

September 25, 2017

The Honorable Mary Cheh, Chairman  
Committee on Transportation and the Environment  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Suite 108  
Washington, DC 20004

RE: Support for Bill 22-175, the Transportation Benefits Equity Amendment Act of 2017

Dear Chairman Cheh and members of the committee:

Please accept these comments on behalf of the Coalition for Smarter Growth (CSG). The Coalition for Smarter Growth is the leading organization working locally in the Washington, DC metropolitan region dedicated to making the case for smart growth. Our mission is to promote walkable, inclusive, and transit-oriented communities, and the land use and transportation policies and investments needed to make those communities flourish.

**Summary:** Bill 22-175, the Transportation Benefits Equity Amendment Act of 2017 offers great benefits to businesses, residents, and workers. The bill would require the flexing of an employer-provided parking benefit to another (more sustainable) mode, at the option of the employee. This approach is often referred to as “parking cash-out.” The benefits of parking cash-out are achieved with negligible adjustments to existing employer commuter benefits programs; and employers not subsidizing parking are unaffected. As a share of employees flex their parking benefit to transit, walk and bike commutes, businesses benefit from reduced traffic congestion and increased access, especially to downtown. Residents and workers benefit from increased flexibility in how they choose to get to work. They are also encouraged to adopt healthier commutes, and better use our transportation system’s capacity. Everyone benefits with reduced pollution, greenhouse gas emissions, and traffic crashes. By offering an employee cash instead of a parking space, we could decrease driving to work by as much as 10%, with even greater reductions in traffic congestion. This would also offer relief to our beleaguered bus service which continues to slow down over time due to increased traffic congestion. This traffic congestion costs the District more in bus service costs, while delivering less reliable and slower service, affecting hundreds of thousands of daily riders. (see attached graph on average operating speed)

**Fulfilling Sustainable DC and Paris Agreement on Climate Change commitments:** To achieve our goal of reducing GHG emissions by 50% by 2032, we must take decisive actions like reducing incentives to drive to work. Sustainable DC and the MoveDC Transportation Plan set a transportation goal to shift travel to 75% non-single occupancy vehicles and hold vehicle miles and trips to within 5% of 2013 levels. The bill helps fulfill MoveDC’s recommendation B.3 to “provide a transportation allowance so employees base travel decisions based on their own priorities,” by allowing an eligible employee to opt for taxable cash, or use the parking cash in combination with a transit benefit.

**Parking cash-out better supports economic expansion:** Not only will parking cash-out address important climate protection goals, it also will help to significantly reduce traffic congestion. It is

imperative that we foster job growth and the expansion of economic activity by using more efficient modes of travel – we cannot rely on single occupancy vehicles to do it. DC consistently ranks at the top traffic congestion assessments. This is a key concern to business leaders.

Experience from elsewhere, and preliminary analysis for DC, show that when employers offer workers cash in exchange for a parking space, rush hour vehicles on the road and congestion is likely to be substantially decreased. That’s why this approach needs to be comprehensively applied – to broadly affect how parking benefits are used by workers, and the attendant rush hour traffic generated.

This flexible approach to addressing the District’s traffic congestion challenges has distinct advantages over other approaches such as London’s downtown zone congestion charges, and additional parking taxes or fees. In contrast, flexing commuter benefits to non-driving modes can significantly reduce vehicular travel demand, achieving many of the same benefits as parking taxes or congestion charges without imposing a new cost on employers. DDOT’s long term plans call for a “Central Employment Area Cordon Charge,” but creating a flexible benefit out of a parking subsidy is a less intrusive approach to addressing our serious collective problem.

**Economic incentives greatly influence commute mode choice, why not make the incentive mode-neutral?:** Subsidized parking benefits have long been recognized to substantially contribute to rush hour traffic congestion (see: [Subsidizing Congestion](#)). A new national report gave Downtown DC the dubious distinction of having the highest annual cost in federal and local tax expenditures to subsidize commuter parking with the spectacular figure of nearly \$86 million a year. The report observes that “at best, commuter benefits work at cross-purposes in cities – expending vast taxpayer resources to encourage opposing behaviors on the part of their commuters. At worse, they actively undermine cities’ attempts to reduce traffic congestion and to encourage workers to travel via transit, by bike, on foot, or in shared rides.” (See: [Who Pays for Parking? How Federal Tax Subsidies Jam More Cars into Congested Cities, and How Cities Can Reclaim Their Streets. By Transit Center & Frontier Group, September 2017.](#))

Data from DC demonstrates that economic incentives change people’s behavior. When DC workers are not given free parking, only 23% drive alone to work. The number of car commuters jumps to 73% for employees with free parking. That’s a tripling of driving. Free parking benefits also negatively affect the use of other commute modes. When free parking is offered, 8% of employees walk or bike, and 15% take transit. In contrast, when no parking subsidy is provided, 23% of workers walk or bike and 46% ride transit. Economic incentives play a big role in how many people drive or otherwise get to work. Distance is not a good explanation for mode choice since DC commuters on average ride transit, drive, and bicycle similar distances of less than 4 miles. And 25% of commuters with free parking drive less than 2.1 miles to work (See attached graphic). DC is now the top city in the country for its walk and bicycle to work rate at 18%. What if these modes were actually incentivized? How much more could we encourage residents to walk or bike rather than drive to work?

**Parking cash-out is a proven and influential approach:** The bill benefits from experience elsewhere, and from local practice. Directly addressing generous subsidies for commuter parking is probably the most influential way to reduce driving alone, traffic, and encouragement of sustainable commuting.

For example, when the headquarters of Delta Dental of Washington moved from a suburban location where 75% of workers drove alone to work, to downtown Seattle, a combination of daily parking charges (not monthly), transit passes, bonuses for not driving alone (a form of parking cash-out) and other measures helped the company transition to only 15% driving alone to work at the new location. Another

example is the Gates Foundation, where the 1,200-employee organization decided to discontinue monthly parking benefits and charge \$12/day (up to the \$120 monthly rate of the neighborhood). And yes, even Bill Gates pays \$12/day to park if he drives. Employees also receive a \$3/day bonus for not driving. Driving alone had plummeted from 90% to 34% today. The Foundation transportation planner said that moving from monthly to daily parking is a critical part of better meeting employees' commute needs while also addressing broader environmental and traffic congestion reduction goals. Seattle's booming economy cannot afford the traffic congestion that would come with a reliance on driving and parking as a primary mode for its workforce. (See: "[The not-so-secret trick to cutting solo car commutes: Charge for parking by the day](#)" *Seattle Times*, August 11, 2017).

Locally, a few employers offer a parking cash-out option for employees eligible for a parking space (see letter of support by Hickok Cole), and others have decided to phase out subsidized parking as a benefit. Sustainability is always cited as one of the motivating factors. One DC employer decided to discontinue a parking benefit available only to senior staff because the value of the benefit was expensive but was not perceived to deliver corresponding benefits to the employer. Thus, this DC firm phased out parking subsidies altogether, gave the few remaining staff who had parking benefits taxable cash instead, and offered all employees the opportunity to sign up for a discounted Capital Bikeshare membership. Capital Bikeshare memberships were popular with staff. American University is phasing out subsidized monthly parking for staff and moving to daily and hourly parking charges. AU should be commended for its progressive and iterative formulation of commuter policies to better match their sustainability goals while also considering how to maintain good relations with their neighbors, and be a competitive employer.

**Ease of implementation:** The bill amends the current pre-tax commute benefits law, which requires that employers with 20 or more employees offer pre-tax transit benefits to their employees. Thus, the current law has already required employers to set up a pre-tax account for their employees. If an employee wishes to flex a parking benefit to a combination of untaxed transit benefit and take the remainder in taxable cash, this is a simple change to the employee's commute benefit.

A leading architecture firm in Georgetown provides a parking cash-out and supports the bill. According to Yolanda Cole, a principal at Hickok Cole: "We have not found this flexibility [of providing parking cash-out] to be a burden for our Human Resources staff. On the other hand, we believe being more responsive to the interests of our employees by providing a benefit that better matches their chosen commute mode makes us a more competitive workplace." Another HR manager told me he didn't believe offering taxable cash instead of a parking benefit was administratively burdensome, but just part of the responsibilities of human resources professionals, which include providing new FSA benefits, even pet insurance, and ensuring compliance. Given the many negative effects of subsidized commuter parking, and the many benefits of flexible benefits, a small adjustment to payroll and benefits is a negligible burden. Moreover, the World Resources Institute (WRI) determined that by converting inactive employees to active commuters, the organization saves \$3000 per employee per year in healthcare costs and absenteeism. While WRI doesn't subsidize employees' commutes, it decided to promote bicycling as a better way to reach transit, or commute all the way to work. By converting 2-3 staff to active commuting, the organization can recoup its total cost of its bicycling promotion program, according to a WRI analysis.

We wish to offer additional clarification of the bill by referring to our FAQ (attached).

While we enthusiastically support the bill, we wish to offer a few amendments to clarify some terms, and improve implementation. We propose some clarifications based our consultation with a number of

commuter benefits service providers. I am submitting detailed revisions in an attachment. I want to highlight a few proposed changes:

**Change annual reporting requirement to one-time registration:** Based on further research, we learned that San Francisco changed its annual reporting requirement for its pre-tax commuter benefits law, and established as one-time registration instead. This allows the city to contact covered employers that have not registered to ensure compliance without the burden of annual reporting. Currently DC's pre-tax transit benefits law has no reporting or registration requirement, and we have little knowledge about how extensively the pre-tax benefits have been adopted by employers. A registration would solve this problem. Further, it might make implementation a better fit for DDOT rather than DOES since this law fulfills important agency goals for DDOT. Since goals originate from Sustainable DC, DOEE would also be an agency that might be in a better position to implement the law. We are grateful, however that the DOES implementing regulations have been issued this month.

**Relief from Campus Plan parking minimums:** The bill should recommend relief from a minimum parking supply requirement in a campus plan if the University complies with a higher standard by offering market priced parking charges, and a robust transportation demand management (TDM) plan. Requiring universities to provide a certain number of parking spaces contradicts efforts to reduce parking demand and avoid underpricing it.

Thank you for your consideration. I am happy to answer any questions you might have.

Sincerely,

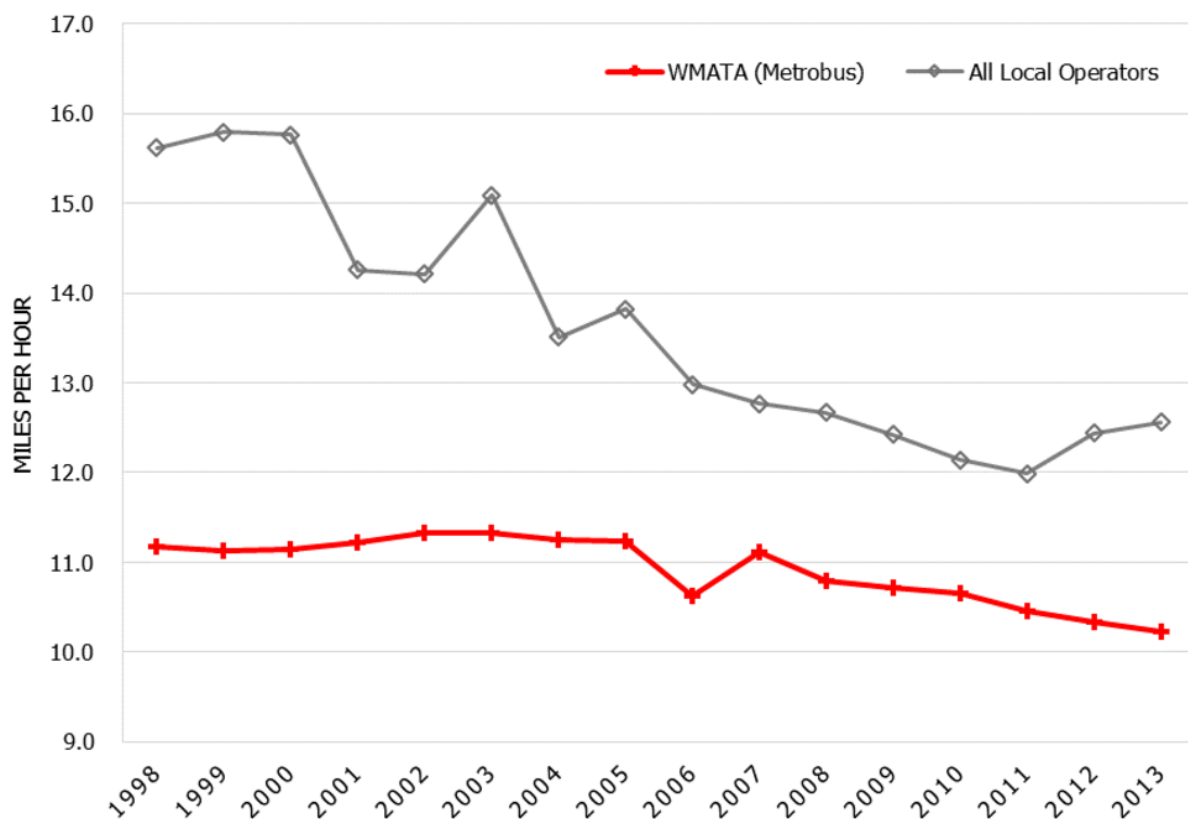
A handwritten signature in black ink, appearing to read 'Cheryl Cort', followed by a stylized flourish or second signature.

Cheryl Cort  
Policy Director

## Two Business Challenges Facing Metrobus

September 2nd, 2015

### AVERAGE OPERATING SPEED

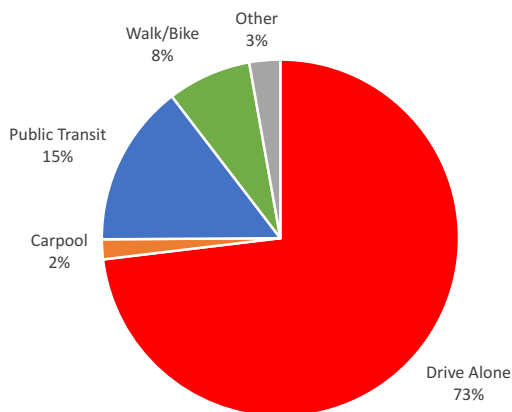


....Perhaps of more concern, systemwide average bus speeds have tumbled over the past 15 years, with Metrobus losing about 1 mile per hour over the past 15 years, and local operators losing about three. Increased traffic congestion [on transit-intensive streets](#) is the most likely culprit, as demonstrated by buses which can barely top [walking speed](#) in the downtown core and [elsewhere](#). Other factors eating away at Metrobus' average speed include increased Metrobus [boarding delays](#) at high demand stops.

With slower operating speeds, buses must be added just to maintain the same level of service, reducing transit's buying power. Over the course of a decade or more, this can add up to millions in excessive operating costs. A future post will talk about some possible solutions to stabilize Metro's market share and break the cycle of the bus stuck on traffic.

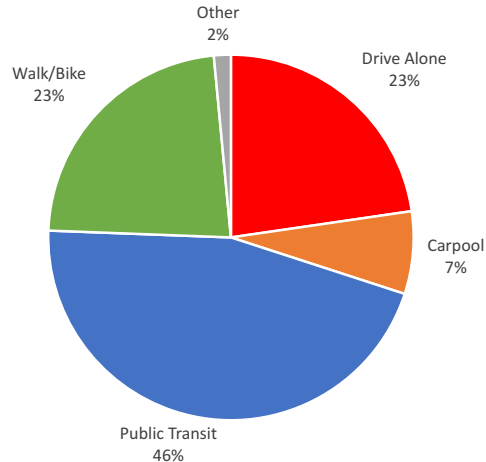
## Availability of Free Parking Affects Commuting Choices for DC Residents

Transport Modes for DC Residents with Free Parking



22% of Total Residents

Transport Modes for DC Residents without Free Parking

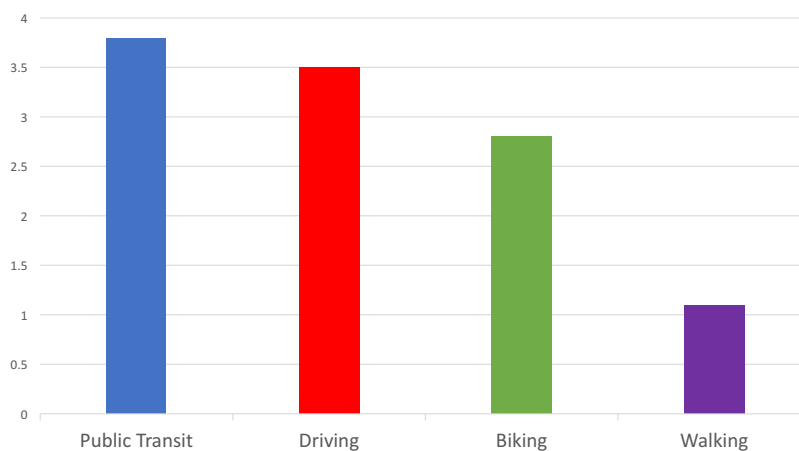


78% of Total Residents

Source: Calculations by Ken Joh, Senior Statistical Survey Analyst, Metropolitan Washington Council of Governments, using the 2007/2008 DC Household Travel Survey  
Sample: 987 DC residents working in Washington, DC with reported commute mode; Regional sample weights applied

## For DC Residents, Driving Commuters Do Not Travel Further Distances

Average Commuting Trip Length (miles) by Transport Mode



25% of Commuters with Free Parking Drive 2.1 Miles or Less

Source: Calculations by Ken Joh, Senior Statistical Survey Analyst, Metropolitan Washington Council of Governments, using the 2007/2008 DC Household Travel Survey  
Sample: 987 DC residents working in Washington, DC with reported commute mode; Regional sample weights applied



The Honorable Mary Cheh  
Chair, Committee on Transportation and Environment  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

RE: Support for B22-175, the Transportation Benefits Equity Amendment Act of 2017

Dear Chairperson Cheh:

As an employer, I would like to provide my support for B22-175, the Transportation Benefits Equity Amendment Act of 2017. This bill will promote flexible and sustainable commuting by requiring that parking subsidies be allowed to be converted to a more sustainable commute mode. This approach imposes no new cost on employers but rewards sustainable and healthier commuting.

As a design firm, we have a responsibility to society in general to provide sustainable options for consideration in our project work --- why wouldn't we do the same for our employee benefits!

Our firm has practiced this approach for several years. Employees eligible for a parking space are allowed the option of taking the value of the maximum allowable pre-tax parking benefit for an equivalent metro and bus transit benefit, or taxable cash and walk or bicycle to work. We have not found this flexibility to be a burden for our Human Resources staff. On the other hand, we believe being more responsive to the interests of our employees by providing a benefit that better matches their chosen commute mode makes us a more competitive workplace. We recognize that in addition to being more responsive to our employees -- at no additional cost -- we are simultaneously supporting more sustainable, efficient and healthier commutes, which benefits all of us.

As a company, we are committed to promoting greater sustainability through our own operations, both in our workplace and workforce. With 96 employees in our Georgetown office, we are committed to doing our part to support efficient, healthy and sustainable commuting for our employees, and support the city's efforts to reduce traffic congestion, increase access and improve air quality.

This bill benefits all DC employers, employees and the city by reducing rush hour congestion and pollution, while incentivizing healthier commutes and cleaner air. Nearly 20 percent of DC workers walk or bicycle to their jobs, thus DC offers great potential to increase zero emissions commuting by asking employers to extend commuter benefits beyond vehicle parking. Through this bill, the District will demonstrate that it is one of the most innovative places to work and do business in the country.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Yolanda Cole".

Yolanda Cole, FAIA  
Sr. Principal



# FAQ for the Transportation Benefits Equity Amendment Act of 2017

The Transportation Benefits Equity Amendment Act of 2017 (Bill 22-175) would require employers with 20 or more employees that provide parking benefits to offer the option to instead receive an equivalently-valued transit benefit or taxable cash. The bill would incentivize more walk, bike, and transit commutes, and reduce driving.

**Q. How much congestion relief can we get by flexing parking benefits to cash for workers who prefer to walk or bicycle to their jobs?**

Employers offering workers cash instead of a parking space could reduce rush hour vehicles on the road in DC by over 10%, and congestion by even more.<sup>1</sup> If this benefit were comprehensively applied, DC's rush hour congestion could drop by more than 10%.

**Q. Who benefits from reduced congestion?**

Businesses benefit from increased accessibility; drivers, bus riders, and buses are less delayed and have more predictable travel times; and reduced street congestion makes safer streets and less stressful commutes for all users.

**Q. How is this congestion reduction approach better than others?**

Two key congestion tools for managing travel demand are congestion charges, like in London's downtown zone, and parking taxes on free or subsidized parking. In contrast to these charges, flexible commuter benefits cost an employer little or nothing while incentivizing their "clean commuting" employees. Flexing commuter benefits to non-driving modes can significantly reduce travel demand, achieving many of the same benefits as parking taxes or congestion charges without imposing a new cost.

**Q. Why not encourage businesses to voluntarily offer an alternative commute benefit rather than legislate it?**

To realize the congestion reduction outcome of at least a 10% reduction in traffic congestion, the flexible commuter benefit needs to be comprehensively applied.

**Q. Would people who drive and park really switch to commuting another way?**

Yes. We know that offering free parking or transit benefits significantly affects how many employees will drive or take transit. When workers' commutes aren't subsidized, a little over half of commuters drive to DC jobs. If the employer gives employees free parking, the number of car commuters jumps to 85%. Likewise, when employers offer a transit benefit, transit usage among workers grows from only one third to 68%. So, economic incentives play a big role in how many people drive or take transit to work.

**Q. Do employees currently receiving a parking benefit have to give it up?**

No, an employee who wants to continue to use their employer-provided parking benefit may do so.

**Q. If an employer does *not* provide a parking benefit to employees, does this bill apply to them?**

No. This would only apply to employers that provide a subsidized parking benefit, and only apply to those employees who are offered a parking benefit.

**Q. Why are parking or transit commuter benefits tax-free and walk and bike commutes not?**

**FOR MORE INFORMATION**  
email [cheryl@smartergrowth.net](mailto:cheryl@smartergrowth.net)



The IRS treats parking and transit benefits as tax-free fringe benefits up to \$255/month. The IRS does not allow tax-free commuter benefits for walk or bicycle commutes. The exception is a small benefit for biking if provided by the employer for \$20/month. But the benefit cannot be combined with a tax-free transit or parking benefit. Thus, for walk and bike commuters, taxable cash, equivalent to the value of a parking space, is one of the best benefits they can receive to level the playing field of employer-provided commuter benefits.

**Q. If 18% of DC residents are already walking and biking to work, why would you expect even more to opt in if an employer “cashed-out” a parking benefit?**

Just as more people drive or ride transit when their commute is subsidized, more people will walk or bike if offered cash for doing so. However, walk and bike commuters have an extra incentive -- health. Workers who commute by a means other than driving alone cite saving money as their top reason for their commute choice. But for those who walk and bike, while they also cite saving money, they identify the health benefits as their top reason by far for choosing an active commute.<sup>ii</sup> Boosting the economic incentive will motivate additional walk and bike commuters who were already considering the health benefits of a more active commute.

**Q. What if an employer is still obligated to pay for parking spaces under a lease agreement, but some employees want to swap the parking space for taxable cash or a transit benefit? What if the employer owns the parking spaces?**

It is not until after the lease on the parking spaces expires that the employer would be obligated to offer alternative commute benefits to eligible employees. Prior to lease negotiations, an employer would ask employees to update their commuter preferences, enabling the employer to adjust the number of parking spaces required to be leased. In the case of employer-owned parking, the bill does not require the employer to offer employees the equivalent value of the parking spaces until 12 months after the law goes into effect, providing the employer time to sublet or otherwise repurpose parking that would no longer be demanded.

**Q. Are there any new costs for employers with this requirement to offer taxable cash instead of parking as a fringe transportation benefit?**

Not necessarily, and in no case, would employers be required to pay additional costs. First, employers that do not provide free or subsidized parking are not affected by this bill. For employers that provide a parking benefit, the employer would be liable for the 7.65% FICA payroll tax on any taxable benefit that would result from an employee choosing to use some of the value of the parking benefit as increased income. However, the employer always determines how much it spends on commuter benefits, and could adjust the level of benefit to maintain costs at their current level. This bill simply requires that benefits be equalized across modes rather than favor parking over other modes.

Example: If an employer provides a tax-free parking benefit of \$200/month that an employee would prefer to take entirely as taxable cash, the taxable cash cost to an employer would include an additional \$15.30 in FICA payroll tax, for a total cost of \$215.30. However, an employer would be free to adjust commuter benefits to maintain the same total cost by slightly lowering the benefit level while equalizing benefits across modes.

To equalize the cost of taxable cash and the parking benefit to the employer, the employer could choose to offer a slightly lower parking benefit of \$185 instead of \$200, where employees who drive and park would need to contribute \$15 each month toward their own parking. The \$185 can then be used as taxable cash or as a parking or transit benefit (or as a transit benefit plus taxable cash if transit costs less than \$185 per month). This way, the employer's budget for transportation benefits would be unchanged as a result of the FICA tax.

**Q. Is it easy for an employer to administer a taxable cash benefit in lieu of a transportation fringe benefit?**

Yes. If an employee opts to receive cash instead of the value of a parking space offered by the employer, the employer would increase the employee's wages by the amount of the commuter benefit.

This bill builds on [DC's Commuter Benefits Law](#) which requires all employers with 20 or more employees to provide workers with the option to use their own pre-tax money to pay for transit. The small modifications employers were required to make to their payroll systems to administer pre-tax benefits also make for easy administration of a flexible parking benefit that employees can swap for a tax-free transit benefit, taxable cash, or a combination of the two.

If an employee opts for transit, the fringe benefit would be switched from parking to transit, and any left-over money from the parking benefit would be provided as increased wages to the employee. The employee would be able to receive all of the transit benefit as tax-free, which the employer's payroll system could easily accommodate as it is required to already offer pre-tax transit benefits.

Offering taxable cash in lieu of a benefit is already a common practice for health benefits when an employee opts to not take the employer-provided benefit because he or she is covered by a spouse's health insurance. In this case, the employer provides the taxable cash in lieu of the amount that the employer would have spent on subsidizing the worker's health insurance.

Commuter benefits can be combined in various ways. Individually, parking and transit commuter benefits are tax-free up to \$255 each. They can be combined for a total of up to \$510 per month tax-free. Tax-free benefits can also be combined with taxable cash. (However, the \$20/month bike benefit provided by employers is ineligible to be combined with parking and transit benefits.)

Example: Instead of using a \$200/month parking benefit, an employee wants to ride transit some days and bike or walk on others. The employee may opt to receive 3 days a week of transit fares and taxable cash for the remainder. The chart below illustrates how this would cost the employer an additional \$11.28 in taxable cash benefits. If the employer only wishes to spend \$200 per eligible employee, it can slightly reduce the benefit to keep the same level of expenditure.

### Combined commute benefits scenario for flexing a \$200/month parking benefit

Commute: 3 days Metro, 2 days biking or walking	Monthly commute benefit	Employee benefit	Employer cost
Pre-tax benefits (Metro = \$4.30/day x 12 days)	\$51.60	\$51.60	\$51.60
Taxable cash in lieu of parking or transit* (remainder of unused \$200 benefit)	\$148.40	\$88.15 (after FICA, fed & local taxes)	\$159.68 (FICA = \$11.28)
Total value	\$200.00	\$164.80	\$211.28

\*FICA is 7.65% for employer. Tax assumptions for employee wages includes 25% federal income, 8% DC state, 7.65% FICA.

Another example showing a sample pay stub for pre-tax Metro benefit – “PTX MET CK”.

EARNINGS	RATE	HOURS	THIS PERIOD	YEAR TO DATE	TAXES / DEDUCTIONS	THIS PERIOD	YEAR TO DATE
REGULAR	26.11	80.00	2088.80	26717.98	FEDERAL W/H	268.92	3967.35
SPBON				500.00	SOCIAL SECURITY W/H	126.55	1817.46
Pub Reward				600.00	MEDICARE W/H	29.59	425.05
SALHOLIDY				615.84	DISTRICT OF COLUMBIA W	125.55	1825.14
SALSCKHRS				308.60	MED PRETX	39.39	551.46
SALVACTKN				1481.98	DEN PRETX	5.23	73.22
LIFE 50K+			0.18	2.41	LTD	1.98	27.62
					401K	208.88	2912.44
					PTX MET CK	3.22	288.22
					LIFE 50K+	0.18	2.41

	GROSS PAY	TAXES	DEDUCTIONS	NET PAY
CUR	2088.98	550.61	258.88	1279.49
YTD	30226.81	8035.00	3855.37	18336.44

VAC BAL	56.00	VAC/SICK Balances for the Period Ending : 28-JUN-2002		
SICK BAL	61.84			

Source: Michael Grant, ICF, “Employer-Based Commuter Benefits Programs: How They Work and Their Impacts,” February 9, 2017.

[http://www.smartergrowth.net/wp-content/uploads/2017/02/Employer\\_Based\\_Commuter\\_Benefits\\_Programs\\_M\\_Grant\\_ICF.pdf](http://www.smartergrowth.net/wp-content/uploads/2017/02/Employer_Based_Commuter_Benefits_Programs_M_Grant_ICF.pdf)

<sup>i</sup> This number is derived from the 10-12% decrease in drive-alone commute trips and vehicle miles traveled (VMT) from parking-cash out implementation, according to research by Donald Shoup, 1997, “Evaluating the Effects of California’s Parking Cash-out Law: Eight Case Studies,” Transport Policy, Vol. 4, No. 4, 1997, pp. 201-216. <http://shoup.bol.ucla.edu/Parking%20Cash%20Out%20Report.pdf>. Reduced vehicle trips and VMT translate into a larger reduction in traffic congestion ranging from 1.4 to 10 times due to the disproportionate effects of small reductions in vehicles on the road in reducing congestion. See: INRIX, “The Impact of Fuel Prices on Consumer Behavior and Traffic Congestion,” Kirkland, WA, October 22, 2008; and Todd Litman, 2017, “Congestion Reduction Strategies,” specifically see “Pricing Impacts on Traffic Congestion,” Victoria Transport Institute. <http://www.vtpi.org/tm/tm96.htm>

<sup>ii</sup> 2016 State of the Commute Survey - Commuter Connections Technical Report, Washington Metropolitan Council of Governments, June 30, 2016. <https://www.mwcog.org/file.aspx?D=QeYnH%2bWler%2fV%2fTIhscUi%2fmgQOMfESSFIjgDzAjKSPS4%3d&A=22ydW3xOSxfrxbTt1jl6miZe65Zpj2mp6MVZXAWhPls%3d>

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Sustainable DC Omnibus Act of 2014 to require covered employers ~~that offer parking benefits to any employees in addition to compensation (subsidy) to offer those employees the option to receive an equivalently-valued amount for commuting by means other than by driving and parking.~~

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Transportation Benefits Equity Amendment Act of 2017”.

Sec. 2. The Sustainable DC Omnibus Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 32-151 *et seq.*), is amended as follows:

(a) Section 301 (D.C. Official Code § 32-151) is amended as follows:

(1) Designate the existing paragraph (1) as (1B) and insert a new paragraph (1A) to read as follows:

“(1A) “Commuter highway vehicle” shall have the same meaning as provided in section 132(f)(5)(B) of the Internal Revenue Code, approved July 18, 1984 (98 Stat. 877; 26 U.S.C. § 132(f)(5)(B)) (“Internal Revenue Code”).”.

(2) Insert new paragraphs (3A) and (3B) to read as follows:

**Deleted:** who provide

**Deleted:** (excluding payroll accommodations enabling employees to pay for their own parking using pre-tax wages)

**Deleted:** by transit, commuter highway vehicles, bicycling or as additional compensation consistent with Qualified Transportation Fringes under Section 132(f) of the Internal Revenue Code

**Deleted:** an employee to also offer the employee the option to instead receive an equivalently-valued benefit

43 “(3A) “Parking benefits” means personal motor vehicle parking provided to an  
44 employee, either directly by the employer or through an employer subsidy, on or near the  
45 business premises. The term “parking benefits” does not include benefits that allow an employee  
46 to pay for parking in lieu of compensation or parking that is provided to an employee who is  
47 required to use a personal vehicle in the regular performance of their work.

**Deleted:** payroll system accommodations that facilitate employees to pay for their own parking using pre-tax wages or

48 “(3B) “Qualified Transportation Fringe Benefit” means benefits consistent with  
49 section 132(f) of the Internal Revenue Code.

**Deleted:** t

**Deleted:** f

**Deleted:** b

**Deleted:** commuter highway vehicle, transit, or bicycling benefits, or a parking benefit,

**Deleted:** “.

**Deleted:** qualified

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**Deleted:** “qualified transportation fringe benefit” that is not a parking benefit

50 “(3C) “Clean-air Transportation Fringe Benefit” means any transit, commuter  
51 highway vehicle or bicycling benefit as defined as a Qualified Transportation Fringe Benefit that  
52 is provided to an employee in addition to compensation.

53 (b) New sections 302a, 302b, and 302c are added to read as follows:

54 “Sec. 302a. Parking benefit equivalent.

55 “(a)(1) A covered employer that offers parking benefits to an employee shall also offer  
56 that employee the option of a Clean-air Transportation Fringe Benefit, in an amount equal to at  
57 least the market value of the parking benefit; provided, that if the amount offered exceeds the  
58 maximum allowable tax-free benefit under section 132(f) of the Internal Revenue Code, or the  
59 employee’s eligible expenses under section 132(f) of the Code is less than the amount offered, or  
60 both, the excess shall be treated as additional compensation to the employee.

**Deleted:** who provides

**Deleted:** clean-air qualified transportation fringe benefit

**Deleted:** paid for by the employer

61 “(a)(2) If the employee declines both the parking benefit and the Clean-air  
62 Transportation Fringe Benefit, the employer shall increase the employee’s taxable wages by the  
63 full amount of the parking benefit offered.

**Deleted:** caps the clean-air qualified transportation fringe benefit at a lower amount, such as because an employee’s transit commute costs less than the value of the parking benefit, the covered employer shall provide the maximum allowable clean-air qualified transportation fringe benefit.

86 “(2) For the purposes of this section, the market value of parking shall be  
87 determined following the rules promulgated under section 132(f)(5)(C) of the Internal Revenue  
88 Code.

89 “(b) If a covered employer:

90 “(1) Has a lease for parking that was executed prior to the effective date of this  
91 section, this section shall apply at the end of the current lease, excluding lease extensions.

92 “(2) Owns the parking, prior to the effective date of this section, provided to an  
93 employee, this section shall apply 12 months after the effective date of this section.

94 “(3) Provides a parking benefit using parking except as described in (1) and (2)  
95 immediately above, this section shall apply 60 days after enactment.

96 “(c)(1) In lieu of compliance with subsections (a) of this section, an employer may elect  
97 to pay a Clean Air Compliance fee of \$100 per month for each employee who is offered parking  
98 benefits.

99 “(2) The fee shall be applied to the Transportation Demand Management Fund  
100 established by section 3 of the Employee Transportation Benefits Equity Amendment Act of  
101 2017, as introduced on March 6, 2017.

102 “(d) A covered employer who fails to comply with this section shall be subject to civil  
103 fines and penalties pursuant to the Department of Consumer and Regulatory Affairs Civil  
104 Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-  
105 1801.01 *et seq.*) (“Civil Infractions Act”). Enforcement and adjudication of an infraction shall be  
106 pursuant to the Civil Infractions Act.

107 “Sec. 302b. One-time registration with bi-annual updates.

**Deleted:** “(b)(1) If the clean-air qualified transportation fringe benefit taken by the employee and paid for by the employer is of a lesser value than the parking benefit offered to that employee, the employer shall increase the employee’s taxable wages by the difference between the market value of the parking benefit and the clean-air qualified transportation fringe benefit taken. ... (1)

**Deleted:** c

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**Deleted:** and (b)

**Deleted:** e

**Deleted:** Annual

**Deleted:** compliance

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126 “(a) ~~Each covered employer shall submit an initial report within 90 days of the effective~~  
127 ~~date of this act and every two years thereafter, to the Mayor that includes:~~

**Deleted:** Beginning March 1, 2018,

**Deleted:** e

**Deleted:** n

**Deleted:** one-time annual registration

**Deleted:** compliance report

128 “(1) Total number of employees;

129 “(2) The number of employees:

130 “(A) Offered a parking benefit;

131 “(B) Utilizing a parking benefit;

132 “(C) Offered a Clean-air Transportation Fringe Benefit; and

**Deleted:** clean-air qualified transportation fringe benefit

133 “(D) Utilizing a Clean-air Transportation Fringe Benefit;

**Deleted:** clean-air qualified transportation fringe benefit

134 “(3) Any other information required by the Mayor by rulemaking;

**Deleted:** , including requirements to amend the one-time registration if there are material changes in what has been reported after the one-time registration has occurred.

135 “(b) Beginning October 1, 2018, the Mayor shall provide an annual report to the Council

136 of aggregate data from the registration reports and assessments of how many covered employers  
137 have not registered, and actions to be taken to achieve full registration and compliance.

**Deleted:** compliance

138 “Sec. 302c. Transportation Demand Management Fund.

139 “(a) There is established as a special fund the Transportation Demand Management Fund  
140 (“Fund”), which shall be administered by the District Department of Transportation in  
141 accordance with subsections (c) and (d) of this section.

142 “(b) Revenue from the following sources shall be deposited in the Fund:

143 “(1) Funds appropriated by the District;

144 “(2) Donations from the public;

145 “(3) Grants and donations from private entities; and

146 “(4) Clean Air Compliance fees collected pursuant to section 2(b) of the

147 Transportation Benefits Equity Amendment Act of 2017, as introduced on March 7, 2017.

159 “(c) Money in the Fund shall be used to implement and promote transportation demand  
160 management efforts, including:

161 “(1) Promoting alternative transportation, including public transit, walking,  
162 biking, carpooling, and other options that reduce the demand for vehicular travel;

163 “(2) Improving access to alternative transportation options;

164 “(3) Educating the public on alternative transportation options;

165 “(4) Reducing single-occupancy vehicle trips; and

166 “(5) Developing transportation innovations.

167 “(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the  
168 unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal  
169 year, or at any other time.

170 “(2) Subject to authorization in an approved budget and financial plan, any funds  
171 appropriated in the Fund shall be continually available without regard to fiscal year limitation.”.

172 (c) Section 303 (D.C. Official Code § 32-153) is amended as follows:

173 (1) Designate the existing text as subsection (a).

174 (2) A new subsection (b) to read as follows:

175 “(b) Within 90 days after the effective date of Transportation Benefits Equity  
176 Amendment Act of 2017, the Mayor shall issue rules to implement the provisions of sections  
177 302a and 302b.”.

178 Sec. 3. Fiscal impact statement.

179 The Council adopts the fiscal impact statement in the committee report as the fiscal  
180 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
181 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).



182           Sec. 4. Effective date.

183           This act shall take effect following approval by the Mayor (or in the event of veto by the  
184 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
185 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
186 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
187 Columbia Register.

“(b)(1) If the clean-air qualified transportation fringe benefit taken by the employee and paid for by the employer is of a lesser value than the parking benefit offered to that employee, the employer shall increase the employee’s taxable wages by the difference between the market value of the parking benefit and the clean-air qualified transportation fringe benefit taken.

“(2) If the employee declines both the parking benefit and the clean-air qualified transportation fringe benefit paid for by the employer, the employer shall increase the employee’s taxable wages by the full amount of the parking benefit offered.