

November 14, 2023

SmartPortal@CTB.virginia.gov

*via email*

**Re: Comments on Proposed Changes to SMART SCALE**

Thank you for the opportunity to provide input regarding the ongoing review of the SMART SCALE project prioritization process and the proposed policy changes.

The Southern Environmental Law Center (SELC) is a non-partisan, non-profit organization that works throughout Virginia to promote transportation and land use decisions that strengthen our communities, protect our natural resources, and improve our quality of life. SELC strongly supported the legislation the General Assembly unanimously adopted in 2014 that led to the creation of SMART SCALE, and we have been involved in every round of project funding and every review of Virginia's transportation funding prioritization process since that time.

SMART SCALE is now a nationally recognized model that has a proven track record of funding transportation projects in a more transparent, objective, and data-driven way. Prior to its implementation, the transportation funding process in Virginia was opaque at best, and often appeared to be politically motivated—with dramatic shifts in priorities occurring between administrations. SMART SCALE and other transportation reform efforts were undertaken because of broad concerns about significant missteps under previous transportation funding programs, including projects like the proposed new Route 460 and the Downtown-Midtown Tunnel toll deal, and a failure to consider critical trends and impacts in making transportation funding decisions, such as the land use impacts of these decisions. SMART SCALE has provided a transparent process that demonstrates why one project was picked over another and has led to increased multimodal funding, enhanced mobility and accessibility, and more efficient use of taxpayer dollars.

We appreciate the substantial amount of staff time that has gone into reviewing SMART SCALE and analyzing potential policy changes. However, there have been some significant shortcomings with transparency and public input throughout this review. For example, with less than three weeks until the Commonwealth Transportation Board is scheduled to vote on staff's recommended changes to SMART SCALE, it still is not clear what some of the proposed changes are or what their impacts would be.

As important as these process issues are, the substance of the proposed changes to SMART SCALE are of paramount importance. The proposed changes raise numerous concerns and questions. Although each individual proposal has some merit, the cumulative impact of the proposed changes would take Virginia's transportation program in the wrong direction.

Secretary Miller has continually stated that SMART SCALE works well overall and has pledged that the current review will not result in changes that fundamentally alter the process—yet that is precisely what the cumulative impact of the proposed changes would do. In our March 10, 2023 letter, joined by 18 other organizations, we urged caution in making significant changes to SMART SCALE unless serious flaws are identified by a data-driven analysis of the results from the most recent round of funding. Unfortunately, the proposed policy revisions before the Board would result in major changes despite the fact that no serious flaws have been identified.

Of particular concern, the proposed changes will have a significant impact on the type of projects funded, limiting funding for transit, bicycle, and pedestrian projects. For example, if the most recent round of SMART SCALE projects were rescored using one set of the draft recommendations, staff has estimated that the number of bicycle and pedestrian projects funded would be reduced by over 75 percent—from 51 projects to 12—and the number of bus transit projects funded would drop from 3 to 0.

Transit, bicycle, and pedestrian projects provide important alternatives to driving and provide critical transportation options for people without a car or for those who cannot, or choose not, to drive. The multiple benefits these types of projects can provide include reducing congestion, cutting pollution, improving public health, saving lives and reducing injuries, increasing access to jobs, and promoting economic development. These are essential elements for improving Virginia’s transportation system and for meeting the state’s transportation goals, especially at a time of unacceptably high pedestrian death tolls and when transportation is the largest contributor to the climate crisis in Virginia. In contrast, the cumulative impact of the proposed changes will be to favor projects that result in more asphalt, more driving, more pollution, and reduced safety.

Proposed changes to SMART SCALE that sharply reduce funding for transit, bicycle, and pedestrian projects should not be adopted. A number of localities, Planning District Commissions, and Metropolitan Planning Organizations have similarly expressed opposition to these and other proposed changes to SMART SCALE. We will not repeat the multiple reasons for their opposition, but we share their concerns and have reached similar conclusions.

One of the most important proposed changes is the re-definition of High Priority Projects (HPP). This definition needs to be expansive enough to include a broad range of transit projects and significant pedestrian and bicycle improvements, and Bus Rapid Transit (BRT) should be specifically included in the definition. The HPP definition also needs to include a broader range of improvements to existing corridors, such as innovative intersections, access management, and transportation demand management strategies. The increased focus by VDOT and localities on corridor improvements and redevelopment in recent years has resulted in far more efficient use of existing infrastructure and taxpayer dollars while increasing safety and promoting economic development at the same time.

In addition, we are opposed to the proposal to eliminate land use as a separate factor. There are multiple links between transportation and land use. In fact, a primary reason the

General Assembly passed the legislation that led to SMART SCALE was the prevalence of poor land use decisions that fuel sprawl and result in more congestion and the construction of more roads taxpayers are on the hook to maintain. SMART SCALE should favor transportation investments that allow Virginia to grow without overwhelming our transportation system. However, if land use is eliminated as a separate factor, we support the proposed weighting suggested by members of the CTB at the Board meeting in September which, among other things, places a greater emphasis on safety and accessibility than the staff proposal.

Greater weight should also be placed on the environmental factor. As noted above, transportation is the largest source of carbon pollution in Virginia and a significant source of other harmful pollutants. As the just-released National Climate Assessment demonstrates in detail, climate change is costly, destructive, and deadly. Priority should be given to projects that reduce, rather than increase, transportation emissions.

Further, as a number of CTB members have pointed out, the proposed change to the economic development measure should be revised to do more to recognize and favor development in existing communities and expansion of existing businesses—the greatest source of jobs in the Commonwealth—rather than speculative development.

Finally, we are opposed to the proposed change in the congestion mitigation factor to focus entirely on future congestion. Future conditions are notoriously hard to predict and, as evidenced in the earliest rounds of SMART SCALE, only looking at future congestion leads to speculative assessments rather than a focus on current problems. At a minimum, we recommend that at least 50% of the congestion mitigation factor be based on current conditions.

In short, we urge the adoption of changes that will improve SMART SCALE, while proposals that will substantially reduce funding for projects that promote cleaner, healthier communities, safety, and community revitalization should be rejected.

Thank you again for the opportunity to provide feedback on the proposed SMART SCALE policy changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Trip Pollard". The signature is stylized and somewhat cursive.

Trip Pollard  
Senior Attorney

cc: The Honorable W. Sheppard Miller, III, , Virginia Secretary of Transportation  
The Honorable Members of the Commonwealth Transportation Board