NORTHERN VIRGINIA TRANSPORTATION COMMISSION

NVTC WMATA COMMITTEE MEETING
THURSDAY, MAY 20, 2021
Via Electronic Participation
Public Streaming via YouTube

6:00 P.M.

AGENDA

NVTC is receiving public comment during the declared state of emergency. Persons wishing to provide written public comment should submit comments by 3:00 p.m. on May 20 via NVTC's website. Comments will be provided to committee members prior to the May 20 meeting.

1. Review of the January 21, 2021 NVTC WMATA Committee Meeting Summary
2. 2021 Annual Report on the Performance and Condition of WMATA
3. Scope of Work for the 3% Cap Working Group Companion Report to the Commission
4. Other NVTC Program Updates
   A. How WMATA is Funded in Virginia/NVTC SAM Formula
   B. White Paper: Options for Low-Fare/No Fare Transit

Members
Canek Aguirre, Chair
Walter Alcorn
Matt de Ferranti
Matt Letourneau
David Meyer
Paul Smedberg
David Snyder

MEETING SUMMARY
NVTC WMATA COMMITTEE
Via Electronic Participation
Public Streaming via YouTube
JANUARY 21, 2021

NVTC WMATA Committee Members Present via Electronic Participation:

Canek Aguirre, Chair
Walter Alcorn
Matt de Ferranti
Matt Letourneau
David Meyer
Paul Smedberg
David Snyder

Other NVTC Commissioners Present via Electronic Participation:

Libby Garvey
Paul Krizek
Michael Turner

Staff and Others Present via Electronic Participation:

Kate Mattice, Executive Director
Andrew D'huyvetter
Allan Fye
Dinah Girma
Zach Smith
Greg Potts

Chairman Aguirre called the WMATA Committee meeting to order at 6:02 p.m. He explained that given the ongoing COVID-19 public health emergency, the meeting is being conducted electronically. This is possible because the governor signed into law on April 22, 2020 a legislative amendment to the budget bill to allow public bodies to meet electronically without a physical quorum present to discuss or transact the business statutorily required or necessary to continue operations of that public body. NVTC staff followed the procedures and guidelines in the legislation to give notice to the WMATA Committee, Commission, staff and the public.

Chairman Aguirre reviewed the procedures and instructions for the electronic meeting. The only visual component of the meeting is the presentation slides shown on Webex for WMATA Committee members and on YouTube livestream for the public.

Mr. D'huyvetter then called the roll and confirmed a quorum was present. He also updated the committee on the one public comment received regarding proposed changes to Metrobus routes that was received prior to the meeting.

Chairman Aguirre asked for any changes to the October 29, 2020 WMATA Committee meeting summary. Committee members accepted the summary of the October 29, 2020 meeting with no changes.

<u>NVTC WMATA Committee Orientation and Schedule</u>

Mr. D'huyvetter provided a brief overview of the scope of the WMATA Committee and the NVTC WMATA Committee schedule for the upcoming year. Mr. D'huyvetter reviewed the committee's two primary responsibilities, which are to provide a forum for consensus-based recommendations and to provide strategic guidance to staff on WMATA-related policy matters and NVTC's legislative mandates. He also reviewed the regional staffing structure and that the jurisdictional staff calls with the Virginia WMATA Board members help facilitate multi-jurisdictional representation from NVTC.

Mr. D'huyvetter presented the WMATA Committee's 2021 draft work plan, which includes work sessions on the annual report on the performance and condition of WMATA, the companion report on Virginia's 3% cap on the growth in operating assistance payments to WMATA, and a letter of comments on the WMATA Budget. He also stated that there are additional items that may be placed on the work plan at a future date such as a discussion of the Blue, Orange and Silver Line Capacity and Reliability Study and a possible discussion on the FY 2022 WMATA Budget if it is amended.

Chairman Aguirre reviewed the committee's timeline and approach to submitting a letter of comments on the FY 2022 WMATA Budget. Since the committee last met in December, President Trump signed the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) that provided additional federal funding to WMATA.

Mr. D'huyvetter then presented an overview of the WMATA GM/CEO's revised FY 2022 Budget which reflects federal aid from the passage of CRSSA. He presented the remaining budget gap for FY 2022 and the service changes and management actions that are proposed to offset it. He also presented staff recommended themes to include in the letter of comments. Mr. Snyder proposed comments that express concern about the proposed station closures and increased headways in the latter half of FY 2022 (January – June 2022).

Mr. Alcorn asked about the assumptions behind the $20 million of equity improvements for Silver Line Phase 2 because the stations along the line will serve minority and low-income communities in Fairfax and Loudoun counties. Mr. Letourneau responded that the Title VI equity analysis must be completed within six months prior to opening new service, so WMATA staff have done preliminary analysis because WMATA has not set an opening date for Silver Line Phase 2. Mr. Letourneau also stated that he has asked WMATA staff for their analysis behind the cost of equity improvements for Silver Line Phase 2.

Mr. Alcorn asked how WMATA determined the overall Metrorail ridership figures for the proposed budget. Mr. Smedberg responded that WMATA used several tools including surveys to develop ridership projections but estimating ridership is difficult because there is uncertainty about when riders will return to transit.

Mr. de Ferranti discussed how severe cuts to service would be detrimental to recovery from the pandemic. He also said that if we are not expecting additional federal funding, then we need to smooth out the levels of service throughout FY 2022 as demand for ridership continues to evolve. Mr. Smedberg added that the eligible uses of additional federal funding may potentially be different than CRRSAA or previous federal funding and that the legislative intent to avoid layoffs drives the timing and usage of these funds.

Mr. Snyder stated that he prefers a level of service that is more consistent throughout the year. Mr. Meyer supported a smoother level of service in FY 2022. He recommended an edit to the recommended theme to avoid or minimize shifting operating costs to the capital program by removing the word "minimize." He stated that a well-funded capital program is vital. Chair Aguirre stated that he didn't want to lose a tool to offset the budget gap. Mr. Letourneau responded that the letter should explain the committee's position on shifting operating costs to the capital program. Mr. Turner expressed concerns about moving capital funds because of the long-term impacts it could have on the system.

Mr. Alcorn asked about ways to improve ridership and coordinate with employers. Mr. Smedberg responded that WMATA has initiated discussions with employers about their plans to return. Ms. Mattice also responded that NVTC is coordinating a marketing campaign through various media outlets aimed at increasing ridership.

Chair Aguirre asked for an overview of what was discussed. Mr. D'huyvetter responded with key messages and themes to include in the letter that were gathered from the meeting:

- Open Silver Line Phase 2 as soon as possible with full service to all stations
- Avoid or minimize shifting operating expenses to the capital program for preventative maintenance, maintain state of good repair capital program support and preserve dedicated funding debt capacity
- Preserve a sufficient level of Metrorail and Metrobus service to serve essential workers and position the region for a quick economic recovery
- Continue to seek additional federal support to avoid layoffs and close the budget gap in FY 2022 and subsequent fiscal years
- Continue to communicate and encourage a safe return to transit to rebuild ridership
- Avoid a sharp reduction in service and station closures in FY 2022

Other Items of Jurisdictional Importance

Mr. Snyder discussed the change in travel patterns since the pandemic and that WMATA should look at how demand is changing to address the demand that is there. Chairman Aguirre reminded the committee that the Commission will discuss the proposed FY 2022 WMATA Budget at the February meeting and that WMATA General Manager Paul Wiedefeld will present remarks at the March Commission meeting.

The meeting adjourned at 7:17 p.m.

NORTHERN VIRGINIA TRANSPORTATION COMMISSION

REPORT ON

Virginia's 3% Cap

on the Growth in Operating Assistance Payments to the Washington Metropolitan Area Transit Authority

Submitted to
the Chairs of the
House Appropriations
and Senate Finance
and Appropriations
Committees
November 2020

NORTHERN VIRGINIA TRANSPORTATION COMMISSION

November 10, 2020

On behalf of the Northern Virginia Transportation Commission (NVTC), I am pleased to submit the *Report on Virginia's 3% Cap on the Growth in Operating Assistance Payments to the Washington Metropolitan Area Transit Authority (WMATA)*. This report is in response to Chapter 1289 of the 2020 Acts of Assembly, which requires the Chair of NVTC to convene a working group on the usefulness of Virginia's 3% cap and whether any additional items should be excluded.

The report examines Virginia's operating subsidy payments to WMATA to identify and differentiate the true drivers of past and present operating subsidy increases from assumed cost drivers. The report also acknowledges the impact of WMATA's implementation of the cap on Virginia's subsidy payments and the role of NVTC jurisdictions in funding WMATA. Since the cap has only been in place for two WMATA budget cycles, the report concludes that the existing cap appears to be a useful tool to manage the growth in Virginia's operating assistance payments to WMATA. The report further recommends that:

- No changes should be made to the existing 3% cap legislation;
- No additional items should be excluded at this time;
- No legislative changes be considered before the cap has been in place for five WMATA budget development cycles; and,
- NVTC continue to evaluate the impact of Virginia's 3% cap legislation.

This report underscores the complexity of balancing the needs of a world-class transit system while reducing financial unpredictability and pressure. In addition, the General Assembly's directive to evaluate the cap comes at a time when the Commonwealth and NVTC jurisdictions are identifying tools and strategies to promote cost efficiencies in light of the COVID-19 public health emergency. To that end, NVTC looks forward to ongoing engagement with WMATA and the NVTC jurisdictions on Virginia's 3% cap on operating assistance payments to WMATA.

Sincerely,

Katie Cristol

Katie Cristol
NVTC Chair

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Preface

This report is in response to Chapter 1289 Item 442.H1-2 of the 2020 Acts of the Virginia General Assembly that states:

1. *The Chairman of the Northern Virginia Transportation Commission shall convene a workgroup which includes the Director of the Department of Rail and Public Transportation, local government representatives, and private sector stakeholders to review the impact of the 3% cap on operating assistance in the approved WMATA budget pursuant to § 33.2-1526.1.J., Code of Virginia. The workgroup shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees by November 10, 2020, on the usefulness of the cap and whether additional items should be excluded.*

2. *The Department of Rail and Public Transportation shall provide staff support for the workgroup.*

In 2018, the Virginia General Assembly imposed a 3% cap on growth on Virginia's annual operating subsidy to WMATA as a part of its commitment to a dedicated source of capital funding.[1] In any year where the annual increase in the approved WMATA budget exceeds 3% (apart from legislative exemptions), the legislation directs the Commonwealth Transportation Board (CTB) to withhold 35% of the funding allocated to NVTC as capital and operating assistance to help its local jurisdictions meet their financial obligations to WMATA from the Commonwealth Mass Transit Fund.

This report focuses on the 3% cap on the growth of Virginia's share of overall annual WMATA operating assistance. The cities of Alexandria, Falls Church and Fairfax, and the counties of Arlington, Fairfax and Loudoun make their operating assistance payments to WMATA, which collectively make up Virginia's share.

The 3% cap does not apply to the local jurisdictions, meaning that each year any individual jurisdiction's operating subsidy may increase more or less than 3% compared to the previous year. This is due to fluctuations in the budget formula that are driven by the amount of service provided, changes to transit fares, and other financial factors.

Jurisdictional subsidy payments are made using a mix of local funds, regional gas tax revenues, and funding from the Commonwealth distributed through the Northern Virginia Transportation Commission (NVTC). NVTC jurisdictions use a range of local funds, such as property tax revenues, general funds and local "30 percent" funding from the Northern Virginia Transportation Authority to support their WMATA subsidy payment. NVTC also holds in trust a portion of regional gas tax revenues generated within each jurisdiction that is dedicated for WMATA purposes. Furthermore, the Commonwealth of Virginia, through the Department of Rail and Public Transportation (DRPT), provides funds to the NVTC jurisdictions for a portion of their WMATA operating subsidy commitments.

[1] § 33.2-1526.1.K of the Code of Virginia

Executive Summary

In 2018, the Virginia General Assembly imposed a 3% cap on growth on Virginia's annual operating subsidy to WMATA as a part of its commitment to a dedicated source of capital funding. In any year where the annual increase in the approved WMATA budget exceeds 3% (apart from legislative exemptions), the legislation directs the Commonwealth Transportation Board (CTB) to withhold 35% of the funding allocated to NVTC as capital and operating assistance to help its local jurisdictions meet their financial obligations to WMATA from the Commonwealth Mass Transit Fund. In 2020, the Virginia General Assembly directed the formation of NVTC's 3% Cap Working Group to examine the 3% cap and assess its usefulness and whether additional exemptions to the cap should be considered. [2]

NVTC's 3% Cap Working Group found that Virginia's 3% cap appears to be a useful tool to manage the growth in Virginia's operating subsidy. With only two years of WMATA budget development since the passage and implementation of the 3% cap, the Working Group recommends:

- No changes be made to the existing 3% cap legislation at this time;
- No additional exclusions should be considered;
- NVTC work with the Department of Rail and Public Transportation to clarify existing state policy guidance regarding the current legislative exclusions to the cap; and,
- NVTC continue to explore potential modifications to Virginia's 3% cap legislation, with the scope and timing of such an effort to be determined by the Commission.

The Working Group, made up of representatives from NVTC jurisdictions, private sector stakeholders and the Director of the Department of Rail and Public Transportation, found that the cap provides some predictability in subsidy growth and does appear to provide fiscal controls that help WMATA with cost containment. The Working Group also determined it is too soon to recommend changes to Virginia's 3% cap legislation since the cap has only been in place for two WMATA budget cycles.

The Working Group did not identify any new exemptions, also referred to as exclusions, to the cap. Instead, the Working Group recommends that NVTC work with DRPT to clarify existing Commonwealth Transportation Board (CTB) policy guidance regarding the current legislative exclusions to the cap. The Working Group also recommends that NVTC continue to explore the 3% cap, with the scope and timing of such an effort to be determined by the Commission.

To support the Working Group's deliberations, NVTC staff solicited input on the impact of the cap from additional stakeholders in the region, including staff from the State of Maryland, the District of Columbia and WMATA.

NVTC staff also examined the historical jurisdictional operating subsidies to identify the actual drivers of Virginia's operating subsidy increases. Accordingly, this report presents the historical operating subsidies and other factors that impact year to year fluctuations in the overall operating subsidy.

[2] Ibid.

1. Introduction

In 2020, the General Assembly directed the Northern Virginia Transportation Commission (NVTC) to form a Working Group to review the impact of Virginia's legislatively-mandated 3% cap on the growth in operating assistance payments to the Washington Metropolitan Area Transit Authority (WMATA). The General Assembly directed the Working Group to include the Director of the Department of Rail and Public Transportation, senior transportation officials representing NVTC jurisdictions and private sector stakeholders to be led by NVTC's Chair.[3]

In May 2020, NVTC convened the 3% Cap Working Group with members as follows:

Chair: Katie Cristol, NVTC Chair, Arlington County

Vice Chair: Kate Mattice, NVTC Executive Director

Commonwealth Representative: Jennifer Mitchell, DRPT Director

Senior-Level Transportation Officials:

- Yon Lambert, City of Alexandria
- Dennis Leach, Arlington County
- Tom Biesiadny, Fairfax County
- Wendy Block Sanford, City of Fairfax
- Cindy Mester, City of Falls Church
- Penny Newquist, Loudoun County

Private Sector Stakeholders:

- Clayton Medford, Northern Virginia Chamber of Commerce
- The Honorable Randy Minchew, former member of the Virginia House of Delegates
- Stewart Schwartz, Coalition for Smarter Growth
- Jason Stanford, Northern Virginia Transportation Alliance

The Working Group met three times between May and September 2020. NVTC staff interviewed members of the 3% Cap Working Group and Virginia's Principal WMATA Board Members as well as staff from the State of Maryland, the District of Columbia and WMATA to get their perspective of Virginia's 3% cap. In addition, NVTC staff conducted extensive research and analysis to inform the Working Group's meetings and discussion.

[3] 2020 Acts of the Virginia General Assembly. Chapter 1289 Item 442.H1-2.

2. Enactment of Virginia's 3% Cap Legislation

As part of the WMATA dedicated capital funding legislation, the 2018 Virginia General Assembly imposed a 3% cap on growth on Virginia's annual operating subsidy to WMATA. In any year where the annual increase in the approved WMATA budget exceeds 3%, the legislation directs the Commonwealth Transportation Board (CTB) to withhold 35% of the funding allocated to NVTC as capital and operating assistance to help its local jurisdictions meet their financial obligations to WMATA from the Commonwealth Mass Transit Fund.[4]

The legislation also excludes certain items when determining if the annual increase in the operating subsidy exceeds 3%. The legislative exclusions to the cap include:

- any service, equipment or facility that is required by any applicable law, rule or regulation;
- any major capital projects approved by the WMATA Board before or after the effective date of the CTB policy;
- any payment or obligation resulting from a legal dispute or proceeding; and,
- any service increases approved by the WMATA Board.[5]

Each year, the CTB must affirm annually via resolution that WMATA has met this and other requirements of the dedicated funding legislation.[6]

The State of Maryland also passed similar legislation in 2018 that imposed a 3% cap on growth on Maryland's annual operating subsidy to WMATA, with near-identical exclusions. As such, starting in fiscal year 2020, WMATA develops its annual operating budget to meet both state's 3% cap legislation.

3. Background on Operating Assistance Payments to WMATA

The General Assembly charged the Working Group with reviewing the impact of Virginia's 3% cap on the growth in operating assistance in the approved WMATA budget. To that end, the Working Group reviewed the historical jurisdictional operating subsidies, ridership trends, and WMATA's past and present contracts to evaluate the extent of their impact on Virginia's operating subsidy. This section presents the actual drivers of the historical operating subsidies and describes how WMATA has implemented the cap to meet the requirements of Virginia's 3% cap legislation.

Historical WMATA Operating Subsidy Trends

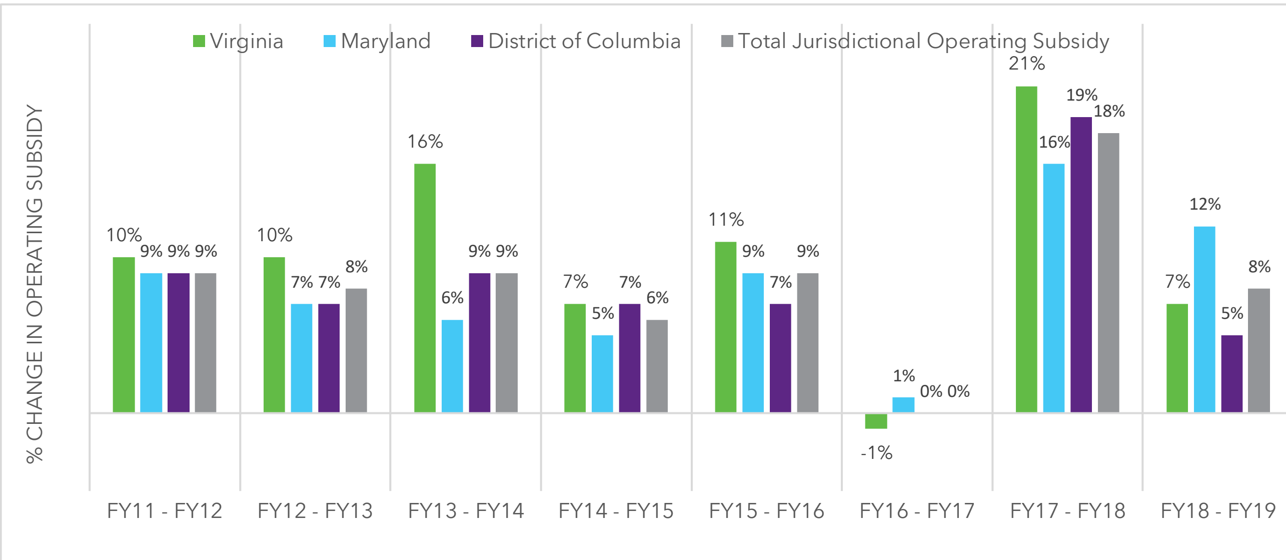
Day to day operation of WMATA is funded primarily through passenger fare revenue and the jurisdictional operating subsidy provided by the WMATA Compact signatories: Maryland, the

[4] § 33.2-1526.1.K. of the Code of Virginia
[5] Chapter 1133 of the 2020 Acts of the Virginia General Assembly has not been implemented by WMATA in a budget cycle. As such, the legislation's impact on Virginia's operating subsidy is unknown.
[6] Commonwealth Transportation Board. "Approval of Policy and Guidelines for Implementation of Governance and Funding Reforms for the Washington Metropolitan Area Transit Authority (WMATA)." Pg. 5. September 18, 2018. <http://www.ctb.virginia.gov/resources/2018/sept/reso/3.pdf>

District of Columbia and Virginia.[7] In Virginia, NVTC jurisdictions, which include the cities of Alexandria, Falls Church and Fairfax, and the counties of Arlington, Fairfax and Loudoun, pay the subsidy.[8] Loudoun County began contributing to WMATA's jurisdictional operating subsidy in FY 2021, as service on the Silver Line Phase 2 is budgeted to commence that fiscal year. WMATA's operating costs are also funded to a lesser extent through additional non-fare revenue.[9]

Prior to the cap, WMATA calculated the historical jurisdictional operating subsidies using WMATA Board-approved subsidy allocation formulas based on inputs that represent a jurisdiction's request for and use of WMATA's three modes of transit service: Metrobus, Metrorail, and MetroAccess. As such, the total annual operating subsidy increases varied between 0% – 18%, and the annual operating subsidy increases in Virginia varied from -1% to 21% (Figure 1).

Figure 1: Annual (%) Change in Jurisdictional Operating Subsidies Prior to the Legislative Cap (FY 2011 – FY 2019)



Source: FY 2011 – FY 2019 Approved WMATA Budgets and Board Approved Resolutions

Data from FY 2011 – FY 2018 indicate that the increase in the historical jurisdictional operating subsidy is primarily attributable to the increasing Metrorail operating subsidy, especially in Virginia with the opening of Silver Line Phase 1.

Notably, over the same time period Metrorail experienced extensive reliability issues, resulting in a ridership decline of nearly 20%, decrease in farebox revenue due to loss of ridership, the need to close portions of the rail system to address system reliability (i.e. SafeTrack) and a loss of transit ridership due to nationwide factors that are outside of WMATA's control (i.e. gas prices, telework, etc.), all of which necessitated jurisdictional operating subsidy increases.[10] [11] Declining Metrorail

[7] WMATA Compact. "Commitments for Financial Participation." Pg. 9. August 19, 2009. <https://www.wmata.com/about/board/upload/Compact_Annotated_2009_final.pdf>

[8] Ibid.

[9] Note: Other non-fare revenue include advertising revenues, revenues from joint development transactions and other cost-savings.

[10] Federal Transit Administration. "National Transit Database Form S-10." <https://www.transit.dot.gov/ntd/ntd-reporting-system-forms>

[11] Note: SafeTrack is an accelerated track work plan to address safety recommendations and rehabilitate the Metrorail system to improve safety and reliability. <https://wmata.com/service/SafeTrack.cfm>

farebox recovery rates of nearly 15% due to declining ridership was the single largest factor in WMATA's total jurisdictional subsidy increases from FY 2011 – FY 2018.

Since wage and salary levels are a significant portion (approximately 70%) of WMATA's operating budget, the Working Group examined the average wage increases for Amalgamated Transit Union 689, WMATA's largest union.[12] While collective bargaining agreements (CBAs) cover a number of elements including work rules, pensions and health care coverage, wage increases represent a significant part the financial elements in the CBAs between WMATA and its union employees.

Data presented to the Working Group found the annual wage increases for union employees range from 0% to 4% per year in the multi-year CBAs over FY 2009 – FY 2024, demonstrating that the cap appears to be a helpful tool in WMATA's negotiations with labor.[13] Moreover, the 2017 report prepared by former U.S. Secretary of Transportation Ray LaHood, *Review of Operating, Governance and Financial Conditions at the Washington Metropolitan Area Transit Authority,* examined WMATA's hourly labor costs and found them to be relatively in line with peer transit agencies.[14]

WMATA's Approach to Applying the Cap

Before WMATA implemented the 3% cap legislation during its budget development process, the jurisdictional operating subsidy bills were calculated using WMATA Board approved formulas based on each mode at WMATA: Metrobus, Metrorail and MetroAccess.[15] The formulas are primarily of function of inputs that include ridership, population, number of stations, revenue hours, revenue miles, and ridership by jurisdiction residents.[16] These formulas are generally referred to as the historic formulas and WMATA continues to include them in part of its new approach to budget development.

The implementation of Virginia's 3% cap legislation prompted WMATA to re-examine its operating subsidy allocation methodology to comply with the legislation. In FY 2020, the WMATA Board approved a new methodology to apply the cap to the operating subsidy.[17] This approach has yielded some unintended consequences, which NVTC and its component jurisdictions continue to explore.

[12] Keeping Metro Safe, Reliable and Affordable. "Comparing to Other Large Transit Agencies." Pg. 82. January 2019. <https://wmata.com/initiatives/strategic-plans/upload/KMSRA-Strategic-Plan-Jan-2019.pdf>
[13] WMATA. "WMATA Board Resolutions 2011-41, 2013-18, 2019-48." <https://www.amlegal.com/codes/client/washington-metropolitan-area-transit-authority_washington-dc/>
[14] Former United States Transportation Secretary Ray LaHood. "Review of Operating, Governance and Financial Conditions at the Washington Metropolitan Area Transit Authority – 2017." Pg. 4. December 27, 2017. <https://rga.lis.virginia.gov/Published/2018/RD7>
[15] WMATA. "Approved Fiscal Year 2018 Budget – Appendix F." Pg. 212. July 1, 2017. <https://www.wmata.com/about/records/public_docs/upload/FY2018-Approved-Budget.pdf>
[16] Ibid.
[17] WMATA. "WMATA Board Resolution 2019-09." Pg. 6. March 18, 2019. <https://www.wmata.com/about/board/meetings/board-pdfs/upload/10B-FY2020-Budget-Adoption-FINALIZED.pdf>

4. Usefulness of Virginia's 3% Cap

The Working Group evaluated the usefulness of the cap by examining how well the cap protected Virginia's operating subsidy against significant increases during the last two WMATA budget cycles (FY 2020 and FY 2021). For both FY 2020 and FY 2021, Virginia's base operating subsidy increased by 3% each year. Legislatively excluded subsidy growth assigned to Virginia represented an additional 1.0% increase in FY 2020 and an additional 9.3% increase in FY 2021 (Figure 2).[18] [19] The vast majority of FY 2021's legislative exclusions were for additional operating costs associated with the Silver Line Phase 2 project. Though projects like Silver Line Phase 2 or the future Potomac Yard Metrorail station cause fluctuations in Virginia's operating subsidy, they greatly contribute to meeting the transit needs of Northern Virginians.

Figure 2: Change (%) in FY 2020 and FY 2021
Jurisdictional Operating Subsidies with Legislative Exclusions

FY20 Subsidy with Legislative Exclusions				FY21 Subsidy with Legislative Exclusions			
	Annual Subsidy Operating Growth	Federal Mandates/ Litigation	% Change in FY20 Operating Subsidy	Annual Operating Subsidy Growth	Federal Mandates	Silver Line Phase 2	% Change in FY21 Operating Subsidy*
VA	3.0%	1.0%	**4.0%**	3.0%	0.5%	9.3%	**12.8%**
MD	3.0%	1.3%	**4.3%**	3.0%	1.2%	6.0%	**10.2%**
DC	3.0%	0.9%	**3.9%**	3.0%	0.5%	6.3%	**9.8%**
Total	3.0%	1.1%	**4.1%**	3.0%	0.8%	7.0%	**10.8%**

Notes:

*Figure does not include subsidy credits from the Coronavirus Aid, Relief and Economic Security (CARES) Act.

FY 2020 Legislative Exclusions included $4.7 million in ADA Paratransit Cost Increases (Federal Mandate), $2.5 million in litigation (Legal Disputes) and $4.1 million in Occupational, Safety and Health Costs (Federal Mandate). FY20 also included a $1.2 million budget adjustment for the Fraternal Order of Police and a $429,305 service reduction for the 2A Metrobus route.

FY 2021 Legislative Exclusions included $1.1 million to comply with DOT safety and training requirements (Federal Mandate), $7.6 million in paratransit cost increases (Federal Mandate) and $78.4 million in operating costs for Silver Line Phase 2 (Capital Projects).

From this perspective, the Working Group considers Virginia's 3% cap a useful tool to manage the growth in Virginia's operating subsidy increases. Given the recent enactment of the cap legislation, **the Working Group recommends no legislative changes to Virginia's 3% cap on the growth in operating assistance payments to WMATA at this time.**

Impact of Virginia's 3% Cap on Additional Stakeholders

NVTC staff also sought perspectives on the impact of Virginia's 3% cap with staff representatives from the District of Columbia and the State of Maryland. Because WMATA is a regional entity, a cap on any jurisdiction's operating subsidy impacts the other jurisdictions' operating subsidy. Overall, Virginia's counterparts in Maryland and the District of Columbia indicated that Virginia's

[18] WMATA. "Approval of Public Hearing Staff Report and adoption of FY2020 Operating Budget and FY2020-2025 CIP." Pg. 24. March 14, 2019. <https://www.wmata.com/about/board/meetings/board-pdfs/upload/3B-FY2020-Budget-CIP-Approval-REV-03-12.pdf>

[19] WMATA. "Approval of the FY 2021 Budget and FY 2021 – 2026 CIP." Pg. 4. April 2, 2020. <https://www.wmata.com/about/board/meetings/board-pdfs/upload/3A-FY2021-Budget-Approval-TO-POST.pdf>

cap helps manage the growth in the total jurisdictional operating subsidy. They also individually indicated similar concerns regarding the unintended consequences of WMATA's application of the legislative cap, and a desire to have uniformity in legislative caps between Virginia and Maryland.

NVTC staff also discussed Virginia's 3% cap with WMATA's General Manager and senior leadership team who expressed that Virginia's cap adds some stability to WMATA's budget and forces WMATA to examine its spending. They understood the importance of complying with the legislative 3% cap but articulated the challenges of implementing two legislative caps in such a complex funding environment.

5. Additional Exclusions to Virginia's 3% Cap

The current legislative exclusions to Virginia's 3% cap include:

- any service, equipment or facility that is required by any applicable law, rule or regulation;
- any major capital projects approved by the WMATA Board before or after the effective date of the CTB policy;
- any payment or obligation resulting from a legal dispute or proceeding; and,
- any service increases approved by the WMATA Board.[20]

The Working Group recommends no additional exclusions to the cap. The Working Group acknowledged the impact of the legislative exclusions on the ability to predict Virginia's annual operating subsidy, but the existing exclusions have not presented NVTC jurisdictions with major challenges in the past two budget cycles.

6. Working Group Recommendations

Because of the recent enactment of the legislative 3% cap, NVTC's 3% Cap Working Group recommends:

- No changes be made to the existing 3% cap legislation at this time;
- No additional exclusions should be considered;
- NVTC work with DRPT to clarify existing CTB policy guidance regarding the current legislative exclusions to the cap; and,
- NVTC continue to explore Virginia's 3% cap legislation, with the scope and timing of such an effort to be determined by the Commission.

[20] Chapter 1133 of the 2020 Acts of the Virginia General Assembly has not been implemented by WMATA in a budget cycle. As such, the legislation's impact on Virginia's operating subsidy is unknown.

7. Conclusion

Virginia's 3% cap appears to be a useful tool to manage the growth in Virginia's annual operating assistance payments to WMATA. Since the cap has only been in place for two budget cycles, the Working Group agreed that it is too soon to recommend changes to the 3% cap legislation. While no additional exclusions are necessary, the Working Group recommends that NVTC work with DRPT to clarify existing CTB policy guidance regarding the current legislative exclusions to the cap.

The Working Group remains concerned about the unintended consequences resulting from WMATA's approach to applying the Virginia's 3% cap and recommends ongoing engagement with WMATA. At the request of the Working Group and upon approval by the Commission, NVTC will continue to explore Virginia's 3% cap legislation.

NVTC
NORTHERN VIRGINIA TRANSPORTATION COMMISSION

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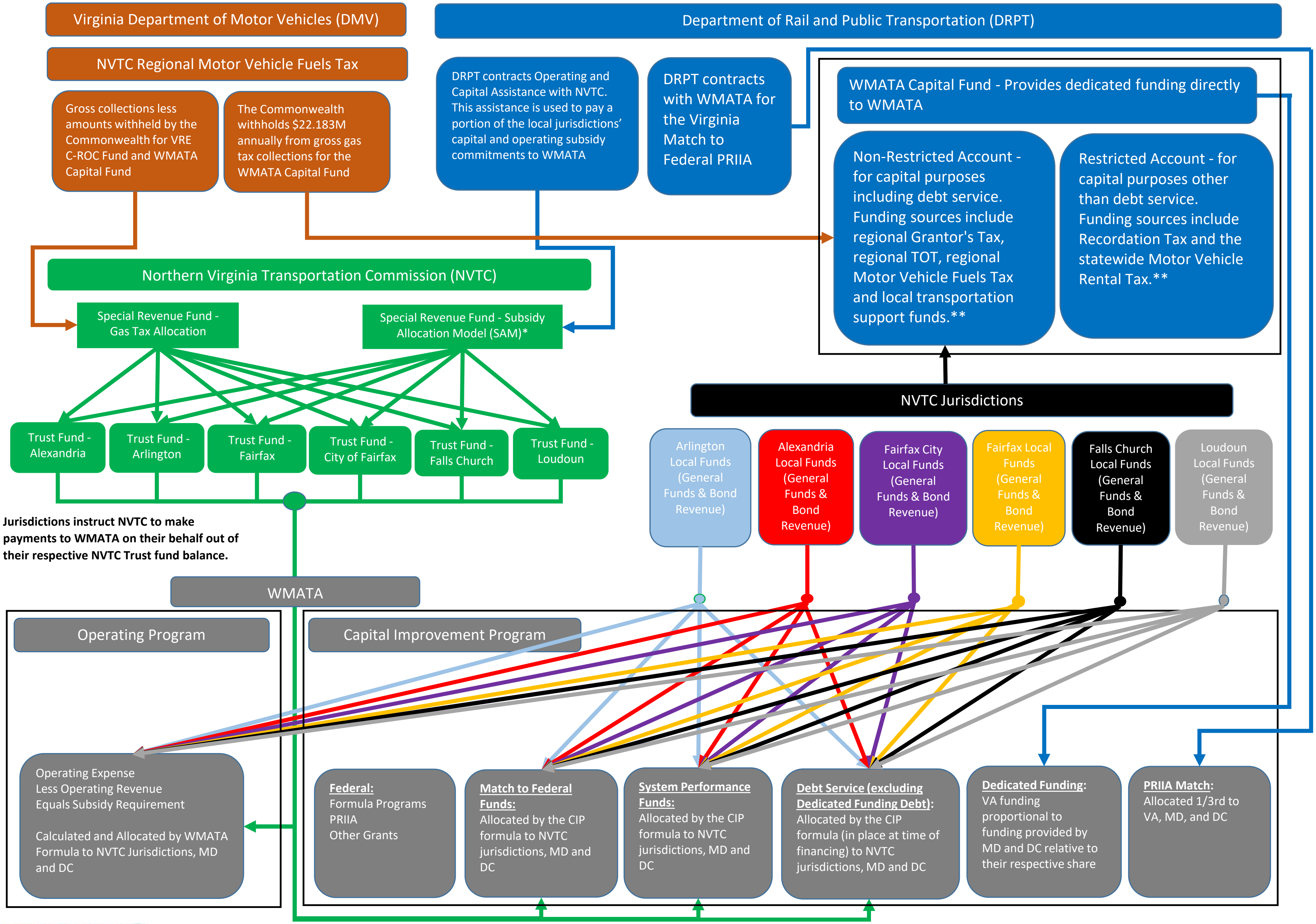
HOW WMATA IS FUNDED IN VIRGINIA - FISCAL YEAR 2022



NVTC NORTHERN VIRGINIA TRANSPORTATION COMMISSION

* Loudoun County participation in the SAM formula is effective with the start of revenue operations on the Silver Line Phase 2

**The Virginia General Assembly has directed additional funding in FY2022 to shore up the WMATA Capital Fund

Updated March 2021

NORTHERN VIRGINIA TRANSPORTATION COMMISSION

NVTC SUBSIDY ALLOCATION MODEL (SAM)

The data inputs of the SAM formula include:

- The budgeted operating subsidies for WMATA by jurisdiction
- The budgeted capital subsidies for WMATA by jurisdiction
- The budgeted local operating deficit for each system, except for Loudoun County
- The budgeted local capital needs, except for Loudoun County

Those inputs are totaled for each jurisdiction, with the local capital needs amortized over a 5-year period. The total for each jurisdiction is compared to the total for NVTC to arrive at a percentage, which is applied to the total DRPT transit operating and capital assistance reimbursements actually received during the fiscal year.

Regional gas tax revenue is allocated among the jurisdictions using the previous year's collections on a point of sale basis compared to the NVTC total. That percentage is used to allocate the gas tax received during the fiscal year among the jurisdictions.

While presently no WMATA formula apportioned local jurisdiction debt service, the SAM formula specifies that 95% of WMATA debt service is taken off the top of capital assistance reimbursements as it is received. 5% of the WMATA debt service is taken off the top of the motor fuels tax. These funds are required to be withheld and remitted directly to WMATA by NVTC.

Revenue is taken off the top of the state assistance before allocating among the jurisdictions for certain expenses. These include a portion of NVTC's General and Administrative budget, as reflected in the annual approved budget, and the NTD bus data collection.

The SAM formula includes several hold harmless mechanisms as explained in the "summary of the resolution #756…" document.

Allocated revenue is held in trust for each jurisdiction for their restricted use for transit purposes. Disbursements from the trust are made by written request by the jurisdiction. These disbursements include payments to WMATA and the local jurisdictions for transit operating and capital needs.

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NVTC Formula Allocation Chronology

FY 1975 (Resolution #131)

Received $1.5 million of federal Section 5 operating assistance funds allocated to jurisdictions in proportion to their WMATA bus operating subsidies (which were allocated by WMATA based on bus-miles). Other alternatives initially considered included combinations of bus- miles and population/population density. Allocated state capital funds (at least $3.5 million annually) in proportion to WMATA capital billings (e.g. Metro construction in proportion to the first interim capital contributions agreement).

FY 1978 (Resolution #157)

Received $4.0 million of federal Section 5 operating assistance funds allocated to jurisdictions in proportion to their combined Metrobus and Metrorail operating subsidies.

FY 1979 (Resolution #163)

Endorsed allocation of fixed Metrobus costs to Virginia based on FY 1975 peak bus requirements, but continued to allocate those costs within Virginia in proportion to the jurisdictions' shares of variable bus costs. Directed staff to prepare "alternatives to the fixed cost allocation".

FY 1981 (Resolution #182)

Received $8.7 million of regional two percent motor vehicle fuels sales tax revenues eligible for WMATA debt service and operating subsidies, with proceeds taken "off-the-top" for debt service and using FY 1982 gas tax proceeds to cover past due Metrobus and Metrorail subsidies of the City of Fairfax. A portion of federal operating assistance is taken off the top to pay the FY 1982 Metrorail operating subsidy of the City of Fairfax. All remaining gas tax and federal operating funds are to be allocated to NVTC's jurisdictions in proportion to combined Metrobus and Metrorail operating subsidies.

FY 1983 (Resolution #200)

Use state aid off the top ($20.6 million) for one-half of NVTC's administrative costs, WMATA debt service, and Metrobus capital one-tenth amortizing adjustment. Use federal operating assistance off the top to pay directly to WMATA the City of Fairfax's Metrorail operating subsidy. Allocate all remaining federal operating assistance, regional motor vehicle fuels sales tax, and a portion of state aid equal to half of Virginia's WMATA administrative costs to the five jurisdictions in proportion to shares of WMATA combined bus and rail <u>operating subsidies</u> and WMATA construction management costs. Allocate all remaining state aid to the five jurisdictions in proportion to shares of combined bus and rail <u>capital costs</u> of WMATA. Other alternatives considered included shares of operating costs or subsidies and population density.

FY 1984 (Resolution #205)

Same as FY 1983, except after covering off the top payments, allocate all remaining federal operating assistance, motor vehicle fuels sales tax revenues and state aid in proportion to <u>the average of</u>:

A. shares of combined WMATA bus and rail operating <u>subsidies</u>, WMATA construction management costs, WMATA bus and rail capital costs, local system operating <u>subsidies,</u> and 20 percent of capital outlays for local bus systems; and
B. shares of combined WMATA bus and rail operating <u>costs</u>, WMATA construction management costs, WMATA bus and rail capital costs, the local bus system operating <u>costs,</u> and 20 percent of capital outlays for local bus systems (excluding City of Fairfax operating/capital costs and subsidies). The remaining 80 percent of local bus capital outlays would be included in subsequent years at a rate of 20 percent each year for four years.

The above formula was a compromise reached after extensive debate and involved accepting two alternatives and dividing by two. A motion to reconsider and "spread it on the minutes" for the next meeting was made. At the next meeting, several votes eventually reconfirmed Resolution #205.

FY 1985-87 (Resolution #224)

Use state aid off the top for one-half of NVTC's administrative costs, WMATA debt service, Metrobus capital one-tenth amortizing adjustment and $100,000 as a contingency to defray unanticipated overruns in Metro costs of the City of Fairfax (the city had agreed to begin paying Metrorail and Metrobus operating subsidies). Allocate all remaining federal, state and regional funds in proportion to:

A. <u>three-quarters</u> the combined WMATA bus and rail operating <u>subsidies</u>, WMATA construction management costs, WMATA bus and rail capital costs, local system operating <u>subsidies,</u> and 20 percent of capital outlays for local bus systems; and

B. <u>one-quarter</u> the same factors as "A.", but substitute <u>costs</u> for subsidies.

Again, lengthy and heated debate occurred, with proposed alternatives including distribution of regional motor vehicle fuels sales tax based on point of sale, and allocations based totally of relative subsidies. As part of the motion that was adopted, the commission agreed to seek a legislative change to base local shares of NVTC's administrative budget on shares of NVTC aid (versus shares of population). Also, Fairfax County agreed to withdraw its lawsuit against the City of Falls Church regarding shares of payment for a new county courthouse.

FY 1988 (Resolution #258)

Add costs of W-3 bus service in D.C. to the off the top allocations. Commuter rail expenses excluded from the formula given other direct sources of state aid. Include park-and-ride lot costs serving Metrorail, either debt service or one- fifth of cost, after deducting project revenues. Provisions for possible advance funding of the Franconia/Springfield Metrorail station.

FY 1989-91 (Resolution #284)

Delete provisions for the $100,000 contingency for guaranteeing the City of Fairfax's Metro subsidy agreements. Allow capital costs of VRE parking lots into the formula if not covered by state or federal grants. Broaden Metro park-and-ride lots allowed to include those served by "transit vehicles." Add hold harmless provisions capping maximum reduction in percentage share of NVTC aid in any one year at 10 percent for Alexandria, Arlington, and Fairfax County and at 20 percent for the cities of Falls Church and Fairfax. Add extensive definition of NVTC's trust responsibilities and investment policy (for protection of assets due to pending start of VRE service).

FY 1995 (Resolution #587)

Allow NVTC to pass CMAQ or RSTP grants through to local recipients at their option without applying NVTC's allocation formula. Define formula for allocation of state bond proceeds received by NVTC to be NVTC's formula in effect in the year in which the funds are received.

FY 1996

Create a process to develop formula alternatives by December 1995 that are in accordance with the commission's objectives and policies stated in its June 1994 strategic bus process. Reserve $1.8 million of motor vehicle fuels sales tax revenues to be allocated as part of consideration of alternative formulas.

FY 1997

Use approximately $500,000 of the reserve fund each year for two years to pay the balance of the Metrobus subsidy of Falls Church in order to preserve service while the region works on a long-term solution.

FY 1999 (Resolution #756)

Begin allocating motor vehicle fuels sales tax revenues according to point of sale, phased in over three years. Agree to work together to resolve additional issues pertaining to allocation of state aid and NVTC membership. Cities of Fairfax and Falls Church agree to pay full assigned Metrobus subsidies. Also agree to seek changes in the Virginia Code to base NVTC's formula on WMATA's formulas so that jurisdictions receive state aid from NVTC according to their relative WMATA and local transit subsidies. NVTC will pay debt service using 95 percent state aid taken off the top. Jurisdictions will be held harmless up to a specified level using growth in state aid.

FY 2000

Following action by the 1999 General Assembly, implement Resolution #756. (§33.2-1526.1G)

FY 2001

Point of sale motor vehicle fuels sales tax fully implemented.

FY 2004 (Resolution #971, #973)

Allow funds to be taken off the top of NVTC's revenues for assisting Northern Virginia transit systems in complying with federal reporting requirements for the National Transit Database.

Use the NVTC formula to allocate state assistance provided by DRPT directly to WMATA for the purchase of WMATA Series 6000 railcars.

FY 2005 (Resolution #1065)

Allow funds to be taken off the top of NVTC's revenues for a continuing regional project to update electronic transit schedules.

FY2012 (Resolution #2171A, 2187)

Deobligated project costs exceeding $1 million are to be deducted from the allocation formula in the year after deobligation, to restore to NVTC's other jurisdictions the amount of revenue lost due to crediting the deobligating jurisdiction for project costs it did not actually incur.

When Loudoun County contracts with WMATA for Metrorail service, and such services become operational, Loudoun County will be a full participant in the NVTC allocation formula with the exception of the expenses and subsidies for Loudoun County Transit and any other non-WMATA local transit service in the County.