

Technical Memorandum

TO: Steve Pittard, Chief Financial Officer
Virginia Department of Rail and Public Transportation

FROM: Susan Binder
Cambridge Systematics, Inc.

DATE: June 13, 2011

RE: Flow of Funds for Public Transportation in Virginia

Background

As the first step of Phase I of the Public Transportation Study, we have researched the current process by which funds are allocated for the various public transportation programs administered by your agency. Based on interviews with you and your staff as well as a variety of resource materials available to us, we have documented our findings in this technical memorandum. Essentially, it serves as a baseline for the development of a Phase II workplan and a foundation for your efforts to communicate the process to public transportation stakeholders.

This technical memorandum focuses on the public transportation component of DRPTs portfolio. It is organized as follows:

Legal Authorities – presented as background to the subsequent financial actions in terms of State Program Authorizations, Appropriation Actions, State Transit Programs, Federal Transit Programs, and Planning Grants. (Appendix C contains the applicable excerpt of the Virginia Code; Appendix D contains the applicable excerpt from the Virginia Appropriations Act.)

Funding Implementation – discusses the manner in which Transit Funds are distributed by the State of Virginia from the Mass Transit Trust Fund, the Mass Transit Capital Fund, the Highway Construction Fund, and Federal funds.

Institutional Relationships

The Virginia Department of Rail and Public Transportation (DRPT) is the state agency responsible for rail, public transportation, and commuter services in Virginia, with a mission to improve the mobility of people and goods while expanding transportation choices in the Commonwealth.

Although originally a component of the Virginia Department of Transportation (VDOT), DRPT was established as a separate agency, reporting to the Virginia Secretary of Transportation, in FY1992. Along with the VDOT, DRPT is responsible for developing the Six Year Improvement Program (SYIP), which includes funding for both agencies, and is approved annually by the Commonwealth Transportation Board (CTB).

DRPT's three main areas of responsibility include:

Rail - DRPT's Rail Division conducts funding and advocacy activities for passenger and freight rail in Virginia to support rail improvements, industrial access, and preservation projects.

Public Transportation - DRPT provides support to sixty public transit operators, 54 human service operators and 18 commuter assistance agencies in Virginia.

Commuter Services - DRPT participates in multi-modal planning and Transportation Demand Management (TDM) activities, including administration of Virginia's Telework!VA program. DRPT provides technical and financial support for commuter assistance.

Legal Authorities

The flow of funds dedicated for public transportation is derived from a series of legal authorities for the most part embodied in codified Virginia law and supplemented by appropriations actions and policy direction from the CTB. It is also influenced and supplemented by comparable Federal laws, administrative actions, and program requirements associated with Federal discretionary and formula grants.

Distributions Authorized at the Primary Transportation Trust Fund Level

Virginia's Transportation Trust Fund was established to fund improvements to highways, ports, airports and public transportation. Its revenue sources include a wide variety of transportation-related user fees. The relative size of these major revenues is shown in Figure 1 below.

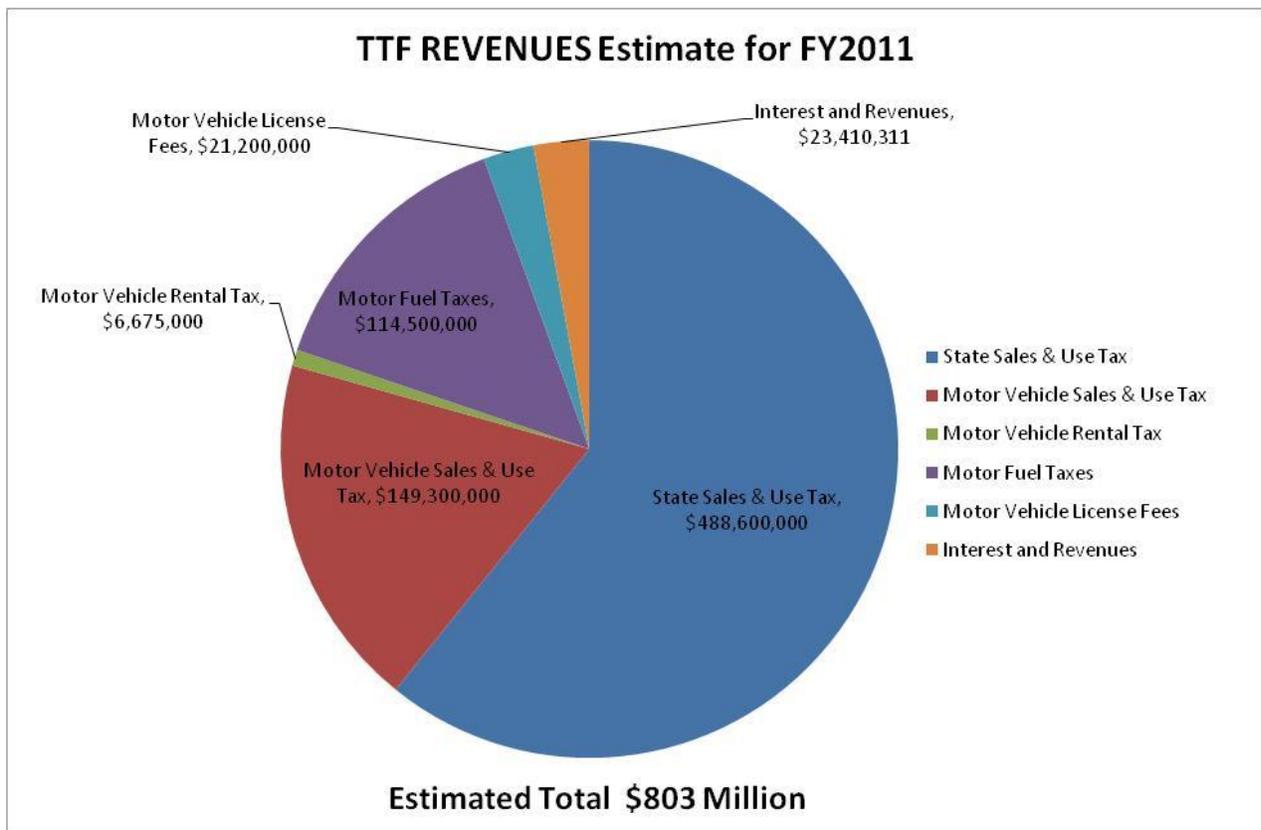


Figure 1 Distribution of revenues into the Commonwealth Transportation Trust Fund

The Transportation Trust Fund is in turn distributed across four modally oriented trust funds according to percentages set in statute as shown in Figure 2 below, one of which is the Mass Transit Trust Fund (MTTF).

- §58.1-638 of the Virginia Code, through SubSections A1 and A4, provides for funding that is allocated and administered by the DRPT.
- SubSection A4 establishes the Mass Transit Trust Fund (MTTF).
- SubSection A1 directs 14.7 percent of revenues to be paid from the “parent” Transportation Trust Fund (TTF) into the MTTF.

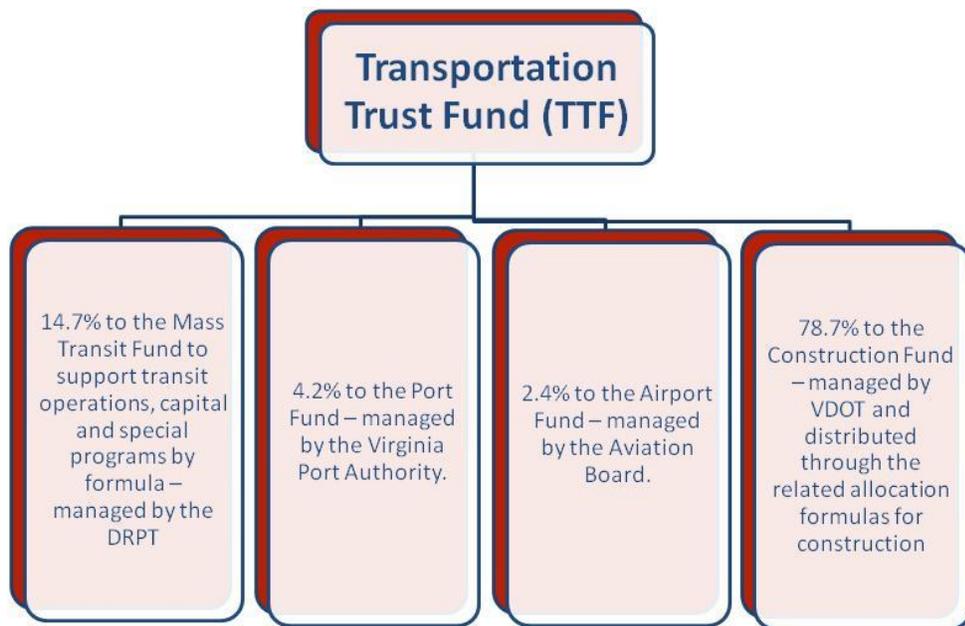


Figure 2 Distributions from the Transportation Trust Fund to the modal trust funds

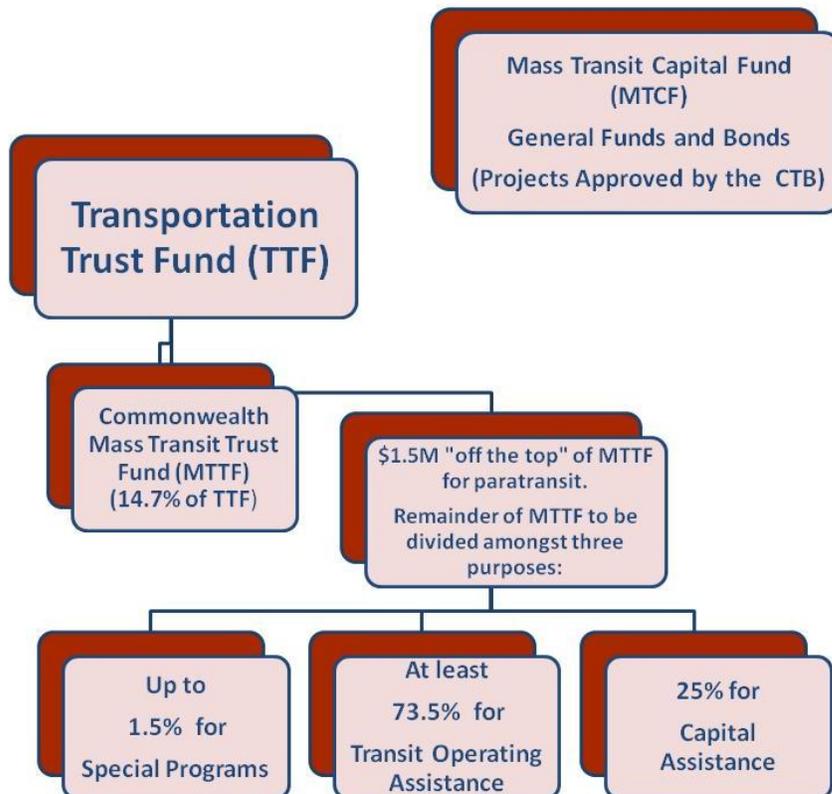


Figure 3 Transit sources and basic distribution

Distributions Authorized at the Secondary or Program Level

(1) *State Program Authorizations.* Figure 3 represents the two major components that are administered by DRPT – the MTTF and the Mass Transit Capital Fund (MTCF).

- SubSection A4 of the Virginia Code establishes the major distributions of the MTTF revenue among recipients. The available MTTF revenue is divided, with specified percentages, essentially into programs that address the following three program purposes :
 - **Special programs** - Subsection A4c allows for a maximum of 1.5% of the MTTF to be used for special programs such as ridesharing, experimental transit and technical assistance.
 - **Operating Assistance** - SubSection A4e designates at least 73.5 percent of the MTTF to fund operating assistance.
 - **Capital Assistance** - SubSection A4f directs 25 percent of the MTTF be distributed for capital purposes (subject to the condition described below).
- SubSection A4g provides for a separate Mass Transit Capital Fund (MTCF), which is funded through external sources such as funds appropriated to it by the General Assembly, bond proceeds, grants or endowments.
- Section 447A1c of the Appropriations act has now been codified in State Code. It addressed the possibility that operating assistance funding in current fiscal year may be estimated to be less than the prior year’s operating assistance available, giving the CTB the option to shift up to 20 percent of the MTTF designated to capital purposes for operating assistance instead. This was provided for in the 2011 Appropriation Act: “c. Notwithstanding the provisions of paragraph A.1.a and A.1.b of this item, prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the Commonwealth Mass Transit Fund dedicated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, in an effort to maintain transit operations at approximately the same level as the previous fiscal share.”

(2) *Appropriation Actions.* Appropriations Acts (most recent: 2010-2012) are enacted by the Virginia legislature to make funds available for expenditure by the executive branch agencies, such as DRPT, essentially establishing their biennial budgets. These laws can contain explicit direction as to the amount, purpose, and duration of any expenditure. Although the authorizing language of the Code is considered permanent and continuing, provisions of an appropriations act supersede the code language for a particular period. For example, such provisions can affect the distribution of public transit funds by appropriating specific funding levels for specific projects, supplementing the trust funds

with revenues from other sources, or changing the distribution among the program categories.

- Section 447A2 of the 2011 Appropriation Act established that “Included in this Item [MTTF distribution] is \$2,500,000 the first year and ~~\$2,500,000~~\$1,500,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for “paratransit” capital projects and enhanced transportation services for the elderly and disabled.” Therefore, \$1.5 million is shown in Figure 3 as an “off-the-top” takedown from the MTTF for purposes of paratransit activities.

(3) State Transit Programs

From the various State funding sources available to it, DRPT administers eight State Aid Grant Programs. These individual programs are structured based on the types of assistance provided and the purpose served. The DRPT Grant Program Application Guidance goes into great detail as to the financial characteristics and administrative requirements for each. The source of funding for each of the eight programs is listed below:

- Operating Assistance - MTTF and Recordation Tax
- Capital Assistance - MTTF and MTCF
- Special Projects Fund - MTTF
 - Demonstration Project Assistance
 - Technical Assistance
 - Public Transportation Interns
- Transportation Demand Management (TDM) Operating Assistance - Transportation Efficiency Improvement Fund (TEIF) whose original funding source is VDOT’s portion of the TTF.
- Transportation Management Project Assistance - TEIF
- Senior Transportation Program - Paratransit Funds

In addition, FHWA funding can also be applied toward transit projects with VDOT as the direct recipient. Transit-related expenditures are eligible under several program categories and, at the option of either the State DOT or the urban Metropolitan Planning Organizations, may be transferred to FTA for those purposes. Upon transfer, these programs are administered by the Federal Transit Administration and DRPT. Such Federal programs have specific conditions but their funds are relatively flexible across transportation modes. The two programs that can be used in this manner are the Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality Program (CMAQ). FHWA funding may also be used by authorizing the Federal award and leaving the funding at FHWA. In these cases, VDOT remains the direct recipient and DRPT requests reimbursement of expenses incurred from FHWA through VDOT.

(4) Federal Transit Programs

DRPT administers seven Federal Aid Transit Grant Programs derived from Title 49 of the United States Code. Each year, the Congress (after making an appropriation) provides for an

annual apportionment which funds these programs. The Federal Transit Administration (FTA) distributes these funds, many of which are either by formula or as specific earmarks. The majority of these recipients are specific sub-State governmental units, public organizations, or transit authorities. For some programs, funding is provided to States, who in turn make a distribution based on the Federal program criteria, to local governments, public organizations, and in some cases, to private non-profit organizations.

Federal funding is a consideration in the flow of overall transit funding in Virginia in several ways:

- Federal funding that has been received by a transit provider could be a factor in the determination of operating assistance. Such amounts are deducted from the gross operating expenses in calculating the 95% ceiling of transit operating expenses that DRPT is allowed to fund. However, in practice, since the cap has not ever been reached, the Federal funding is not a consideration in the calculation.
- Since most Federal Transit programs require at least a 20% non-Federal match, applications for State funding include such requests.
- Those Federal programs that are managed at the State level, as opposed to having federally designated direct recipients, are distributed by DRPT. Those grantees who receive Federal operating assistance based on the current year budgeted operating expenses also participate in the allocation of State operating assistance in the same manner as all other grantees. Most grantees who receive allocations of Federal capital assistance through DRPT also participate in the allocation of State capital assistance, as a percentage of the non-federal project cost.

In addition to the planning grants below, such programs include:

- FTA Section 5310 – Transportation for Elderly Persons and Persons with Disabilities;
- FTA Section 5311 – Rural Areas;
- FTA Section 5316 - Jobs Access and Reverse Commute Program; and
- FTA Section 5317- New Freedom Program.

FTA Section 5311 provides operating and capital funding for the rural grantees throughout the Commonwealth. Section 5307 also serves as operating funds for the small urban grantees, that is those grantees whose populations are between 50,000 and 200,000. Both sources of federal funding for operating are awarded to the Commonwealth and then apportioned to the grantees who use the funding to cover up to 50% of the deficit between budgeted expenses and budgeted revenues. These grantees receive state operating assistance as well.

(5) Planning Grants

Several State and Federal sources can be drawn upon to provide support for transit planning. Federal funds are provided, as described by the U.S. Federal Transit Administration “to support cooperative, continuous, and comprehensive planning for making transportation investment decisions in metropolitan areas and statewide.” Two major transit planning programs have been authorized in Federal statute: Section 5303, for which DRPT requires an application, covers Metropolitan Planning; Section 5304 is used by DRPT to fund Statewide Planning. These Federal planning funds are first apportioned (distributed by national formulas) to State DOTs. In turn, DRPT allocates Section 5303 planning funding to the 14 Metropolitan Planning Organizations (MPOs) in the State. In addition, planning activities can be supported under Virginia’s Technical Assistance Program.

Funding Implementation

Distribution of Transit Funds from the MTTF

Overview. In general, the majority of funding provided for public transit by the State of Virginia reflects statutory direction that a percentage of the Commonwealth Mass Transit Trust Fund (MTTF) is dedicated either to operating assistance, capital assistance, or special programs for public transit providers. Once the available funding is determined, three major characteristics of the MTTF drive the distribution of that funding:

- (1) In the case of operating assistance, in concept, the Virginia code limits the amounts provided as operating assistance to certain expenses. As caps are never reached, the limits have never been applied.
- (2) The State share of a recipient’s total operational or capital costs is “capped” at 95%.
- (3) The amount provided to each grantee is determined by a series of calculations that result in a relative share of expenditures and capital needs for each of the State’s various transit providers, proportional to all transit providers’ expenditures and capital needs.

Commonwealth Mass Transit Trust Fund Grants. The following policy directives under current Virginia law are executed through a sequence of calculations, enabling funds to be allocated to transit providers across the State. Prior to calculating the amounts for operating and capital assistance, \$1.5 million for paratransit purposes is deducted from the balance of the MTTF.

- (1) Up to 1.5% of the MTTF is dedicated to Special Programs.
 - a. Special Programs Defined: Title 58.1-638 of the Code of Virginia, SubSection A4c(1) provides “Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the fund.”

b. Share and Recipients:

- i. SubSection A4c(2) goes on to provide that these funds can be used for up to 80% of the local share for “development, implementation, and continuation of ridesharing programs,” However, as TEIF funds support ridesharing programs, Special Program funds are used for technical assistance, interns, and cutting edge demonstration projects with a focus on Intelligent Transportation Systems (ITS).
- ii. Although the provision of new service may be supported through the Special Program as a form of technical assistance, historically, new service has been funded through operating assistance. .
- iii. SubSection A4c(3) goes on to provide that “any local governing body, transportation district commission, or public corporation....” or DRPT itself can receive up to 95% of capital and/or operating costs of experimental transit and ridesharing projects approved by the Commonwealth Transportation Board. Historically, DRPT has provided 100% for its own operation, with a one-year limit placed on such operating assistance.

(2) Basis for determining allocations for operating assistance. Operating assistance is allocated to transit providers in support of future operations. The allocations equal the relative share of total expenses from two years prior (i.e., FY10 expenses funded in FY12) for a particular transit provider of the total operating expenses statewide. DRPT reviews activity at year-end to verify that transit providers incurred sufficient eligible expenses to meet their grant requirements. Approximately 5%-10% of grant funds are withheld as a final payment which is provided following this verification.

a. Universe of applicants/grant recipients for operating assistance:

- i. As stated in the Virginia code: “At least 73.5 percent of the [MTTF] shall be distributed to each transit property....” Thus the initial determination, as reflected in the DRPT Application Guidance, has been made that eligible grant recipients include “providers of public transportation service” including local governments, Transportation District Commissions, and Public Service Commissions.
- ii. The terminology of “public” transportation service excludes services not available to the general public.
- iii. New services could qualify for operating assistance with their expected costs based on transit operational plans and budgets for such services.

b. Expenditure Information to Determine Operating Assistance: The relationship upon which operating assistance allocations are derived is based on the latest

available audited reports of prior expenditures submitted by transit providers. Eligibility is verified during the final eligibility process.

- i. Eligible costs: The operating assistance allocation is derived by comparing the total operating costs for an individual provider with the total of operating costs across the State during that period.
 - Virginia code SubSection A4b limits eligibility for operating assistance to administrative costs and local costs for fuels, lubricants, tires and maintenance parts and supplies in excess of fares and other operating revenues plus federal assistance received by the locality.” In establishing the operating assistance distribution under SubSection A4e, it limits the eligible costs upon which the formula depends to “...the purposes specified in subdivision 4b.”
 - The DRPT Guide provides illustrative eligible and ineligible expenses and clarifies that:
 - a. only expenses for purchases consumed during the period are eligible
 - b. salaries, wages and fringe benefits of vehicle operators, mechanics, vehicle and on-vehicle maintenance workers, cleaners, etc and insurance costs allocated to these employees are not eligible expenses
 - c. expenses that are already funded through any other DRPT grant are ineligible
 - d. expenses associated with services contracted for or by exclusive customers are also not eligible
- ii. Timeliness: This can entail a lag of about 2 years between the year for which operating assistance is funded and the basis year. Providers report their costs based on their own fiscal years therefore consistent treatment may be an issue.
- c. Statutory Cap on State share of annual eligible operating costs: A maximum state participation ratio for operating assistance is set in Virginia Code at 95% of any grantee’s total operating costs.
 - i. Calculations are made to assure that allocations do not exceed this limit. The DRPT Guide refers to this as the Maximum Eligibility Test.
 - ii. In practice, the amounts made available have not triggered this limit and therefore it has not been a constraint. According to the DRPT Guide, “...

Historically, the Operating Assistance Program has matched between 35 percent and 50 percent of eligible operating expenses.”

- (3) Basis for determining allocations for capital assistance from the Mass Transit Trust Fund (MTTF). MTTF capital assistance is allocated to transit providers in support of approved grant applications submitted to the DRPT.
- a. If funds are sufficient, all eligible projects are funded to the maximum level of 95% of the non-Federal share.
 - b. If funds are insufficient to fund the complete list of eligible projects; then the amount distributed to each transit provider is in the same proportion as its eligible capital requests bear to the total statewide eligible capital requests.
 - c. Universe of applicants/grant recipients for capital assistance:
 - i. As stated in the Virginia code: “25 percent of the [MTTF] shall be distributed for capital purposes on the basis of (*up to*) 95 percent of the non-Federal share for Federal projects and (*up to*) 95 percent of the total costs for non-Federal projects,” depending upon available funds.
 - ii. Eligible grant recipients, as reflected in the DRPT Application Guidance, include existing and new “providers of public transportation service” including local and DRPT, Transportation District Commissions, and Public Service Commissions. The terminology of “public” transportation service excludes services not available to the general public.
 - d. Local match: The DRPT Guide notes that “the non-Federal share of each grant application is multiplied by the match percentage to determine the State funds to be allocated by DRPT. The remaining non-Federal share must be met through local funding.”
 - e. Basic eligibility: The DRPT Guide notes that operating expenditures such as depreciation costs and preventive maintenance expenses are not covered by this program. The DRPT Guide also provides illustrative eligible expenses and clarifies that eligible capital expenses include, but are not limited to items such as:
 - i. the purchase or lease of new vehicles and equipment,
 - ii. the rehabilitation of vehicles and equipment,
 - iii. the improvement or construction of transit maintenance and operations facilities,
 - iv. the purchase and installation of bus stop signs and shelters,

- v. the cost of debt service for major capital projects,
 - vi. real estate/right-of-way acquisition, and
 - vii. safety and security equipment.
- f. Verification of eligible projects: The DRPT Guide notes that “Replacement/Rehabilitation of Existing Equipment - will be evaluated against consistency with the DRPT Asset Management System and consistency with the capital budgeting information submitted every year by applicants to develop the Six Year Improvement Program.”
- g. New Service:
- i. The DRPT Guide notes that as of FY12, existing systems must have a completed and adopted Transit Development Plan in order to request Capital Assistance for new service. Although this is not a current DRPT practice, it is a goal to do so.
 - ii. The DRPT guide also notes that local transit providers must prepare a plan before requesting any Capital Assistance from DRPT for new service (this does not include expanding existing routes). As noted in Virginia Code and the Guide, planning funds may be applied for through DRPT’s Technical Assistance Program. All requests for new service are evaluated by DRPT staff using the Transit Service Design Guidelines.
- h. Statutory Cap on State share of annual capital costs: A maximum state participation ratio for capital assistance is set in Virginia Code at 95% of any grantee’s non-federal capital costs funded by the MTTF.
- i. In practice, the amounts made available have not triggered this limit for the MTTF capital funds, and therefore it has not been a constraint.
 - ii. According to the DRPT Guide, “The capital match ratio can vary significantly based upon the amount of capital needs for the upcoming fiscal year (available fund in any given year) and any supplemental funding appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.”

Commonwealth Mass Transit Capital Fund Grants

In contrast to the formula distribution for capital transit investments described above from the MTTF, Mass Transit Capital Fund (MTCF) funds are allocated to specific projects approved by the CTB. They are funded through bond proceeds, grants, appropriations, and other sources. For the MTCF, the maximum allowable match is 80 percent.

Consideration is given to both the purpose of the investment and the funding sources that applicants have available for transit capital investment.

- In terms of the former, the highest priority is given to applications that advance the replacement of transit rolling stock.
- The latter is reflected in the consideration of using State funds as a portion of the match to Federal grant programs.
 - Many Federal transit grants provide 80% of eligible expenditures.
 - Assuming that applications are made for the 20% match to Federal funds, an 80% DRPT grant is calculated as 80% of that 20%, or effectively 16%. Thus recipients have a 4% effective match requirement.
 - If applications are made for the full project without any expectation of Federal funding, the draw upon DRPT funding is potentially much higher.
 - Based on both fairness and the desire to address a broader range of transit needs while providing a predictable match to applicants, DRPT has instituted a policy of tiered grants from the MTCF, providing no more than a 50% match for those grants where applicants are not using Federal funds.

Transportation Efficiency Improvement Fund (TEIF).

Funding for transportation demand management (TDM) activities comes from the Transportation Efficiency Improvement Fund (TEIF). The program supports the operating costs of existing or new local and regional TDM initiatives. As described in the DRPT Application Guide, the “primary goal of these programs is to help decrease highway congestion and improve air quality by facilitating commuter mobility in high occupancy transportation modes.” The origin of these funds is the Highway Construction Fund and the amount of money allocated to the program varies depending upon the needs. The total amount of money available has been \$4 million in recent years. DRPT provides 80% of the eligible expenses which include:

- Promoting local TDM Programs
- Providing on-site training and assistance to local TDM Programs where needed
- Assisting in development of new TDM Programs where needed
- Fostering regional cooperation in the provision of ride matching services and public transportation promotional and educational campaigns
- Developing and implementing public/private partnerships
- Promoting TDM as an essential component of a multi-modal transportation system
- Evaluating the effectiveness and efficiency of all TDM services
- Administrative costs for: providing carpool and vanpool ride matching services; promoting all high occupancy commuter transportation modes; assisting private/public sector employers, developers, and transportation management associations to promote TDM services; and promoting the planning, development and use of facilities and programs that facilitate the use of high occupancy modes

Appendix A

State Grant Programs Administered by DRPT

State Aid Grant Programs	Statutory Match Ratio (of eligible expenses)	Source of Funds
Paratransit Assistance		Mass Transit Trust Fund (\$1.5M)
Operating Assistance	Up to 95%	Mass Transit Trust Fund
Capital Assistance	Up to 95%	Mass Transit Trust Fund Mass Transit Capital Fund
Demonstration Project Assistance	Up to 95%	Mass Transit Trust Fund
Technical Assistance	Up to 50% Federal Funds may be provided to support 80% of project costs	Mass Transit Trust Fund
Public Transportation Intern Program	Up to 95%	Mass Transit Trust Fund
TDM Operating Assistance	Up to 80%	Transportation Efficiency Improvement Fund (transferred from VDOT)
Transportation Management Project Assistance	Up to 80%	Transportation Efficiency Improvement Fund (transferred from VDOT)
Senior Transportation Program	Up to 95%	Mass Transit Trust Fund Paratransit Assistance

Appendix B

Federal Transit Administration Grant Programs Administered by DRPT

Federal Aid Grant Programs	Statutory Match Ratio
FTA Section 5303 - Metropolitan Planning	Up to 80% of eligible expenses
FTA Section 5304 - Statewide Planning	Up to 80% of eligible expenses
FTA Section 5307 - Small Urban Areas Program	Up to 50% of net operating expenses Up to 80% of eligible capital expenses
FTA Section 5310 - Transportation for Elderly Persons and Persons with Disabilities	Up to 80% of eligible capital expenses
FTA Section 5311 - Rural Areas	Up to 50% of net operating expenses Up to 80% of eligible capital expenses
FTA Section 5316 - Jobs Access and Reverse Commute Program (JARC)	Up to 50% of eligible operating expenses Up to 80% of eligible capital expenses
FTA Section 5317 - New Freedom Program	Up to 50% of eligible operating expenses Up to 80% of eligible capital expenses

Appendix C

Code of Virginia: Allocation of Funds Administered by DRPT

§ 58.1-638. Disposition of state sales and use tax revenue

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § [33.1-23.03:1](#). Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the

Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § [5.1-2.16](#), or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

- a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however, shall receive less than \$50,000 nor more than \$2 million per year from this provision.
 - b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever airports on a discretionary basis, except airports owned or leased by MWAA.
 - c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports on a discretionary basis.
4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.
- a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.
 - b. The amounts allocated pursuant to this section shall be used to support the public transportation administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the local or nonfederal share of capital project costs for public

transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth Transportation Board as follows:

(1) Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the Fund.

(2) The Board may allocate these funds to any locality or planning district commission to finance up to 80 percent of the local share of all costs associated with the development, implementation, and continuation of ridesharing programs.

(3) Funds allocated for experimental transit projects may be paid to any local governing body, transportation district commission, or public corporation or may be used directly by the Department of Rail and Public Transportation for the following purposes:

(a) To finance up to 95 percent of the capital costs related to the development, implementation and promotion of experimental public transportation and ridesharing projects approved by the Board.

(b) To finance up to 95 percent of the operating costs of experimental mass transportation and ridesharing projects approved by the Board for a period of time not to exceed 12 months.

(c) To finance up to 95 percent of the cost of the development and implementation of any other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

d. Funds allocated for public transportation promotion and operation studies may be paid to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(1) At the approval of the Board to finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(2) To finance up to 50 percent of the local share of public transportation operations planning and technical study projects approved by the Board.

e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be

spent for the purposes specified in subdivision 4 b.

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § [56-557](#) and for purposes as enumerated in subdivision 4c of § [33.1-269](#) or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal share of the total project cost.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for these payments.

b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using

the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

Appendix D

Excerpts from 2011 Session Budget Bill Chapter 890

Department of Rail and Public Transportation (505)

446.	Ground Transportation Planning and Research (60200)	3,250,125	3,314,850 3,017,798
	Rail and Public Transportation Planning, Regulation, and Safety (60203)	3,250,125	3,314,850 3,017,798
Fund Sources:	Commonwealth Transportation	3,250,125	3,314,850 3,017,798

Authority: Titles 33.1 and 58.1, Code of Virginia.

A. The Commonwealth Transportation Board may allocate up to three percent of the funds appropriated in Item 447 and Item 448 to support costs of project development, project administration and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs set out in §§ 58.1-638, 33.1-221.1:1.1 and 33.1-221.1:1.2, Code of Virginia.

B. Out of the amounts identified in this Item, \$291,227 the first year and ~~\$297,052 the second year~~ from the Commonwealth Transportation Fund shall be paid to the Washington Metropolitan Area Transit Commission.

Department of Rail and Public Transportation (505)

447.	Financial Assistance for Public Transportation (60900)	292,273,380	317,229,869
------	--	-------------	-------------

Public Transportation Programs (60901)	275,504,668	300,362,662
Congestion Management Programs (60902)	9,344,000	9,344,000
Human Service Transportation Programs (60903)	7,424,712	7,523,207
Fund Sources: Special	774,662	790,156
Commonwealth Transportation	291,498,718	316,439,713

Authority: Titles 33.1 and 58.1, Code of Virginia.

A.1. Except as provided in Item 446 A, the Commonwealth Transportation Board shall allocate all monies in the Commonwealth Mass Transit Fund, as provided in § 58.1-638, Code of Virginia. The total appropriation for the Commonwealth Mass Transit Fund is \$151,542,592 the first year and \$156,110,283 the second year from the Transportation Trust Fund. From these funds, the following estimated allocations shall be made:

a. \$113,094,635 the first year and \$116,374,670 the second year to statewide Formula Assistance as provided in § 58.1-638, Code of Virginia. The allocation of Formula Assistance to each recipient shall be limited to the recipient's maximum eligibility as defined in § 58.1-638, Code of Virginia. When the initial allocation to a recipient is greater than the recipient's eligibility to receive Formula Assistance, the Commonwealth Transportation Board may transfer the surplus funds to the statewide Capital Assistance program for distribution under that program. The Commonwealth Transportation Board may hold harmless from a reduction in state formula assistance any transit system that maintains service levels from the previous year.

b. \$30,624,979 the first year and \$31,740,638 the second year from the Commonwealth Mass Transit Fund to statewide Capital Assistance.

c. Notwithstanding the provisions of paragraph A.1.a and A.1.b of this item, prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the Commonwealth Mass Transit Fund dedicated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, in an effort to maintain transit operations at approximately the same level as the previous fiscal share.

2. Included in this Item is \$2,500,000 the first year and ~~\$2,500,000~~\$1,500,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for "paratransit" capital projects and enhanced transportation services for the elderly and disabled.

3. From the amounts appropriated in this Item from the Commonwealth Mass Transit Fund, \$1,837,498 the first year and \$1,904,438 the second year is the estimated allocation to statewide Special Programs as provided in § 58.1-638, Code of Virginia.

4. Not included in this appropriation is an amount estimated at \$24,845,625 the first year and \$24,998,405 the second year allocated to transit agencies from federal sources for the Surface Transportation Program (STP) and the Minimum Guarantee program.

B. The Commonwealth Transportation Board shall operate a program entitled the Transportation Efficiency Improvement Fund (TEIF). The purpose of the TEIF program is to reduce traffic congestion by supporting transportation demand management programs and projects designed to reduce the movement of passengers and freight on Virginia's highway system. Using transportation revenues generally available to the Board, funds shall be apportioned as determined by the Board to designated transportation projects in addition to funds allocated pursuant to § 33.1-23.1, Code of Virginia. Total TEIF program funding shall not exceed \$4,000,000 the first year and \$4,000,000 the second year.

C. Funds from a stable and reliable source, as required in Public Law 96-184, as amended, are to be provided to Metro Rail from payments authorized and allocated in this program and pursuant to § 58.1-1720, Code of Virginia. *Notwithstanding any other provision of law, funds allocated to Metro under this program may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro as deemed appropriate by the Department. In appointing the Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary of Transportation or his designee as a principal member on the WMATA board of directors.*

D. Funds appropriated to the Department of Rail and Public Transportation and allocated to the Northern Virginia Transportation Commission to be allocated to its member jurisdictions are held in trust by the commission for those jurisdictions until released by specific authorization from the governing bodies of the jurisdictions for the purpose for which funds were appropriated.

E. *All Commonwealth Mass Transit Funds appropriated for Financial Assistance for Public Transportation shall be used only for public transportation purposes as defined by the Federal Transit Administration or outlined in § 58.1-638.4, subparagraphs b. through g., or in § 58.1-638.5, Code of Virginia.*