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REPORT
108–673

# TRANSIT PASS TRANSPORTATION FRINGE BENEFITS FOR FEDERAL EMPLOYEES

SEPTEMBER 9, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

# R E P O R T

[To accompany H.R. 1151]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 1151) to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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29–006

## COMMITTEE STATEMENT AND VIEWS

### PURPOSE AND SUMMARY

H.R. 1151 seeks to ensure that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region and to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities.

### BACKGROUND AND NEED FOR LEGISLATION

The National Capital Region (NCR) has many buildings that house the executive, legislative, and judicial branches of the government, and is home to over 330,000 federal employees. The Washington region has grown exponentially in recent years, and is currently the second most congested in the nation behind Los Angeles. As the region's largest employer, the federal government has a responsibility to its employees to expand commuting alternatives, and to the region to reduce federal employees' contribution to traffic congestion and air pollution.

In 2000, Executive Order 13150 required all Executive Branch agencies in the National Capital Region to offer transit benefits to their employees. According to the Washington Metropolitan Area Transit Authority (WMATA) and the U.S. Department of Transportation, nearly one-third of all federal employees in the NCR have joined the federal transit benefit program. H.R. 1151 seeks to codify and expand this program to ensure the choice for all federal employees in the NCR.

### LEGISLATIVE HISTORY

H.R. 1151 was introduced by Representative James Moran on March 6, 2003. The Subcommittee on Civil Service and Agency Organization reported the bill to the full committee on July 16, 2003. On September 25, 2003, the Committee met in open session, and by voice vote, ordered the bill favorably reported to the House of Representatives.

## SECTION-BY-SECTION

*Section 1. Transit pass transportation fringe benefits*

Section 1 directs all executive branch agencies, including those not originally covered under Executive Order 13150, as well as the legislative and judicial branches, all independent federal agencies, the U.S. Postal Service and the Smithsonian Institution not originally covered by the executive order, to provide transit pass transportation fringe benefits in the amount equal to commuting costs and subject to the statutory maximum allowed under Title 26, United States Code, to qualified employees using qualified transit facilities in the National Capital Region.

*Section 2. Authority to use government vehicles to transport federal employees between their place of employment and transit facilities*

Section 2 amends Section 1344 of Title 31 to authorize federal agencies to use, from funds already made available, government-

owned or leased passenger carriers to transport employees between public transportation centers and their place of employment. The section authorizes the use of funds for the maintenance and repair of such vehicles.

Section 2 would also require agencies to use alternative fuel vehicles when possible and coordinate with other agencies to avoid duplication.

## EXPLANATION OF AMENDMENTS

The Committee did not adopt any amendments.

## COMMITTEE CONSIDERATION

On September 25, 2003, the Committee met in open session, and by voice vote, ordered reported favorably the bill, H.R. 1151.

## ROLLCALL VOTES

No rollcall votes were held.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill seeks to ensure that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region and to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities. Legislative branch employees in the National Capital Region have equal access to the benefits of this bill.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

## CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 1151. Article I, Section 8, Clause 18 of the Constitution of the United States provide Congress the power to enact this law.

## UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

## COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 1231. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

## BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1231 from the Director of Congressional Budget Office:

*H.R. 1151—A bill to provide that transit pass transportation fringe benefits be made available to all qualified federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the government to be used to transport government employees between their place of employment and mass transit facilities, and for other purposes*

Summary: H.R. 1151 would codify and expand Executive Order 13150 to provide a tax-free transportation benefit to federal employees in the National Capital Region, beginning in fiscal year 2005. Issued in April 2000, Executive Order 13150 directed all executive branch agencies to provide employees in the National Capital Region who use public transportation to commute to work with free transit passes (known as METROcheks) with a value equal to actual commuting costs but not more than $100 per month. H.R. 1151 would expand this program to include employees with the legislative and judicial branches, the Smithsonian Institution, and the U.S. Postal Service. In addition, the legislation would allow federal agencies to extend existing transit services to take employees between work sites and public transportation centers.

CBO estimates that expanding the transportation benefit program to postal employees in the National Capital Region would increase direct spending by the U.S. Postal Service by about $12 million over the 2005–2006 period. (Postal Service spending is classified as off-budget.) CBO estimates that extending the program to other federal employees in the region would cost $3 million annually, beginning in fiscal year 2005, subject to the availability of ap-

propriated funds. This legislation would codify existing agency practices and policies; therefore, this estimate excludes executive, legislative, and judicial branch employees who can currently participate in the transportation benefit program.

H.R. 1151 contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA), and CBO estimates that the bill would have no significant impact on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 606 is shown in the following table. The costs of this legislation fall within budget functions 372 (postal service), 500 (education, training, employment, and social services) and 800 (general government).

| | By fiscal year, in millions of dollars— | | | | |
|---|---|---|---|---|---|
| | 2004 | 2005 | 2006 | 2007 | 2008 |
| CHANGES IN DIRECT SPENDING | | | | | |
| Off-Budget Effects—Postal Service: | | | | | |
| Estimated Budget Authority | 0 | 6 | 6 | 0 | 0 |
| Estimated Outlays | 0 | 6 | 6 | 0 | 0 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Commuting Benefit for Nonpostal Federal Employees: | | | | | |
| Estimated Budget Authority | 0 | 3 | 3 | 3 | 3 |
| Estimated Outlays | 0 | 3 | 3 | 3 | 3 |

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted by the start of fiscal year 2005, that the necessary amounts will be appropriated for each fiscal year, and that outlays will occur at historical patterns for similar programs.

*Direct spending*

According to the Washington Metropolitan Area Transportation Authority (WMATA) and the Department of Transportation, the average annual benefit provided to federal employees in the National Capital Region is $1,080. CBO estimates that 25 percent of the 22,000 Postal Service employees in the National Capital Region would apply for the new benefit. That estimate is based on information by WMATA, which expects that Postal Service employees would use transportation benefits much less than other local federal employees because of their decentralized locations and varying office hours. About 40 percent of federal workers in the region currently use this transportation benefit. CBO estimates that enacting this legislation would cost the Postal Service about $6 million in each of the years 2005 and 2006. Beginning in fiscal year 2007, there would be no net cost from the provision because the Postal Service is required to set rates to cover its costs, and CBO expects that the next rate increase will occur in 2006. At that time, it is possible that the Postal Service would also seek to recover prior unanticipated costs and that this provision could have no net cost over several years.

*Spending subject to appropriation*

Transit Pass Transportation Fringe Benefits. To estimate the bill's impact on nonpostal federal employees in the region, CBO reviewed the experiences of offices within the three branches of government that already provide transit benefits and estimates pro-

vided by WMATA. Using that information, CBO found that in the National Capital Region, approximately 4,000 federal employees are not eligible to receive the tax-free transportation benefit, and most of those employees work for the Smithsonian Institution. Using estimates provided by WMATA and the experiences of agencies that are similar in size and location to the Smithsonian Institution, we estimate that 75 percent of those employees would participate in the program. That estimate is higher than the average for the area because of the limited parking and nearby METRO stations available to these employees. Hence, we estimate that providing the transportation benefit to other federal employees that are currently ineligible to participate would cost approximately $3 million a year or $12 million over the 2005–2008 period, subject to appropriation of the necessary amounts.

Use of Government Vehicles. Section 2 also would authorize federal agencies to use government-owned or leased passenger carriers to transport employees between their offices and public transportation centers. Under current law, the use of most government vehicles is only authorized for official purposes. If an agency chooses to provide additional transportation services under the bill, the legislation would require agencies to absorb the costs from funds already available; use alternative fueled vehicles if possible; and coordinate transportation routes with other federal agencies.

For this estimate, CBO assumes that section 2 would affect only agencies in the National Capital Region because it would require agencies to consult with the National Planning Commission before offering expanded transportation services. CBO estimates that allowing federal agencies in the region to provide transportation from work places to public transportation centers would have no significant net impact on the federal budget.

Under the bill, agencies could not provide employees with a combined monthly benefit from METROcheks and the use of government-provided transportation of greater than $100 per month. Consequently, we expect that the authority to use government vehicles to travel between public transportation centers and government work places would not be used extensively.

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined by UMRA, and CBO estimates that the bill would have no significant impact on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Matthew Pickford and Mark Grabowicz; Impact on State, Local, and Tribal Governments: Sarah Puro; and Impact on the Private-Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 1344 OF TITLE 31, UNITED STATES CODE

### § 1344. Passenger carrier use

(a)(1) * * *

* * * * * * *

*(3) For purposes of paragraph (1)—*

*(A) the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose; and*

*(B) the term "Federal agency", as used in such paragraph, shall be considered to mean a Government agency (as defined by subsection (g)), to the extent that the passenger carriers involved are used in the provision of transportation services under such subsection.*

* * * * * * *

*(g)(1) A passenger carrier may be used to transport an officer or employee of a Government agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.*

*(2) A Government agency that provides transportation services under this subsection shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.*

*(3) In carrying out this subsection, a Government agency shall—*

*(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;*

*(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and*

*(C) coordinate with other Government agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.*

*(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the "performance of duty" by virtue of the fact that such individual is receiving transportation services under this subsection.*

*(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.*

*(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).*

*(6) As used in this subsection—*

*(A) the term "Government agency" means a Federal agency and the government of the District of Columbia; and*

*(B) the term "passenger carrier" means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.*

**[**(g)**]** *(h)* As used in this section—

(1) * * *

* * * * * * *

[(h)] *(i)* Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.

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