

MEMORANDUM FOR: Chairman and Members of the Board

SUBJECT: The National Capital Transportation
Amendments Act of 2006 (H.R. 3496)

This is to inform you that there is a possibility that during the lame duck session of Congress, which will begin November 13, 2006, the National Capital Transportation Amendments Act of 2006 (H.R. 3496) may be considered by the U.S. Senate. Before the Congress recessed prior to the elections, a new version of the bill was circulated. A copy of the new version is attached. In summary, the new version:

- Specifies that jurisdictional dedicated funds only have to be a match to federal funds. In the House-passed version of the bill, the wording was such that all payments to WMATA made by jurisdictions for operating and capital had to be from dedicated funds.
- The definition of dedicated funding is changed to read "any source of funding which is earmarked OR required under State or local law to be used to match Federal appropriations authorized under this Act." In the House-passed version, it specified "earmarked AND required."
- Outer Continental Shelf (OCS) revenues have been deleted as a funding source for the bill. General funds are now the funding source for the bill.
- The section of the bill related to local land use, at Vienna, Takoma Park and Largo has been deleted.

We will continue to keep you up to date if there are any further developments on this legislation.

Attachment

Jack Requa
Interim General Manager

Purpose: To propose a substitute.

IN THE SENATE OF THE UNITED STATES—109th Cong., 2d Sess.

H. R. 3496

To amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

2 Strike all after the enacting clause and insert the fol-
3 lowing:

4 **SECTION 1. SHORT TITLE; FINDINGS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “National Capital Transportation Amendments Act of
7 2006”.

8 (b) **FINDINGS.**—Congress finds as follows:

9 (1) Metro, the public transit system of the
: Washington metropolitan area, is essential for the

2 continued and effective performance of the functions
3 of the Federal Government, and for the orderly
4 movement of people during major events and times
5 of regional or national emergency.

6 (2) On 3 occasions, Congress has authorized
7 appropriations for the construction and capital im-
8 provement needs of the Metrorail system.

9 (3) Additional funding is required to protect
: these previous Federal investments and ensure the
21 continued functionality and viability of the original
22 103-mile Metrorail system.

23 **SEC. 2. FEDERAL CONTRIBUTION FOR CAPITAL PROJECTS**
24 **FOR WASHINGTON METROPOLITAN AREA**
25 **TRANSIT SYSTEM.**

26 The National Capital Transportation Act of 1969
27 (sec. 9-1111.01 et seq., D.C. Official Code) is amended
28 by adding at the end the following new section:

29 "AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBU-
: TION FOR CAPITAL AND PREVENTIVE MAINTENANCE
31 PROJECTS

32 "SEC. 18. (a) AUTHORIZATION.—Subject to the suc-
33 ceeding provisions of this section, the Secretary of Trans-
34 portation is authorized to make grants to the Transit Au-
35 thority, in addition to the contributions authorized under
36 sections 3, 14, and 17, for the purpose of financing in
37 part the capital and preventive maintenance projects in-

2 cluded in the Capital Improvement Program approved by
3 the Board of Directors of the Transit Authority.

4 “(b) USE OF FUNDS.—The Federal grants made pur-
5 suant to the authorization under this section shall be sub-
6 ject to the following limitations and conditions:

7 “(1) The work for which such Federal grants
8 are authorized shall be subject to the provisions of
9 the Compact (consistent with the amendments to the
: Compact described in subsection (d)).

21 “(2) Each such Federal grant shall be for 50
22 percent of the net project cost of the project in-
23 volved, and shall be provided in cash from sources
24 other than Federal funds or revenues from the oper-
25 ation of public mass transportation systems. Con-
26 sistent with the terms of the amendment to the
27 Compact described in subsection (d)(1), any funds
28 so provided shall be solely from undistributed cash
29 surpluses, replacement or depreciation funds or re-
: serves available in cash, or new capital.

31 “(c) APPLICABILITY OF REQUIREMENTS FOR MASS
32 TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS
33 UNDER FEDERAL TRANSPORTATION LAW.—Except as
34 specifically provided in this section, the use of any
35 amounts appropriated pursuant to the authorization under
36 this section shall be subject to the requirements applicable

2 to capital projects for which funds are provided under
3 chapter 53 of title 49, United States Code, except to the
4 extent that the Secretary of Transportation determines
5 that the requirements are inconsistent with the purposes
6 of this section.

7 “(d) AMENDMENTS TO COMPACT.—No amounts may
8 be provided to the Transit Authority pursuant to the au-
9 thorization under this section until the Transit Authority
: notifies the Secretary of Transportation that each of the
21 following amendments to the Compact (and any further
22 amendments which may be required to implement such
23 amendments) have taken effect:

24 “(1)(A) An amendment requiring that all pay-
25 ments by the local signatory governments for the
26 Transit Authority for the purpose of matching any
27 Federal funds appropriated in any given year au-
28 thorized under subsection (a) for the cost of oper-
29 ating and maintaining the adopted regional system
2: are made from amounts derived from dedicated
31 funding sources.

32 “(B) For purposes of this paragraph, the term
33 ‘dedicated funding source’ means any source of
34 funding which is earmarked or required under State
35 or local law to be used to match Federal appropria-

2 tions authorized under this Act for payments to the
3 Transit Authority.

4 “(2) An amendment establishing the Office of
5 the Inspector General of the Transit Authority in
6 accordance with section 3 of the National Capital
7 Transportation Amendments Act of 2006.

8 “(3) An amendment expanding the Board of
9 Directors of the Transit Authority to include 4 addi-
: tional Directors appointed by the Administrator of
21 General Services, of whom 2 shall be nonvoting and
22 2 shall be voting, and requiring one of the voting
23 members so appointed to be a regular passenger and
24 customer of the bus or rail service of the Transit
25 Authority.

26 “(e) AMOUNT.—There are authorized to be appro-
27 priated to the Secretary of Transportation for grants
28 under this section an aggregate amount not to exceed
29 \$1,500,000,000 to be available in increments over 10 fis-
2: cal years beginning in fiscal year 2008, or until expended.

31 “(f) AVAILABILITY.—Amounts appropriated pursu-
32 ant to the authorization under this section—

33 “(1) shall remain available until expended; and

34 “(2) shall be in addition to, and not in lieu of,
35 amounts available to the Transit Authority under

2 chapter 53 of title 49, United States Code, or any
3 other provision of law.”.

4 **SEC. 3. WASHINGTON METROPOLITAN AREA TRANSIT AU-**
5 **THORITY INSPECTOR GENERAL.**

6 (a) **ESTABLISHMENT OF OFFICE.—**

7 (1) **IN GENERAL.—**The Washington Metropoli-
8 tan Area Transit Authority (hereafter referred to as
9 the “Transit Authority”) shall establish in the Tran-
: sit Authority the Office of the Inspector General
21 (hereafter in this section referred to as the “Of-
22 fice”), headed by the Inspector General of the Tran-
23 sit Authority (hereafter in this section referred to as
24 the “Inspector General”).

25 (2) **DEFINITION.—**In paragraph (1), the
26 “Washington Metropolitan Area Transit Authority”
27 means the Authority established under Article III of
28 the Washington Metropolitan Area Transit Author-
29 ity Compact (Public Law 89-774).

2: (b) **INSPECTOR GENERAL.—**

31 (1) **APPOINTMENT.—**The Inspector General
32 shall be appointed by the vote of a majority of the
33 Board of Directors of the Transit Authority, and
34 shall be appointed without regard to political affili-
35 ation and solely on the basis of integrity and dem-
36 onstrated ability in accounting, auditing, financial

2 analysis, law, management analysis, public adminis-
3 tration, or investigations, as well as familiarity or
4 experience with the operation of transit systems.

5 (2) TERM OF SERVICE.—The Inspector General
6 shall serve for a term of 5 years, and an individual
7 serving as Inspector General may be reappointed for
8 not more than 2 additional terms.

9 (3) REMOVAL.—The Inspector General may be
: removed from office prior to the expiration of his
21 term only by the unanimous vote of all of the mem-
22 bers of the Board of Directors of the Transit Au-
23 thority, and the Board shall communicate the rea-
24 sons for any such removal to the Governor of Mary-
25 land, the Governor of Virginia, the Mayor of the
26 District of Columbia, the chair of the Committee on
27 Government Reform of the House of Representa-
28 tives, and the chair of the Committee on Homeland
29 Security and Governmental Affairs of the Senate.

2: (c) DUTIES.—

31 (1) APPLICABILITY OF DUTIES OF INSPECTOR
32 GENERAL OF EXECUTIVE BRANCH ESTABLISH-
33 MENT.—The Inspector General shall carry out the
34 same duties and responsibilities with respect to the
35 Transit Authority as an Inspector General of an es-
36 tablishment carries out with respect to an establish-

2 ment under section 4 of the Inspector General Act
3 of 1978 (5 U.S.C. App. 4), under the same terms
4 and conditions which apply under such section.

5 (2) CONDUCTING ANNUAL AUDIT OF FINANCIAL
6 STATEMENTS.—The Inspector General shall be re-
7 sponsible for conducting the annual audit of the fi-
8 nancial accounts of the Transit Authority, either di-
9 rectly or by contract with an independent external
: auditor selected by the Inspector General.

21 (3) REPORTS.—

22 (A) SEMIANNUAL REPORTS TO TRANSIT
23 AUTHORITY.—The Inspector General shall pre-
24 pare and submit semiannual reports summa-
25 rizing the activities of the Office in the same
26 manner, and in accordance with the same dead-
27 lines, terms, and conditions, as an Inspector
28 General of an establishment under section 5 of
29 the Inspector General Act of 1978 (5 U.S.C.
2: App. 5). For purposes of applying section 5 of
31 such Act to the Inspector General, the Board of
32 Directors of the Transit Authority shall be con-
33 sidered the head of the establishment, except
34 that the Inspector General shall transmit to the
35 General Manager of the Transit Authority a

1 copy of any report submitted to the Board pur-
2 suant to this paragraph.

3 (B) ANNUAL REPORTS TO LOCAL SIGNA-
4 TORY GOVERNMENTS AND CONGRESS.—Not
5 later than January 15 of each year, the Inspec-
6 tor General shall prepare and submit a report
7 summarizing the activities of the Office during
8 the previous year, and shall submit such reports
9 to the Governor of Maryland, the Governor of
10 Virginia, the Mayor of the District of Columbia,
11 the chair of the Committee on Government Re-
12 form of the House of Representatives, and the
13 chair of the Committee on Homeland Security
14 and Governmental Affairs of the Senate.

15 (4) INVESTIGATIONS OF COMPLAINTS OF EM-
16 PLOYEES AND MEMBERS.—

17 (A) AUTHORITY.—The Inspector General
18 may receive and investigate complaints or infor-
19 mation from an employee or member of the
20 Transit Authority concerning the possible exist-
21 ence of an activity constituting a violation of
22 law, rules, or regulations, or mismanagement,
23 gross waste of funds, abuse of authority, or a
24 substantial and specific danger to the public
25 health and safety.

1 (B) NONDISCLOSURE.—The Inspector
2 General shall not, after receipt of a complaint
3 or information from an employee or member,
4 disclose the identity of the employee or member
5 without the consent of the employee or member,
6 unless the Inspector General determines such
7 disclosure is unavoidable during the course of
8 the investigation.

9 (C) PROHIBITING RETALIATION.—An em-
10 ployee or member of the Transit Authority who
11 has authority to take, direct others to take, rec-
12 ommend, or approve any personnel action, shall
13 not, with respect to such authority, take or
14 threaten to take any action against any em-
15 ployee or member as a reprisal for making a
16 complaint or disclosing information to the In-
17 spector General, unless the complaint was made
18 or the information disclosed with the knowledge
19 that it was false or with willful disregard for its
20 truth or falsity.

21 (5) INDEPENDENCE IN CARRYING OUT DU-
22 TIES.—Neither the Board of Directors of the Tran-
23 sit Authority, the General Manager of the Transit
24 Authority, nor any other member or employee of the
25 Transit Authority may prevent or prohibit the In-

1 spectator General from carrying out any of the duties
2 or responsibilities assigned to the Inspector General
3 under this section.

4 (d) POWERS.—

5 (1) IN GENERAL.—The Inspector General may
6 exercise the same authorities with respect to the
7 Transit Authority as an Inspector General of an es-
8 tablishment may exercise with respect to an estab-
9 lishment under section 6(a) of the Inspector General
10 Act of 1978 (5 U.S.C. App. 6(a)), other than para-
11 graphs (7), (8), and (9) of such section.

12 (2) STAFF.—

13 (Δ) ASSISTANT INSPECTOR GENERALS AND
14 OTHER STAFF.—The Inspector General shall
15 appoint and fix the pay of—

16 (i) an Assistant Inspector General for
17 Audits, who shall be responsible for coordi-
18 nating the activities of the Inspector Gen-
19 eral relating to audits;

20 (ii) an Assistant Inspector General for
21 Investigations, who shall be responsible for
22 coordinating the activities of the Inspector
23 General relating to investigations; and

24 (iii) such other personnel as the In-
25 spectator General considers appropriate.

1 (B) INDEPENDENCE IN APPOINTING
2 STAFF.—No individual may carry out any of
3 the duties or responsibilities of the Office unless
4 the individual is appointed by the Inspector
5 General, or provides services procured by the
6 Inspector General, pursuant to this paragraph.
7 Nothing in this subparagraph may be construed
8 to prohibit the Inspector General from entering
9 into a contract or other arrangement for the
10 provision of services under this section.

11 (C) APPLICABILITY OF TRANSIT SYSTEM
12 PERSONNEL RULES.—None of the regulations
13 governing the appointment and pay of employ-
14 ees of the Transit System shall apply with re-
15 spect to the appointment and compensation of
16 the personnel of the Office, except to the extent
17 agreed to by the Inspector General. Nothing in
18 the previous sentence may be construed to af-
19 fect subparagraphs (A) through (B).

20 (3) EQUIPMENT AND SUPPLIES.—The General
21 Manager of the Transit Authority shall provide the
22 Office with appropriate and adequate office space,
23 together with such equipment, supplies, and commu-
24 nications facilities and services as may be necessary
25 for the operation of the Office, and shall provide

1 necessary maintenance services for such office space
2 and the equipment and facilities located therein.

3 (e) TRANSFER OF FUNCTIONS.—To the extent that
4 any office or entity in the Transit Authority prior to the
5 appointment of the first Inspector General under this sec-
6 tion carried out any of the duties and responsibilities as-
7 signed to the Inspector General under this section, the
8 functions of such office or entity shall be transferred to
9 the Office upon the appointment of the first Inspector
10 General under this section.

11 **SEC. 4. STUDY AND REPORT BY COMPTROLLER GENERAL.**

12 (a) STUDY.—The Comptroller General shall conduct
13 a study on the use of the funds provided under section
14 18 of the National Capital Transportation Act of 1969
15 (as added by this Act).

16 (b) REPORT.—Not later than 3 years after the date
17 of the enactment of this Act, the Comptroller General shall
18 submit a report to the Committee on Government Reform
19 of the House of Representatives and the Committee on
20 Homeland Security and Governmental Affairs of the Sen-
21 ate on the study conducted under subsection (a).