

# 5.A.

## Jurisdiction and Agency Coordinating Committee Northern Virginia Transportation Authority

### MEMORANDUM

**TO:** Martin E. Nohe, Chairman  
Northern Virginia Transportation Authority  
  
Members  
Northern Virginia Transportation Authority

**FROM:** Tom Biesiadny, Chairman  
Jurisdiction and Agency Coordinating Committee  
Northern Virginia Transportation Authority

**SUBJECT:** Update on 2009 General Assembly Session and Specific Legislation (Item 5.A.)

**DATE:** May 8, 2009

The General Assembly's 2009 session ended on April 8, 2009, following the conclusion of the "Veto Session." Progress was made on several of NVTA's legislative initiatives. An annotated version of NVTA's 2009 Legislative Program showing the activities on each legislative initiative is included as Attachment A. Also attached is a matrix of transportation funding, allocation and constitutional amendment related bills and their status (Attachment B).

Specifically at the Veto Session, the General Assembly considered the Governor's amendments on several transportation bills of interest to Northern Virginia. A summary is provided below:

- **HB 1580 (Oder)/SB 1018 (Miller, J.C.)**: Both houses rejected the Governor's amendment to allow the local commercial and industrial property tax for transportation in Northern Virginia to be used for safety improvements. The House vote was (23-76). The Senate vote was initially 20-18 in favor; however, upon reconsideration, the vote was 19-19, and the Lt. Governor voted against the amendment.
- **HB 2479 (Hugo)**: Both houses accepted the Governor's amendment to clarify that the four-year sunset provision contained in the bill applies only to the reduced rate of \$0.125 per \$100 valuation and not the entire commercial and industrial property tax for transportation. The Governor did not propose an amendment to increase the rate above the \$0.125 per \$100 valuation.
- **HB 2596 (Ebbin)**: Both houses accepted the Governor's amendments to conform HB 2596 (Ebbin) to SB 1511 (Whipple). Both bills now add federal representatives to the WMATA Board of Directors without conditions. They also make other changes to the WMATA Compact to allow WMATA to qualify for \$1.5 billion in federal funds over ten years.

Jurisdiction and Agency Coordinating Committee members and I will be available at the May 14, 2009, NVTA meeting to provide additional updates and answer questions.

Cc: Members, NVTA Jurisdiction and Agency Coordinating Committee

**Northern Virginia Transportation Authority**  
**2009 Legislative Program**  
**Approved: December 11, 2008**  
*Updated: May 5, 2009*

**STATE**

***TRANSPORTATION FUNDING***

Support additional state and regional transportation funding for highway, transit, bicycle and pedestrian improvements.

Specifically, the NVTa seeks reinstatement of exclusive Northern Virginia revenues in the range of \$300 million annually, as well as Northern Virginia's portion of additional statewide revenues to address transportation needs not originally covered by the HB 3202 funding approved for Northern Virginia. Both the regional and statewide revenues should be provided from stable, reliable, proven and permanent source(s). The regional revenues should provide at least \$50 million annually for Washington Metropolitan Area Transit Authority capital improvements and \$25 million annually for Virginia Railway Express capital and operating expenses.

The NVTa asks the General Assembly to adopt new statewide transportation revenue sources to replenish highway and transit revenue sources which are not generating sufficient funding to meet the Commonwealth's critical transportation needs or to meet the Commonwealth's statutory 95 percent share of transit operating and capital costs (net of fares and federal assistance). This additional transit funding alone would require approximately \$188 million annually in new funds for the limited transit projects and eligible operating costs included in CTB's six-year program (prior to the cuts that the CTB is currently considering).

*General Assembly Action: A variety of bills have been introduced. See attached matrix. Two Metro compact amendment bills were introduced: SB 1511 (Whipple) – passed the Senate (Unanimously) and the House (Unanimously). HB 2596 (Ebbin) – was conformed to SB 1511 by House Appropriations and passed the House (Unanimously); a substitute was reported by Senate Privileges and Elections (12-0) and passed the Senate (Unanimously). The substitute restored HB 2596 to its original form which conditioned the adding of federal representatives to the Metro Board upon the actual appropriation of federal funds for Metro. This substitute was accepted by the House (Unanimously). These actions gave the Governor two different bills to use in discussions with Maryland and the District of Columbia on final compact language. Ultimately, the Governor chose to propose amendments to HB 2596 to conform it to SB 1511. The General Assembly approved these amendments. Both bills add federal representatives to the Metro Board without conditions.*

***BASE REALIGNMENT AND CLOSURE (BRAC) RECOMMENDATIONS***

Support the inclusion of sufficient funding in the 2009-2010 budget to ensure significant fiscal resources to address the enormous planning and transportation issues associated with the Base Realignment and Closure Commission recommendations. This is particularly critical, because the BRAC relocations will occur in 2011, and there is significant lead time required to implement needed transportation improvements.

*General Assembly Action: No specific bills introduced.*

## **PEDESTRIAN SAFETY**

Support revisions to Virginia's existing pedestrian legislation to clarify the responsibilities of drivers and pedestrians in order to reduce the number of pedestrian injuries and fatalities that occur each year. In particular, support legislation that would require motorists to stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 mph or less. Recent events throughout the region have highlighted a growing concern for the safety of pedestrians attempting to cross streets. Many Northern Virginia jurisdictions are exploring a variety of means to effectively provide for pedestrian safety while avoiding both the potential for serious vehicular accidents and the potential for creating a false sense of security for the pedestrians.

*General Assembly Action: Three bills were introduced: HB 2386 (Ebbin) – reported from House Transportation (16-6); on the House floor was referred to the House Courts of Justice Committee. The Civil Subcommittee of the Courts of Justice Committee voted to recommend tabling it (6-2). HB 2520 (Shannon) was rolled into HB 2386. SB 1239 (Barker) passed the Senate (24-16); was heard by the House Courts of Justice Civil Subcommittee; a substitute prepared and referred to House Militia, Police and Public Safety Subcommittee #2. The subcommittee recommended no further action.*

## **CHAPTER 527 TRAFFIC IMPACT ANALYSES**

Modify Chapter 527 Transportation and Land Use legislation and regulations to adjust timeframes for traffic impact analyses to be more consistent with local government review times and scheduled public hearings. In addition, the Comprehensive Plan amendment/updates section of the regulations should be further developed and improved to meet the needs of the process (especially dealing with multiple amendments at same time), and Low-volume rule traffic impact analysis requirements should be revised to address situations when existing roadway capacity is obviously sufficient to meet demands of a new development even though the development might otherwise cross the threshold for a traffic impact analysis.

*General Assembly Action: No specific bills introduced.*

## **SECONDARY ROAD DEVOLUTION**

Oppose any legislative or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purposes of ongoing maintenance. Also oppose any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties.

*General Assembly Action: No specific bills introduced.*

## Other Bills of Interest

**HB 1839** (Albo): Requires that the Commercial and Industrial Property Tax over \$0.125 per \$100 valuation be spent on regional projects. Tabled by House Finance.

**HB 1932** (Plum)/**HB 2299** (Caputo)/**HB 2476** (Hugo): All extend sunset for hybrid on HOV lanes by one year to June 30, 2010. HB 1932 and HB 2299 rolled into HB 2476. Passed the House (93-5); passed the Senate (36-2).

**HB 2011** (Ebbin): Prohibits pedestrians from crossing railroad when train is approaching. The bill failed on the House Floor (43-55).

**HB 2019** (Rust): Requires CTB to establish transportation corridors; initially removed local comprehensive planning related to these corridors. Substitute developed with input from the Virginia Association of Counties, the Virginia Municipal League, local governments and representatives of the business community. It eliminates local planning override and adds additional state planning principles and requirements. The substitute passed the House (99-0). The was amended and reported by Senate Transportation. Passed the Senate (39-0). The House concurred with the Senate substitute (99-0).

**HB 2117** (Nichols): Prohibits HOT Lanes of I-95 north of Fredericksburg. Tabled by House Transportation.

**HB 2416** (Bouchard): Removes requirement that VDOT approve photo red intersections. Tabled by House Transportation.

**HB 2470** (Hugo): Requires that if regional transportation funding is restored to No. Va. that the \$50 million in Metro matching funds be the first priority. Stricken by the patron.

**HB 2479** (Hugo): Caps Commercial and Industrial Property Tax for transportation in Northern Virginia at \$0.125 per \$100 valuation. Amended to limit cap to four years. Passed House (93-5); passed the Senate (92-4). The Governor amended to clarify that the sunset provisions in the bill apply only to the \$0.125 per \$100 valuation cap and not to the entire tax. The Governor's amendments were accepted by both houses.

**HB 2480** (Hugo): Limits uses of Commercial and Industrial Property Tax. Amended to broaden uses. Passed House (99-0); passed the Senate (91-4).

**HB 2547** (Albo): Provides that any federal economic stimulus funds made available to Virginia be used exclusively for transportation and education infrastructure improvements. In awarding contracts, preference is to be given to Virginia businesses and Virginia subcontractors. Left in House Appropriations.

**SB 1066** (Puller): Increases fines for counterfeit tickets and riding beyond ticket zone. Passed Senate (99-0); amended by Courts of Justice Criminal Subcommittee; Passed House (100-0). Senate accepts House amendments (37-0).

**SB 1532** (Saslaw): Changes collection of the Northern Virginia 2% gas tax from the retail level to the distributor level. Increases the rate from 2% to 2.1%. Passed Senate (34-6); Passed House (95-0).

**SB 1398** (Norment): Requires that local transportation plans be based on Statewide Transportation Plan. Substitute makes bill identical to HB 2019 (Rust). Passed Senate (39-1); substitute reported by House Transportation; Passed House (99-0). Senate agrees to House substitute (37-0).

**SB 1482** (Hanger): Removes HB 3202 authority for \$300 billion in statewide transportation bonds. Left in Senate Finance.

## 2009 General Assembly Session Transportation Funding/Allocation Bills

Bills	Patron	Description	Committee	Status	Position	Notes
<b>Transportation Funding Bills</b>						
<b>HOUSE</b>						
<b>SENATE</b>						
SB 1438	Miller, YB	Urban highway system construction funds; 2/3 portion of a city's funds can be used to service debt.	S Trans	Passed Senate (36-4); Passed House (100-0); Signed by Governor		Increases from one-third to two-thirds the portion of a city or town's urban highway system construction funds that can be used to service debt.
<b>Transportation Allocation Formula Bills</b>						
<b>HOUSE</b>						
<b>SENATE</b>						
<b>Protecting the Transportation Trust Fund</b>						
<b>House</b>						
<b>Senate</b>						
<b>Other Transportation Bills</b>						
<b>House</b>						
<b>Senate</b>						
<b>House</b>						
<b>Senate</b>						
<b>Legislation No Longer Under Consideration</b>						
<b>Transportation Funding Bills</b>						
<b>HOUSE</b>						
HB 1579	Oder	Transportation funding and administration for Hampton Roads, Northern Virginia, the Richmond Highway Construction District, the Staunton Highway Construction District and the Salem Highway Construction District.	H Trans, Sub 4	Substitute Passed House (61-31); Failed to report in S Finance (7-9)		The substitute provides funds for transportation in Hampton Roads, Northern Virginia, the Richmond Highway Construction District, the Staunton Highway Construction District and the Salem Highway Construction District by capturing 30% of economic growth attributable to or facilitated by the marine terminal for Hampton Roads, by personal and corporate income taxes and insurance taxes in Planning District 8, by the Port of Richmond for the Richmond Highway Construction District, by the Inland Port at Front Royal for the Staunton Highway Construction District and by the Elliston Intermodal Facility for the Salem Highway Construction District.
HB 1633	Saxman	Offshore drilling; apportions royalties that State receives to certain funds and programs.	H Approp. Economic Develop, Ag., & Nat. Resources Sub.	Amended; Passed House (58-41); Passed by Indefinitely by S Finance (9-5-2)		Apportions any royalties that the Commonwealth might receive from offshore drilling for natural gas and oil among the Transportation Trust Fund, Renewable Electricity Production Grant Fund, the Virginia Coastal Energy Research Consortium, and programs developed by the Secretary of Natural Resources to clean up the Chesapeake Bay.
HB 1642	Marshall	Highways, bridges, or interchanges; Transportation Board may name for living person.	H Trans	Amended; Failed on House Floor (33-62)		Allows the CTB to name a highway, bridge, or interchange for a living person, group, or business entity if the cost of construction of the bridge, highway, or interchange is paid by the person, group, or business entity.
HB 1661	Scott	Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner	H Finance, Sub 3	Tabled in H Finance, Sub 3		Converts the rates of taxation on motor fuels from cents per gallon to percentage rates. The percentage rates shall be calculated by the Commissioner of DMV in an amount that will most closely yield the amount of cents per gallon being charged on the applicable motor fuel prior to the effective date of the bill. Thereafter, the percentage rates would not change, but would be applied against the average price per gallon of the fuel, less federal and state taxes, as determined by the Commissioner of DMV over rolling six-month periods, to determine the cents per gallon to be charged.
HB 1669	Albo	Income tax, state; State shall return to cities & counties 50% of growth in collections.	H Approp.	Left in H Approp.		Provides that the Commonwealth shall return to cities and counties 50% of the growth in income tax collections for each city or county. The amounts returned shall be expended for school construction costs and transportation needs of the cities and counties.
HB 1759	Marshall	Transportation Capital Projects Bond Act of 2009; created.	H Trans	Left in H Approp.		Authorizes the CTB to issue bonds in an aggregate amount not to exceed \$4.81 billion for specific transportation projects throughout the Commonwealth. The bonds will be paid for by the revenues collected for each project through tolls and other fares or fees.

## 2009 General Assembly Session Transportation Funding/Allocation Bills

HB 1784	Hull	Government, local; equalizes municipal and county taxing authority.	H Finance, Sub 2	Left in H Finance		Equalizes municipal and county taxing authority by granting a county the same authority available to a municipality through the uniform charter powers, if such county contributes 2% or more toward the costs of construction or improvement of the urban system highway or street construction projects within the county.
HB 1846	Lingamfelter	Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner.	H Finance, Sub 3	Left in H Finance		Eliminates the current 17.5 cents per gallon motor fuels tax and replaces it with a 5% sales and use tax, while retaining the collector of the replacement tax at the "rack" or terminal (wholesale level) where the current cents per gallon tax is collected.
HB 2130	Miller, J	Supplemental Highway Construction Fund; established.	H Approp.; Trans Sub	Left in H Approp.		Allocates 10% of the annual growth in General Fund revenues to highway construction.
HB 2194	Watts	Motor fuels tax; rate increase used for transportation purposes.	H Finance, Sub 1	Left in Finance		Increases the motor fuels tax by \$0.10 per gallon, minus \$0.01 for each \$0.20 that the average price of gasoline exceeds \$3.00. The tax will be indexed every two years beginning July 1, 2010, by an amount equal to the percentage change in the U.S. Department of Labor's Producer Price Index for Highway and Street Construction. The revenue generated is used for transportation purposes as required by existing law, and allocates primary system highway construction funds among the nine highway construction districts on the basis of the ratio of vehicle miles traveled on primary highways divided by the lane miles of primary highways in each highway construction district, weighted 90%, and a need factor, weighted 10%.
HB 2319	Marshall	Overload and overweight permits; revises fees.	H Trans	Passed by in H Trans		Revises the fees for vehicle overload and overweight permits to conform to recommendations of the Virginia Transportation Research Council.
<b>SENATE</b>						
SB 1041	Hanger	Fuels taxes; annually adjusted.	S Finance	Left in S Finance		Adjusts fuels taxes each year by the percentage increase in the Corporate Average Fuel Economy (sales volume weighted), (CAFE) for the immediately preceding calendar year over the CAFE for calendar year 2008. The first adjustment would occur on April 1, 2010.
SB 1048	Miller, YB	Temporary vehicle registrations and overload and overweight permits; revises fees.	S Trans	PBI'd with a letter.		Revises the fees for temporary vehicle registrations and vehicle overload and overweight permits.
SB 1498	Barker	Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner	S Finance	Left in S Finance		Replaces the current fuels tax fuel with a tax that is a percentage of the wholesale price of a gallon. The percentage shall be established by the Commissioner by determining the percentage that would most closely yield 17.5 cents per gallon, based on the average wholesale price of a gallon of self-serve unleaded regular gasoline for the period beginning October 1, 2008, and ending March 31, 2009.
SB 1283	Newman	Motor fuels tax; change in tax basis.	S Trans	Stricken at patron's request		Replaces \$0.05 per gallon of the current fuels tax on gasoline, gasohol, and diesel fuel with a cents-per-gallon tax equal to five percent of the statewide average wholesale price of a gallon of self-serve unleaded regular gasoline. The change to the fuels tax rate would only occur if the statewide weekly average wholesale price of a gallon of self-serve unleaded regular gasoline falls below \$0.99 per gallon.
SB 1368	Barker	Highway systems; allocation of maintenance funds.	S Trans	Passed Senate (25-15); Reported by H Trans (16-6); was left in H Approp.		Requires the Commonwealth Transportation Board to utilize the estimated budget required to meet performance standards for asset management under § 33.1-13.02 in determining the total amount of funds that are reasonable and necessary for maintenance of roads; the allocation of the total amount of funds made available for maintenance shall be based on achieving a minimal level of disparity in meeting asset management performance standards established under § 33.1-13.02; such provision to be fully implemented by fiscal year 2015.
<b>Transportation Allocation Formula Bills</b>						
<b>HOUSE</b>						
HB 1723	Albo	Highway Maintenance and Operating Fund; provides a formula for allocating proceeds.	H Trans, Sub 4	Left in H Approp.		Provides a formula for allocating the proceeds of the Highway Maintenance and Operating Fund.
HB 1861	Shannon	Street maintenance payments; increased where traffic volumes exceed statewide average by 20%.	H Trans, Sub 4	Left in H Approp.		Provides for increased payments where traffic volumes exceed the statewide average by more than 20 %.
HB 1993	Bulova	Highway maintenance funds; requirements for Commonwealth Transportation Board in allocating.	H Trans	Left in H Approp.		Requires the Commonwealth Transportation Board, in allocating highway maintenance funds, to achieve a minimal level of disparity among VDOT's highway construction districts in meeting asset management performance standards
HB 2020	Rust	Highway maintenance funds; provides method Transportation Board is to allocate additional funds.	H Trans	Tabled in H Trans		Provides a method by which the Commonwealth Transportation Board is to allocate additional funds for highway maintenance in the event of insufficiency of funds in the Highway Maintenance and Operating Fund. Such allocations would begin with fiscal year 2011.
HB 2118	Nichols	Secondary highway system construction allocations; allocates among counties on basis of population.	H Trans; Sub 4	Left in H Approp.		Allocates construction funds among the counties in the state secondary highway system solely on the basis of population. Presently, allocations are made on the basis of population (80%) and area (20%).
HB 2206	Frederick	Budget Bill; Governor to include funding for transportation in biennium equal to at least 10%.	H Approp.; Tech and Govt Oversight Sub	Left in H Approp.		Requires the Governor to include in his Budget Bill funding for transportation in the biennium in an amount equal to at least 10 percent of the amount by which the projected general fund revenues for the biennium exceed the general fund revenues of the immediately previous biennium
HB 2230	Marsden	Highway construction allocations; Transportation Board allocate projects in Northern Virginia, etc.	H Trans, Sub 1	Left in H Approp.		Provides that every year, the Commonwealth Transportation Board must allocate to highway construction projects in the Northern Virginia highway construction district or the Hampton Roads highway construction district at least as much as was allocated for highway construction in each respective district in fiscal year 2008-09.
<b>SENATE</b>						
<b>Transportation Trust Fund Bills</b>						
<b>HJR</b>						

## 2009 General Assembly Session Transportation Funding/Allocation Bills

<b>HJ 620</b>	<b>Oder</b>	Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund	H Priv & Elect.; Constitutional Sub.	Passed House (99-0); Substitute passed Senate (33-7); No conference committee report was prepared.	Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, and other funds established by general law for transportation. All revenues dedicated to Transportation Funds on 1/1/09 shall be deposited to the Transportation Funds, unless the General Assembly alters the revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes only by a vote of 2/3 + 1 of the members voting in each house, and the loan must be repaid with reasonable interest within 4 years. Known as single lockbox Substitute conforms bill to SJ 361 (Norment) as it passed the Senate.
<b>HJ 720</b>	<b>Marshall</b>	Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund	H Priv & Elect.; Constitutional Sub.	Incorporated into HJ 620.	Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, and Highway Maintenance and Operating Fund. All revenues dedicated to Transportation Funds on January 1, 2010, by general law, other than a general appropriation law, shall be deposited to the Transportation Funds, unless the General Assembly by general law, other than a general appropriation law, alters the revenues dedicated to the Funds. The amendment limits the use of Funds moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes only by a vote of 2/3s + 1 of the members voting in each house, and the loan or reduction must be repaid with reasonable interest within 4 years.
<b>SJR</b>					
<b>SJ 323</b>	<b>Martin</b>	Constitutional amendment (first resolution); Transportation Funds.	S Priv & Elect.	Failed to Report in S Priv. & Elections. (3-10-1)	Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, Priority Transportation Fund, and other funds dedicated to transportation by general law. All revenues dedicated to Transportation Funds on January 1, 2009, by general law, other than a general appropriation law, shall be deposited to the Transportation Funds, unless the General Assembly by general law, other than a general appropriation law, alters the revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes.
<b>SJ 361</b>	<b>Norment</b>	Constitutional amendment; Transportation Funds	S Priv & Elect.	Passed Senate (31-6); Substitute amended and passed the House (97-2). No conference report was prepared.	Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, and Priority Transportation Fund. All revenues dedicated to these funds on 1/1/10 shall be deposited to the Funds, unless the General Assembly alters the revenues dedicated to the Funds. The amendment limits the use of Funds moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes only by a vote of 2/3 + 1 of the members voting in each house, and the loan must be repaid with reasonable interest within the 3 years. The amendment also limits the use of general and other nontransportation funds for transportation purposes, except for certain debt service payments and in an amount not to exceed \$80 million in any fiscal year. Known as double lockbox. Substitute generally conforms bill to HJ 620 (Oder) as it passed the House with a change to limit funds to services "benefitting" the Commonwealth rather than services "in" the Commonwealth.
<b>Other Transportation Bills</b>					
<b>House</b>					
<b>Senate</b>					