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# VIRGINIA STATE BUDGET

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2016 Session

## Budget Bill - HB30 (Chapter 780)

Bill Order » Office of Transportation » Item 436

Secretary of Transportation

Item 436	First Year - FY2017	Second Year - FY2018
<b>Administrative and Support Services (79900)</b>	<b>\$888,357</b>	<b>\$888,474</b>
General Management and Direction (79901)	\$888,357	\$888,474
Fund Sources:		
Commonwealth Transportation	\$888,357	\$888,474

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Authority: Title 2.2, Chapter 2, Article 10, § [2.2-201](#), and Titles 33, 46, and 58, Code of Virginia.

A. The transportation policy goals enumerated in this act shall be implemented by the Secretary of Transportation, including the Secretary acting as Chairman of the Commonwealth Transportation Board.

1. The maintenance of existing transportation assets to ensure the safety of the public shall be the first priority in budgeting, allocation, and spending. The highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.
2. It is in the interest of the Commonwealth to have an efficient and cost-effective transportation system that promotes economic development and all modes of transportation, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety. The planning, development, construction, and operations of Virginia's transportation facilities will reflect this goal.
3. To the greatest extent possible, the appropriation of transportation revenues shall reflect planned spending of such revenues by agency and by program.

B. The maximization of all federal transportation funds available to the Commonwealth shall be paramount in the budgetary, spending, and allocation processes.

1. Notwithstanding any provision of law to the contrary, the secretary and all agencies within the transportation secretariat are hereby authorized to take all actions necessary to ensure that federal transportation funds are allocated and utilized for the maximum benefit of the Commonwealth, whether such actions or funds or both are authorized under P.L. 112-141 of the 112th Congress, or any successor or related federal transportation legislation, or regulation, rule, or guidance issued by the U.S. Department of Transportation or any federal agency. The secretary and agencies within the transportation secretariat shall utilize, to the maximum extent practicable, the flexibility provided in federal law, regulation, rule, or guidance to use federal funds in a manner consistent with the Code of Virginia.
2. The secretary shall ensure that the allocation of transportation funds apportioned and for which obligation authority is expected to be available under federal law shall be in accordance with such laws and in support of the transportation policy goals enumerated in section A. of this Item. Furthermore, the secretary is authorized to take all actions necessary to allocate the required match for federal highway funds to ensure their appropriate and timely obligation and expenditure within the fiscal constraints of state transportation revenues. By June 1 of each

year, the secretary, as Chairman of the Board, shall report to the Governor and General Assembly on the allocation of such federal transportation funds and the actions taken to provide the required match.

3. The board shall only make allocations providing the required match for federal Regional Surface Transportation Program funds to those Metropolitan Planning Organizations in urbanized areas greater than 200,000 that, in consultation with the Office of Intermodal Planning and Investment, have developed regional transportation and land use performance measures pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly and have been approved by the board.

4. Projects funded, in whole or part, from federal funds referred to as congestion mitigation and air quality improvement, shall be selected as directed by the board. Such funds shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by such agency or recipient, then the board shall use such federal funds for any other project eligible under 23 USC 149.

5. Funds apportioned under federal law for the Surface Transportation Program shall be distributed and administered in accordance with federal requirements, including the 22 percent of the non-suballocated portion that is required to be allocated for public transportation purposes. The prioritization process developed under subsection B of Chapter 726 of the 2014 Virginia Acts of Assembly shall not apply to the 22 percent share of the non-suballocated portion allocated for public transportation purposes.

6. Funds made available to the Metropolitan Planning Organizations known as the Regional Surface Transportation Program for urbanized areas greater than 200,000 shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by the recipient, then the board may rescind the required match for such federal funds.

7. Notwithstanding paragraph B.2. of this Item, the required matching funds for Transportation Alternatives projects are to be provided by the project sponsor of the federal-aid funding.

8. Federal transportation funds as well as the required state matching funds may be allocated by the Commonwealth Transportation Board for transit purposes under the same rules and conditions authorized by federal law. The Commonwealth Transportation Board, in consultation with the appropriate local and regional entities, may allocate state revenues to local and regional public transit operators, for operating and/or capital purposes.

9. If a regional area (or areas) of the Commonwealth is determined to be not in compliance with Clean Air Act rules regarding conformity and as a result federal and/or state allocations, apportionments or obligations cannot be used to fund or support transportation projects or programs in that area, such funds may be used to finance demand management, conformity, and congestion mitigation projects to the extent allowed by federal law. Any remaining amount of such allocations, apportionments, or obligations shall be set aside to the extent possible under law for use in that regional area.

10. Appropriations in this act related to federal revenues outlined in this section may be adjusted by the Director, Department of Planning and Budget, upon request from the Secretary of Transportation, as needed to utilize and allocate additional federal funds that may become available.

11. The secretary shall ensure that any bonds issued pursuant to Article 4, Chapter 15 of Title 33.2 shall be programmed to eligible projects selected and funded through the High Priority Projects Program pursuant to § 33.2-370 or the Construction District Grant Program pursuant to § 33.2-371. In any year such bond proceeds are allocated to one or both of the programs, the secretary shall take all necessary action to ensure that each program is provided with the same overall amount of monies though the mix of bond proceeds, state revenues, and federal revenues provided to each program may vary as deemed appropriate by the secretary.

C.1. The secretary may ensure that appropriate action is taken to maintain a minimum cash balance and/or cash reserve in the Highway Maintenance and Operating fund.

2. Notwithstanding the original programmatic allocation, funds provided by the previous primary, secondary and urban construction formulas prior to fiscal year 2010 that are not committed and expected to be expended as of January 1, 2018 may be consolidated to fully fund and advance priority transportation projects within the respective district or locality. If after taking said actions and the determination of the respective locality and the Department of Transportation that formula funds will remain, the funds may be used for other transportation purposes provided by § 33.2, Code of Virginia. All unspent primary, secondary and urban formula funds allocated prior to 2010 unspent as of January 1, 2018 shall be de-allocated and transferred to the State of Good Repair Program pursuant to § 33.2-369, Code of Virginia, unless such funds are allocated to a fully funded and active project.

D.1. The Office of Intermodal Planning and Investment shall recommend to the Commonwealth Transportation Board all allocations of funds made available in subsections A. and B. of Item 452. The planning and evaluation may be conducted or managed by the Department of Transportation, Department of Rail and Public Transportation, or another qualified entity selected and/or approved by the Commonwealth Transportation Board.

2. The office shall be responsible for implementing the statewide prioritization process pursuant to § 33.2-214.1 for the Commonwealth Transportation Board.

3. The office shall work directly with affected Metropolitan Planning Organizations to develop and implement quantifiable and achievable goals relating to congestion reduction and safety, transit and HOV usage, job/housing ratios, job and housing access to transit and pedestrian facilities, air quality, and/or per-capital vehicle miles traveled pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly.

4. For allocation of funds under Paragraph 1, the office may give a higher priority for planning grants to (i) regional organizations to analyze various land development scenarios for their long range transportation plans, (ii) local governments to revise their comprehensive plans and other applicable local ordinances to designate urban development areas pursuant to Chapter 896 of the 2007 Acts of Assembly and incorporate the principles included in such act, and (iii) local governments, regional organizations, transit agencies and other appropriate entities to develop plans for transit oriented development and the expansion of transit service. Such analyses, plans, and ordinances shall be shared with the regional planning district commission or metropolitan planning organization and the Commonwealth Transportation Board.

E.1. The Commonwealth Transportation Board is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for one or more qualifying transportation infrastructure projects or facilities to be developed pursuant to the Public-Private Transportation Act of 1995, as amended. Any such application, agreement and/or endorsement shall not financially obligate the Commonwealth or be construed to implicate the credit of the Commonwealth as security for any such federal credit assistance.

2. The Commonwealth Transportation Board is hereby authorized to pursue or otherwise apply for, and execute, an agreement to obtain financing using a federal credit instrument for project financings otherwise authorized by this Act or other Acts of Assembly.

F. Revenues generated pursuant to the provisions of § 58.1-3221.3, Code of Virginia, shall only be used to supplement, not supplant, any local funds provided for transportation programs within the localities authorized to impose the fees under the provisions of § 58.1-3221.3, Code of Virginia.

G. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation

agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds which were authorized in the prior fiscal year but not issued, pursuant to Section 2 of Enactment Clause 2 of Chapter 896 of the 2007 General Assembly Session.

H. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.

I. Notwithstanding any provision of law, any agreement to transfer money from the Commonwealth Transportation Funds to the Metropolitan Washington Airports Authority (MWAA) in connection with Phase II of the Dulles Corridor Metrorail Project beyond Wiehle Avenue in Fairfax County to Washington Dulles International Airport and on to Virginia Route 772 in Loudoun County shall include provisions stating that the MWAA has addressed all of the recommendations included in the November 2012 report of the Inspector General of the U.S. Department of Transportation as a condition of transferring such money. The Governor may waive this requirement for one or more specific recommendations that have not been implemented by notifying the Chairmen of the House Appropriations and Senate Finance Committees of his reason for granting the waiver or waivers.

J. In programming funds for the reconstruction and rehabilitation of structurally deficient bridges pursuant to § [33.2-358](#) C.(i), Code of Virginia, the Commonwealth Transportation Board shall consider both state and locally-owned bridges.

K. All revenues generated under Chapter 896 of the Acts of Assembly of 2007 (HB 3202) and Chapter 766 of the Acts of Assembly of 2013 (HB 2313) that were dedicated to transportation-related funds have been appropriated in conformity with the requirements of those respective chapters.

L. The Secretary of Transportation shall assure that no funds appropriated to any transportation agency are expended directly or indirectly, including by a private contractor, for propaganda purposes in support of any proposed transportation project for which construction funding has not been allocated in the Six Year Improvement Program. This prohibition shall not extend to advertising legally required for public notifications.

M. 1. Notwithstanding § [33.2-1527](#) B., Code of Virginia, out of the funds made available in Item 453, \$25,000,000 the first year and \$25,000,000 the second year may be provided to the Metropolitan Washington Airports Authority for the sole purpose of reducing the airline cost per enplanement at Washington Dulles International Airport to help attract new domestic and international airlines and retain existing air carriers. Such funding shall be utilized to reduce the debt service requirements and total operating costs of the Authority. The first year amount shall not be provided before December 31, 2016. Payment shall not occur in either fiscal year unless the Authority has entered into an agreement with one or more airlines currently operating at Washington Dulles International Airport which ensures the retention of a domestic airline hub service at the airport for at least seven years beyond calendar year 2017.

2. Prior to the release of any funds authorized in Paragraph M.1. to the Authority, the Secretary of Transportation shall certify in writing to the Governor and the General Assembly that provision of the funds authorized under this item are in the public interest, that the funds will be used to supplement not supplant funds otherwise available to the Authority, and that the Authority has set-forth an attainable plan for long-term cost reductions. Funding shall further be conditioned upon the following requirements:

a. No payments shall occur unless and until the Authority has entered into an agreement with the Virginia Department of Transportation that (i) identifies to the Department future efforts of the Authority to reduce airline cost per enplanement at Washington Dulles International Airport using financing efficiency savings, available funds, and future revenues in an amount that meets or exceeds the amount of the appropriation provided in this section over the course of the agreement through calendar year 2024, (ii) provides full access to the financial records of the Airports Authority recognizing such financial information will be considered confidential and

proprietary and will only be used to verify targets for cost per enplanement reductions, and (iii) sets forth a long-range plan for financial viability of the airport and continued lower levels of cost per enplanement beyond the fiscal year 2016-2018 biennium without additional state support beyond the amounts provided pursuant to § 58.1-538, Code of Virginia. Such agreement shall be subject to the provisions established in § 2.2-3705.6, Code of Virginia.

3. By December 1, 2016 and December 1, 2017, the Authority shall report to the Secretary of Transportation and the Chairmen of the House Appropriations and Senate Finance Committees on the actual and forecasted changes to the cost per enplanement at the Washington Dulles International Airport over the prior year, what portion of the reduction is attributable to state support, what portion attributable to cost reduction measures implemented by the Authority and what portion is attributable to increased passenger traffic at the Airports. Further, the Authority shall report the additional measures taken by the Authority to reduce airline cost per enplanement including, but not limited to, an estimate of revenues that could be generated by development or disposal of property owned by the Authority as a means to further reduce long term cost per enplanement. Such report shall also include an outline of additional measures to be taken by the Authority to further reduce cost per enplanement through calendar year 2024.

N. The Commonwealth Transportation Board's rail subcommittee shall review the long range service plan and financial analysis of Virginia Railway Express and assess the conclusions of that analysis with respect to the long-term financial viability of the service, their ability to maintain appropriately costed-services to maintain and expand market share, and the Virginia Railway Express's impact on traffic volumes on the Interstate 66 and Interstate 95 / 395 corridors of statewide significance. The Board shall consult with interested stakeholders and report its findings to the Secretary of Transportation, and the Chairmen of the House Committees on Appropriations and Transportation and the Senate Committees on Finance and Transportation no later than November 15, 2016.

O. 1. No later than October 31, 2016 the Secretary of Transportation shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the outcome of the negotiations pursuant to the procurement for the Commonwealth of Virginia Transform I-66 Corridor Outside the Beltway project and whether the parties were able to deliver the project in a manner that meets all of the terms published in the request for qualifications dated September 17, 2015, as clarified by the term sheet published on October 1, 2015, and subsequently amended, and the draft request for proposals dated December 17, 2015.

2. If the Transportation Public-Private Partnership Advisory Committee established pursuant to § 33.2-1803.2 of the Code of Virginia and the Commissioner of Highways find that the private parties did not meet the terms published in the request for qualifications dated September 17, 2015, as clarified by the term sheet published on October 1, 2015, and subsequently amended, and the draft request for proposals dated December 17, 2015, and state that it is in the public interest to proceed with public financing for this project; and the Secretary of Finance concurs in writing with Commissioner of Highways' finding that the private parties did not meet the terms and that it is in the public interest to proceed with the issuance of bonds, the Secretary shall notify the Chairmen of such finding to enable the respective Committees to consider Senate Bill 60 and House Bill 1067, continued to the 2017 Session by the 2016 General Assembly, prior to the procedural deadline for action on such legislation.

P. The Commonwealth Transportation Board is hereby directed to enter into discussions with Arlington and Fairfax Counties regarding use of air rights over Interstate 66 in their respective jurisdictions no later than October 1, 2016. A report on the progress and outcome of such discussions shall be submitted to the Chairmen of the House Appropriations and Transportation Committees and the Senate Finance and Transportation Committees no later than July 15, 2017.