Metro Reform: A Maryland Approach

<u>**Montgomery County**</u>
Senator Brian Feldman
Delegate Marc Korman
Delegate David Moon
Delegate Andrew Platt
Delegate Jheanelle Wilkins

<u>**Prince George's County**</u>
Delegate Erek Barron
Senator Joanne Benson
Delegate Jazz Lewis
Delegate Carlo Sanchez
Delegate Jimmy Tarlau

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Summary of Proposals

Compact Reforms

Requires identical legislation be passed in each jurisdiction and ratified by Congress.

Governance

- Convert the Board to a new model made up of the Maryland Secretary of Transportation, the Virginia Secretary of Transportation, and the District of Columbia Director of Transportation. The Board of Secretaries would be politically accountable, qualified, and staffed.

- Except as stated below, two votes are required for any motion and there is no jurisdictional veto.

- The Federal government and local Maryland and Virginia jurisdictions would be able to appoint non-voting *ex officio* members to speak and participate at Board meetings, but not have a formal vote.

Funding:

- Require each jurisdiction to establish a dedicated funding source yielding $170 million in the first year and increasing with inflation annually from dedicated existing sources, a property tax, sales tax, rental car tax, or gasoline tax. The dedicated funding would be directed to a trust account and used to service long-term bonds issued for the capital program, which would increase the impact of those dollars. The $170 million is taken from the General Manager's current figures and can be adjusted.

- In Maryland, companion legislation would divert revenue raised for the Transportation Trust Fund to one of its major current uses, Metro. If funding or the bond rating obtained were inadequate, local legislation could be passed to enable Montgomery and Prince George's Counties to enact local taxes for purposes of meeting a dedicated funding requirement for a multi-state transit authority and any over-attainment could be used by the two counties for other capital transportation infrastructure needs.

Oversight:

- Formalize and strengthen the Office of Inspector General by providing a longer term, increased authority, and a fixed percentage of the budget to support their work.

21st Century Updates:

- Update the Compact to reflect current agency names, organization, and practices.

- Remove outdated provisions of the Compact that are no longer relevant to an existing, operating system.

Transparency:

- Mandate the publication of an expanded vital signs report quarterly, which would include relevant benchmark comparisons to other transit agencies regarding service reliability and quality, safety, customer satisfaction, and other relevant metrics.

- Require Metro to publish a detailed six year line item Capital Improvement Program annually, with a public hearing in each of the three jurisdictions annually prior to adoption and amendments only occurring by unanimous vote of the Board.

- Establish a requirement that the Board prepare a strategic plan and review/revise it every five years. A public hearing shall be held in each of the three jurisdictions in preparing the plan every five years. Nothing in the provision or the plan shall prohibit Metro from making changes related to the issues in the plan during the plan period.

Rider Involvement:

- Convert the existing Riders Advisory Council and Accessibility Advisory Committee into a Riders Council written into the Compact and made up of three committees: rail riders, bus riders, and paratransit riders. The local governments of Montgomery County, Prince George's County, Arlington County, Fairfax County, Loudoun County, and the District of Columbia would each appoint one member of each type. Three other members would be appointed, one each, by the two Governors and the Mayor and would be from businesses located within a half mile of a Metrorail station.

- The Riders Council would be funded at a fixed percentage of Metro's budget to fund an Executive Director and one other administrative staffer. The Riders Council would operate similar to a People's Counsel model and independently advocate to the Board on issues of concern to riders.

<u>Non-Jurisdictional Reforms</u>

Requires action outside the direct control of the compact jurisdictions, does not require jurisdiction legislation.

Federal Government

- Reauthorize at current level of $1.5 billion over 10 years ($150 million annually) the federal capital commitment, which expires in 2018. Any amount over $1.5 billion reauthorization can reduce the jurisdictional contribution.

Other Reform Efforts

- This approach does not preclude many of the actions proposed by the Metro General Manager and workforce that do not require jurisdictional action or certain other actions by the jurisdictions to improve their oversight efforts.

Metro Reform: A Maryland Approach

Introduction

The Washington Metropolitan Area Transit Authority ("WMATA" or "Metro")[1] is absolutely critical to the entire DC region including Montgomery and Prince George's Counties in Maryland and Northern Virginia. In 2016, there were 179,693,126 trips made on Metrorail, or about 492,310 trips per day.[2] Additionally, Metrobus saw 123,675,724 total trips, or about 338,835 per day during the past year.[3] About 45% of workers in the center core of the region, comprised of downtown DC and parts of Arlington, use transit to get to work each day.[4] Metrorail has some of the highest fares amongst U.S. transit systems.[5] Aside from being a mover of people throughout the region, the Metro system is also an economic force. In the jurisdictions served by Metro, 28% of total property tax revenue comes from just 4% of the land area—the land within a half mile of a Metrorail station.[6]

But there is broad acceptance that Metro is in trouble. Metrorail ridership has fallen from a high of 750,000 weekday daily trips in 2010 to less than 700,000 weekday daily trips on average today.[7] There are significant maintenance issues that are causing both safety and service reliability issues and riders are voting with their feet by finding alternative means of travel.[8]

As awareness of the problem has grown, stakeholders have begun stepping forward with solutions. Notable proposals have come from the Metro General Manager,[9] the Metropolitan

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[1] Although the formal name of the system is WMATA, for simplicity and understanding it is largely referred to as Metro here.
[2] *See* Metro Facts 2017, at 1, https://www.wmata.com/about/upload/Metro-Facts-2017-FINAL.pdf.
[3] *See Id.*
[4] *See id.*
[5] *See* Dan Rowlands, *WMATA Plans To Raise Rates, But Metrorail's Fares Already Among Highest In The Country* (March 1, 2017), https://www.dcpolicycenter.org/publications/wmata-plans-raise-rates-metrorails-fares-already-among-highest-country/ (comparing Metrorail rates to other systems and finding it the most expensive, except compared to the BART system in San Francisco).
[6] *See* PlanIt Metro, *What Value Does Metrorail Bring to Land Markets?* (Dec. 2011), https://planitmetro.com/2011/12/13/what-value-does-metrorail-bring-to-land-markets/.
[7] *See* Metro Facts 2017, at 1, https://www.wmata.com/about/upload/Metro-Facts-2017-FINAL.pdf.
[8] *See* WAMU, *Why D.C.-Area Commuters Say They Are Dropping Metro* (Oct. 2, 2015), http://wamu.org/story/15/10/02/ridership_down_why_dc_area_commuters_say_they_are_dropping_metro/.
[9] *See* Paul Wiedefeld, *Keeping Metro Safe, Reliable and Affordable* (April 19, 2017), https://www.wmata.com/initiatives/budget/.

Washington Council of Governments ("COG"),[10] Amalgamated Transit Union ("ATU"),[11] and the Federal City Council.[12] The Governor of Virginia has hired former Transportation Secretary Ray LaHood to seek consensus reforms. Both Maryland[13] and Virginia[14] passed legislation requiring their Transportation Secretaries to discuss reopening the existing compact for reform.

The Metro Compact was created in 1967.[15] Fifty years later, it is in need of significant reform. Metro's current structure and approach is not sustainable. What follows is a set of proposals to reform the Metro compact centered around six areas: Governance; Funding; Oversight; 21st Century Updates; Transparency; and, Rider Involvement. There is also a section on reforms that are not Compact-related. The reforms presented here are a holistic package for consideration, but many of the specific ideas can be combined with other reform proposals that have been put forth from a variety of stakeholders and can be accomplished with or without reopening the compact. For the economic vision of the Washington, DC region to work, Metro must work. Below is a set of recommendations from a group of Maryland legislators to contribute to that effort.

But what do we mean by "Metro must work"? We mean Metro must be a system where fares do not continuously rise annually or biannually. Metro must be an option that riders can rely on for their regular transportation needs and not have to budget an hour of extra time to use. Metro must work, meaning a disabled bus or train, broken elevator, or stalled escalator is much more of a rarity. Metro must draw riders back in and grow beyond historical ridership by providing a high quality experience, from cleanliness, to interaction with personnel, to the ride itself. Metro must make sure riders, taxpayers, and other stakeholders understand where their money is going and what they are getting in return. Metro must be accountable to those that use it and pay for it, and not just be a faceless bureaucracy. Whatever reforms are adopted, an actual vision to achieve a system that works must be agreed to by all jurisdictions and management.

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[10] *See* COG, *Technical Panel Final Report on Metro* (April 26, 2017), https://www.mwcog.org/documents/2017/04/26/cog-technical-panel-report-on-metro-metro/.

[11] *See* Amalgamated Transit Union Local 689, *Fix It, Fund It, Make It Fair*, http://www.atulocal689.org/uploads/4/1/1/4/41141827/fix_it_-_fund_it_-_make_it_fair_-__for_immediate_release.pdf.

[12] *See* Federal City Council, *Metro's Path Forward* (April 24, 2017), https://metroreform.org/wp-content/uploads/2017/04/FC2-Metro-Reform_April-24-2017.pdf.

[13] *See* Maryland House Bill 152, Section 18(a), http://mgaleg.maryland.gov/2017RS/bills/hb/hb0152e.pdf.

[14] *See* Virginia House Bill 2136, Sec. 4, http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0696+pdf.

[15] *See Washington Metropolitan Area Transit Authority Compact*, https://www.wmata.com/about/board/upload/Compact_Annotated_2009_final.pdf.

Governance

RECOMMENDATION: Convert the current Board to a Board of the Transportation secretaries with no jurisdictional veto.

For Metro to improve, governance reform is critical. There is currently little accountability when Metro fails. Unlike many peer systems, the buck does not stop with any single government entity but is instead dispersed across two states, a city, several local governments, and the federal government. When everyone is in charge, no one is in charge. A governance system needs to be put in place that creates more—not less—political accountability.

Other Systems

Different transit agencies have their board members appointed through different means, but many large transit agencies have far more direct oversight than Metro (Figure 1).

Transit agency	Political oversight
New York City MTA	Governor of New York
Massachusetts Bay Transit Authority	Governor of Massachusetts
Los Angeles County MTA	Mayor of Los Angeles, LA County Board of Supervisors
Chicago Transit Authority	Governor of Illinois, State Senate of Illinois
Metropolitan Atlanta Rapid Transit Authority	County executives, Governor of Georgia

Figure 1: Transit agencies' political oversight.

At the New York Metropolitan Transit Authority ("MTA"), all board members are appointed by the Governor of New York after being recommended for board membership by a local or state elected official.[16] The Massachusetts Bay Transit Authority ("MBTA") in the Boston area follows a similar model, with an 11 member Massachusetts Department of Transportation Board appointed by the Governor to oversee the MBTA and other agencies.[17]

In Chicago, both the city and state government have a roughly equal role in the appointment process. At the Chicago Transit Authority ("CTA"), both the Mayor of Chicago and Governor of Illinois appoint board members. The Mayor's appointees are subject to the approval of the Governor and the Chicago City Council; the Governor's appointees are subject to the approval of the Mayor and the Illinois State Senate.[18]

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[16] *See* MTA Board Members, *Appointment*, http://web.mta.info/mta/leadership/board.htm#appointment.

[17] *See* Massachusetts Bay Transit Authority, *About the MBTA*, http://www.mbta.com/about_the_mbta/leadership/.

[18] *See* Chicago Transit Authority, *CTA Overview*, http://www.transitchicago.com/about/overview.aspx.

In Los Angeles, a hybrid local-level approach is used in the appointment process. The Los Angeles County Metropolitan Transit Authority ("LA MTA") serves large portions of both the City of Los Angeles and Los Angeles County. To provide fair representation to both jurisdictions, the board is comprised of Los Angeles City Councilmembers appointed by the Mayor of Los Angeles, along with the Mayor himself.[19] In addition, members of the Los Angeles County Board of Supervisors are elected to the LA MTA board by the L.A. County City Selection Committee.[20]

Even in systems such as Chicago and Los Angeles where two different levels of government have appointment authority, the political accountability is still far simpler and more straightforward than that of Metro.

In Atlanta, the Metropolitan Atlanta Transit Authority's Board of Directors are appointed by the executives of the member counties, and the Governor of Georgia also chooses a member.[21]

Metro's Current Approach

Metro's current oversight is provided by its Board of Directors. The Board was originally comprised of 12 members: Two Principal Directors from DC, Maryland, and Virginia respectively, and two Alternate Directors from those same jurisdictions. With the passage of the Passenger Rail Investment and Improvement Act ("PRIIA") of 2008, two Principal and two Alternate Directors are now appointed by the Federal government. The approach to the appointment process for these Directors is not uniform across the Metro Compact jurisdictions.

Maryland's Principal Directors are appointed by the Governor,[22] with Alternate Directors appointed by the county executives of Montgomery and Prince George's Counties, respectively.[23] Maryland Directors may not be elected officials.[24] In Virginia, Directors are appointed by the Northern Virginia Transportation Commission, however one Principal Director must be the Secretary of Transportation or the Secretary's designee and the other must be from Fairfax County. The Alternate Directors must be from Arlington County and the City of Alexandria.[25] In Virginia, elected officials can and do serve on the Board. In the District of Columbia, Directors are technically appointed by the County Council, but by convention the

[19] *See* City of Long Angeles, *Mayor Garcetti Announces MTA Board Appointments*, https://www.lamayor.org/mayor_garcetti_announces_mta_board_appointments.
[20] *See* L.A. County City Selection Committee, *About City Selection Committee*, http://cityselection.lacounty.gov/.
[21] *See* Metropolitan Atlanta Rapid Transit Authority, *MARTA Board of Directors Adds Four New Members*, https://www.itsmarta.com/marta-board-adds-new-members.aspx.
[22] Through the Washington Suburban Transit Commission.
[23] WMATA *Board of Directors*, https://www.wmata.com/about/board/.
[24] *See* Letter from Assistant Attorney General Kathryn Rowe to Delegate Carol Krimm, at 1 (Oct. 23, 2015) ("It is my view that a member of the General Assembly may not serve as a regular member of WMATA.").
[25] *See* WMATA, *RAC Orientation*, at 2 (April 2, 2014), https://www.wmata.com/about/riders-advisory-council/minutes/upload/6%20RAC%20Orientation%20-%20Staff%20Overview.pdf.

Mayor appoints one Principal and one Alternate Director.[26] The Council often appoints sitting Councilmembers to one or both of its slots. Moreover, the Director of the DC Department of Transportation serves as an Alternate Director, which appears to be the first time a Transportation Secretary has served on the Board in any capacity. The federal members are selected by the Department of Transportation.[27]

Reform Proposal

In order to ensure political accountability and that the Board Directors have relevant expertise and resources, the Board should be reorganized to be made up of the Virginia Secretary of Transportation, the Maryland Secretary of Transportation, and the District of Columbia Director of Transportation.[28] Such a major overhaul of the Board would enhance accountability by replacing the existing Board with three cabinet officials who report directly to their respective executives (governors or the mayor). The change will also ensure that the Board members each have subject matter expertise—a goal of many reform proposals—and a technically competent expert staff at their disposal to assist in their duties. Finally, it will simplify and streamline the Board by ensuring that each jurisdiction treats the Board similarly instead of the mix and match of paid/unpaid, elected/unelected and other disparate parts that make up the current Board.

Each local jurisdiction and the federal government would be authorized to appoint *ex officio*, non-voting Board members to preserve their local voice at Board meetings. These Board members would be able to speak, ask questions, and otherwise participate at Board meetings but would not have a formal vote or the ability to make a motion.

Moreover, other procedural changes for the Board need to be made. Currently, there is a jurisdictional veto for Board votes, which is a result of the language in the original Metro Compact requiring at least one member from each jurisdiction to approve a motion.[29] Under the newly reformed Board, the jurisdictional veto would be prohibited except as discussed further below. Two votes would be required for any motion or vote to carry. Secretaries would be empowered to designate another Departmental employee to attend meetings on their behalf as necessary and act as alternates. The chairmanship would rotate among the jurisdictions.

There are other approaches to governance reform suggested by stakeholders including ensuring that each Board member have some relevant expertise and establishing a fiduciary responsibility between the Board members and Metro. But the true fiduciary responsibility should be between the Board members and the riders, workers, voters, and taxpayers. The Board should be politically accountable to those individuals so that when there is a problem with Metro, people understand where to take their concerns and from whom they should be demanding solutions.

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[26] *See* Riders Advisory Council, *Report on the Governance of the Washington Metropolitan Area Transit Authority*, at 37 (Dec. 1, 2010), https://www.wmata.com/about/riders-advisory-council/upload/ApprvdGovRptFinal01Dec10.pdf.

[27] The federal members were originally selected by the General Services Administration.

[28] A potential modification would be to also have a federal designee as a fourth Board member and a public member selected by the Board to act as a tie-breaking vote and chair.

[29] *See WMATA Compact*, Title III Section 8(a).

Oversight

RECOMMENDATION: Strengthen the Metro Inspector General.

One of the major challenges with Metro is the lack of proper oversight because of its multijurisdictional nature. The problem is difficult to solve. One way to improve the situation is to empower Metro's Inspector General. The Metro Office of the Inspector General ("OIG") was created from the existing Auditor General[30] by the Board in 2006 to supervise audits, program evaluations, and investigations relating to Metro activities.[31] Its creation came after proposals for an OIG were made from outside the Board and the OIG was later codified in the Compact. In the FY2018 Metro budget, the OIG was allocated $5,084,000 for personnel and operation costs.[32]

Other Systems

Other large U.S. transit agencies also have an inspector general's office of some kind. New York's MTA has an Office of the Inspector General that conducts audits and fields complaints about potential fraud, bribes, and other improprieties involving the MTA and its contractors.[33] The CTA is monitored by the Office of Executive Inspector General for the Agencies of the Illinois Governor, which audits the CTA and provides similar services at the New York and Metro OIGs.[34]

Reform Proposal

As noted above, the Inspector General was amended into the Compact but most of the details regarding the position are in Metro's bylaws. The Inspector General should be further codified and strengthened in the Compact. In particular, the following provisions should be included which adopt best practices from other IGs.

Appointment: The Inspector General is to be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of Metro can be appointed Inspector General within five years of that individual's period of service.

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[30] Some have suggested that converting the old Auditor General had left Metro with an IG too heavily focused on audit, at the expense of investigations.
[31] *See WMATA Board Resolution 2006-18* (April 20, 2006), https://www.wmata.com/about/inspector-general/upload/042006_EstablishanOIG.pdf.
[32] *See WMATA FY2018 Operating Budget Detail*, Chapter 3.
[33] *See New York MTA OIG*, http://www.transitchicago.com/oeig.
[34] *See Office of Executive Inspector General for the Agencies of the Illinois Governor*, http://www.transitchicago.com/oeig/.

Term of Office: The Inspector General is appointed for a term of seven years, which may be renewed at the discretion of the Board. The current term of office is five years.[35]

Removal from Office: The Inspector General may be removed from office for cause within the seven-year appointment by the Board, but the Board must report the reasons for removal to the United States Secretary of Transportation, the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, the Virginia General Assembly, the Maryland General Assembly, and the DC City Council. The Inspector General serves at the pleasure of the Board of Directors and may be removed by the Board at any time.

Resources: The Office of Inspector General will be funded with a grant of no less than .5% of the Operating budget of Metro each year. The Inspector General shall establish the organizational structure appropriate to carrying out the responsibilities and functions of the office. Metro's FY2018 operating budget totaled $1.820 billion, meaning the Inspector General's office would receive at least $9.1 million. Fixed funding will provide more certainty and independence for the OIG.

Personnel: The Inspector General shall have the power to appoint, employ, promote, and remove such assistants, employees, and personnel as deemed necessary for the efficient, and effective administration of the office. Within budget limitations, the Inspector General may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to independently perform the functions of the office.

Organizational Placement: The Inspector General reports to the Board, however, it is operationally independent from the Board. The Board shall not prevent, impair, or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation or review.

Records Disclosure: Inspector General reports and other materials shall be subject to Metro's Public Access to Records and Privacy Policies, which are compliant with the Freedom of Information Act.

Reporting Office Activities: The Inspector General will report the findings of the Office's work to the United States Secretary of Transportation, the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, the Virginia General Assembly, the Maryland General Assembly, the DC City Council, and to the public. The Inspector General shall also report criminal investigative matters to the appropriate law enforcement agencies.

The Inspector General shall immediately report to the Board whenever he/she becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of Metro or interference with Inspector General operations. The Chair of the Board shall transmit any such report to the United States Secretary of Transportation, the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, the Virginia General Assembly, the Maryland General Assembly, and the DC City Council within

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[35] *See WMATA Board Resolution 2006-18* (April 20, 2006), https://www.wmata.com/about/inspector-general/upload/042006_EstablishanOIG.pdf.

seven calendar days, together with a report by the Metro General Manager containing any comments deemed appropriate.

Within 60 days of the end of each fiscal year, the Inspector General shall issue an annual report that separately lists audit and review reports and other investigative or assistance efforts completed during the fiscal year. The report shall describe accomplishments of the Office of Inspector General. Copies of the report shall be provided to the Board and to the United States Secretary of Transportation, the Governor of Maryland, the Governor of Virginia, the Mayor of the District of Columbia, the Virginia General Assembly, the Maryland General Assembly, and the DC City Council. Upon issuance, members of the media and the public shall be promptly advised of the issuance of the report. Such reports will be provided to their representatives upon request.

Authority: The Office of Inspector General is authorized to engage in the following specific functions:

a) Audit, inspect, evaluate, investigate and inspect the activities, records and individuals with contracts, procurements, grants, agreements, and other financial arrangements undertaken by Metro, and any other function, activity, process or operation conducted by Metro.

b) Conduct criminal, civil and administrative investigations.

c) Audit the economy, efficiency, and effectiveness of Metro operations and functions and conduct reviews of Metro performance measurement system.

d) Review of the reliability and validity of the information provided by Metro performance measures and standards.

e) Provide information and evidence that relates to criminal acts to appropriate law enforcement officials.

f) Initiate such reviews or audits operations of the Metro as deemed appropriate.

g) Receive and investigate complaints from any source or upon its own initiative concerning alleged abuses, frauds and service deficiencies including deficiencies in the operation and maintenance of facilities.

h) Engage in prevention activities, including but not limited to: review of legislation; review of rules, regulations, policies, procedures, and transactions; training and education.

i) Refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies.

j) Conduct joint investigations and projects with other oversight or law enforcement agencies.

k) Recommend remedial actions to be taken by Metro to overcome or correct operating or maintenance deficiencies and inefficiencies that were identified by the Office.

l) Issue public reports

m) Monitor implementation of recommendations made by the Office and other audit agencies.

n) Establish policies and procedures to guide functions and processes conducted by the Office.

o) Attend any meetings held by Metro.

p) Maintain information regarding the cost of investigations and cooperated with appropriate administrative and prosecutorial agencies in recouping such costs from nongovernmental entities involved in willful misconduct.

q) Do all things necessary to carry out the functions set forth in this section.

Powers: The Office of Inspector General is provided the following powers to accomplish the intent of this Compact:

a) The right to obtain full and unrestricted access to all records, information data, reports, plans, projections, matters, contracts, memoranda, correspondence and any other materials, including electronic data of Metro or any other organization that may be involved with Metro. This power supersedes any claim of privilege.

b) The authority to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents, including electronic data as is deemed to be relevant to any inquiry or investigation undertaken pursuant to this writing. This power may be delegated to a duly authorized deputy inspector general by the Inspector General.

c) Have access to the head of any public entity, when necessary for purposes related to the work of the Office.

d) Require public employees to report to the Office of Inspector General information regarding fraud, waste, corruption, illegal acts, and abuse.

Professional Standards: Audits, investigations, inspections and reviews conducted by the Office of Inspector General will conform to professional standards for Offices of Inspector General such as those promulgated by the Association of Inspectors General.

Quality Review: Audits, investigations, inspections and reviews shall be subject to quality assurance reviews by an appropriate professional non-partisan objective group every three to five years. A copy of the written report resulting from this review shall be furnished to the appointing authority and oversight board. This report shall also be made available to the public.

Work Plan: The Inspector General shall prepare a work plan for approval of the Board annually. Consistent with the Metrorail Safety Commission Interstate Compact, safety-related audits or investigations required by that Commission are not subject to Board approval. Inspector General audits or investigations of the Metro Board are also not subject to Board approval. Any individual Board member may also task the Inspector General with a specific audit or investigation.

21st Century Updates

RECOMMENDATION: Update outdated terms and remove unnecessary provisions.

The Metro Compact, entered into in 1967, has been amended multiple times but few provisions—if any—have ever been removed.[36] The Metro Compact should be updated to adjust for agency name changes (*e.g.*, the General Accounting Office is now the Government Accountability Office) and to remove outdated provisions in the Planning Article (Article VI), Financing (Article VII), and other sections that address a system at the earliest stage of construction. Any changes should not prohibit the possibility of future expansion and construction.

Much of Article VI, for example, contains planning language pertaining to the original system and the Mass Transit Plan of the late 1960s. That can be removed because most of the language is no longer relevant. For example, the Mass Transit Plan eventually became the Adopted Regional System ("ARS"), which is the original Metro system completed in 2001.[37] Additions after that point, such as the Blue Line to Largo, the infill NoMa Station, and the Silver Line all took place outside of the Mass Transit Plan.

Transparency

RECOMMENDATION: Require the Metro to prepare quarterly Vital Signs reports including benchmarking, a Capital Improvement Program with public participation, and a strategic plan with public participation.

Transparency at Metro is imperative to restore the confidence of riders, workers, and local taxpayers. In truth, Metro already takes many important steps to try and increase transparency but Compact reforms present the opportunity to codify—and thereby increase the importance of—those practices that work and enact new transparency measures. Metro reform should include three types of public reports and processes as part of the Compact: Vital Signs, Capital Improvement Program ("CIP"), and Strategic Plan.

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[36] *See WMATA Compact*, Compact History, at 38.
[37] George Mason University, *Planning: The Adopted Regional System, 1966-1968*, https://chnm.gmu.edu/metro/plan2.html.

Vital Signs

Since 2010, Metro has released a Vital Signs report every quarter of the year. The Vital Signs reports contain statistics and performance measures to give the general public clear information about the status of the system.[38] The Vital Signs reports summarize key performance indicators for Metrorail, Metrobus, MetroAccess, and the Metro Transit Police (Figure 2).[39]

Vital Sign	Mode of transit
On-time performance	Metrorail/Metrobus
Crowding	Metrorail/Metrobus
Fleet reliability	Metrorail/Metrobus
Elevator and Escalator Availability	Metrorail
Customer satisfaction	Metrorail/Metrobus/MetroAccess
Customer injury rate	Metrorail/Metrobus/MetroAccess
Employee injury rate	Metrorail/Metrobus/MetroAccess
Crime rate	Metrorail/Metrobus
Capital funds invested	Metrorail/Metrobus
Operating Expense Variance	Metrorail/Metrobus
Ridership	Metrorail/Metrobus/MetroAccess
Vacancy rate (employee positions)	Organization-wide
Disadvantaged Business Enterprise (DBE) Contracts	Organization-wide
Energy and Water Usage	Metrorail/Metrobus

Figure 2: Vital signs categories currently recorded by Metro.
Source: WMATA 2016 Q3 Vital Signs Report, https://www.wmata.com/about/records/scorecard/upload/Vital-Signs_2016-Q3.pdf.

Metro should continue the Vital Signs reports with quarterly publication on the Metro website and other appropriate publication and marketing to riders. The Vital Signs report should include information about bus and rail delays, capital improvements (including vehicle replacements/acquisitions), and information about escalator and elevator outage rates. Metrics of revenue, customer satisfaction, and crime rates should also be included. Metro currently includes many performance metrics in the vital signs report, but, for example, farebox intake and other revenue are not reported.

Twice a year, the Vital Signs report should also benchmark Metro's performance to that of other large transit agencies in the United States or internationally. Metrics of comparison should include on-time performance, rates of capital allocations and expenditures, revenue, and number of disruptions caused by maintenance.

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[38] Kurt Raschke, Greater Washington, *Metro's Vital Signs a small step towards transparency* (Aug. 8, 2011), https://ggwash.org/view/10280/metros-vital-signs-a-small-step-towards-transparency.
[39] *WMATA Q1 2016 Vital Signs Report*, https://www.wmata.com/about/records/scorecard/upload/Vital-Signs-Rpt_2016-Q1.pdf.

Capital Improvement Program

As part of its capital budget process, Metro currently issues a six year CIP which covers the budget year and five years of planning. Yet, Metro has a mixed record of capital spending. Metro has gone multiple fiscal years without spending all of its allocated capital funding. Between fiscal years 2011 and 2016, Metro consistently underspent capital funds, failing to spend as much as 35% of allocated capital funding in fiscal year 2015 (Figure 3).

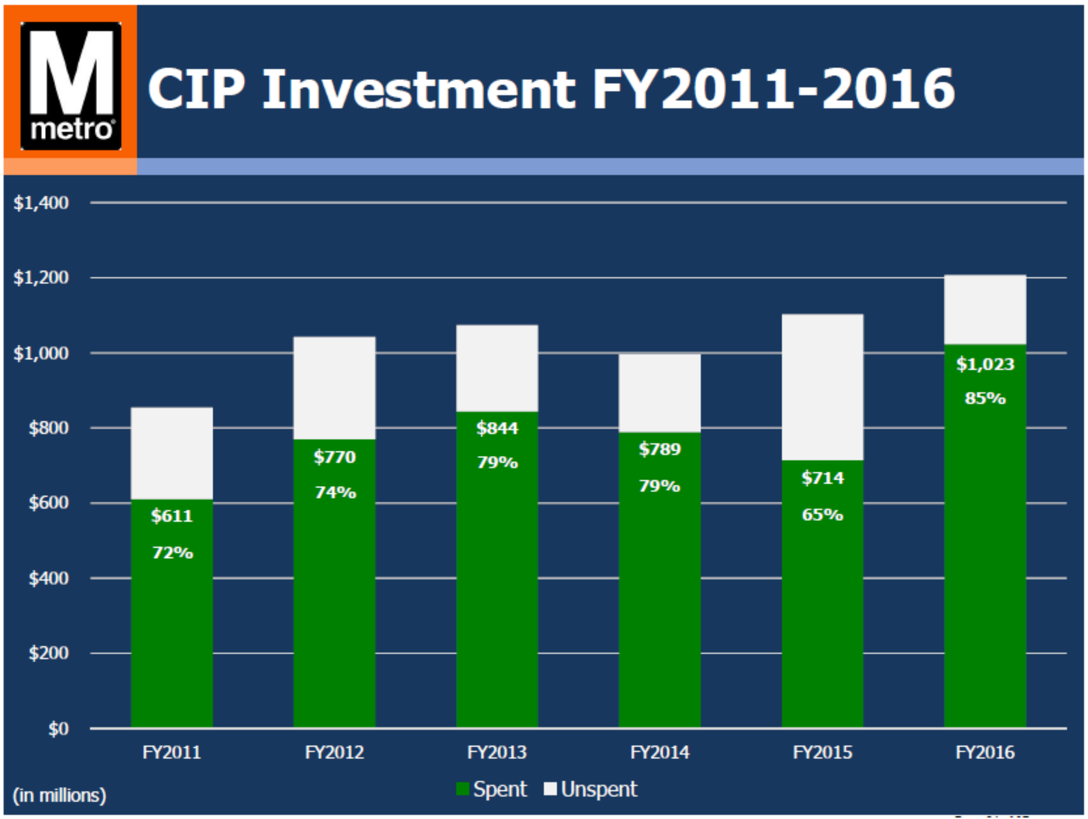

Figure 3: Metro capital spending between FY2011 and FY2016 depicting unspent capital funds.
Source: FY2016 Year-End Financial Update, Metro Finance Committee (Sept. 8, 2016),
https://www.wmata.com/upload/090816_3AFY2016YearEndReview.pdf.

Metro first developed a CIP in July 2010 for the 2011 fiscal year. Since then, they have drafted a six year CIP annually. While this has been in practice for several years now, the CIP process is not codified into the Metro Compact.[40]

Metro has recently made some progress towards managing upcoming capital costs through General Manager Wiedefeld's Development and Evaluation ("D&E") Initiatives in the FY2018 budget. The budget contains funding for the D&E of several planned capital projects, including

[40] *See* WMATA, *Comprehensive Annual Financial Report for the fiscal year ended June 30, 2010*, https://www.wmata.com/about_metro/docs/CAFR_FY10.pdf.

railcar replacement, tunnel maintenance, and a bus garage replacement.[41] The formation of a D&E program is a step in the right direction because it improves the planning of the projects in the pipeline for capital spending so they are ready to go when capital funding becomes available.

The reformed Metro Compact should specifically require that the six year CIP be approved annually. The Metro Board should be required to hold a public hearing in Maryland, Virginia, and DC annually to allow public input into the capital program. Moreover, amendments to the CIP after annual adoption should require a unanimous vote of the three-member Board.[42]

That public transparency and participation is important because the new dedicated funding is being directed at capital spending and failure to maintain the appropriate maintenance of the system is directly linked to the current difficulties Metro is facing.

Strategic Plan

Metro currently has no requirement to publish and regularly update a strategic plan for the agency. Metro's strategic planning is done on an *ad hoc* basis. For example, in 2013 Metro adopted Metro Momentum, which was drafted to forecast the needs of the transit system during the following 12 years.[43] While Metro Momentum still has some relevance, it does not account for the now broadly acknowledged dire state of the system. It also does not account for technological and societal changes—such as autonomous vehicles and ridesharing—that are radically changing transportation today. Metro also has major short-term initiatives completely outside of the strategic planning concept, such as SafeTrack.

Other large transit agencies engage in regular strategic planning. According to a 2005 report by the Transportation Research Board, 31 of 38 surveyed transit agencies undertook strategic planning.[44] Indeed, several transit agencies are required by law to engage in strategic planning. The same 2005 report found that 5 of 17 transit agencies surveyed had an external requirement to undertake strategic planning.[45] For example, both New York and Washington state law require strategic plans.[46]

The 2005 report found that strategic planning by transit agencies "was instrumental in creating a new vision for the agency, or in helping to give the entire agency a sense of direction."[47]

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[41] *See WMATA FY2018 Budget*, https://www.wmata.com/about/records/public_docs/upload/Metro_FY2018_Proposed_Budget_15Dec16_v4.pdf.
[42] This constitutes the aforementioned exception to the elimination of the jurisdictional veto.
[43] *See* WMATA, *Metro Momentum, Strategic Plan 2013-2025*, https://www.wmata.com/initiatives/strategic-plans/upload/momentum-full.pdf. A prior strategic plan was Routes to the Future: A Strategic Plan, issued in 2002.
[44] *See* Transportation Research Board of the National Academies of Science, *Strategic Planning and Management in Transit Agencies*, at 12 (2005), http://www.tcrponline.org/PDFDocuments/tsyn59.pdf.
[45] *Id* at 15.
[46] *See, e.g.*, N.Y. Pub. Authorities § 1269(d).
[47] *Strategic Planning and Management in Transit Agencies* at 32.

Strategic planning allows transit agency employees to focus on results and big picture goals rather than solely focusing on day-to-day activities. Strategic planning can also increase participation and input from stakeholders, such as the business community, local governments, and the public. Involving these stakeholders would allow Metro to be more in-tune with the evolving needs of its customer base through a formalized process.

For example, the Southeastern Pennsylvania Transit Authority ("SEPTA") which runs most transit in the greater Philadelphia area, produces a Five – Year Strategic Business Plan every five years that is designed to "serve as a blueprint for capital improvements, customer service enhancements, ridership growth and other initiatives" in the coming half-decade.[48] The SEPTA plan sets objectives for elements of their transit network that Metro currently does not have a unified approach in addressing. SEPTA's plan sets programs and goals to grow ridership by targeting certain segments of the potential transit-riding populous. The programs include targeted outreach to tourists, educational institutions such as colleges and local schools, and institutions such as major employers.[49]

Bay Area Rapid Transit ("BART"), the rapid transit system serving the San Francisco Bay Area, regularly conducts a Short Range Transit Plan paired with a CIP as required by the Metropolitan Transportation Commission ("MTC"), which coordinates planning in the Bay Area similar to COG's role in the national capital region.[50] The MTC requires all member agencies receiving federal funding to compile such strategic plans in tandem with a capital improvement program.

In order for Metro to adopt to its new reality and ensure that it continues to regularly update its plan, the reformed Compact should require that the Board prepare and adopt a new strategic plan and that the plan be reviewed and revised every five years. The strategic plan should be comprehensive and set goals and objectives for the next five years; establish and review a sustainable business model; study fare structure and rates; consider any necessary route changes; review Metro's investment plans; analyze Metro's long term capital needs, including expansion; evaluate Metro's real estate development around Metro stations, including inventorying all Metro-owned land around stations and creating a road map for development or disposal of the property; outline Metro's workforce development strategy; and, update appropriate benchmarks for the system. A public hearing shall be held in each of the three jurisdictions in preparing the plan every five years. Nothing in the Compact or the strategic plan shall prohibit Metro from making changes related to the issues in the plan during the period covered by the strategic plan if the circumstances warrant it.

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[48] *See* SEPTA, *SEPTA Board Approves Five Year Strategic Business Plan* (July 24, 2014), http://www.septa.org/media/releases/2014/07-24.html.

[49] Metro does not appear to have any comprehensive program for attracting ridership. While Metro does run some outreach campaigns using in-system media such as billboards and audio announcements on buses and in stations, they do little if anything to grow ridership from the general public who may not already use the system. In some ways, Metro's in-system outreach serves more as an attempt at ridership retention than ridership growth.

[50] Bay Area Rapid Transit, *Financials*, https://www.bart.gov/about/financials; Metropolitan Transportation Commission, http://mtc.ca.gov/about.

Funding

RECOMMENDATION: Create dedicated funding allowing a flexible response in each jurisdiction, with the funds flowing to a trust fund for bonding.

Metro has not had a dedicated funding source in its 50 years of existence, unlike many of its peer systems around the country. The funding issues are significant and there is broad recognition that establishing a dedicated funding source is part of the reform Metro needs. Indeed, in 2004 a Brookings Institution brief explained:

> For the long-term, WMATA needs a stable, reliable, and dedicated revenue source to take the pressure off passenger fares and the local governments' annual subsidy.[51]

Dedicated funding in a system that traverses multiple jurisdictions is not simple. But if implemented it will help Metro improve its maintenance issues and ultimately improve safety, service, and reliability—and allow it to fund capital construction in a more cost effective manner.

Metro Funding Background

When the Metro system was first being planned in the late 1960s, the thought amongst the system's proponents was that passenger fares would cover both the capital and operating costs of the network.[52] Initially, Metro was solely tasked with building the rail system, with buses continuing to be operated by private companies such as DC Transit. In 1973, as construction was underway on the first lines of the rail network, the region's four major bus systems became insolvent, and Metro was forced to assume control of transit bus operations in the national capital region.[53]

Prior to inheriting the bus systems, Metro was a small agency with a few hundred employees. Adding thousands of bus drivers and associated staff to the payroll ballooned personnel costs. At the same time, rail construction costs were beginning to rise, both because of inflation and unforeseen obstacles in the construction process. Critics of the Metro system proposed shrinking the planned network by truncating certain lines and eliminating others. The system's construction funding was secured by the National Capital Transportation Amendments of 1979 (also known as Stark-Harris, for Congressmen Herb Harris and Pete Stark who introduced the bill), which allocated $1.7 billion in federal funds to Metro's construction. This was not the first infusion of federal funds for Metro, which had first come in the late 1960s, but it was the largest to date. The jurisdictions that comprised the Metro Compact had also already contributed hundreds of millions for construction at that point, and they continue to allocate hundreds of millions to Metro yearly for operating and capital costs.

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[51] Robert Puentes, *Washington's Metro: Deficit by Design*, The Brookings Institution (June 2004).

[52] The belief is a little curious because by the 1960s many urban jurisdictions had transit systems that did not recover 100% of their costs.

[53] *See* Zachary Schrag, *The Great Society Subway* at 174 (2006).

Stark-Harris is important to today's discussion about Metro funding because it largely established Metro's existing financing structure. The bill required the local jurisdictions to "demonstrate that they have a stable and reliable source of revenue" to fund the capital and operating costs of the system, as well as debt service on bonds.[54] The Metro jurisdictions could not agree on a uniform tax at the time, which resulted in the varied funding sources in place today.[55]

The final cost of constructing the 103 mile system was about $9.4 billion, two-thirds of which was paid for by the federal government at various times.

Metro's Current Approach

Funding for Metro operating and capital costs varies by jurisdiction because of the inability of the region to settle on a dedicated revenue source 35 years ago. Metro has traditionally had some of the higher fare rates of U.S. transit agencies due in part to the uncertainty of funding year-to-year, but Metro's operating and capital costs are heavily dependent on subsidies from the jurisdictions.[56] According to an Operating Budget Analysis by the Maryland Department of Transportation, Metro's "fiscal year 2012 to 2016 system-wide five-year average farebox recovery is projected to be 47.6%. Metrorail has the highest five-year average farebox recovery at nearly 65.7%, while the Metrobus farebox recovery averages 25.6%, and MetroAccess averages just over 7.3% during this period."[57] In 2016, Metrorail's farebox recovery was 57%.[58]

In Maryland, funds for Metro (both capital and operating) come entirely from the Maryland Transportation Trust Fund ("TTF"), which primarily receives revenue from the motor fuel tax. Maryland has long covered Montgomery and Prince George's share of Metro funding (through a grant to the Washington Suburban Transit Commission, a funding conduit from the TTF to Metro). The counties themselves do not contribute directly to Metro.

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[54] Robert Puentes, *Washington's Metro: Deficit by Design*, at 3.

[55] *See* Ibrahim Elghandour, Rogelio Granguillhome, Aman Jain, Grangui Consulting Group, *Dedicated Funding Sources: A Case for State and Local Support* (May 6, 2013), http://faculty.maxwell.syr.edu/jyinger/classes/PAI735/studentpapers/2013/ElGhandour_Granguillhome_Jain.pdf.

[56] *See* Matt Johnson, Greater Greater Washington, *Does Metro ask riders to pay too much?*, *Greater Greater Washington*, (Feb. 20, 2013), https://ggwash.org/view/30154/does-metro-ask-riders-to-pay-too-much.

[57] *Maryland Department of Transportation FY2016 Operating Budget Analysis*, http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2016fy-budget-docs-operating-J00A0104-MDOT-WMATA---Operating-Budget.pdf.

[58] *See* Maryland Department of Legislative Services, *Washington Metropolitan Area Transit Authority*, at 8, http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2018fy-budget-docs-operating-J00A0104-MDOT-WMATA---Operating-Budget.pdf. As a point of comparison, the Baltimore Metro had a 23% farebox recovery in 2016 and Baltimore Light Rail's farebox recovery was 18%. *See* Maryland Department of Legislative Services, *Maryland Transit Administration*, at 10, http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2018fy-budget-docs-operating-J00H01-MDOT-Maryland-Transit-Administration.pdf.

In Virginia, funding for Metro comes from the member jurisdictions of the Northern Virginia Transportation District, which include the independent cities of Alexandria, Falls Church, and Fairfax, along with Arlington County, Fairfax County, and Loudoun County. The jurisdictions allocate local general fund revenues to Metro, along with their portions of the Virginia gas tax and other less significant sources. Unlike Maryland, Northern Virginia's counties and cities are solely responsible for Metro funding, and while they use a share of state funds allocated to their jurisdictions to fund Metro, the state government does not do so as directly as it does in Maryland.[59]

In the District of Columbia, the city functions as a state-level government, and it allocates funds to Metro without an intermediary organization. DC's funds for Metro originate from the city's general fund and the city's tax on wholesale fuel.[60]

Although dedicated funding is necessary, it is important to note that the region has committed significant funding to Metro without it. As an example, Maryland's annual contributions to Metro from the TTF and the growth rate of that contribution over the past ten years are presented in Figure 4 below.

WMATA Grants as Percent of State TTF Funds
($ in Millions)

Fiscal Year	Operating Grant	% Chng	Capital Grant	% Chng	Total Grant	% Chng	TTF State Funds	% Chng	Total Grant as % of TTF State Funds
2007	$171.0		$48.8		$219.8		$2,190.0		
2008	193.0	12.9%	63.6	30.3%	256.6	16.8%	2,352.0	7.4%	10.9%
2009	210.4	9.0%	58.5	-8.0%	268.9	4.8%	2,290.0	-2.6%	11.7%
2010	215.7	2.5%	64.4	10.0%	280.1	4.2%	2,218.0	-3.1%	12.6%
2011	228.6	6.0%	112.3	74.4%	340.9	21.7%	2,234.0	0.7%	15.3%
2012	256.7	12.3%	129.9	15.7%	386.6	13.4%	2,389.0	6.9%	16.2%
2013	263.7	2.7%	132.4	1.9%	396.1	2.4%	2,603.0	9.0%	15.2%
2014	268.3	1.8%	136.7	3.2%	405.0	2.2%	2,953.0	13.4%	13.7%
2015	284.8	6.2%	157.1	15.0%	442.0	9.1%	3,316.0	12.3%	13.3%
2016	318.9	12.0%	129.7	-17.5%	448.6	1.5%	3,551.0	7.1%	12.6%
2017 Est.	323.4	1.4%	125.4	-3.3%	448.8	0.1%	3,727.0	5.0%	12.0%
2018 Est.	365.3	12.9%	155.9	24.3%	521.2	16.1%	3,887.0	4.3%	13.4%

Note: The WMATA capital grant does not include federal matching capital funding received directly by WMATA.

Source: Maryland Department of Transportation, Transportation Trust Fund Forecasts; Department of Legislative Services

Figure 4: Maryland's TTF subsidies to Metro.
Source: Maryland Department of Legislative Services.

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59 *See* Northern Virginia Transportation Commission, *How WMATA Is Funded In Virginia*, http://www.novatransit.org/uploads/LinkedDocs/2016/TCRAB%20WMATA%20Funding%20101%20June%2016%202016.pdf.

60 *See* District of Columbia, *FY2018 Proposed Budget and Financial Plan*, https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/DCOCFO_FY18_Budget_vol1.pdf.

Other Systems

As referenced above, the lack of a dedicated funding source makes Metro unique. Most large U.S. transit systems, those serving populations of over one million people, have some form of dedicated funding source that comprises a significant portion of their operating and capital funding. As seen in the below chart, the average amount of dedicated funding for most large U.S. transit agencies is just under 40% of their total funding. That includes transit systems in all major U.S. cities, from New York to Los Angeles. By comparison, dedicated funds provide less than 2% of Metro's overall funding (Figure 5).

Table 2. Summary of Sources for Funds Applied, WMATA and Large Transit Agencies, 2002

	Type	Source	WMATA	Transit Agencies in Areas with Populations over 1 million	National Total
Capital Funds	Federal	Capital and Urbanized Area Formulas	67.26%	39.31%	40.58%
	State Funds	Funds Allocated Out of General Revenue	12.11%	2.80%	3.10%
		Dedicated Taxes, Tolls, and Other	0%	8.89%	8.54%
	Local Funds	Funds Allocated Out of General Revenue	20.63%	4.79%	4.83%
		Dedicated Taxes, Tolls, and Other	0%	14.53%	15.27%
	Directly Generated Funds	Dedicated Taxes, Tolls, and Other	0%	29.68%	27.68%
	Total Dedicated for Capital		**0%**	**53.10%**	**51.49%**
Operating Funds	Federal	Urbanized Area Formula and Other	1.64%	4.26%	5.38%
	State Funds	General Revenue	20.32%	6.54%	7.18%
		Dedicated and Other	0%	19.22%	18.10%
	Local Funds	General Revenue	14.61%	7.63%	8.46%
		Dedicated and Other	1.98%	11.53%	11.64%
	Directly Generated Funds	Fare Revenues	44.33%	35.53%	33.69%
		Other and Non-Transportation Funds*	17.12%	7.44%	12.46%
		Dedicated and Other	0%	7.85%	3.09%
	Total Dedicated for Operating		**1.98%**	**38.60%**	**32.83%**

** Non Transportation funds are those not directly associated with the provision of transit services such as investment income and development fees.*
Source: Federal Transit Administration, "2002 National Transit Database," Tables 1 and 7, www.ntdprogram.com

Figure 5: Metro dedicated funding compared to the average amount of dedicated funding received by U.S. transit agencies. Source: The Brookings Institution, Washington's Metro: Deficits by Design, at 6.

Dedicated Funding Options

In April 2017, COG released the Technical Panel Final Report on Metro.[61] The report reiterated the importance of a dedicated funding source, and painted a bleak picture of what would happen if a dedicated revenue stream is not in effect by CY2019.[62] The report found that a dedicated

[61] *See* Metropolitan Washington Council of Governments, *COG Technical Panel Report on Metro* (April 26, 2017), https://www.mwcog.org/documents/2017/04/26/cog-technical-panel-report-on-metro-metro/.
[62] *See Id.*

capital funding source for Metro should yield $650 million per year.[63] The COG report identified several potential funding sources (Figure 6).

Type of Tax	Tax Increase	Annual Tax Revenue Collected in WMATA Compact Region
Sales Tax	1.0%	$650 million
Property Tax (all property)	8 cents per $100	$650 million
Property Tax (½ mile from Metro)	43 cents per $100	$650 million
Gas Tax	16.3% increase	$650 million

Figure 6: COG forecasted tax revenues from dedicated revenue sources.
Source: COG Technical Panel Report on Metro, at 14.

In addition to these sources of potential revenue identified by COG, two other possibilities are discussed here: a rental car tax and dedicated transportation revenue.

Each potential revenue source has advantages and disadvantages as described below.

Sales Tax

A popular approach discussed for decades is a straight-forward uniform regional sales tax of one cent or some other figure. The sales tax would apply to all jurisdictions within the Metro Compact. There are shortcomings with this approach however, as it would not be evenly distributed among the jurisdictions or correspond with the formula in the Metro Compact for funding (Figure 7).[64] An alternative approach is to allow each jurisdiction to set a sales tax at the level appropriate to reach a certain funding goal.

[63] The General Manager is seeking $500 million annually in dedicated funding for capital projects. *See* WMATA, *Keeping Metro Safe, Reliable & Affordable*, at 14 https://www.scribd.com/document/345664567/Regional-Funding-GM-s-Presentation#download&from_embed.
[64] Figure 7 shows that approximately 50% of the revenue generated from a flat regional sales tax would come from Northern Virginia.

Metropolitan Washington Council of Governments

Distribution of Regional Uniform Taxes Collected by Jurisdiction

Jurisdicitons:	District of Columbia	Montgomery County	Prince George's County	Arlington County	City of Alexandria	Fairfax County	City of Falls Church	City of Fairfax	Loudon County	
Scenarios to raise $650 million per year:										
1) Sales Tax										TOTAL
Uniform tax rate to generate $650mm	**1.00%**	**1.00%**	**1.00%**	**1.00%**	**1.00%**	**1.00%**	**1.00%**	**1.00%**	**1.00%**	
Amount paid by jurisdiction w/uniform rate	$ 148	$ 91	$ 81	$ 39	$ 32	$ 179	$ 4	$ 10	$ 66	$ 650
Jurisdiction share of the total revenue	22.8%	14.0%	12.5%	6.0%	4.9%	27.6%	0.6%	1.5%	10.2%	100.0%
2) Property Tax										TOTAL
Uniform tax rate to generate $650mm ($/$100 of assessment)	**$ 0.080**	**$ 0.080**	**$ 0.080**	**$ 0.080**	**$ 0.080**	**$ 0.080**	**$ 0.080**	**$ 0.080**	**$ 0.080**	
Amount paid by jurisdiction w/uniform rate	$ 142	$ 124	$ 59	$ 55	$ 31	$ 176	$ 3	$ 5	$ 58	$ 652
Jurisdiction share of the total revenue	21.7%	19.0%	9.1%	8.5%	4.7%	27.0%	0.4%	0.7%	8.9%	100.0%
3) Property Tax near Metro										TOTAL
Uniform tax rate to generate $650mm ($/$100 of assessment)	**$ 0.428**	**$ 0.428**	**$ 0.428**	**$ 0.428**	**$ 0.428**	**$ 0.428**	**$ 0.428**	**$ 0.428**	**$ 0.428**	
Amount paid by jurisdiction w/uniform rate	$ 328	$ 67	$ 28	$ 108	$ 32	$ 80	$ 4	$ 4	$ -	$ 650
Jurisdiction share of the total revenue	50.5%	10.3%	4.3%	16.5%	4.9%	12.4%	0.6%	0.6%	0.0%	100.0%
4) Gas Tax										TOTAL
Uniform tax rate to generate $650mm	**16.3%**	**16.3%**	**16.3%**	**16.3%**	**16.3%**	**16.3%**	**16.3%**	**16.3%**	**16.3%**	
Amount paid by jurisdiction w/uniform rate	$ 41	$ 169	$ 148	$ 26	$ 19	$ 160	$ 8	$ 12	$ 67	$ 650
Jurisdiction share of the total revenue	6.3%	26.0%	22.8%	4.0%	3.0%	24.6%	1.2%	1.8%	10.4%	100.0%

Figure 7: Distribution of Regional Uniform Taxes Collected by Jurisdiction. Source: COG Technical Panel Report on Metro, at 15.

Sales taxes to fund transit and transportation in general are fairly popular across the country. In November, Los Angeles voters approved the ballot initiative "Measure M", a half-cent sales tax increase to fund an ambitious expansion of LA County's transit network.[65] Fairfax County has a .7% sales tax for transportation.[66] Paired with meaningful reform efforts, a sales tax could be the most politically popular and viable funding mechanism. There is also precedent for sales tax funding on Metro's cousin systems, MARTA and BART, both of which receive some level of dedicated funding through a sales tax.

Property Tax (All Property)

The Metro system offers benefits to the entire DC region, whether an individual ever steps foot on a Metro train or bus. Given the widespread importance of the system, a regional property tax on all taxable land within the Compact jurisdictions would offer a fair way to fund the Metro system.

Property Tax (1/2 Mile From Metro)

Another approach often discussed is value capture property taxes, which would use Assessment Districts formed to recapture "real estate premiums"—added value to a property, which can be captured by property owners in higher lease or rent costs—that Metrorail stations create for surrounding properties. The assessment will vary based on the distance of any one part of a property parcel from the entrance of a Metrorail station. Three suggested radii that would be subject to the special assessment: properties within .25 miles, .35 miles, and .50 miles.

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[65] *See* Alissa Walker, *Measure M: Angelenos vote to tax themselves for better public transit*, *Curbed Los Angeles*, https://la.curbed.com/2016/11/9/13573924/measure-m-los-angeles-public-transit-results.
[66] *See* Fairfax County, Virginia, *Tax Rates*, http://www.fairfaxcounty.gov/dta/tax_rates.htm.

Properties within a quarter mile of a Metrorail station would pay the highest assessment, while properties within .25-.34 will pay a lower amount, with properties between .35-.50 miles paying the lowest amount. If a parcel straddles a radius, the higher amount would apply. For example, if the rate were set at $0.55 within .25 miles, the additional assessment on a property worth $1 million within a quarter mile of a Metrorail station would be $5,500 a year, which would go solely to Metro. According to a 2011 WMATA report, properties within a half mile of a Metrorail station see premiums of 6.8-9.6%.[67]

Special assessment districts have been used in the DC region in recent years to fund construction of the Silver Line in Fairfax and Loudoun counties. The Fairfax initiative applied an added property tax on commercial and industrial properties only of $0.22 per $100 of assessed value. The Loudoun County assessment currently funding Phase 2 of the Silver Line is $0.20 per $100 of assessed value in the vicinity of the future stations.[68]

There are also examples from across the country of special assessment districts established to fund transit. In Los Angeles, the County and City established "Red Line Benefit Assessment Districts" around Los Angeles Red Line stations. These districts incurred an additional ~$.25 per square foot fee on properties in proximity to two Red Line stations, which generated about $20 million a year over a 17 year period for construction of the subway.[69]

Gas Tax

Much of Metro's current capital and operating funding comes from a tax on motor fuel. The gas tax currently funds a significant portion of Metro's budget,[70] and the budget of other U.S. transit systems. Some jurisdictions use a local or regional gas tax—in addition to the typical state and federal gas tax—to fund infrastructure. For example, Northern Virginia has a local motor vehicle fuels sales tax that provides extra dollars to transportation in Northern Virginia.

Rental Car Fees

A fee could be applied to car rentals at Ronald Reagan Washington National Airport and, in the future, Dulles International Airport. National Airport is served by Metrorail and Dulles soon will be. Such a fee would ensure that visitors and tourists to the region, many of whom end up on

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[67] *See* Washington Metropolitan Area Transit Authority, *Making the Case for Transit: WMATA Regional Benefits of Transit*, https://www.wmata.com/initiatives/case-for-transit/upload/WMATA-Making-the-Case-for-Transit-Final-Tech-Report.pdf.

[68] *See* Loudoun County Board of Supervisors, *Ordinance to Create the Metrorail Service District*, https://www.loudoun.gov/DocumentCenter/View/102368.

[69] *See* American Public Transportation Association, *Value Capture for Public Transportation Projects: Examples* (Aug. 2015), https://www.apta.com/resources/reportsandpublications/Documents/APTA-Value-Capture-2015.pdf.

[70] For example, the entirety of Maryland's capital and operating subsidy is from the state's TTF, which is significantly funded by the gas tax.

Metro at some point during their trip, pay a share of Metro funding. It is unlikely that a nominal rental car fee will deter the robust tourist industry in the region.

<u>Dedicated Transportation Revenue</u>

A suggestion raised by Loudoun County would be to package the existing Metro revenue sources in some way to allow for bonding and extend those dollars further.[71] There are two challenges with the Loudoun approach. First, it may not yield adequate funds. But that could be addressed by increasing the existing forms of revenue to meet the increased need. Second, it may not be viewed favorably by the rating agencies, an issue of importance discussed below. But Maryland may have a solution to that issue. One way in which Maryland has obtained a strong bond rating for programs it pays for in lottery proceeds is by mandating that lottery revenue be deposited in a specific fund and not subjecting the revenue to appropriation.[72] Under that model, the existing revenue sources for each jurisdiction could be increased and set aside for Metro.

Reform Proposal

Instead of attempting to impose a one size fits all approach on diverse regional jurisdictions, a funding target should be established for each jurisdiction and they should be left to determine the funding source from a menu of options: sales tax, property tax, gas tax surcharge, rental car tax, or—if it is determined that it can work—dedicated transportation revenue. The General Manager has proposed something similar and sought a dedicated funding source from each jurisdiction yielding $170 million per year.[73] Moreover, the General Manager has proposed to cap the existing capital and operating subsidies at 3% increases per year.[74] Capping the existing sources with an inflation escalator should free up funding in future years from those sources in the jurisdictions.

The ultimate funding target and growth expectation would need to be determined by Metro and the GM in consultation with the jurisdictions before reform is undertaken. For current purposes, this proposal uses the $170 million per year plus 3% growth, taken from the General Manager's reform plan.

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[71] *See* Sydney Kashiwagi, *Letourneau Says 'Virtually Zero' Chance General Assembly, Localities Will Support Metro Sales Tax*, The Washington Post (June 5, 2017), http://www.loudountimes.com/news/article/leotourneau_says_virtually_zero_chance_general_assembly_localities_will_sup.

[72] *See, e.g.*, Moody's Investor Services, *Moody's Assigns Aa3 to Maryland's Baltimore City Schools Construction Bond Series 2016A; Outlook Stable* (Dec. 22, 2016), https://www.moodys.com/research/Moodys-assigns-Aa3-to-Marylands-Baltimore-City-Schools-Construction-Bonds--PR_903040876.

[73] *See* Paul Wiedefeld, *Keeping Metro Safe, Reliable and Affordable* (April 19, 2017), https://www.wmata.com/initiatives/budget/.

[74] *See Id.*

Revenue raised would automatically be diverted to Metro and its new capital trust fund (described below), but any overage of the dedicated funding source beyond the jurisdictional target could be used by the jurisdiction on its own transportation projects.[75]

A Maryland Proposal

In the state of Maryland, the recommendation would be to divert a portion of the Transportation Trust Fund revenue directly to a new Metro Capital Trust Fund. The diversion would have to equal the current appropriation, plus the additional target of $170 million, with an appropriate annual increase for inflation.

If that additional funding could not be obtained or would not be eligible for a strong bond rating, a potential alternative approach in Maryland would be to enable Montgomery and Prince George's Counties to meet the funding obligation by enacting their own local taxes, including taxes they do not currently have independent authority to levy. Under that scenario, capping the state contribution from the TTF at 3% increases per year should free up TTF funding for other Maryland projects and programs supported by the TTF in future years because the average increase over the last 10 years has been 7.7% (see Figure 4 above).

Bond Financing and Capital Trust Fund

In order for Metro's capital dollars to be extended further, Metro should make better use of bond financing by diverting all dedicated funding into a Capital Trust Fund. Metro's bond rating is lower than that of other major U.S. transit agencies (Figure 7), even as it carries a lower debt load. That poor rating is partially caused by the lack of a dedicated funding source to service the bonds. Moody's Investors Service has stated that Metro can improve its bond rating through a sustained trend of management and governance improvements, along with securing a dedicated funding source.[76]

Metro can use the dedicated funding to service bond funding and still achieve a higher rating from bond rating agencies than the status quo. As mentioned, Metro has a lower debt load than many peer transit systems, yet those systems enjoy a higher bond rating because, in part, they have some form of dedicated revenue (Figure 8).

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[75] A similar approach was used in early transit funding proposals in the Los Angeles area where local governments received part of the dedicated funding established for "rapid transit." *See* Ethan N. Elkind, Railtown, University of California Press, at 37 (2014).

[76] *See* Moody's Investors Service, *Moody's downgrades WMATA to A2, assigns A2 to $220M Gross Rev. Bonds Series 2016A*; *outlook revised to stable* (May 2016), https://www.moodys.com/research/Moodys-downgrades-WMATA-to-A2-assigns-A2-to-220M-Gross--PR_903291604.

(Millions)	Debt	Debt / Net Capital Assets	S&P	Moody's
New York MTA	$ 34,483.0	56%	AA	NR
Mass. Bay Transit (MBTA)	$ 5,309.6	60%	AA+	Aa2
Los Angeles MTA	$ 4,533.2	36%	AA+	Aa2
Chicago MTA	$ 4,136.3	83%	A+	NR
Atlanta Rapid Transit	$ 2,113.9	71%	AA+	Aa2
San Fran. Bay Area Rapid Transit	$ 1,334.4	18%	AA+	NR
WMATA (Proposed)	$ 1,043.1	9%	AA-	A2

Figure 8: Ratio of long-term debt to Net Capital Assets for major transit agencies.
Source: WMATA Finance Committee, Authorization for Debt Issuance (March 2017), https://www.wmata.com/about/board/meetings/board-pdfs/upload/3B-Debt-Issuance-COMBINED-Revised-2017-03-22.pdf.

A new capital trust fund, also proposed by many other stakeholders, is a fiscally prudent way to expend capital dollars and will also provide the region reassurance that their money is being well spent.

Rider Involvement

RECOMMENDATION: Establish a more independent and robust Riders Advisory Council made up of jurisdiction appointed riders of each mode.

In 2005, the Metro Board created the Metro Riders' Advisory Council ("RAC") to advise the Board on issues pertaining to Metrorail, Metrobus, and MetroAccess. The RAC consists of 21 members: six each from DC, Maryland, and Virginia, respectively, two at-large members, and the head of the Accessibility Advisory Committee ("AAC").[77] The RAC members are appointed by the Metro Board of Directors, and RAC members are supposed to act as a liaison between Metro's leadership and the riders.

Metro has also established the AAC to provide a voice and forum for riders with disabilities. The AAC has existed in some form since 1979 but is currently governed by a 2009 Board resolution. The AAC has 20 members: six each from DC, Maryland, and Virginia, respectively, and two from the COG's Access for All Committee.[78]

[77] *See* WMATA Riders' Advisory Council, *About*, https://www.wmata.com/about/riders-advisory-council/.
[78] *See* WMATA, *Accessibility Advisory Committee Appointment*, https://wmata.com/about/board/meetings/board-pdfs/upload/092414_8BApprovalofAACAppointmentFINALIZED.pdf.

The RAC was considered an effective voice for riders in the years immediately after its formation, hosting public forums and exposing problems to the public eye. However, in recent years, the RAC has become gradually less effective.[79] The lessening influence of the RAC could be related to the appointment process, which does not hold RAC members accountable to any one jurisdiction or local government but ties them closely to Metro and makes them reliant on Metro's bureaucracy.

Reform Proposal

In order to make sure that riders have a more effective seat at the table, the existing Riders Advisory Council and Accessibility Advisory Committee need to be reformed and strengthened. The reformed Compact would codify a voice for riders and convert the existing entities into a Riders Council made up of three committees: rail riders, bus riders, and paratransit riders. The local governments of Montgomery County, Prince George's County, Arlington County, Fairfax County, Loudoun County, and the District of Columbia would each appoint one member to each committee. Three other members would be appointed, one each, by the two Governors and the Mayor and would be from businesses located within a half mile of a Metrorail station.

The Riders Council would be funded at .017% of Metro's operating budget annually (equaling about $309,000 under Metro's $1.820 billion FY2018 operating budget) to fund an independent Executive Director, one other administrative staffer, and other expenses. That fixed funding will make it operationally similar to People's Counsels in Maryland and Washington, DC, which advocate for customers before utility regulators. That guaranteed funding and independently appointed membership will ensure that the Riders Council can act as a true advocate for its constituency and not just a powerless rubber stamp.

This independent advisory council model would be similar to those used in other transit systems. For example, the SEPTA Citizen Advisory Committee ("CAC") has its membership appointed by the county commissioners of the counties surrounding the city, or if they live in the city, the Mayor of Philadelphia. All CAC members are required to be regular riders of SEPTA. The SEPTA CAC consists of between 14-20 members, similar to the proposed Metro Riders Council.[80]

Non-Jurisdictional Reforms

Metro reform efforts do not rely solely on the actions of the Metro Compact jurisdictions, but also on the federal government, internal changes at Metro, and state and local government attention. These actions do not require identical legislation among the Compact jurisdictions, but are important nevertheless. Indeed, many of the reform proposals currently circulating do not require jurisdictional statutory changes outside of funding.

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[79] *See* David Alpert, Greater Greater Washington, *WMATA riders' council can be influential; once, it was* (Aug. 13, 2013), https://ggwash.org/view/31927/wmata-riders-council-can-be-influential-once-it-was.
[80] *See* SEPTA, *CAC by-laws*, http://www.septa.org/partners/cac/pdf/2016-cac-by-laws.pdf.

Federal Government

Metro currently receives a portion of its capital funding through PRIIA.[81] Under PRIIA agreement, the federal government provides $150 million annually to Metro for capital costs through a Federal Transit Administration grant.[82] Like all capital funding, this money is used for repairs to tracks, stations, and the purchasing of new vehicles. The three Metro Compact jurisdictions match the federal grant with $50 million in additional capital funding annually. PRIIA expires in 2018 and will need to be reauthorized to ensure that Metro has sufficient capital funding.[83]

The reforms laid out in this document assume that PRIIA will be renewed at the current level of $150 million annually, for a ten year allocation of $1.5 billion. Any reauthorization amount over $1.5 billion can reduce the jurisdictional contribution to Metro's capital funding and potentially decrease the amount needed from the new dedicated revenue source(s).

Other Reform Efforts

This approach does not preclude many of the actions proposed by the Metro General Manager, workforce, and other stakeholders that do not require jurisdictional action. Some of the reforms proposed by others may be implemented internally at Metro and do not require passage of legislation by D.C., Maryland, and Virginia.

Other Stakeholder Involvement

In Maryland, there have been some stakeholder involvement success stories that do not require legal changes, but could be replicated elsewhere. First, in 2015 members of the Maryland legislature formed a workgroup dedicated to providing oversight of the Metro system on an ongoing basis. This work has included meetings with Metro personnel and other stakeholders, weighing in on Metro policies, and site visits. The other jurisdictions providing significant funding to Metro could replicate this effort. Second, at one Metrorail station in Montgomery County, local businesses, residents, and government have formed a Metro Station Improvement Task Force to try and work with Metro to improve the station and the area immediately surrounding it. The group has had some measured success in cleaning and beautifying the station, as well as calling attention to some station-specific problems such as escalator breakdowns and water infiltration. Other communities around stations should consider forming similar task forces to make sure Metro is engaged on a station-level basis with the community.

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[81] American Public Transportation Association, *PRIIA summary*, http://www.apta.com/gap/legissues/passengerrail/Documents/Summary%20of%20Rail%20Safety%20and%20Improvement%20Act%20(2).pdf.

[82] Lori Aratani, The Washington Post, *Senate bill includes $150 million in funding for Metro* (June 26, 2015), https://www.washingtonpost.com/news/dr-gridlock/wp/2015/06/26/senate-bill-includes-150-million-in-funding-for-metro/?utm_term=.42df8ecafc1d.

[83] PRIIA is also subject to annual federal appropriations and funding is not guaranteed even with a new authorization.

Conclusion

Metro reform is sorely needed and long overdue. A major component of that reform is dedicated funding. But funding alone is not the solution. It must be combined with governance and management that truly works for Metro's constituencies: riders, workers, voters, and taxpayers. Only broader reform will convince the region that Metro can appropriately use vast new resources. The changes proposed here represent that broader reform.

LIST OF RECOMMENDATIONS

- Convert the current Board to a Board of the Transportation secretaries with no jurisdictional veto;
- Strengthen the Metro Inspector General;
- Update outdated terms and remove unnecessary provisions;
- Require Metro to prepare quarterly Vital Signs reports including benchmarking, a Capital Improvement Program with public participation, and a strategic plan with public participation;
- Create dedicated funding allowing a flexible response in each jurisdiction, with the funds flowing to a trust fund for bonding; and
- Establish a more independent and robust Riders Advisory Council made up of jurisdiction appointed riders of each mode.