



2009 NVTC STATE AND FEDERAL LEGISLATIVE AGENDA

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STATE LEGISLATIVE ACTION ITEMS

Top Regional Priorities

1. **Promptly enact language agreed to by signatories in Virginia, Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Authority's Interstate Compact** and thereby qualify the metropolitan region to receive \$1.5 billion in new federal funding for WMATA over the next decade. **Provide new state funding for Virginia's share of the \$150 million annual non-federal required match, from sources other than funds already destined for Northern Virginia.**

2. **Meet the need for increased investments in public transit.**
 - a. Virginia's transit systems are experiencing unprecedented growth in ridership. At the same time, declining state and local assistance is placing increasing pressure on these systems to raise fares and/or cut service. Transit needs more funding to meet the challenges of congestion relief, clean air, greenhouse gas reduction, energy conservation, emergency response, access to jobs and household savings. As the General Assembly considers how to respond to reduced transportation revenues, **transit should be held harmless from any cuts to preserve the return on past investments because transit is the most effective way to move people.**

State transportation revenues are not keeping up with inflation because most revenues come from a fixed fee per gallon of fuel and from new car licenses; both fuel purchases and car registrations are falling. Sources of revenue that would keep pace with inflation include sales taxes and indexed motor fuel taxes as well as ad valorem taxes such as NVTC's two percent motor fuels tax. **New sources such as these should be considered for statewide and regional transit funding. For example, NVTC favors an increase in its two percent motor fuels tax to four percent.**

- b. **Ensure that any new state and regional funding for transit is consistent with the eight principles adopted by the Northern Virginia Transportation Authority, its local governments and other agencies such as NVTC.**



Those principles speak to:

- State responsibility for funding transportation;
 - Coordination with Northern Virginia local governments and other regions;
 - The need for at least \$700 million of additional annual funding to meet 2030 plan targets in Northern Virginia;
 - Stable, reliable and permanent funding sources;
 - Achieving regional goals as well as local priorities;
 - Northern Virginia receiving a fair share of any new statewide funding programs;
 - State responsibility to match federal interstate and primary earmarks;
 - Providing an ongoing revenue stream of new capital funding for WMATA with no sunset.
- c. The commonwealth should retain its responsibility for funding transit and **act to meet the statutory target of 95 percent of eligible operating and capital assistance**. For FY 2009, another \$188 million was needed to meet this target, or which almost \$150 million was due for operating assistance. Where shortages of state transit funding occur, more flexibility should be provided to use capital assistance for operating costs in order to retain current service levels. **Budget language could provide this flexibility to combat a threatened 15 percent decline in state transit operating assistance for FY 2010**. For example, such language could, on a one-time basis, give the Commonwealth Transportation Board the authority to direct the Virginia Department of Rail and Public Transportation to transfer funds from the mass transit capital fund to transit operating assistance to hold all grantees harmless from reduction of operating grants below FY 2009 levels.
- d. **Increase transit's share to 25 percent of any new statewide funding for transportation**, whether or not it is directed to the Transportation Trust Fund (currently a 14.7 percent share for transit). This change was incorporated in SB 6009 that passed the Senate in the 2008 session. HB 3202, passed by both House and Senate, included an increased share for transit for bond funds.
- e. **The General Assembly should also provide new regional funding sources for transit and the fees should be imposed entirely by the state, or at least a mixture of state and locally imposed fees should be used.**

- f. **Include significant funding (at least a 25 percent share) for transit as a critical strategy in any new spending measures that seek to conserve energy, enhance clean air, mitigate climate change, provide access to jobs, stimulate the economy and respond to emergencies and disasters.**
- g. Regardless of whether state funds for transit increase or decrease, federal stimulus funds may be provided for eligible transit projects that are ready to go. **State funds should be prioritized to provide any required match** to be certain those new federal funds are used promptly to help boost Virginia's economy.

Preserving and Increasing Flexibility of Existing Transit Funding

- 3. If no new federal, state or regional revenues are provided for transit, and even if state funding declines, **state priorities should be set to shift flexible transportation funds to those transit projects and services that would yield immediate and long-term benefits (job access, clean air, energy savings, emergency response and climate protection), that are ready to start and that may have partial federal funding requiring a state match.** Transit projects focus on moving people, not only vehicles. Examples include 15 new VRE locomotives, expansion of VRE to Gainesville-Haymarket and additional capacity via a third main line in the Washington, D.C.–Fredericksburg corridor, as well as accelerating the Dulles rail project.
- 4. Governor Kaine has announced his intentions to make greater use of bonds to fill a budget shortfall in FY 2009 (about \$250 million more bonds). Rather than reserve such bonding for fiscal emergencies, **the General Assembly should encourage the commonwealth to routinely issue more bonds to support transit projects that yield significant benefits over the life of the bonds.** Given Virginia's conservative bonding practices in the past, additional capacity should be available without jeopardizing the commonwealth's vital AAA rating.

Further, revenues to cover debt service on bonds authorized in HB 3202 have declined and there is a likelihood that transit's amount will be reduced along with the total. Because HB 3202 required a minimum of 20 percent of the bonds to be used for transit, **the Commonwealth Transportation Board has the authority to increase transit's share above 20 percent. The CTB should do so and if not the General Assembly should act.** This is essential because bond funds

(at an 80 percent state matching share) help offset a much lower matching ratio for capital-projects funded from the TTF.

5. **The General Assembly should take funds for transit operations off the top in the same way that highway maintenance is treated.** Current state policy stresses the need to maintain highways, with funds for capital projects diverted to maintenance if necessary to protect past investments and current levels of service. The same approach should apply to public transit since transit operations are equivalent to highway maintenance.
6. NVTC supports legislation that would **provide protections from diversion of Transportation Trust Fund revenues to non-transportation uses.**

Protection for Transit

7. **Direct the Virginia Secretary of Transportation to guarantee that in contracts with the private sector involving conversion of existing High Occupancy Vehicle facilities to High Occupancy Toll facilities, no deterioration in safety and performance of transit services provided on those facilities will be allowed and compensation will be provided to local governments forced to incur expenses to relieve congestion at access and egress points.**

As currently contemplated, very narrow shoulders and below standard lane widths threaten the safe operation of buses (for example, 11-ft. buses plus side mirrors would operate in 11-ft lanes with shoulders as narrow as two feet). Transit systems must be protected against any claims that result.

Regarding performance, currently buses operate in free-flow conditions (65 mph outside and 55 mph inside the Beltway) on the HOV lanes. Yet, minimum average allowed speeds on the new HOT lanes may be 45 mph and queuing in hot spots may cause transit service to deteriorate. It is not acceptable for a publicly funded facility built primarily for transit to be allowed to experience reductions in transit service quality. **The General Assembly should direct that caution be exercised in executing agreements with the private sector sponsors to mitigate unanticipated adverse consequences.**

8. **Enact amendments to the Virginia Code to provide enhanced penalties for assaults on transit operators.** These additional penalties will improve safety for operators, passengers and the public at large.

Rail Related Actions

9. **Fair terms of public passenger rail access should be required for any state funding provided for the benefit of freight railroads.**
10. **Amend Title 18 of the Virginia Code to provide increased fines and penalties as a low-level felony for individuals deliberately defrauding VRE when boarding VRE trains.** Penalties for boarding without a ticket would remain unchanged.
11. **Amend Title 46 of the Virginia Code to prohibit pedestrians from crossing public thoroughfares when trains are present.** At least 20 other states have similar laws.
12. **Amend Title 56 of the Virginia Code to allow VRE to enter into a contract to secure liability insurance for commuter rail operations utilizing an independent third party, rather than the Virginia Division of Risk Management, to manage claims processing and oversee the VRE Insurance Trust Fund.**
13. **Amend Title 56 of the Virginia Code to include third party claims in the liability cap for commuter rail operations** since the existing cap excludes third party claims.
14. **Adopt legislation excluding VRE from the CSX and Norfolk Southern-imposed requirement to purchase terrorism insurance coverage.**
15. As the commonwealth seeks to provide more revenue to meet its statutory target of 95 percent of the eligible non-federal transit operating and capital expenses, **VRE's jurisdictions should be made whole for unpaid subsidies from outlying jurisdictions whose residents use VRE without their local jurisdictions contributing to VRE's success.**
16. **Legislation should specify that as the commonwealth initiates new intercity passenger rail service, ongoing operating and capital expenses should not come from the existing Mass Transit Fund and new intercity trains should not disrupt schedules of existing commuter trains.**

Additional Legislative Request

17. **Enact legislation to authorize NVTC to choose to provide equal per diem payments for its board members who are elected officials.** Currently, NVTC is required by state law to pay General Assembly members \$200 per meeting and other elected officials no more than \$50 per meeting.

FEDERAL LEGISLATIVE ACTION ITEMS

Immediate and Ongoing Funding

1. As part of the process to restructure federal transportation programs and authorize multi-year funding, and to provide a federal stimulus to jolt the economy, **provide immediate and ongoing funding for important Northern Virginia transit projects**, including 15 new locomotives for VRE costing \$65 million, expansion of VRE to Gainesville-Haymarket at \$250 million, VRE parking expansion at \$35 million and VRE platform extensions at \$25 million, and acceleration of such projects as rail to Dulles and the Columbia Pike Streetcar, among others.
2. **Include significant funding (at least a 25 percent share) for transit as a critical strategy in any new spending measures that seek to conserve energy, enhance clean air, mitigate climate change, provide access to jobs, stimulate the economy and respond to emergencies and disasters.**

Assistance for WMATA

3. **Promptly appropriate new funding for WMATA of \$150 million annually as previously authorized by Congress.** Such appropriations are needed to justify the new federal WMATA Board members included in the authorization language.
4. **Promptly enact amendments to the WMATA Compact identical to those to be previously enacted in Virginia, Maryland and the District of Columbia.**

Authorization of Improved Transportation Programs

5. The current multi-year authorization of federal surface transportation programs (SAFETEA-LU) expires at the end of FY 2009. Many organizations have offered detailed recommendations for a major restructuring rather than fine-tuning existing programs. Among the primary reasons for this view are shortfalls in gasoline tax revenues flowing to the Highway Trust Fund, proliferation of separate programs with complex eligibility criteria and rampant earmarking, all without a unifying policy focus.

NVTC supports the policy principles adopted by the National Capital Region Transportation Planning Board and those of the American Public Transportation Association and the Northern Virginia Transportation Authority among others. Among the revisions with greatest benefit to NVTC's members are:

- **The level of federal investment in U.S. transportation infrastructure, including maintenance of the existing system and expansion, must increase significantly.**
- Recognizing that federal fixed per gallon taxes on motor fuels are no longer reliable sources of funding, **new methods must be identified that will grow along with the need to maintain existing facilities and support improvements and system expansions.** Temporary transfers of General Funds or raiding the Transit Trust Fund are not worthwhile strategies to resolve this long-term structural imbalance.
- **Fees for highway use that vary with numbers of auto occupants, types of vehicle miles driven and times and places driven should be used to reduce congestion as well as providing revenues.** New technologies make such variable pricing feasible.
- **Leverage available federal funds with national infrastructure banks and bonding programs.**
- **Simplified, consolidated and streamlined federal transportation programs should be created with uniform, rigorous and comprehensive benefit/cost analyses across all modes, consideration of energy efficiency and environmental protection, inclusion of safety and security, and reduced federal review time.**
- **Urban mobility (and hence support for public transit) should be recognized as a vital federal responsibility, in cooperation with states, local governments and regional agencies through intergovernmental partnerships, with greater decision-making authority for metropolitan areas and local governments.**

Equitable Tax Incentives for Transit Users

6. **Increase tax-free monthly transit benefits to \$220 from \$120 to match the benefits currently available for parking.**

Rail Related Actions

7. **The federal cap on commuter rail liability should be broadened at a level no greater than \$200 million per occurrence to include third party protection for freight railroads on which commuter systems operate.**
8. **Additional federal funding should be provided to commuter rail systems to meet new federal Positive Train Control mandates.**