Northern Virginia areas.

There are nearly 600,000 federal employees in Virginia, including many military employees. Encouraging these workers to take public transit is consistent with the Clean Air Act, the Energy Policy Act and makes optimal use of our investment in public transit throughout the state.

The Honorable Eleanor Holmes Norton
August 17, 1993
Page Two

A permanent federal workplace transportation benefits program would buttress our focus on providing energy efficient, environmentally sound, dependable transportation choices throughout Virginia. We greatly appreciate your full consideration of this request.

Sincerely,

John G. Milliken

JGM/cmg

cc: Virginia Congressional Delegation
Washington Metropolitan Area Transit Authority
Northern Virginia Transportation Commission
Association for Commuter Transportation
Tidewater Regional Transit

TRANS & PUB SAFETY TEL: 804-371-6381 Sep 21,93 15:34 No.006 P.01

Copied to Leo ✓

BARBARA A. MIKULSKI
MARYLAND

COMMITTEES
APPROPRIATIONS
SELECT COMMITTEE ON ETHICS
LABOR AND HUMAN RESOURCES

United States Senate

WASHINGTON, DC 20510-2003

SUITE 709
HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2003
(202) 224 4654
TTY (202) 224-5223

September 13, 1993

Post-It™ brand fax transmittal memo 7671		# of pages ▸
To Les Bevon	From Cathy	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

Honorable John G. Milliken
Secretary of Transportation
Commonwealth of Virginia
Richmond, VA 23219

Dear Secretary Milliken:

Thank you for your letter urging my support for reauthorizing the law, which I sponsored in 1990, enabling federal agencies to offer transit benefits to their employees. Knowing of your support for extending this law is helpful to me. I was particularly interested in your comments concerning the relevance of this law to compliance with the Clean Air Act by local jurisdictions.

Congresswoman Eleanor Holmes Norton has scheduled a hearing on this law on September 23 in the House Post Office and Civil Service Subcommittee on Compensation and Employee Benefits, which she chairs. Following that hearing, I expect that she and I will review how best to proceed, keeping in mind that without any further action by Congress, this law will expire effective December 31. You may want to contact Congresswoman Norton's subcommittee to submit comments for the hearing record.

Again, thank you for getting in touch with me on this issue.

Sincerely,

Barbara

Barbara A. Mikulski
United States Senator

APPENDIX C

Mikulski Amendment

SEC. 628. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

5 USC note prec. 7901.

SEC. 629. (a) A Federal agency may participate in any program established by a State or local government that encourages employees to use public transportation. Such programs may involve the sale of discounted transit passes or other incentives that reduce the cost to the employee of using public transportation.

ORIGINAL MIKULSKI LEGISLATION

(b) Notwithstanding the provisions of section 5536 of title 5, United States Code, or any other provision of law, an employee may participate in a program described under subsection (a).

(c)(1) For purposes of this section the term "Federal agency" shall mean an Executive agency as defined under section 105 of title 5, United States Code, and shall include any agency of the legislative or judicial branch of Government.

(2) For purposes of subsection (b), the term "employee" shall mean an employee as defined under section 2105 of title 5, United States Code, and shall include an employee of any legislative or judicial agency.

Reports. Government employees. Wages.

(d) No later than June 30, 1993, the General Accounting Office shall conduct a study and submit a report on the implementation of programs under subsection (a) and the employees (including information of the employing agencies and rates of pay of such employees) who have participated in such programs.

Repeal.

(e) The provisions of this section are repealed effective December 31, 1993.

Iraq. Kuwait.

SEC. 630. (a) The Senate finds that—

(1) democracy and freedom of the independent Arab nations have been threatened by the invasion and illegal annexation of Kuwait by the Government of the Republic of Iraq;

(2) the safety of American citizens and those of other countries have been directly threatened by the decision of the Government of Iraq to move them and use them as "human shields" at strategic defense and industrial installations;

103D CONGRESS
1ST SESSION

H. R. 3318

To amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1993

Ms. NORTON (for herself, Mrs. MORELLA, Mr. ACKERMAN, Mr. YOUNG of Alaska, Ms. BYRNE, Mr. MORAN, Mr. HOYER, Mrs. UNSOELD, Mr. BATEMAN, Mr. GILCHREST, and Mr. CARDIN) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service, House Administration, and the Judiciary

---

A BILL

To amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Federal Employees Clean Air Incentives Act".

(b) PURPOSE.—The purpose of this Act is to improve air quality and to reduce traffic congestion by providing for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

SEC. 2. AUTHORITY TO ESTABLISH PROGRAMS.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7905. Programs to encourage commuting by means other than single-occupancy motor vehicles

"(a) For the purpose of this section—

"(1) the term 'employee' means an employee as defined by section 2105 and a member of a uniformed service;

"(2) the term 'agency' means—

"(A) an Executive agency;

"(B) an entity of the legislative branch; and

"(C) the judicial branch;

"(3) the term 'entity of the legislative branch' means the House of Representatives, the Senate, the Office of the Architect of the Capitol (including the Botanic Garden), the Capitol Police, the Congressional Budget Office, the Copyright Royalty Tribunal, the Government Printing Office, the Library of

Congress, and the Office of Technology Assessment; and

"(4) the term 'transit pass' means a transit pass as defined by section 132(f)(5) of the Internal Revenue Code of 1986.

"(b)(1) The head of each agency may establish a program to encourage employees of such agency to use means other than single-occupancy motor vehicles to commute to or from work.

"(2) A program established under this section may involve such options as—

"(A) transit passes (including cash reimbursements therefor, but only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the agency);

"(B) furnishing space, facilities, or services to bicyclists; and

"(C) any non-monetary incentive which the agency head may otherwise offer under any other provision of law or other authority.

"(c) The functions of an agency head under this section shall—

"(1) with respect to the judicial branch, be carried out by the Director of the Administrative Office of the United States Courts;

"(2) with respect to the House of Representatives, be carried out by the Committee on House Administration of the House of Representatives; and

"(3) with respect to the Senate, be carried out by the Committee on Rules and Administration of the Senate.

"(d) The President shall designate 1 or more agencies which shall—

"(1) prescribe guidelines for programs under this section;

"(2) on request, furnish information or technical advice on the design or operation of any program under this section; and

"(3) submit to the President and the Congress, before January 1, 1995, and at least every 2 years thereafter, a written report on the operation of this section, including, with respect to the period covered by the report—

"(A) the number of agencies offering programs under this section;

"(B) a brief description of each of the various programs;

"(C) the extent of employee participation in, and the costs to the Government associated with, each of the various programs;

"(D) an assessment of any environmental or other benefits realized as a result of programs established under this section; and

"(E) any other matter which may be appropriate.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7905. Programs to encourage commuting by means other than single-occupancy motor vehicles.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1994.

○

103D CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 103–358
Part 1

FEDERAL EMPLOYEES CLEAN AIR INCENTIVES ACT

NOVEMBER 10, 1993.—Ordered to be printed

Mr. CLAY, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 3318 which on October 20, 1993, was referred jointly to the Committee on Post Office and Civil Service, the Committee on House Administration, and the Committee on the Judiciary]

[Including cost estimate of the Congressional Budget Office]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 3318) to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this legislation is to improve air quality and to reduce traffic congestion by providing authority to agencies to establish programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

COMMITTEE ACTION

On September 23, 1993, the Subcommittee on Compensation and Employee Benefits conducted the first of two hearings on the mass transit subsidy program available to Federal employees. Testimony was received from the Department of Transportation and the General Accounting Office (Serial No. 103–).

On September 30, 1993, the Subcommittee on Compensation and Employee Benefits conducted the second hearing on the mass transit subsidy program available to Federal employees. Testimony at this hearing was received from representatives of Federal employee organizations, Federal manager associations, transit organizations,

79–009

and environmental and commuter policy organizations (Serial No. 103-).

On October 20, 1993, Delegate Eleanor Holmes Norton (D-D.C.) introduced H.R. 3318, the "Federal Employees Clean Air Incentives Act."

On October 21, 1993, the Subcommittee on Compensation and Employee Benefits, by a record vote of 5 to 0, a quorum being present, approved H.R. 3318 for full Committee consideration.

On October 27, 1993, the Committee on Post Office and Civil Service ordered H.R. 3318 favorably reported, without amendment, by a voice vote.

SUMMARY

H.R. 3318 would permit Federal agencies to establish programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

STATEMENT

Section 629(a) of the Treasury, Postal Service and General Government Appropriations Act of 1991 (P.L. 101–509) authorized Federal agencies to elect to participate in transit benefit programs offered by state or local governments. The purpose of this legislation was to encourage Federal employees to use public transportation and thereby to protect the environment by reducing the use of single-occupant vehicles. The legislation provided that the authority would expire on December 31, 1993. It also provided that the General Accounting Office (GAO) would submit a report to Congress on the effects of the legislation.

On September 2, 1993, GAO issued a report evaluating the transit subsidy program entitled, "Mass Transit: Federal Participation in Transit Benefit Programs" (GAO/RCED 93–163). According to the GAO report, as of April 15, 1993, 75 executive, legislative, judicial, and independent Federal agencies participated in the transit benefit programs in 229 Federal offices located in the nation's 25 largest metropolitan areas. Thirty-four percent of agencies stated that the single most important factor in the decision to participate in the transit program was that providing a subsidy would enhance employee recruitment, morale and retention. According to the GAO report, additional factors that contributed to the agency decisions to participate included: (1) the fact that other Federal offices provided transit benefits and that they wanted their employees to have the same benefits; (2) the program saves energy, improves the environment, sets a positive example, and shows support for public transportation; (3) the program was instituted as part of an air quality or traffic mitigation agreement with a state or local authority; and (4) the employees wanted or lobbied for the benefit.

On September 22, 1993, the Department of Transportation (DOT) submitted an Administration proposal to Congress to reauthorize the transit subsidy program. The DOT proposal limited the subsidies to those cities defined by the Clean Air Act as having dangerous pollution levels for ozone. The DOT proposal also authorized agencies to charge employees additional fees for parking and to retain the fees to fund the transit subsidy. Lastly, the DOT proposal designated the General Services Administration as the "lead agency" for oversight and implementation of the program.

H.R. 3318 reauthorizes Federal agencies to offer subsidies to those employees who commute by means other than single-occupancy vehicles. The legislation provides the authority to all three branches of the Government. In addition, H.R. 3318 extends the availability of the subsidy to members of the uniformed services. Participation in a transit program is within each agency's discretion, and H.R. 3318 does not authorize additional funds for agencies to provide the subsidy. Subsidies must be funded from agencies' existing budgets.

H.R. 3318 conforms the definition of "transit pass" with the definition contained in the Internal Revenue Code. 26 U.S.C. 132(f)(5). It is important to note that employees receiving a subsidy other than a transit pass as defined in section 132(f)(5) of the Internal Revenue Code, such as subsidies provided to bicyclists, may be subject to tax on the benefit. In addition, the Committee notes that employees may also be subject to tax on any amount provided for a subsidy in excess of the $60.00 tax-free limit provided in section 132(f)(2)(A) of the Internal Revenue Code.

The program options that may be established under this legislation (7905(b)(2)) are not intended to be an inclusive list of programs that agencies may establish. Public Law 101–509 limited the programs in which Federal agencies could participate to programs established by State or local governments. H.R. 3318 expands the scope of the previous authorization to include, but not be limited to, privately operated vanpools. The Committee believes that this expansion conforms the programs available to Federal agencies with those available in the private sector.

H.R. 3318 also expands the scope of current law by permitting agencies to furnish space, facilities, or services to bicyclists as part of transit program. For example, agencies are permitted to use the money allocated for the subsidy to provide bicycle racks, lockers, or other facilities for the use of bicyclists. Agencies may also choose to provide a subsidy to those employees who commute by bicycle for use toward the cost of agency-provided locker rooms or showers.

In addition, H.R. 3318 authorizes agencies to provide non-monetary incentives, if otherwise authorized, to encourage employees to commute by means other than single-occupancy vehicles. These incentives may include, but are not limited to, flex-time, preferential parking for those employees who commute in carpools or vanpools, or preference for utilization of agency provided child-care facilities.

H.R. 3318 requires the President to designate one or more agencies which shall prescribe guidelines for programs and submit reports to the President and Congress on the operation of, and participation in, the transit program.

Agencies should take special care to limit the furnishing of the subsidy to those employees who commute by means other than single-occupancy vehicle. According to the GAO report, a small percentage of employees who received the transit subsidy also received agency-provided parking.

Finally, nothing in this legislation is intended to prohibit agencies from providing the subsidy where there is a sole provider of transportation or where it is necessary to pay the transit provider in advance of participation in the program.

Under the Clean Air Act Amendments of 1990, eight of the nation's largest 25 metropolitan areas[1] are required to enact local ordinances requiring employers with 100 or more employees, including the Federal Government, to implement trip reduction plans (P.L. 101-549). Employer's trip reduction compliance plans must be in place by November 1994. According to the GAO report, as of March 1993, these eight cities, along with San Francisco, CA, Phoenix, AZ, and Seattle, WA, had enacted employers' trip reduction ordinances. On May 28, 1993, the Comptroller General ruled that under authority of the Clean Air Act, Federal agencies may use appropriated funds to offer financial incentives to their employees to reduce the use of single-occupant vehicles when required to do so by state or local legislation (B-250400). H.R. 3318 assists Federal agencies by providing a means by which they can comply with the Clean Air Act requirements.

SECTION ANALYSIS

SECTION 1. SHORT TITLE; PURPOSE

Section 1(a) provides that this Act may be cited as the "Federal Employees Clean Air Incentives Act."

Section 1(b) states that the purpose of this Act is to improve air quality and to reduce traffic congestion by providing for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

SECTION 2. AUTHORITY TO ESTABLISH PROGRAMS

Section 2(a) amends chapter 79 of title 5, United States Code, by adding a new section 7905 relating to agency programs to encourage commuting by means other than single-occupancy motor vehicles.

Section 7905(a)(1) defines the term "employee" to mean an employee as defined by section 2105 of title 5, United States Code, and a member of a uniformed service.

Section 7905(a)(2) defines the term "agency" to mean an Executive agency, an entity of the legislative branch, and the judicial branch.

Section 7905(a)(3) defines the term "entity of the legislative branch" to mean the House of Representatives, the Senate, the Office of the Architect of the Capitol (including the Botanic Garden), the Capitol Police, the Congressional Budget Office, the Copyright Royalty Tribunal, the Government Printing Office, the Library of Congress, and the Office of Technology Assessment.

Section 7905(a)(4) defines the term "transit pass" to mean a transit pass as defined by section 132(f)(5) of the Internal Revenue Code of 1986.

Section 7905(b)(1) authorizes the head of each agency to establish a program to encourage employees of such agency to use

[1] Baltimore, MD; Chicago, IL, Houston, TX; Los Angeles, CA; Milwaukee, WI; New York, NY; Philadelphia, PA; and San Diego, CA

means other than single-occupancy motor vehicles to commute to or from work.

Section 7905(b)(2) provides that a program established under this section may involve such options as: (A) transit passes (including cash reimbursement but only if a transit pass, voucher or similar item is not readily available for direct distribution); (B) furnishing space, facilities, or services to bicyclists; and (C) any non-monetary incentive which the agency head may otherwise offer under any other provision of law or other authority.

Section 7905(c) provides that the functions of an agency head under this section shall: (1) with respect to the judicial branch, be carried out by the Director of the Administrative Office of the United States Courts; (2) with respect to the House of Representatives, be carried out by the Committee on House Administration of the House of Representatives; and (3) with respect to the Senate, be carried out by the Committee on Rules and Administration of the Senate.

Section 7905(d) requires the President to designate one or more agencies which shall: (1) prescribe guidelines for programs under this section; (2) on request, furnish information or technical advice on the design or operation of any program under this section; and (3) submit to the President and the Congress, before January 1, 1995, and at least every two years thereafter, a written report. The report shall include the following information:

(A) the number of agencies offering programs under this section;

(B) a brief description of each of the various programs;

(C) the extent of employee participation in, and the costs to the Government associated with, each of the various programs;

(D) an assessment of the environmental or other benefits realized as a result of the programs established under this section; and

(E) any other appropriate matter.

Section 2(b) of the bill amends the chapter analysis for chapter 79 of title 5, United States Code, to reflect the addition of the new section 7905.

SECTION 3. EFFECTIVE DATE

Section 3 provides that this Act and the amendments made by the Act shall take effect on January 1, 1994.

COST

The cost estimate prepared by the Congressional Budget Office pursuant to sections 308(a) and 403 of the Congressional Budget Act of 1974, as amended, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 9, 1993.

Hon. WILLIAM L. CLAY,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3318, the Federal Employees Clean Air Incentives Act, as ordered reported by the House Committee on Post Office and Civil Service on October 27, 1993. The bill would allow federal agencies to establish programs to encourage employees to use means other than single-occupancy vehicles to commute to and from work.

As of April 1993, 229 offices throughout a number of federal agencies offered transit subsidies to their employees, generally $21 a month. Based on a General Accounting Office study, CBO estimates that the current transit subsidy program costs the federal government $8 million to $10 million a year. The authority to provide such subsidies will expire on December 31, 1993.

H.R. 3318 would extend the transit subsidy program and expand its potential coverage by including uniformed federal employees. In addition, agencies would be permitted to provide facilities for bicyclists and subsidies to employees traveling by private vanpools, and a federal agency would be designated to coordinate the program and issue reports.

The major cost of this bill would result from the transit subsidies. If no new agencies or offices choose to participate in the program, we would expect costs to continue at the 1993 level—around $10 million a year. However, to date, relatively few federal employees have been offered transit subsidies. It is possible that over time more offices would participate. If all agencies participated, based on current participation roles by employees and assuming a $21 per month subsidy, annual costs could reach $300 million for both civilian and military employees. This result is highly unlikely, particularly in view of the tight budgetary constraints facing many agencies. Nevertheless, some growth in the program's costs are possible, especially if the Department of Defense (DoD) participates. (The bill would allow transit subsidies for uniformed personnel, which is not possible under current law.) CBO estimates that if DoD were to offer such subsidies, program costs could rise by $10 million a year, based on employee participation rates at other agencies.

CBO estimates that no cost to state or local governments would result from the enactment of this bill. Enactment of H.R. 3318 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Patterson, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Compensation and Employee Benefits is vested with legislative and oversight jurisdiction over the subject matter of this legislation. As a result of its hearings and deliberations, the Subcommittee has concluded that there is ample need and justification for enacting this legislation.

The Committee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the Committee has concluded that enactment of H.R. 3318 will have no inflationary impact on the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to the omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 79 OF TITLE 5, UNITED STATES CODE

CHAPTER 79—SERVICES TO EMPLOYEES

Sec.
7901 Health service programs.

* * * * * * *

7905. Programs to encourage commuting by means other than single-occupancy motor vehicles.

* * * * * * *

§ 7905. Programs to encourage commuting by means other than single-occupancy motor vehicles

(a) For the purpose of this section—

(1) the term "employee" means an employee as defined by section 2105 and a member of a uniformed service;

(2) the term "agency" means—

(A) an Executive agency;

(B) an entity of the legislative branch; and

(C) the judicial branch;

(3) the term "entity of the legislative branch" means the House of Representatives, the Senate, the Office of the Architect of the Capitol (including the Botanic Garden), the Capitol Police, the Congressional Budget Office, the Copyright Royalty Tribunal, the Government Printing Office, the Library of Congress, and the Office of Technology Assessment; and

(4) the term "transit pass" means a transit pass as defined by section 132(f)(5) of the Internal Revenue Code of 1986.

(b)(1) The head of each agency may establish a program to encourage employees of such agency to use means other than single-occupancy motor vehicles to commute to or from work.

(2) A program established under this section may involve such options as—

(A) transit passes (including cash reimbursements therefor, but only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the agency);

(B) furnishing space, facilities, or services to bicycles; and

(C) any non-monetary incentive which the agency head may otherwise offer under any other provision of law or other authority.

(c) The functions of an agency head under this section shall—

(1) with respect to the judicial branch, be carried out by the Director of the Administrative Office of the United States Courts;

(2) with respect to the House of Representatives, be carried out by the Committee on House Administration of the House of Representatives; and

(3) with respect to the Senate, be carried out by the Committee on Rules and Administration of the Senate.

(d) The President shall designate 1 or more agencies which shall—

(1) prescribe guidelines for programs under this section;

(2) on request, furnish information or technical advice on the design or operation of any program under this section; and

(3) submit to the President and the Congress, before January 1, 1995, and at least every 2 years thereafter, a written report on the operation of this section, including, with respect to the period covered by the report—

(A) the number of agencies offering programs under this section;

(B) a brief description of each of the various programs;

(C) the extent of employee participation in, and the costs to the Government associated with, each of the various programs;

(D) an assessment of any environmental or other benefits realized as a result of programs established under this section; and

(E) any other matter which may be appropriate.

O

APPENDIX D

Transit Discount Programs Summary

HJR-486
Transit Discount Programs
Summary and Review

TIDEWATER REGIONAL TRANSIT: Commuter Check®

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In Brief

The Tidewater Regional Transit (TRT) began its Commuter Check® program in January of 1992. TRT provides bus service to the greater Tidewater area, a large area served with a limited number of routes. As do other transit companies, TRT uses Commuter Check® from the Commuter Check Services Corporation to deliver a discounted ticket program. Employers may choose to purchase Commuter Checks® and distribute them in various dollar denominations to their personnel. The employees then use the check to purchase TRT tokens and ticket packs. Checks have no direct monetary value. TRT offers discounts of 27% off full fare value for those purchasing tickets or tokens with Commuter Checks®, providing additional incentive to participate in the program.

Before the Commuter Check® program, TRT received a federal demonstration project grant for the "Advance Program." After completing the Advance program remaining grant funds helped promote the Commuter Check® and to subsidize the cost of the checks.

The Commuter Check® program enjoyed considerable success and grew steadily. By the end of 1992, ticket sales had more than quadrupled (see Appendix A). Promotions for the program included a sponsorship with WAVY TV-10, which ran through January 1993. In addition, a direct mail campaign targeting downtown Norfolk businesses (see Appendix B) proved to be quite effective and generated many new participants.

In January of 1993 TRT announced that as of April 1 the demonstration grant would be exhausted and subsidized tickets would therefore no longer be available. However, TRT continued to promote the program, emphasizing the tax benefits available, and publicized the federal increase to $60 for the qualified transportation fringe benefit. In the 1st Quarter of 1993 sales out paced sales for the entire year of 1992, totaling 1358 by the end of March. Apparently the pending end of the subsidy program motivated participants to purchased tickets for the whole year in the first quarter. Consequently, ticket sales for April and May of 1993 were exceptionally low with only 78 tickets sold in April and no tickets sold in May (see Appendix A). Ticket sales should return to normal levels beginning in 1994, after participants have used the tickets they purchased under the subsidy program.

In the future TRT hopes to work with city government in creating a program for city employees. According to TRT, Tidewater cities and counties have never had a long term plan for dealing with transportation issues. They consider local government support as key in making the transit program and other commuter programs successful. They also want to encourage military participation in the program. Tidewater's large military presence and TRT's bus routing offer great potential for military personnel participation. However, many military installations, while expressing a great deal of interest, are unable to participate as they have not received budgetary authority from Congress.

Tidewater Area Private Sector Companies that Participate with Commuter Check®

Freemason Abbey
Roy Badgley: (804) 622-3966

Cavalier Hotel
Jeneva Duchesneau: (804) 425-8555 Ext. 7185

Comfort Inn
Sudie Weeks: (804) 623-5700

Success of a Transit Program

* An initial subsidy may be an effective method for generating interest in a discount program.

* Participant surveys are key to effectively gauging the success of a discount program.

Additional Information

The existence of federal grant funds for a subsidized ticket program may make the TRT program unique. Their clear success with the subsidized ticket sales indicates that a subsidy may be an excellent way to attract participants to a transit pass program. However, it will be 1994 before an accurate assessment of the impact of the TRT program can be made. For now continued participation by TRT's customers may be the best measure of continued success.

Participant travel habit changes attributable to the transit pass program cannot be determined because before and after user surveys were not conducted to gather the needed data. Such a survey can detect any modal shift attributable to the program, i.e., people giving up their private vehicle in favor of public transportation.

Any state program would be best evaluated and monitored by performing the needed surveys.

Targeting efforts to small business has enjoyed substantial success. Small businesses, such as hotels, employ large staffs who often become active in the program. Many of these staff members used TRT services before the program. Employers may find in these programs an effective way to both gain tax benefits and improve employee relations. While this kind of participation is welcome, it raises a valid concern. If the primary objective of transit pass programs is to increase the use of public transit, then ways to ensure the program does not become simply a method of subsidizing current users need consideration.

Selling a Transit Pass Program:

* Appeal to perceived benefits of employer and employee.

* Encourage local government participation.

* Work with local government for long term planning that incorporates transit pass and other commuter programs.

* Support actions seeking to enable full federal agency participation in transit programs, including military personnel.

* Address a budget problem experienced by especially small employers beginning these programs. Anticipate and accommodate small orders and "creative" accounting practices often necessary to begin a program.

The year and a half of this transit pass program allowed TRT to develop and test many marketing devices, including sponsorship by a local TV station and the distribution of adds in buses, and in employee break rooms.

It is interesting to note that TRT's efforts to attract businesses to the program focused on benefits other than those advocated by state and local governments. While governments tend to extol reduced traffic congestion and pollutant emissions, employees and employers perceived other, more individual benefits. For example, participating hotel owners regularly expressed that providing Commuter Check® created vastly improved employee retention rates, consequently saving the employer considerable funds not spent in training of new employees. TRT used this notion of improved employee retention in their advertising (see Appendix B). They also detailed other benefits employer's associated with Commuter Check® such as a business's display of community involvement, increased employee schedule adherence, and Commuter Check® as a convenient way to award exceptional employees with a bonus or award. To employers the community involvement benefits of participation are important. They could be better emphasized by acknowledging participating employers in program promotions.

Plans for future expansions include working with city government to design a program for city employees. TRT encourages Tidewater localities to approach transportation issues from a longer term perspective, and they see programs such as the transit benefits program and other innovative commuter programs as opportunities to practice that approach. Additionally, Tidewaters large military presence which is predominantly well located on TRT bus routes offers the potential for extensive military personnel use of the TRT program. However, although many military commands have expressed a great deal of interest, none can take advantage of Commuter Check® until they receive budgetary authority from Congress.

Because of the large military presence in Virginia, a serious commitment to transit pass programs by the Commonwealth might include encouraging Virginia Congressman and Senators to support enabling legislation allowing military participation. This seems particularly appropriate as it is in keeping with the spirit of the federal legislation that first made such programs possible.

Finally, TRT found that the businesses commonly had trouble with their initial minimum order limits. Budgets are commonly formed of line-items of expense. With no line-item for a "transit pass," many companies did not have a source of funds to cover the initial minimum order. As a result TRT changed participation rules to accommodate smaller minimum orders often paid for out of petty cash funds. Once begun, the reasoning went, employers could grow the program gradually and then more easily justify funding out of future budgets. The smaller minimum orders allowed more businesses to offer a trial program and find for themselves the benefits of the program. Actual pass sales to date partially support this reasoning, indicating that once a business tried the program on a small scale they could often enroll more employees through time. In the future they can enter "transit pass" as line-items in their budgets.

WASHINGTON METROPOLITAN TRANSIT AUTHORITY: Metrochek
David A. Halperin, Manager Sales Branch 202-962-2282
Washington Metropolitan Area Transit Authority

The Washington Metropolitan Area Transit Authority operates the largest and one of the most successful transit pass programs in the country - "MetroPool." MetroPool is a work place transit program that makes transit fares directly available to employees at their work place. In October of 1992 WMATA began preparation for Metrochek, a program that would decrease and eliminate work place paperwork and simplify administration of MetroPool by providing an exchangeable fair card usable on over twenty different transit systems. Metrochek began January 11, 1993 and by May 1 had generated over $2,500,000 in additional sales for the MetroPool Program (see Appendix C and Appendix D). As of May 15 of 1993 over two hundred businesses and seventy seven federal agencies participated in the MetroPool program. (See Appendix E for information on all participants, and Appendix F for information on federal participants only.)

Due to the change in federal legislation allowing employers to subsidize employee commuting up to $60 a month from the previous limit of $21, they planned a massive employer education effort to make them aware of the new allowance and the benefits of the higher limit. Their new educational package highlighted the change and targeted current MetroPool members and other large employers in the metropolitan area. The educational package provided information on the MetroPool program, the advantages and benefits of participating in MetroPool, how to join, and information on Metrochek. (See Appendix G.) WMATA officials cite the extensive education effort as a primary reason for the early success of Metrochek.

To develop Metrochek, WMATA considered options that might be effective in creating the largest participation under the new parameters set forth in the Energy Policy Act. Using information provided by the Metropolitan Washington Council of Governments, WMATA found that 80% of commuters used metro rail or bus at some point in their commute, making metro a logical central authority in the region's transit benefit program. As a result, WMATA developed a program similar to the already familiar metro card. The Metrochek fare card design allows employers to buy a single type of commuter pass usable on any participating transit system serving the metropolitan area, greatly simplifying for all the provision of the transit benefit. This simple transit product allows commuters to travel north to Baltimore, south to Richmond, and west as far as West Virginia using existing public transportation services such as VRE, local and commuter buses, and vanpools.

WMATA's Metrochek IS a model for transit pass programs. Since it began in January, over 160 companies have signed on with the program. Through careful tracking and surveying of users, WMATA identified a number of changes resulting from their Metrochek and previous programs. They had particular interest in detecting modal shift. Modal shift in this context can be defined as a commuter who actually switches from private auto use to public transportation. In 1992 an internal review of federal employee traffic habits revealed a 12% transit mode shift due to WMATA's program. Price Waterhouse, currently tracking modal shift results, has shown a preliminary modal shift of 24.97% in the private sector and another 7% shift (above that observed in the WMATA 1992 study) in the public sector. The smaller federal shift is understandable given that the central city has a concentration of federal employees who already used public transit.

WMATA expects the next major modal shift could follow legislation forcing reductions in parking subsidies. Many businesses subsidize parking by providing free parking or reduce price parking. The federal government charges less for parking than the market demands. WMATA officials credit much of Metrochek's success to legislation which increased the tax benefit to a level that can finally compete with existing parking subsidies. Before the Energy Policy Act, tax-free transit benefits could not exceed $15. In 1991 the Internal Revenue Service raised this to $21. The Mikulski Amendments made federal employees eligible for these benefits for the first time, yet federal employees enjoyed parking in the D.C. area for about $20 a month, well below the free market price of about $50. In October 1992, the National Energy Policy Act increased the tax-free amount to $60, for the first time creating for public transit a more level playing field.

Selected Private Sector Programs that Participate with Metrochek:

Geico Insurance Company
Margie Robertson
(301) 986-2634

Geico Insurance Co. has provided fare-cards and tokens at their offices since federal legislation first allowed employers to provide tax free public transit benefits to their employees. Geico provides employees a $21 discount on transit fares. They now provide Metrocheks as well. Although Metrochek can be either directly used or traded in for use on any transit system in the Washington metropolitan area, employees like the convenience of receiving other fare-cards directly. Eliminating the direct provision of other fare-cards could cause a decline in participation. Employees may not be willing to switch Metrocheks for the necessary fare types after receiving the necessary fares or tokens directly in the past. However, Geico indicates that if they were just beginning their program they would probably use only Metrochek because of its administrative simplicity.

Currently 441 Geico employeespurchase fare-cards or tokens at the Geico Federal Credit Union in the company's office building. Direct deduction from employee paychecks eliminates the exchange of cash or check. Geico officials are currently considering an increase in the discount provided to $28.

Park Center Management

Ms. Paula J. Di Rocco
(703) 578-4774

Park Center is an office complex in Alexandria, Virginia. Park Center Management operates the properties and participates in the City of Alexandria's transportation management program, which encourages businesses in the Alexandria area to develop a comprehensive program for managing their employees' paring needs.

To this end, Park Center Management, for the past seven years, provided a variety of public transit incentives to businesses that rent space under their management. During negotiations of the lease, transportation options are discussed with the client. Parking spaces are acquired by employer or employee purchase which currently sell for $70.00 per month. In addition to this "negative incentive" of charging for parking, three "positive" programs exist to encourage employees to consider other transit options. Park Center agrees to provide free metropasses to anyone who has formerly purchased a parking space and relinquishes it in favor of Metro, a bi-monthly metropass valued at $27. Carpooling is also encouraged. Park Center provides a free parking a space for the carpool. In addition, employees who do not received one of the free metropasses, are eligible to purchase a discounted metropass, at a discount of five dollars off, saving the employee ten dollars a month. There is also free van service provided by some tenants to area metro stations for those employees who opt not to drive, but have meetings in D.C.

Park Center Management handles all administration for the various incentive programs. A list of qualifying employees who receive free metropasses is maintained by Park Center Management. Those employees pick up the passes in person and sign for them - they are then noted as ineligible for parking at Park Center. Discounted metropasses are available for purchase from the management office from 11:00 am to 1:00 p.m., Monday through Friday.

For the April 1, 1993 to June 30, 1993 quarter, Park Center reported distributing 243 free metropasses, for a total value of $6,561.00. During this same period, 294 discounted metropasses were sold, for a total subsidy cost of $1,470.00.

DEPARTMENT OF MOTOR VEHICLES: TRANSIT FARE DISCOUNT PROGRAM

DMV: Ron Thompson 367-1844
Greater Richmond Transit Company: Tracye Beard 358-3871

In the October of 1992 the Department of Motor Vehicles (DMV) surveyed its employees in Richmond, Virginia. The survey ask about their travel habits to and from work (see Appendix H). Of a thousand surveys, 251 responded and of the respondents a majority expressed interest in a public transit discount program. Following the survey, DMV worked with the Greater Richmond Transit Company (GRTC), the Department of Rail and Public Transit, and Ride Finders to initiate a four-month trial transit pass program at the DMV home office. Beginning January 1, 1993, DMV employees had the option of purchasing a month's worth of GRTC tickets normally costing $30 for $10 dollars. The trial program concluded April 30, 1993 with 77 employees participating. DMV purchased tickets directly from GRTC and then sold them to employees for $10. Volunteers within the building handled ticket sales. Total subsidy costs for the trial program amounted to $1500 a month, totaling $6000 for the four-month period.

DMV Officials estimated that 45 to 50 of the participants already used the bus for commuting to work, and that between 20 to 25 gave up their cars in favor of using the bus line due to the ticket discount program. (Please refer to the "Transit Discount Programs Summary and Review, Appendix "H: Transit Fare Task Force, August 18, 1993, Status of DMV Commuter Assistance Program," for updated information on this program.)

Given the obvious success of the pilot, DMV continued the program with a few modifications. In the future, participants will be required to give up their parking space at the office to be able to purchase the discounted tickets. This practice of combining disincentives (i.e., give up parking space) with incentives (i.e., discounted fare tickets) is typical and consistent throughout all programs examined in both the private and public sector. There are currently no plans for increasing the dollar value of tickets offered or for DMV to change the amount it subsidizes ticket prices. DMV will be adding vanpooling as an eligible commuter option under the program at the main office and may eventually include carpooling and preferential parking programs as well. DMV officials have begun to expand the discount ticket program to DMV branch offices in the Tidewater and Northern Virginia areas.

DMV and GRTC expressed that participation in the discount program might be greater if most commuters could be provided with better bus service. Many employees live in locations that require they make transfers when riding the bus to work. Consequently, many employees choose not to participate. Areas like Henrico and Chesterfield county do not have the kind of bus service that makes employees want to take advantage of the program. Because these counties have spread out residential development, bus service may not be financially feasible anytime in the near future. Consequently, DMV is considering setting up vanpooling operations for these large suburban sections and providing discounted vanpool tickets.

At the time of this writing, GRTC was preparing marketing materials and staff to promote the bus discount program to private employers in the Richmond area. Appendix I to this document is a copy of the GRTC proposal currently under consideration by the City Manager of Richmond. While the DMV is not directly involved with this venture, the success of the DMV pilot program has encouraged the GRTC initiative to replicate the program in the greater Richmond business community. In addition, the funding for the GRTC marketing and initial staffing of the program for the city is made possible by a $30,000 grant from the Virginia Department of Rail and Public Transportation. DRPT manages several similar grants aimed at encouraging employee use of a transit discount program. Cities currently initiating such programs with these grants include Roanoke (Greater Roanoke Transit Co., $60,000 grant) the Peninsula area including Newport News, Hampton, and James City County ($15,000 grant).

Besides DRPT's work with DMV, they supported establishment of a public transit incentive program within the Virginia Department of Transportation (VDOT). In March of 1992, VDOT conducted a survey, similar to the DMV survey, in the VDOT central office (see Appendix J). A total of 1,338 surveys were distributed with 1,013 returned. Survey results indicated transit ridership could triple to over 35 percent modal share with a transit pass program (see Appendix K). On July 1 of 1993 VDOT initiated a one year trial of the transportation tax-free subsidy to VDOT central, district, and residency office employees who make use of vanpooling, carpooling, and public transit (see Appendix L). Employees are eligible for $60 a month, or actual cost, whichever is less and up to $155 for qualified parking. Appendix L is a copy of the pilot program.

The initial successes of the DMV pilot program and the very positive response to the VDOT survey add support to the belief that public transit incentive programs can be successful in Virginia. A task force, created in February under Secretary of Transportation John G. Milliken's leadership, works to promote the implementation of a transit/vanpool incentive program in all state agencies (see Appendix M). Representatives from the Departments of General Services, Personnel and Training, Planning and Budget, Air Pollution and Control, Transportation, Motor Vehicles, and Rail and Public Transportation have come together to plan for the implementation of a program for all state agencies. A survey developed by the task force (see Appendix N) was distributed in July of 1993. After analyzing the survey results, the task force will review selected benefit programs (the focus of this study) and work to recommend to Secretary Milliken's office ways to further promote transit benefit programs

TRANSIT PASS PROGRAMS IN OTHER STATES

Metropolitan Boston Transit Authority (MBTA), Boston MA

Lucy Shotter: (617) 722-5545/5219

In 1974 the Metropolitan Boston Transit Authority created the first transit pass program in the U.S. Simple in design, the Boston transit pass is fare-card providing unlimited use of a specific form of public transit for one month. Currently the MBTA has over 1000 employers that purchase passes for sale to employees. Of these approximately 180 subsidize the passes. In the past MBTA did not put much effort into marketing the pass. Occasional adds and direct mailings to employers promoted the fare-card in the past.

Since the passage of the new legislation, MBTA explored new marketing strategies to increase employer participation in the transit allowance. In the future all information packets on the transit pass will include information on the tax subsidy. They also print information on the employee tax benefit on the back of all fare-cards (160,000 are sold each month). Account executives encourage businesses to provide the full $60 transit benefit pointing out that this allows the employer to provide their employees with the equivalent of a $720 tax-free raise that is also a tax-deductible business expense to the employer. However, MBTA officials report that even large businesses like Prudential and John Hancock do not now provide the full $60 allowance. MBTA is now preparing a survey for distribution to business presidents and human resource officers to learn why they opt for only a partial subsidy.

MBTA has considered for two years bringing Commuter Check® to Boston. As explained for Tidewater Regional Transit (in this report), Commuter Check® is an exchangeable fare-card available in various denominations purchased directly from the Commuter Check Corporation by an employer and then sold or distributed to employees. Employees may then take the Commuter Check® to the transit system of their choice and redeem it for fare-cards or tokens. A primary obstacle in the past to bringing Commuter Check® to Boston involved their union. Unionized collectors (token and ticket collectors) were unwilling to accept the added duties of handling the checks and the accompanying paper work. Installation of more sophisticated electronic fare handling equipment could make it easier to handle Commuter Check®. Procurement issues now delay implementation. There is some concern within MBTA that Commuter Check® may just be an added layer of bureaucracy. Rather than employers purchasing a variety of fare-cards directly, and then giving these to their employees, they would instead purchase the Commuter Checks®. Employee would then have to switch these for the fare type they need. However, other MBTA officials counter that Commuter Check® is more efficient in the long run, that it is less time-consuming and reduces paper work for the businesses as they no longer have to worry about the number and type of fares ordered.

Miami Metro/Dade Transit Agency (MDTA), Miami FL

Ms. Virginia Diaz: (305) 884-7560

The Miami Metro/Dade Transit Agency has had a public transit incentive program in place for the past ten years. Known as the "Corporate Plan," any business may purchase the Corporate Metro pass providing unlimited travel on three different transit systems; bus, rail, and train. The pass sells for $60 a person per month and employers may receive a discount depending on their total number of employees. Businesses with 5 to 99 employees receive a $6 discount while employers with 100 or more employees receive an $8 discount. The program has been in place for about ten years, but it has not been promoted.

Due to the recent increase in the tax-free benefits allowed, MDTA will begin promoting the program in October of 1993. MDTA officials report that a new and costly education and awareness campaign will be undertaken to make potential participants fully aware of the new legislation and it potential benefits. A two-phase campaign, which will include radio and billboard advertising, will target 300 businesses with fifty or more employees in the Miami/Dade area. MDTA officials are currently pursuing federal grant monies to help with their marketing initiatives.

Connecticut Transit, Hartford, Conn.

Mr. Steven Botticello (203) 522-8101
Mr. Michael Swanson (800) 533-7433, Department of Transportation

Connecticut Transit is owned and operated by the state of Connecticut. Until the Energy Policy Act, the state did not aggressively advertise and promote any discount programs. All tickets and fares were available at full price.

With the benefit increased to $60, the Connecticut Department of Transportation planned a statewide education campaign to increase Connecticut business awareness of the new benefit level and the potential benefits of participating. A guide book to creating a discount program introduces the changes in the law, and contains a variety of resource material on establishing an effective program and adapting it to any sized business. In addition, the state will sponsor several workshops covering this material.

Many areas in Connecticut fall under mandates of the Clean Air Act and as a result the state formed a state and private industry joint commission - "Employee commute options (ECO)" aimed at putting private and state resources to use in meeting the requirements of the legislation. The activities undertaken to promote the Energy Act change will be carried out by this cooperative commission. The state has an initial goal of increasing average passenger occupancy between the peak hours of 6:00am and 10:00am, Monday-Friday, by 25%, or 1.49 persons per car.

APPENDIX E

Summary State Employee Survey and Analysis

APPENDIX E

SUMMARY FOR STATE EMPLOYEE SURVEY AND ANALYSIS

I. BACKGROUND

In September, 1991, Executive Order Thirty-Seven directed state agencies to implement the Virginia Energy Plan. An element of that plan called for the development of a state agency transit discount pass program for state employees in major urban areas. In October, 1992, the U.S. Congress passed the Comprehensive National Energy Policy Act which increased the level of tax free transit benefits an employer could provide to $60 per month. In addition, the legislation provided that employer-provided parking, previously not taxable, would become taxable if the benefit exceeded $155 per month. These changes in the tax free benefit made the transit discount pass program more attractive and worthwhile.

To initiate efforts at the state level, Secretary Milliken established a Task Force, consisting of representatives of various state agencies, to develop an implementation plan.

A survey of state employees was conducted by the Department of Personnel and Training and guidelines for a program were developed. The results of the survey,(a sample of 165 state employees, classified, faculty, executive branch salaried, other salaried and wage), were statistically applied to the total state work force of 128,501. The calculations suggest that:

- State employees in the Commonwealth's six largest urban areas drive an estimated 305 million miles a year to work,
- The average monthly transit fare is $30,

- Approximately 2,980 state employees currently use public transportation or vanpool to work.
- Approximately 19,960 state employees indicated that they would either use transit for pool to work if an incentive of up to $60 per month was provided.

As an indication of how many state employees might actually change their mode of transportation, an analysis of VDOT's program was conducted. A pre-implementation survey revealed that 92 of VDOT's 1,190 central office employees used transit to commute to work (7.7%). It also noted that an additional 233 VDOT employees would use transit if a discounted bus fare was offered. When the program started on August 1, 1993, 174 employees actually participated (the original 92 plus 82 new riders). Thus, 35% of the employees who indicated they would switch modes actually did. VDOT's incentive program still resulted in a phenomenal 90% increase in transit ridership. Currently 14.6% of VDOT's central office employees travel to work by public transportation.

From this finding it is estimated that approximately 9,960 state employees would participate in a transit incentive program.
The 1992 National Energy Policy Act (P 102-486), which amends the Internal Revenue Service Code, authorizes qualified transportation fringe benefits which are provided by an employer to any employee to be excluded from gross income (ie. tax free) if the amount does not exceed:

a. $60 per month for employees who use transit or vanpool to work, and
b. $155 per month in "qualified parking" costs for employees who use transit, vanpool or carpool to work.

However, some employers participating in the program provide lower incentives than the maximum allowable amount since the actual cost of services is less than $60.00 per month. For example, DMV which initiated the first state program in January, 1993, offers its employees $20 towards the $30 cost of local bus service. VDOT provides its employees $30.00 per month incentives for those who use local transit service and $50.00 for its employees who ride express buses from commuter lots, having determined these to be the cost of the services to the employees. The program guidelines will state that the monthly incentive paid to the employee shall not exceed the employee's monthly commuting cost.

II. GOAL

The goals of the program are to reduce transportation related energy consumption, traffic congestion, air pollution and need for additional parking spaces, as well as improve the quality of life for all Virginians, including state employees.

III. OPERATIONAL IMPACT

There will be very little operational impact of the program on state agencies. The administrative procedures to establish and maintain the programs are minimal. VDOT, 11,600 state employees, implemented the program with existing resources and with minimal administrative time. Existing staff of state agencies, with assistance and guidance form the Department of Rail and Public Transportation, will be able to administer the program.

No additional staff or equipment will be needed to implement and maintain the program. In fact, the programs will reduce the need for additional parking spaces or facilities by state agencies. Training materials and technical support is available through the Department of Rail and Public Transportation.

IV. FISCAL /BUDGETING IMPACT

The survey of state employees by the Department of Personnel and Training and of VDOT employees by the Department of Transportation indicate that, of 128,501 state employees, approximately 22,900 would be interested in the incentive program. Utilizing the fact that approximately 35% of the interested VDOT employees actually participated in their program, it is estimated that approximately 9,960 state employees would participate in the transit and rideshare incentive program. Based on this finding, it is estimated that the potential upper end cost of the program would be approximately $4.1 million per year. The cost of a pilot program authorized for the remainder of FY94 could incur a maximum cost of approximately $2.0 million. This assumes that all state agencies will, implement the program. The number of state agencies which would implement the program and the numbers of employees who would be in a position to receive the incentive can not be estimated. Since it is unlikely that all agencies will implement the program, total program costs may be lower than the maximum. For example, it is estimated that the VDOT program for its 11,600 employees will cost approximately $100,000 per year.

The following is an estimate of existing budget resources that would be used in case of maximum participation in the program by all state agencies:

	FY94*	FY95
Discount Incentives	$2,070,000	$4,140,000
Staffing (no additional staff necessary)	0	0
Marketing	500	500
Total	$2,070,500	$4,140,500

* Assumes most programs not operational before January, 1994. Costs for 6 months January through June.

V. IMPLEMENTATION ADVANTAGES/DISADVANTAGES

A. Advantages

- Reduced air pollution, especially in Virginia's non-attainment regions
  - + An estimated annual reduction of 24,770 tons of air pollutants (CO_2, HC, CO and NO_x)
- Reduced need for state capital expenditures for additional parking spaces
- State commitment to energy conservation
  - + An estimated annual reduction of 44.5 million vehicle miles of travel to work by state employees
  - + An estimated annual savings of 2.2 million gallons of gasoline
- Improved state employee morale
- Positioning the Commonwealth of Virginia in the forefront of state transit and rideshare discount programs

B. Disadvantages

- Limited state agency budgets will be further impacted.

APPENDIX F

Proposed Guidelines for a State Agency Transit and Ridesharing Incentive Program

APPENDIX F

Proposed Guidelines for a State Agency Transit and Ridesharing Incentive Program

In accordance with the FY94-96 Budget Bill, all state agencies are authorized to implement, at their option, a "Transit and Ridesharing Incentive" Program for their employees starting July 1, 1994.

The purposes of the program are to reduce transportation related energy consumption, traffic congestion and air pollution, as well as improve the quality of life for Virginians by providing incentives to state employees to use transit, vanpool or carpool to work. By promoting transit and ridesharing, the Commonwealth, as an employer, will be supporting national transportation policies, air quality mandates, energy conservation and implementing a major element of the Virginia Energy Plan.

Each agency will have the opportunity to provide two types of tax free incentives for their employees:

- First, up to $60 per month can be provided to encourage employees to use transit or vanpool.
- Second, up to $155 per month in "Qualified Parking" incentives can be provided to encourage employees to use transit, vanpool or carpool.

All state agency "Transit and Ridesharing Incentive" programs must conform to Section 1911-Treatment of Employer-Provided Transportation - of the 1992 National Energy Policy Act (P.L. 102-486) which amends Internal Revenue Service Code Section 132(a).

State agencies will have the flexibility in establishing their programs; however, the following guidelines shall apply:

- The program shall be open and available to all employees, where appropriate.
- The monthly incentive to the employee shall not be greater than the monthly cost of employee's commute to work.
- Agencies implementing the program shall list it as a strategy in their Energy Plan and provide updates, as a part of the Virginia Energy Plan reporting process, to the Department of Mines, Minerals and Energy.
- Agencies shall use a voucher or similar item (ie. pass, token, fare card) for distribution to their employees. If those items are not readily available, agencies can accept a direct billing for the cost of the service and reimburse their employees directly.
- Agencies shall establish an employee application and certification procedure.

- Agencies shall establish a reimbursement arrangement which includes appropriate procedures for administering the program, including a certification procedure. Appropriate records shall be kept to enable audits to be performed.

- Agencies shall establish preferential parking for vanpoolers and carpoolers.

In addition, state agencies may implement the following programs:

- Agencies may require transit users, vanpoolers and carpoolers participating in the incentive program to relinquish their individual parking space, except if it is the primary vanpool or carpool parking space.

- Agencies may set aside temporary parking spaces for transit users, vanpoolers and carpoolers to use.

- Agencies may allow employees to work adjustable work schedules (already authorized by DPT)

Currently, there is no special funding available to support the program. Agencies are authorized to fund the "Transit and Rideshare Incentive" program from their general fund budgets. To utilize operating funds, agencies may amend existing budgets and should include funds in their agency's support activities for next fiscal year. There should be no anticipation for future funds for the program.

The Department of Rail and Public Transportation will continue to chair the Transit and Ridesharing Incentive Program Task Force and facilitate the implementation of the program. The program will be monitored by the Department of Mines, Minerals and Energy. The Department of General Services will develop guidelines for preferential, temporary and other parking related issues and assist on administrative procedure.

Technical assistance for agencies desiring to implement the program will be provided by the Department of Rail and Public Transportation, with support from the Division of Motor Vehicles and VDOT. A technical assistance meeting will be held to provide direct assistance and advice to agencies wishing to implement the program.

The attached handbook includes a copy of the federal legislation; sample information on the programs implemented by the Departments of Transportation, Rail and Public Transportation and the Division of Motor Vehicles; and sample administration forms.