

APPENDIX E

NVTC 2010 LEGISLATIVE AGENDA

Approved: December 3, 2009

STATE LEGISLATIVE ACTION ITEMS

Transit Funding Crisis

Northern Virginia relies on its effective transit network with 149 million trips in FY 2009 comprising three quarters of Virginia's total transit ridership.

The Northern Virginia Transportation Authority's TransAction 2030 plan establishes a need for transit investments in Northern Virginia of \$910 million annually (about half for operations and half for capital). Currently, NVTC's jurisdictions, their funding partners and transit customers spend almost \$700 million annually for WMATA, local buses and VRE, with the Commonwealth of Virginia providing a share of less than a quarter. If the state met its 95% statutory target of funding eligible transit expenses it would require another \$120.3 million for NVTC's WMATA jurisdictions in FY 2010.

The current crisis will persist. WMATA's operating budget alone faces a FY 2011 shortfall of \$175 million.

Accordingly, major new revenue sources for public transit must be enacted statewide and regionally during the 2010 General Assembly session, with these sources being stable, reliable, proven and permanent. Existing General Fund revenue streams should not be diverted to transit from other important priorities such as education and public safety.

- 1. New revenue sources for public transit should be enacted that keep pace with inflation and do not decline as automobiles are driven less and become more fuel efficient.** Examples include: sales taxes (one percent yields \$1 billion statewide), indexed motor fuels taxes (10-cents generates almost \$500 million); vehicle miles traveled fees, state/regional income taxes and tolls and congestion pricing.
- 2. Any new revenue measures for transportation, energy conservation, air quality or climate protection should dedicate an appropriate portion to public transit** because transit is an effective means to achieve the goals of such legislation. Transit currently receives 14.7% of Transportation Trust Fund revenues.
- 3. Existing state transit funding sources should be protected from encroachment, either through diversion of revenues from the Transportation Trust Fund to non-transportation uses, from new intercity passenger rail initiatives, or from failure to issue previously authorized bonds.**

4. **The Virginia Department of Rail and Public Transportation (DRPT) should be required to honor signed contracts with local transit systems for state transit grants.** Otherwise, despite DRPT's best efforts, given the ongoing harsh economic outlook, the practice of failing to provide contracted funds is likely to continue. Unfortunately, DRPT has cut back its transit assistance to NVTC by \$8.8 million (6.5%) in mid-FY 2009 and another \$5.4 million (4.9%) in mid-FY 2010, after contracts were signed with NVTC. The corresponding reductions for VRE were \$1.3 million (7.1%) in FY 2009 and \$1.1 million (5.7%) in FY 2010. To prevent this breach of contract from occurring again, **the commonwealth should act to guarantee its contractual commitments to transit operators.**
5. The commonwealth has a statutory responsibility to fund transportation. Therefore, **any new regional fees for public transit, including restoring previously authorized funds (HB 3202 of 2007) for the Northern Virginia Transportation Authority, should be imposed primarily by the state.**
6. **NVTC's 2.1% motor fuels tax on distributors should be increased to at least 4.2%.** The expected annual yield would increase from \$38.6 million in FY 2009 to about \$76 million, although the FY 2009 yield is well below the FY 2008 level and FY 2010 earnings to date are still lower. This tax is dedicated to WMATA, which faces a serious financial crisis.
7. **With the increased federal emphasis on intercity passenger and high-speed rail, Virginia should establish a new funding source to fully match federal grants, to integrate service with existing local and regional transit providers, and to ensure that existing transit funds are not diminished (including the federal funds devoted each year by the CTB to VRE's track leases). Virginia's existing Rail Enhancement Program should be made available to fund the operating expenses of eligible regional and intercity passenger rail services that have benefits commensurate with costs. Where freight railroads are the beneficiaries of these public investments, they should be required to agree to cooperate with publicly provided passenger rail services on equitable terms.**
8. 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. **The Commonwealth Transportation Board should be permitted to shift transit capital funds to cover eligible transit operating expenses temporarily during times of financial hardship.**

9. **Provide immediate funding to facilitate needed transit and other transportation improvements to relieve congestion at BRAC-mandated facilities.**
10. **To facilitate the proper auditing of receipts of NVTC's 2.1% motor fuels tax on distributors (effective January 1, 2010), amend Section 58.1-1724.1 of the Virginia Code to permit disclosure of tax information to NVTC's senior management and board.** [PRTC already has this ability.]

Safety and Law Enforcement Improvements

11. **Penalties for assaults on transit operators should be increased.**
12. **Safety in accessing transit should be enhanced by enacting legislation to require motorists to stop for pedestrians at marked crosswalks in intersections without traffic signals where posted speeds are 35 mph or less.**
13. **Amend Title 46 of the Virginia Code to specify penalties for pedestrians crossing tracks in front of commuter trains against signals.** Twenty other states have enacted similar legislation.
14. **Amend Title 56 of the Virginia Code to include third party claims in the liability cap for commuter rail operations and exempt VRE from liability for terrorist acts.** The current cap excludes third party claims and private freight railroads demand very high levels of insurance from public commuter rail systems as a result.
15. **Amend the Virginia Code to would permit VRE at its discretion to use an independent third party or the Virginia Division of Risk Management to manage the VRE liability insurance plan and oversee the VRE Insurance Trust Fund.** Last year's budget bill contained this language.
16. **Revise penalties for avoiding VRE fares to provide fines for failure to possess a valid ticket as a Class IV misdemeanor and for fraudulently avoiding fares as a Class II misdemeanor.** The amended bill (SB 1066) passed by the 2009 General Assembly has had unintended consequences (ended prosecution by the Commonwealth's Attorney in Alexandria and many dismissed cases by judges).
17. **Permit transit systems (that do not currently possess the statutory authority) to require finger printing of job applicants to facilitate background checks using the FBI database.**

18. New public private partnerships and managed lanes with value pricing offer great promise for leveraging scarce public resources. But **vital protections must be included in such state-approved partnership agreements, including: requiring that lane and shoulder widths are sufficient for safe operation of transit vehicles; ensuring levels of performance of existing high occupancy vehicle facilities do not deteriorate and are allowed to accommodate growth; and mandating that local governments' concerns with congestion at points of access and egress and on parallel local streets are openly and meaningfully addressed.**

Other Legislative Actions

19. **Enact legislation to authorize NVTC to choose to provide equal per diem payments to 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.
20. In order to continue incentives to conserve energy, improve air quality and combat global warming, **extend the sunset of hybrid/special fuels vehicles exemptions from HOV requirements, while emphasizing enforcement and requiring VDOT to monitor performance to ensure continued acceptable travel times for other vehicles lawfully using HOV facilities.**

FEDERAL LEGISLATIVE ACTION ITEMS

Immediate and Ongoing Funding

1. As part of the process to restructure federal transportation programs and authorize multi-year funding, **provide immediate and ongoing funding for important Northern Virginia transit projects**, including as a top VRE priority new locomotives, parking expansion, platform extensions, mid-day storage and third main line improvements, and as a lesser priority, expansion of VRE to Gainesville-Haymarket. Other projects include acceleration of rail to Dulles and the Columbia Pike Streetcar, among others.
2. **Continue to appropriate new funding for WMATA of at least \$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.
3. **Make available funding for Metro Access from other relevant federal programs (e.g. HUD, HHS).**
4. **Include significant funding 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.**
5. **Provide immediate funding to facilitate needed transit and other transportation improvements to relieve congestion at BRAC-mandated facilities.**

Authorization of Improved Transportation Policies and Programs

6. The current multi-year authorization of federal surface transportation programs (SAFETEA-LU) has expired at the end of FY 2009. Many organizations have offered detailed recommendations for a major restructuring rather than fine-tuning existing programs, including the National Surface Transportation Policy and Revenue Commission in its Transportation for Tomorrow report among many other pertinent reports and recommendations. 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

7. **In order to maintain increased tax-free monthly transit benefits of at least \$230 (to match the benefits currently available for parking), remove the sunset provision that would require a reduction at the end of 2010. Index the transit benefits to inflation.**
8. **Support other measures that encourage employers to get more involved in their employees' commutes through tax provisions.** For example, HR3271 would increase the dollar limits on transportation fringe benefits, clarify federal employee benefits, make self-employed persons eligible, emphasize parking cashout programs, provide vanpool investment credits, encourage bicycle access with fringe benefits and removal of architectural barriers, and provide credits for teleworking.

Rail Related Actions

9. **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 (49 USC 28301).**
10. **Additional federal funding should be provided to commuter rail systems to meet new federal Positive Train Control unfunded mandates.**

Promote Green Commuting

11. **Support grant and planning measures to encourage employers to get more involved in helping employees reduce their commutes.** For example, HR 3517 would establish employer advisory councils to assist MPO's by developing trip reduction and commuter benefit plans and encourage employer investments in such activities with federal matching grants.
12. **Enact the "Investment in Commuter Vanpooling Act" (HR 1571) which would allow governments to leverage private capital to create and expand vanpools by making vanpool passenger fare revenue an eligible source for local match of federal grants.**
13. **In addition to the above actions, provide further federal funding and other incentives to encourage alternative methods of commuting, including telework, bicycles, walking, vanpools as well as public transit.**
14. **Positive Train Control mandates.**