
Maryland Department of Transportation

Fiscal 2006 Budget Overview

Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland

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Note: Numbers may not sum to total due to rounding.

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Analysis of the FY 2006 Maryland Executive Budget, 2005

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Analysis in Brief

Operating Budget Issues

Super Sweeper Initiates TTF Repayment, but Needs to Account for Non-sweeper Repayments: Chapter 430, Acts of 2004 (the Budget Reconciliation and Financing Act of 2004) contained provisions requiring the appropriation of unallocated funds at closeout to be applied toward repayment of \$314.9 million that was transferred from the Transportation Trust Fund (TTF) to the general fund in fiscal 2003 and 2004. In its out-year general fund forecast, the Administration proposes transfers to the TTF in fiscal 2007 through 2010. **The “super sweeper” amendment did not contemplate discretionary fund transfers and should be amended through budget reconciliation legislation to reflect that possibility, so that future repayments can be counted toward the \$314.9 million total.**

PAYGO Capital Budget Issues

Financing the Intercounty Connector and Grant Anticipation Revenue Vehicles: Financial Issues and Options: Construction of the Intercounty Connector (ICC) is expected to cost an estimated \$2.4 billion, financed with a combination of Grant Anticipation Revenue Vehicles (GARVEE) bonds, Maryland Transportation Authority (MdTA) debt, ICC toll-backed debt, and cash from the TTF and federal sources. There are numerous issues related to this financing plan and with GARVEE debt in particular. Alternative financing options, which offer lower total costs and would permit the sale of GARVEEs within existing statutory limits are available. **It is recommended that MDOT demonstrate to the General Assembly that all alternative financing methods, including additional cash, consolidated transportation bonds, Transportation Infrastructure Finance and Innovation Act (TIFIA) loans and other measures were considered in developing the current financing plan. Moreover, the agency should demonstrate how the current financing plan is superior to alternative methods that are available.**

Transfers between the TTF, MdTA, and General Fund Lack Transparency: The proposed transfer of \$150 million from the TTF to MdTA is not reflected as a revenue transfer in the forecast but is instead appropriated in the SHA capital program without accompanying project detail. **Recommendations are made to properly reflect appropriations for the ICC on the project information form in the SHA portion of the Consolidated Transportation Program.**

Reauthorization of Federal Transportation Reauthorization Still Pending: The six-year federal authorization act for federal transportation spending for the period 1998 through 2003, the Transportation Equity Act for the 21st Century (TEA-21), expired October 1, 2003. As Congress was unable to pass a reauthorization act prior to the expiration of TEA-21, legislation was enacted to

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implement numerous extensions of TEA-21 – the latest through May 2005. **The department should brief the committees on its current assumptions regarding federal aid and the impact of continued delay on capital projects.**

Statutory Changes Recommended to Codify Submission of Draft and Final Capital Program and Supporting Transportation Forecast: Absent specific statutory provisions, the Maryland Department of Transportation was reluctant to provide copies of its draft capital program and forecast to the legislature in the fall of 2004. **It is recommended that statutory changes be adopted to specifically require submission dates for the draft and final capital program and supporting financial forecasts.**

Recommended Actions

1. Add annual budget language pertaining to capital budget changes.
2. Add annual budget language on non-transportation expenditures.
3. Add budget language to establish an annual position ceiling.

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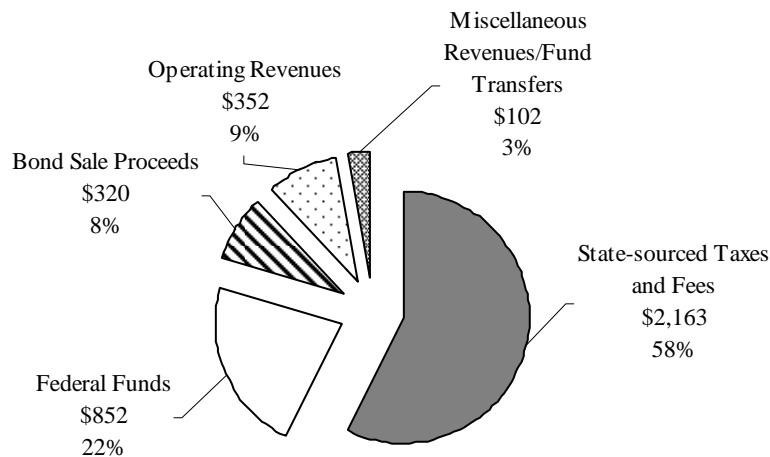
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Operating Budget Analysis

The Maryland Department of Transportation (MDOT) is responsible for statewide transportation planning and the development, operation, and maintenance of key elements of the transportation system. It is involved in all modes of transportation within the State, including the construction and maintenance of State roads, regulation and licensing of drivers and vehicles, and operation of bus and rail transit services. In addition, MDOT owns and operates facilities in the Port of Baltimore and the Baltimore-Washington International (BWI) Airport.

Transportation in Maryland is funded through the Transportation Trust Fund (TTF), a nonlapsing special fund revenue account whose revenue sources include motor fuel tax receipts, titling tax receipts, vehicle registration fees, a portion of the corporate income tax, revenues generated by the individual modes, proceeds from the sale of bonds, and federal highway and transit aid. As illustrated in **Exhibit 1**, State-imposed taxes and fees (including motor fuel, titling, corporate income, and rental car taxes and vehicle registration and miscellaneous fees) comprised the largest single source of revenue, followed by federal funds, operating revenues, bond sale proceeds, fund transfer revenues, and other miscellaneous revenues.

Exhibit 1
Fiscal 2006 Transportation Trust Fund Revenue by Source
Total Revenue: \$3.8 Billion
(\$ in Millions)

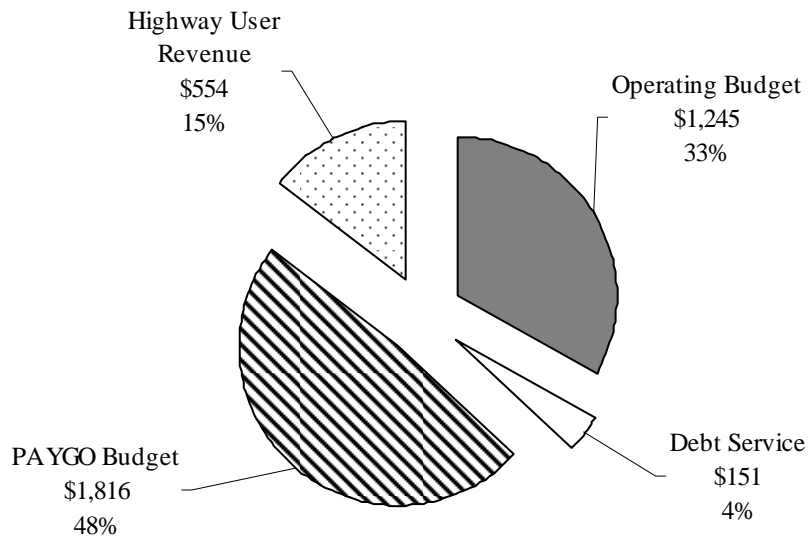


Source: Maryland Department of Transportation

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Exhibit 2 illustrates fiscal 2006 spending for MDOT. The PAYGO capital program, at \$1.8 billion, represents nearly one-half of the transportation budget. Approximately one-third of the budget is allocated for the operations of the various modal administrations. Highway user revenues, representing a portion of tax and fee revenue that is shared on a 70% TTF/30% local share, comprise 15% of the budget. The remainder of funds are allocated for debt service on Consolidated Transportation Bonds (CTBs).

Exhibit 2
Fiscal 2006 Transportation Trust Fund Uses
Total Spending: \$3.8 Billion
(\$ in Millions)



Source: Maryland Department of Transportation

Governor's Proposed Budget

Exhibit 3 provides detail by modal administration for the fiscal 2006 operating and PAYGO capital budgets, debt service, and highway user revenues.

**Exhibit 3
Transportation Budget Overview
Fiscal 2004 – 2006**

<u>Unit</u>	<u>FY 2004 Actual</u>	<u>FY 2005 Working</u>	<u>FY 2006 Allowance</u>	<u>FY 05-06 Change</u>	<u>FY 05-06 % Change</u>
Operating Programs					
Secretary	\$64,983,115	\$71,430,304	\$66,370,342	-\$5,059,962	-7.1%
WMATA	145,027,397	153,920,633	168,200,000	14,279,367	9.3%
Highway	221,544,740	185,200,760	184,871,004	-329,756	-0.2%
Port	97,229,625	98,400,327	96,113,778	-2,286,549	-2.3%
Motor Vehicle	124,110,502	125,674,775	129,707,657	4,032,882	3.2%
Maryland Transit	408,377,154	423,903,770	439,326,057	15,422,287	3.6%
Aviation	116,002,553	122,879,244	160,121,859	37,242,615	30.3%
Subtotal	\$1,177,275,086	\$1,181,409,813	\$1,244,710,697	\$63,300,884	5.4%
Debt Service	\$135,252,033	\$175,887,819	\$150,746,733	-\$25,141,086	-14.3%
Local Highway User Grants	\$377,295,920	\$451,665,416	\$554,110,927	\$102,445,511	22.7%
Capital					
Secretary	\$20,855,329	\$40,165,238	\$36,381,591	-\$3,783,647	-9.4%
WMATA	158,365,557	59,668,000	166,701,000	107,033,000	179.4%
Highway	855,351,905	1,046,715,349	1,123,734,783	77,019,434	7.4%
Port	76,869,793	101,365,557	85,003,036	-16,362,521	-16.1%
Motor Vehicle	23,532,792	15,486,813	19,392,439	3,905,626	25.2%
Maryland Transit	232,903,491	377,228,000	301,110,222	-76,117,778	-20.2%
Aviation	51,160,613	104,794,000	83,333,000	-21,461,000	-20.5%
Subtotal	\$1,419,039,480	\$1,745,422,957	\$1,815,656,071	\$70,233,114	4.0%
Funds					
Special Fund	\$2,405,066,864	\$2,697,684,811	\$2,913,029,856	\$215,345,045	8.0%
Federal Fund	703,449,021	854,699,624	852,194,572	-2,505,052	-0.3%
Reimbursable Fund	346,634	2,001,570	0	-2,001,570	-100.0%
Grand Total	\$3,108,862,519	\$3,554,386,005	\$3,765,224,428	\$210,838,423	5.9%

Source: Maryland State Budget

Operating Programs

The fiscal 2006 operating program increases by \$63.3 million, or 5.4% over the fiscal 2005 working appropriation. The largest changes are observed in the Maryland Aviation Administration (MAA), which increases \$37.2 million (30.3%), the Maryland Transit Administration (MTA), up \$15.4 million (3.6%), and the grant to the Washington Metropolitan Area Transit Authority (WMATA), which climbs \$14.3 million (9.3%). Nearly all of the increase is funded by special funds, an aggregate increase of \$215.3 million, as the new revenues from the vehicle registration fee increase begin to be programmed. Federal funds decrease nominally, as the department continues to await the reauthorization of the Transportation Equity Act for the 21st Century (TEA-21). Reimbursable funds of \$2.0 million were not originally part of the fiscal 2005 budget but were received from the Maryland Emergency Management Agency in the Military Department for a variety of homeland security related purposes. No reimbursable funds are budgeted for fiscal 2006.

Spending in MAA is driven by the opening of the new Concourse A. The first debt service payment totaling \$14.4 million is included in the allowance, along with \$7.0 million in utility and security costs. Another \$9.0 million is provided for shuttle bus service operations, which reflects an accounting change. In prior contracts the shuttle bus provider collected all revenue and remitted revenue to the TTF net of all operating costs. In the new contract, the TTF collects all revenue and now appropriates the contract costs in the budget. These costs are revenue neutral. The first debt service payment of \$1.8 million for the new shuttle buses is also budgeted. Finally, contract escalation costs of \$5.3 million and other miscellaneous costs account for the balance of the increase.

In the MTA, personnel costs grow \$4.2 million (of which \$1.1 million represents 21 new positions for the expansion of Mobility services as well as Light Rail maintenance and operations associated with double tracking). Other significant changes include \$7 million for bus maintenance and repair, \$2.7 million for utility costs for rail operations, and \$1.1 million for equipment and repairs in rail operations. The formula based grant for WMATA increases by \$14.3 million, based on increased system costs and enhancements.

Personnel

For fiscal 2006, MDOT employs 9,086.5 regular positions, a net increase of 43 over fiscal 2005, and 161.4 contractual full-time equivalents (FTEs), a decrease of 7.5 FTEs. **Exhibit 4** illustrates the personnel complement in the agency by modal administration.

Exhibit 4
MDOT Positions and Contractual Full-time Equivalent
Fiscal 2004 – 2006

<u>Unit</u>	<u>FY 2004 Actual</u>	<u>FY 2005 Working</u>	<u>FY 2006 Allowance</u>	<u>FY 05-06 Change</u>	<u>FY 05-06 % Change</u>
Regular FTE					
Secretary	334.0	334.0	327.0	-7.0	-2.1%
Highway	3,280.0	3,248.0	3,255.0	7.0	0.2%
Port	307.0	307.0	296.0	-11.0	-3.6%
Motor Vehicle	1,606.5	1,590.5	1,623.5	33.0	2.1%
Maryland Transit	3,025.0	3,015.0	3,036.0	21.0	0.7%
Aviation	543.0	549.0	549.0	0.0	0.0%
Grand Total	9,095.5	9,043.5	9,086.5	43.0	0.5%
Contract FTEs					
Secretary	5.3	7.0	6.5	-0.5	-7.1%
Highway	6.1	22.0	22.0	0.0	0.0%
Port	1.4	1.7	1.5	-0.2	-11.8%
Motor Vehicle	60.4	101.2	96.4	-4.8	-4.7%
Maryland Transit	33.0	33.0	33.0	0.0	0.0%
Aviation	4.0	4.0	2.0	-2.0	-50.0%
Grand Total	110.2	168.9	161.4	-7.5	-4.4%

Source: Maryland State Budget

The specific actions that result in the net increase in regular positions is outlined in **Exhibit 5**. As shown, 16 positions were abolished (8 filled), 3 were transferred to the Governor’s Office of Minority Affairs, and 62 new positions were added. In most instances the abolished positions are not expected to have a significant impact, and the work will be absorbed by existing staff. In some instances additional contracting out for services will occur. The largest increase in new positions is 32 for the Motor Vehicle Administration (MVA) due to the opening of a new branch office in White Oak, plus 2 contractual conversions. Another 21 positions are created in MTA for maintenance and operations associated with double tracking of the Light Rail line (12) or the addition of supervisory positions related to expansion of Mobility services (9). Finally, 7 positions are added to the State Highway Administration (SHA) budget for additional Coordinated Highways Action Response Team patrols in the Frederick region.

Exhibit 5
MDOT Allocation of Abolished, Transferred, and New Positions
Fiscal 2006

	<u>Abolished Filled</u>	<u>Abolished Vacant</u>	<u>Transferred</u>	<u>New</u>	<u>Net Changes</u>
Secretary's Office		-5	-2		-7
State Highway Administration				7	7
Maryland Port Administration	-8	-3			-11
Motor Vehicle Administration			-1	34	33
Maryland Transit Administration				21	21
Maryland Aviation Administration					-
Total	-8	-8	-3	62	43

Source: Department of Legislative Services

Debt Service

The fiscal 2006 debt service payment of \$150.7 million decreases by \$25.1 million (-14.3%) below the fiscal 2005 payment. The decrease is largely due to the retirement of the 1993 refunding series in fiscal 2005. At the end of fiscal 2006, the debt outstanding on CTBs is expected to total \$1.3 billion, which remains well below the statutory cap of \$2.0 billion that was increased by legislation enacted following the 2004 session. Additional discussion of debt service trends and issues can be found in the MDOT Debt Service Requirements analysis, budget code J00A04.

Local Highway User Revenues

Local highway user revenues are derived from a portion of tax and fee revenues that are deposited in the Gasoline and Motor Vehicle Revenue Account (GMVRA), and subsequently distributed between the TTF (70%) and Baltimore City and the local jurisdictions (30%). Local distributions are made based on vehicle registrations and road mileage. The fiscal 2006 allowance for local highway user revenues shows an increase of \$102.4 million over the fiscal 2005 working appropriation, due to the restoration of the reduction of that same amount via Chapter 430, Acts of 2004 (the Budget Reconciliation and Financing Act of 2004). A similar reduction was made to the fiscal 2004 appropriation. It is also worth noting that the motor vehicle registration increase implemented by Chapter 9, Acts of 2004 increased the local share of highway user revenues in fiscal 2005 by approximately \$70 million.

Impact of Strategic Budget Reductions

Similar to other Executive Branch agencies, MDOT reviewed its operating budget in the context of strategic actions that could be undertaken to effect structural reductions in ongoing operating spending. Specific actions that were adopted totaled approximately \$26.5 million, or about 2.6% of the fiscal 2005 operating budget (excluding the grant to WMATA, highway user revenues, and debt service). **Exhibit 6** summarizes the major actions that were adopted, but highlights include:

- nearly \$5 million in savings from changes to unproductive transit routes;
- \$2.1 million from ending use of county police officers at Light Rail stations; and
- \$1.1 million for one-half year operating savings from sale of the World Trade Center.

Exhibit 6 Fiscal 2006 Strategic Budget Actions Adopted (\$ in Millions)

MTA	Reduce or modify unproductive bus or rail routes	\$5.0
TSO	Rebid network contract/FMIS support/Information Technology (IT) enhancements	2.8
MTA	Eliminate use of county police at Light Rail stations	2.1
MPA	Reduced marketing (staff, grants, DBED, Port magazine, etc)	1.5
MVA	VEIP operational savings	1.1
MPA	1/2 year operating expenses due to sale of World Trade Center	1.1
SHA	Reduced mowing	0.8
MPA	Crane supplies and maintenance	0.5
Other	Reduced overtime and grants, deferred vehicles, other admin.	11.6
Total		\$26.5

MPA = Maryland Port Administration

FMIS = Financial Management Information System

DBED = Department of Business and Economic Development

Source: Maryland Department of Transportation

Transportation Trust Fund Overview

The TTF is a non-lapsing special fund that provides funding for MDOT. The fund consists of tax and fee revenues, operating revenues, and fund transfers. MDOT issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income.

MPA, MAA, MTA, and MVA generate operating revenues that cover most or all of their operating expenditures. Capital expenditures and remaining operating expenditures are supported by other TTF revenues.

The tax and fee revenues are motor fuel taxes, rental car sales taxes, titling taxes, vehicle registration fees, and corporate income taxes. These revenues are credited to the GMVRA, which distributes a share of the revenues to local jurisdictions while the remainder is retained by the TTF. The funds retained by the TTF support the capital program, debt service, and operating costs not covered by operating revenues. In the long run, tax and fee revenue receipts are critical to maintaining the capital program.

Fiscal 2004 Transportation Trust Fund Revenue Closeout

Funds deposited into the TTF exceeded expectations in fiscal 2004. **Exhibit 7** shows that receipts from fund sources were \$129 million more than anticipated. These high revenues, coupled with operating and capital expenditures below projections, resulted in an end-of-year fund balance that was \$186 million more than projected.

Excluding bond sales, fund sources exceeded projections by \$179 million. This was largely due to \$118 million in one-time transfers. The TTF was reimbursed \$98 million for special fund work done to construct the Addison Road Metrorail station and was reimbursed \$20 million from the Maryland Transportation Authority (MdTA) for planning related to the Intercounty Connector (ICC).

Tax and fee revenues were \$46 million higher than projected. Unlike the one-time transfers noted earlier, tax and fee revenues growth is expected to be sustained in the out-years. Net changes in motor fuel taxes, rental car sales taxes, titling taxes, vehicle registration fees, and corporate income taxes are credited to the GMVRA to be shared with local jurisdictions. Over attaining these revenues resulted in an additional \$11 million in local highway user revenues and \$35 million for MDOT.

Offsetting one-time transfers and revenue growth is a reduction in proceeds from bond sales. In response to growing revenues, MDOT reduced the amount of bonds issued which reduces debt service payments in the out-years.

Exhibit 7
Transportation Trust Fund
Estimated Revenues Compared to Actual Revenues Received
Fiscal 2004

	<u>Projected FY 2004</u>	<u>Actual FY 2004</u>	<u>Variance</u>
Fund Balance			
Starting Fund Balance	\$145	\$145	\$0
Ending Fund Balance	102	288	186
Change in Fund Balance	-\$43	\$143	\$186
Sources of Funds			
Gross Tax and Fee Revenue Summary			
Motor Fuel Taxes	735	746	11
Rental Car Sales Tax	24	23	-1
Titling Taxes	704	720	16
Corporate Income Tax	100	107	7
Registrations	192	199	7
Misc. Motor Vehicle Fees	145	151	6
Subtotal	\$1,900	\$1,946	\$46
Fund Transfers, Receipts, and Adjustments			
FF Reimbursing GF for Addison Road Metrorail	0	98	98
ICC Reimbursement from MdTA	0	20	20
Bond Sale Proceeds	370	320	-50
Bond Premium ¹	0	10	10
Other Receipts and Adjustments	536	541	5
Subtotal	\$906	\$989	\$83
Total Sources of Funds	\$2,806	\$2,935	\$129
Uses of Funds			
Highway User Revenues (HUR) to Local Jurisdictions	366	377	11
Diverted from HUR to General Fund	102	102	0
Deductions to Other State Agencies	56	54	-2
Trust Fund Transfers to the General Fund	155	155	0
MDOT Operating and Capital Fund Expenditures	2,034	1,969	-65
MDOT Debt Service	136	135	-1
To TTF as Increased (Decreased) Fund Balance	-43	143	186
Total Uses of Funds	\$2,806	\$2,935	\$129

¹ Total premium was \$26 million and \$16 million was applied to fiscal 2005 debt service.

Note: Totals may not sum due to rounding.

Source: Maryland Department of Transportation, January 2005

Fiscal 2005 Year-to-date Revenue Receipts

The most significant tax and fee revenues are motor fuel taxes, titling taxes, and registration fees. In fiscal 2005, attainments from these sources are projected to total over \$1.8 billion and represent over 90% of GMVRA revenues. **Exhibit 8** shows that collections through November 2004 are essentially as projected. The estimate compares actual revenues received through November with average revenues received through November over the previous five years. Registration fees are slightly more than the current estimate, while motor fuel taxes and titling taxes are slightly below estimated levels.

Exhibit 8
Transportation Trust Fund
Estimated Revenues Compared to Actual Revenues Received
Fiscal 2005
(\$ in Millions)

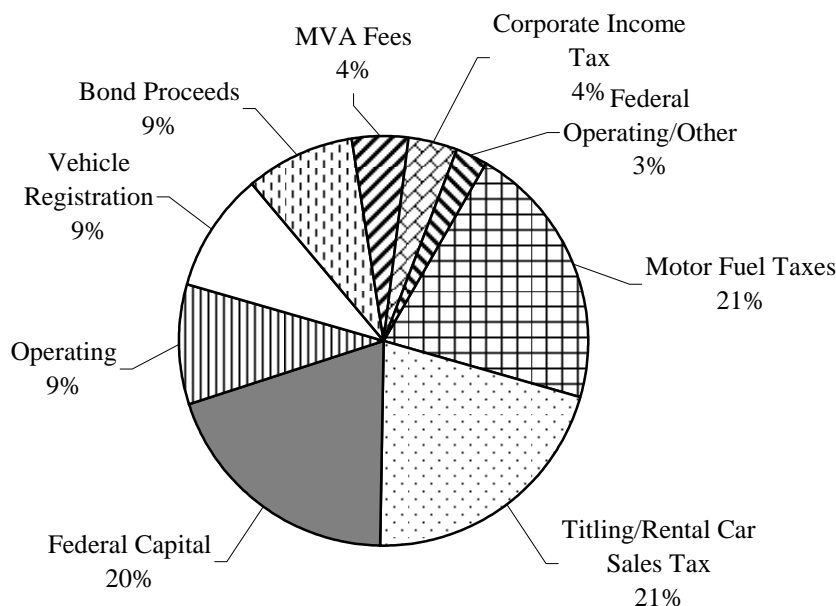
<u>Revenue Source</u>	<u>Total Projected Fiscal 2005</u>	<u>Projected through November 2004</u>	<u>Actual through November 2004</u>	<u>Difference</u>
Motor Fuel Taxes	\$762.8	\$265.7	\$263.2	-\$2.5
Titling Taxes	733.0	286.5	279.1	-7.3
Registration Fees	348.7	133.1	137.0	3.9

Sources: Fiscal 2005 estimate: Governor's Fiscal 2006 Budget, Volume I, Pages 541 to 545
Actual Revenues: MDOT, Monthly Statement of Revenues for the Gasoline and Motor Vehicle Revenue Account and Motor Vehicle Administration Programs and Fees, July through November 2004

Fiscal 2005 to 2010 Revenue Projections

Exhibit 9 shows that the fund's largest sources in fiscal 2006 are federal capital funds, motor fuel taxes, and titling and rental car sales taxes, which represent almost \$2.3 billion and 62% of funding sources. MDOT is projecting that \$320 million in bonds will be sold to supplement the transportation capital program.

Exhibit 9
Transportation Trust Fund
State Source Revenues and Federal Funds
Fiscal 2006
(\$ in Millions)



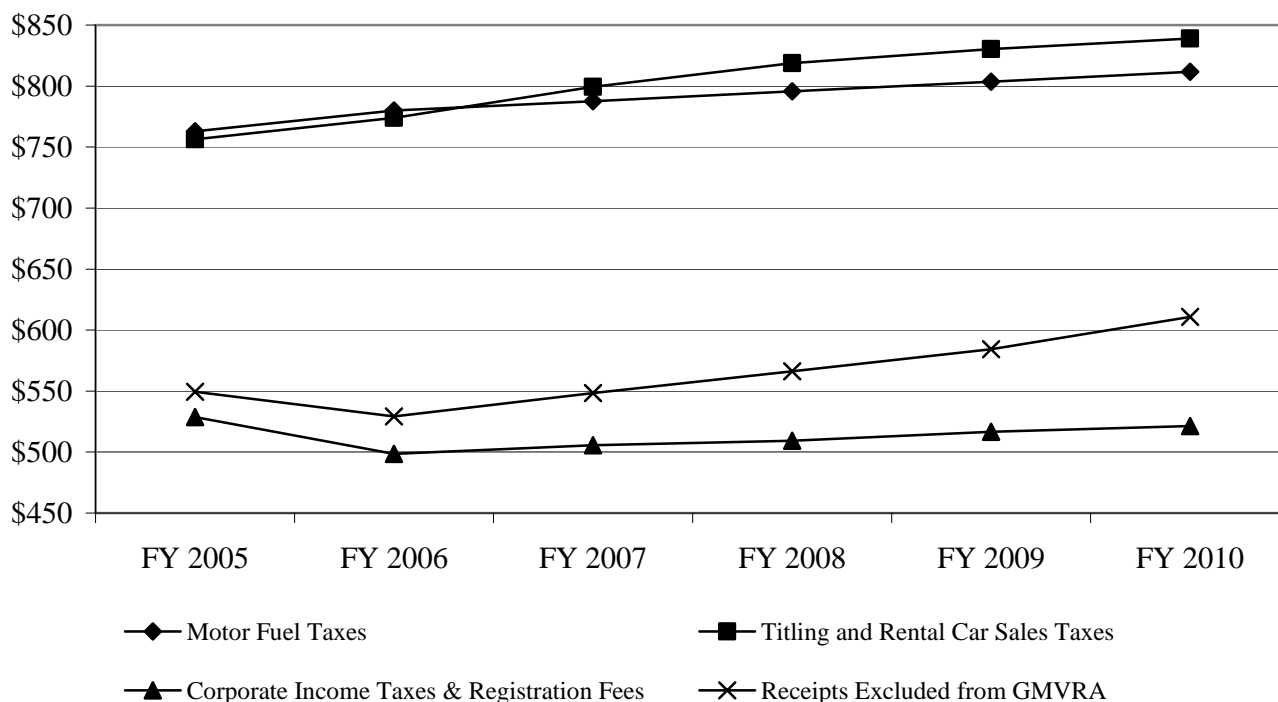
Source: Governor's Fiscal 2006 Budget, Volume I, Pages 541 to 545

Exhibit 10 shows that MDOT's projected State source revenues are expected to grow through most of the forecast period. Motor fuel taxes, rental car sales taxes, titling taxes, vehicle registration fees, and corporate income taxes are credited to the GMVRA. These revenues increase from \$2.05 billion in fiscal 2005 to \$2.17 billion in fiscal 2010.

The fiscal 2006 decline in the line titled Corporate Income Taxes and Registration Fees is due to one-time corporate income tax receipts. In fiscal 2005, corporate income taxes realized \$47.7 million in one-time revenues attributable to the amnesty payments from Delaware holding companies.

The remaining GMVRA revenues increase at a 2% annual rate in fiscal 2006 and at a 1.6% annual rate from fiscal 2005 to 2010. As is common when the economy is expanding, titling tax receipts are expected to increase most significantly: they grow 2.1% annually. Registration fees and motor fuel tax receipts are expected to grow at more modest annual rates of 1.2 and 1.3%, respectively.

Exhibit 10
TTF Forecasted State Source Revenues
Fiscal 2005 – 2010
(\$ in Millions)



Source: Maryland Department of Transportation, Transportation Trust Fund forecast, January 2005

The decline in receipts from sources excluded from GMVRA in fiscal 2005 is attributable to a one-time fund transfer. The TTF receives \$45 million from the MdTA in fiscal 2005 to reimburse planning costs related to the ICC. A summary of the total forecast can be found in **Appendix 1**.

Contingent Reduction to TTF Revenue

The Administration’s plan to balance the fiscal 2006 general fund budget includes expected revenues, contingent reductions, and other statutory changes to be implemented through budget reconciliation legislation. A provision in the Budget Financing Act of 2005 (HB 147/SB 124) proposes to permanently exempt all State agencies from paying the gasoline tax. If enacted, a \$1.9 million contingent reduction would go into effect in the budget, as shown in **Exhibit 11**.

Exhibit 11
Fiscal 2006 Contingent Reduction
Revenue Loss to the TTF from State Gas Tax Paid by State Agencies

<u>Fund Source</u>	<u>Amount</u>
General	\$875,000
Special	900,000
Federal	167,000
Total	\$1,942,000
Revenue Loss to	
TTF	\$1,359,400
Local Highway User Revenues	582,600
Total	\$1,942,000

Source: Fiscal 2006 Budget Bill

Operating Budget Issues

1. Super Sweeper Initiates TTF Repayment, but Needs to Account for Non-sweeper Repayments

Chapter 203, Acts of 2003 (the Budget Reconciliation and Financing Act of 2003) transferred \$314.9 million from the TTF to the general fund, over a two-year period (consisting of \$160.0 million transferred in fiscal 2003 and \$154.9 million transferred in fiscal 2004). Section 17 of the Act required the Governor to submit a plan for repayment from the general fund to the TTF by December 1, 2003. In correspondence dated December 31, 2003, the Administration indicated that it was committed to repaying the TTF fully within six years. The fiscal 2005 allowance contained a \$25 million appropriation to the Dedicated Purpose Account (DPA) of the State Reserve Fund as the first payment, and the Administration’s out-year forecast suggested that annual payments of \$25 million would be made for a total of \$150 million. It was not clear how the remaining funds would be repaid. The funds were deleted from the budget because of the absence of a complete funding plan.

Provision to repay the TTF were adopted by the legislature at the 2004 session with passage of Chapter 430, Acts of 2004 (the Budget Reconciliation and Financing Act of 2004) which requires that unappropriated general fund surpluses between \$10 million and \$60 million, up to \$50 million per year, must be appropriated in the following session by the Governor toward repayment. This “super sweeper” remains in effect until the full \$314,913,000 is repaid. The law first applied to the fiscal 2004 closeout, which ended with an unappropriated general fund balance of \$309 million. In accordance with statute, the first \$10 million is retained by the general fund, the next \$50 million is appropriated to the DPA for the TTF, and the remainder is appropriated to the Rainy Day Fund. The issue becomes complicated by the Administration’s out-year general fund forecast which shows the proposed repayment plan outlined in **Exhibit 12**.

Exhibit 12
Out-year Fiscal 2005 – 2010 General Fund Forecast
Proposed Transfers to the Transportation Trust Fund
(\$ in Millions)

<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Total</u>
\$25*	\$25	\$8	\$25	\$75	\$117	\$300

* The Administration continues to count the \$25 million deleted from the fiscal 2005 budget as part of the \$300 million repayment.

Source: *Fiscal 2006 Maryland Budget Highlights: Appendix F*

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The “super sweeper” amendment did not contemplate discretionary fund transfers, so any funds appropriated toward repayment would not be counted toward the \$314.9 million total. Thus, the “sweeper” would keep sweeping until the full amount was repaid. It is recommended that the “super sweeper” provision in the Transportation and State Finance and Procurement Articles be amended to account for any discretionary repayments made by the Administration in repaying the amount transferred from the TTF to the general fund.

PAYGO Capital Budget Analysis

Each year the *Consolidated Transportation Program* (CTP) is prepared and distributed to the General Assembly, local elected officials, and interested citizens. The CTP presents a detailed listing and description of the capital projects that are proposed for development and evaluation or construction during the next six-year period. A companion piece, the *Maryland Transportation Plan* (MTP) is updated every three years and contains the department’s long-range vision for transportation in Maryland. The most recent MTP was distributed in January 2004.

Revenue Enhancement

Chapter 9, Acts of 2004 increased annual vehicle registration fees for all classes of vehicles and required the MVA to recover the cost of its annual capital expenditures through its miscellaneous fees; rental vehicles were subsequently exempted from the vehicle registration fee increase through a provision adopted in the Budget Reconciliation and Financing Act of 2004. The biennial registration fee was increased by \$47 for cars and \$72 for heavier vehicles such as sport utility vehicles. The fee is now \$128 for cars and \$180 for heavier vehicles (both amounts include a \$13.50 surcharge for medical funds). **Exhibit 13** shows projected revenue from the increased vehicle registration fees.

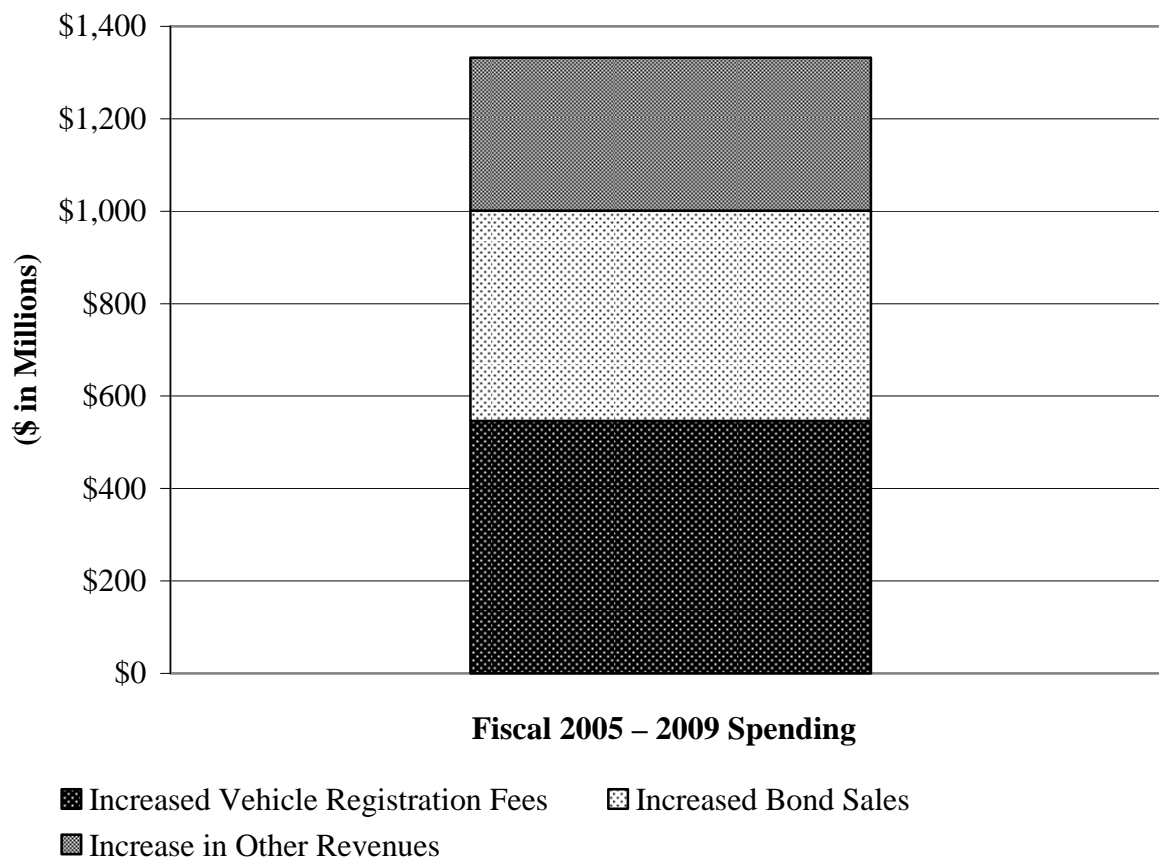
Exhibit 13
Projected Revenue from Vehicle Registration Fees
(\$ in Millions)

	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>	<u>FY 09</u>	<u>Total FY 05-09</u>
January 2004 TTF Forecast	\$192	\$196	\$198	\$201	\$203	\$206	\$1,004
January 2005 TTF Forecast	199	349	352	358	360	367	1,786
Annual Change	\$7	\$153	\$154	\$157	\$157	\$161	\$782

Source: Maryland Department of Transportation

The increase in vehicle registration fees allowed MDOT’s capital program to significantly grow from what was projected in the January 2004 forecast compared to the January 2005 forecast. Besides increased spending due to higher vehicle registration fees, MDOT also programmed more due to increased bond sales and an increase in other revenues. Over the period from fiscal 2005 to 2009, MDOT committed over \$1.3 billion more than what was projected in the January 2004 forecast. This includes \$546.2 million due to vehicle registration fees, \$455 million due to increased bond sales, and \$331.3 million due to an increase in other revenue. **Exhibit 14** shows the sources of increased spending comparing the January 2004 and January 2005 forecasts.

Exhibit 14
Sources of Increased Spending
Based on Comparison of MDOT January 2004 and January 2005 Forecasts
(\$ in Millions)

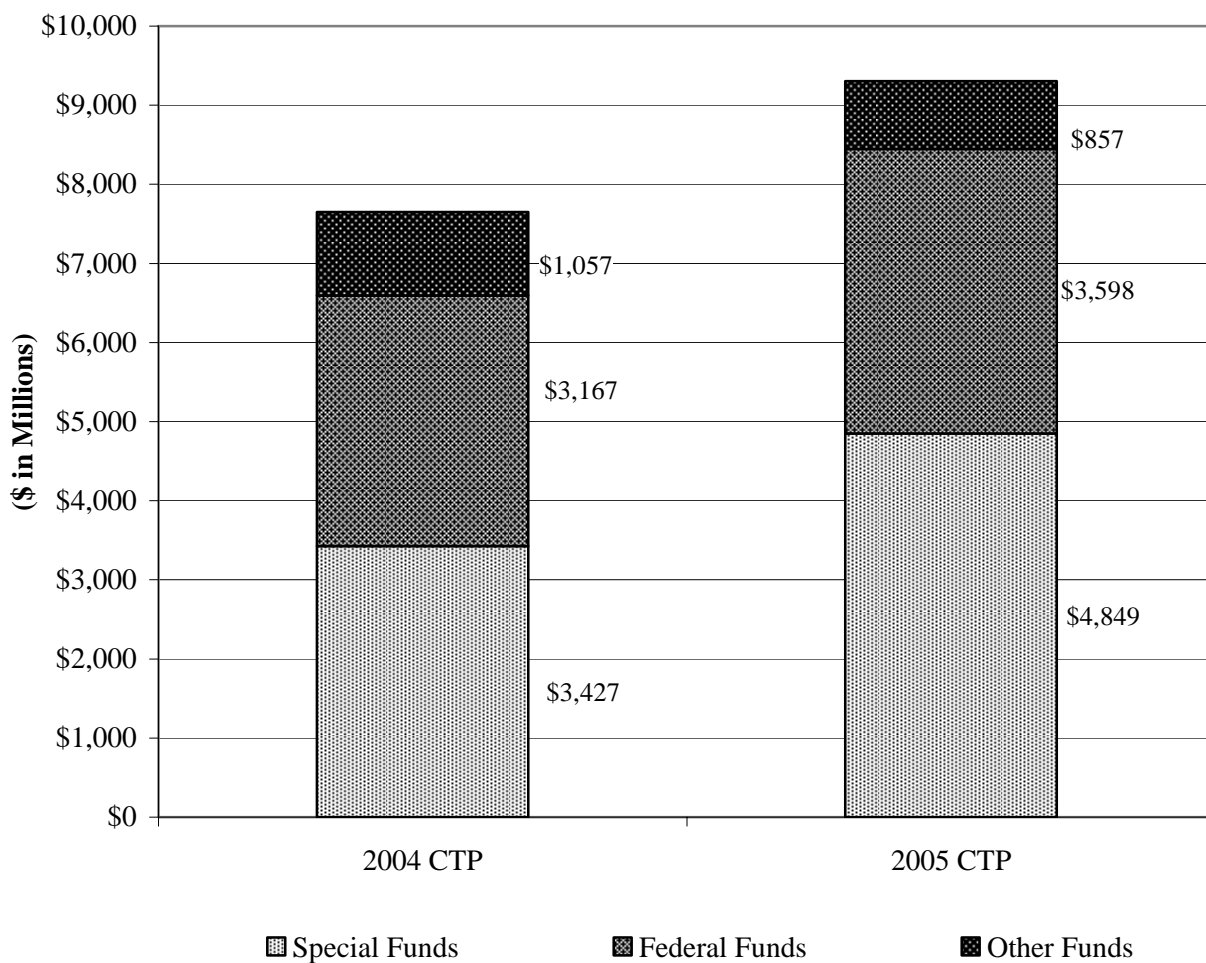


Source: Maryland Department of Transportation

J00 – MDOT – Fiscal 2005 Budget Overview

Exhibit 15 compares the January 2005 CTP to the January 2004 CTP. The 2005 CTP shows an increase of \$1.7 billion (21.6%) over the 2004 CTP.

Exhibit 15
Comparison of 2004 and 2005 CTP

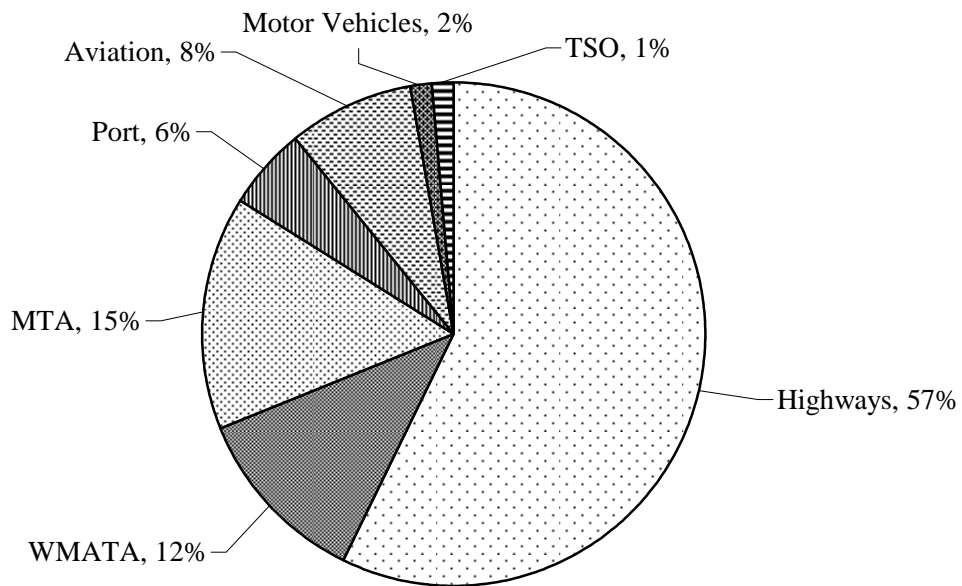


Source: Maryland Department of Transportation, January 2004 and 2005 *Consolidated Transportation Programs*

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For the period 2005 through 2010, the CTP supports a capital program that totals just over \$9.3 billion in projects supported by State, federal, and other funds.¹ **Exhibit 16** shows total capital funding over the six-year period by mode.

Exhibit 16
MDOT Proposed Capital Funding by Mode
2005 – 2010 Consolidated Transportation Program
Total Program: \$9.3 Billion

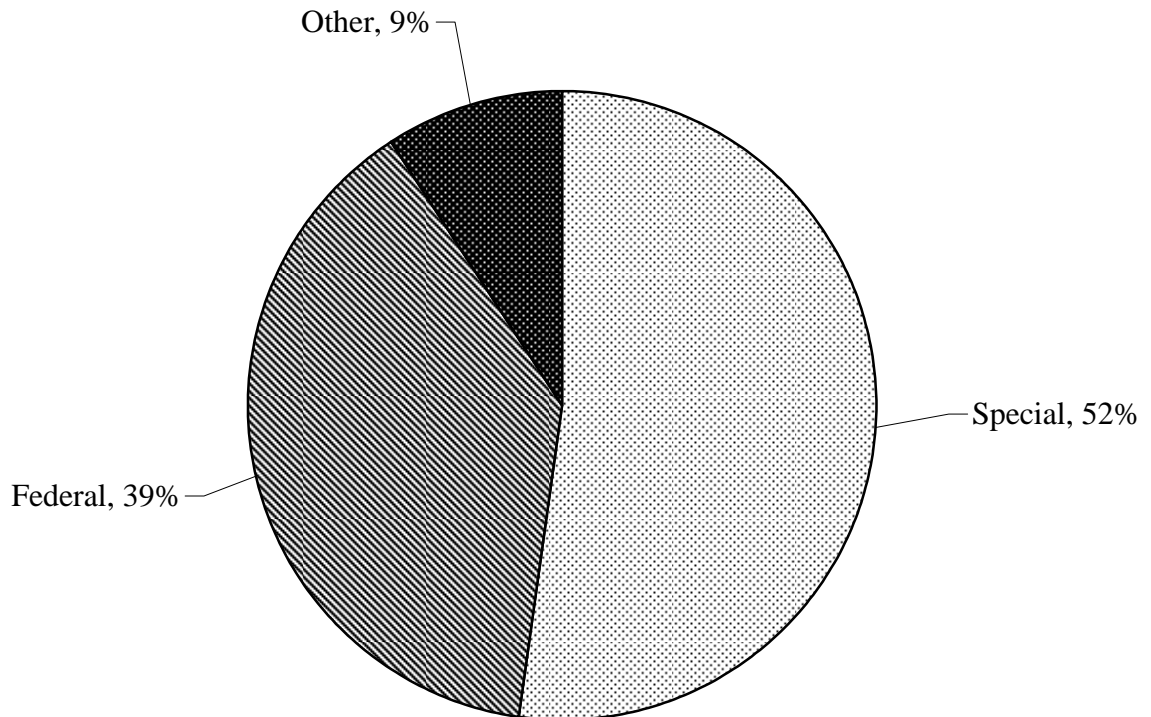


Source: Maryland Department of Transportation, January 2005 *Consolidated Transportation Program*

¹ Other funds include Maryland Economic Development Corporation financing, Certificates of Participation (COPs), Passenger Facility Charges and Customer Facility Charges utilized to support projects implemented by MAA at BWI Airport, and a limited amount of private and local funding and COPs used to support projects implemented by MTA.

Exhibit 17 shows the breakdown of special, federal, and other funds in the capital program.

Exhibit 17
MDOT Proposed Capital Funding by Source
2005 – 2010 Consolidated Transportation Program
Total Program: \$9.3 Billion



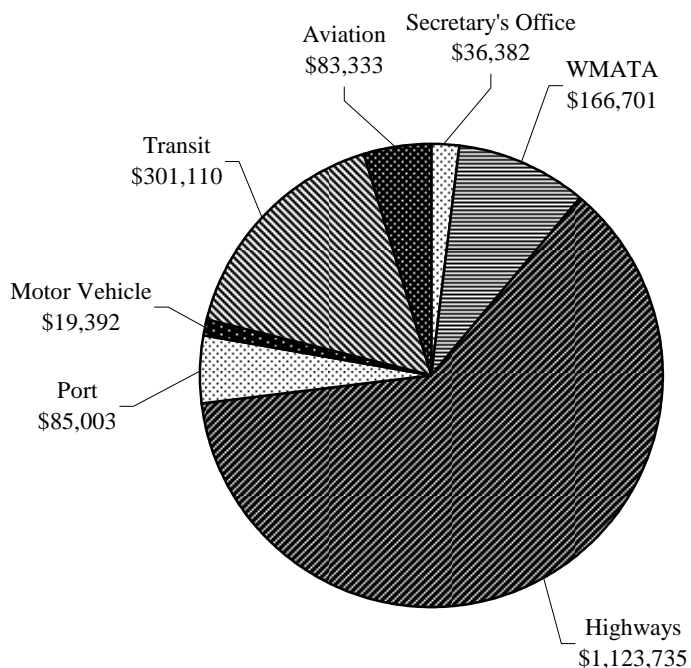
Source: Maryland Department of Transportation, January 2005 *Consolidated Transportation Program*

Fiscal 2006 Allowance

The fiscal 2006 allowance totals \$1.8 billion with \$1.0 billion in special funds and \$777.7 million in federal funds. **Exhibit 18** presents the fiscal 2006 capital allowance expenditures by mode.

The fiscal 2006 capital budget allowance shows an increase of \$70.2 million (4.0%) over the fiscal 2005 working appropriation.

Exhibit 18
MDOT Fiscal 2006 Capital Allowance
Total Program: \$1.8 Billion



Source: Maryland State Budget

Fiscal 2006 Other Funds

In addition to the \$1.8 billion in the capital budget for fiscal 2006, MDOT expects to spend \$142.8 million in other funds. For fiscal 2006, the other funds include a mix of WMATA federal funds (these funds do not pass through TTF), direct federal payments for the Hagerstown Airport, Maryland Economic Development Corporation (MEDCO) debt, debt backed by passenger facility charges, and private debt issued by MTA. **Exhibit 19** presents other funds by mode for fiscal 2006.

Exhibit 19
MDOT Fiscal 2006 Other Funds
Total: \$142.8 Million
(\$ in Thousands)

<u>Project</u>	<u>Other Source</u>	<u>FY 2006</u>
Elderly Handicapped Nonprofit Services	Private	\$506
Total Other MTA		\$506
Metrorail Equipment Rehab	WMATA Federal	48,132
Metrobus Capital	WMATA Federal	16,000
WMATA 50 Additional Buses per Year	WMATA Federal	800
Total Other WMATA		\$64,932
Concourse A Expansion	PFC	3,166
Concourse A Expansion	MEDCO	30,192
Terminal Entrance Roadway Phase II	PFC	28,258
Martin Hangar – Black and Decker	MEDCO	1,604
Hagerstown Airport	Direct Federal	8,000
Concourse B/C Airfield Ramp Repaving	PFC	5,442
Concourse B/C Airfield Ramp Repaving Phase II	PFC	711
Total Other MAA		\$77,373
Grand Total		\$142,811

PFC = passenger facility charges

Source: Maryland Department of Transportation

PAYGO Capital Issues

1. Financing the Intercounty Connector and Grant Anticipation Revenue Vehicles: Financial Issues and Options

The ICC is a proposed east-west, limited-access road that would connect I-270 in Montgomery County and I-95/U.S. 1 in Prince George's County. SHA is anticipating an 18-mile, six-lane (three lanes in each direction) parkway design. The proposed alignment of the road runs approximately five to eight miles north of the Capital Beltway (I-495). The CTP shows an estimate for traffic usage by the year 2030 ranging from 80,000 to 124,000 cars per day.

Financing Plan

In 2004 the cost for the ICC was revised from \$1.7 billion to \$2.1 billion based on additional environmental enhancements and inflation, thus the cost estimate now uses 2004 dollars instead of 1997 dollars. Because construction will occur between fiscal 2006 and 2010, MDOT is projecting actual expenses of \$2.4 billion in future dollars. **Exhibit 20** illustrates MDOT's current ICC financing plan.

Exhibit 20 MDOT Intercounty Connector Financing Plan

	Hellmann Commission		Fall 2004 Scenario
	September 2003		
	<u>Minimum</u>	<u>Maximum</u>	
GARVEE Bonds	\$900	\$1,000	\$1,000
MdTA Bonds			1,247
ICC Tolls	400	600	
MdTA Bonding	100	350	
PAYGO			
TTF	50	300	150
Federal	10	50	50
Grand Total	\$1,460	\$2,300	\$2,447
% Cash			8%
% Debt			92%

Source: Maryland Department of Transportation

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The financing plan relies heavily on debt, which would be used to finance 92% of the cost of the ICC. This includes:

- Grant Anticipation Revenue Vehicles (GARVEEs) totaling \$1 billion (to be sold in increments of \$400 million in fiscal 2006, \$400 million in fiscal 2008, and \$200 million in fiscal 2010. These bonds would be direct pay (i.e., paid directly to the bond trustee) and stand-alone (i.e., no recourse other than federal funds would be pledged to the repayment of these bonds, ostensibly to avoid State debt affordability limitations). Current law limits the maturity of GARVEEs to 15 years and limits annual debt service to 13% of the State's average annual federal highway aid. MDOT proposes to raise to 20% the amount of federal highway aid that may be pledged to the repayment of a GARVEE debt issuance;
- MdTA toll-backed debt sold to help finance the ICC would total \$1.247 billion. Bond sales are planned for each year between fiscal 2007 and 2011. For purposes of illustration the MdTA separately shows bonds backed by existing MdTA toll revenues derived from existing toll facilities (\$697 million) and bonds backed by tolls expected to be generated by the ICC (\$550 million). For practical purposes the ICC is an MdTA transportation facility and all cash flow is to be commingled when toll revenue is received in fiscal 2011; and
- A cash contribution amounting to \$200 million is planned to be made to finance the road, including \$150 million appropriated from the TTF (through the SHA budget) in increments of \$30 million per year starting in fiscal 2006 and continuing through fiscal 2010 appropriated through the SHA budget. Another \$50 million is expected from federal PAYGO earmarked for this project (which is expected to be designated a high priority project). This would consist of \$10 million per year each of fiscal 2006 through 2010 (also appropriated through the SHA budget).

Financing Plan Viability

There are a number of fiscal and policy issues related to the proposed financing plan that call into question its viability, including:

- ***A High Reliance on Debt:*** 92% of the project would be funded with debt totaling \$2.2 billion. **Exhibit 21** illustrates the total proposed ICC debt issuances relative to debt outstanding as of June 30, 2005. As indicated, debt sold in support of the ICC represents a significant increase in debt outstanding. Debt service on the GARVEE bonds alone can be expected to cost in the range of \$500 million, and additional debt service on the MdTA backed debt would depend on the maturity of the debt;
- ***Potential Impacts on MdTA Toll Revenues:*** Revenue bonds sold by the MdTA total \$1.2 billion backed by all toll revenue received by the MdTA, despite the characterization that \$550 million of that debt is backed by ICC toll revenue. Revenue of \$72 million annually from ICC tolls is projected starting in fiscal 2011. Should toll revenue from the ICC fall below projections, a proportionately larger share of debt service will be paid from the MdTA revenue generated by the

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MdTA's other facilities. This could impact the authority's capital program in future years, or increase pressure to increase toll rates;

Exhibit 21
Debt Outstanding for Selected Categories of Debt
Relative to Proposed Debt in Support of the ICC

	<u>As of 6/30/04</u>	<u>Total</u> <u>Planned</u>
General Obligation (GO)	\$4,513	
ICC (GARVEEs and MdTA)		\$2,247
Consolidated Transportation Bonds	1,105	
Non-traditional Transportation Debt	767	
MdTA	286	
Total	\$6,671	\$2,247

Source: *Report of the Capital Debt Affordability Committee*; Maryland Department of Transportation; Maryland Transportation Authority

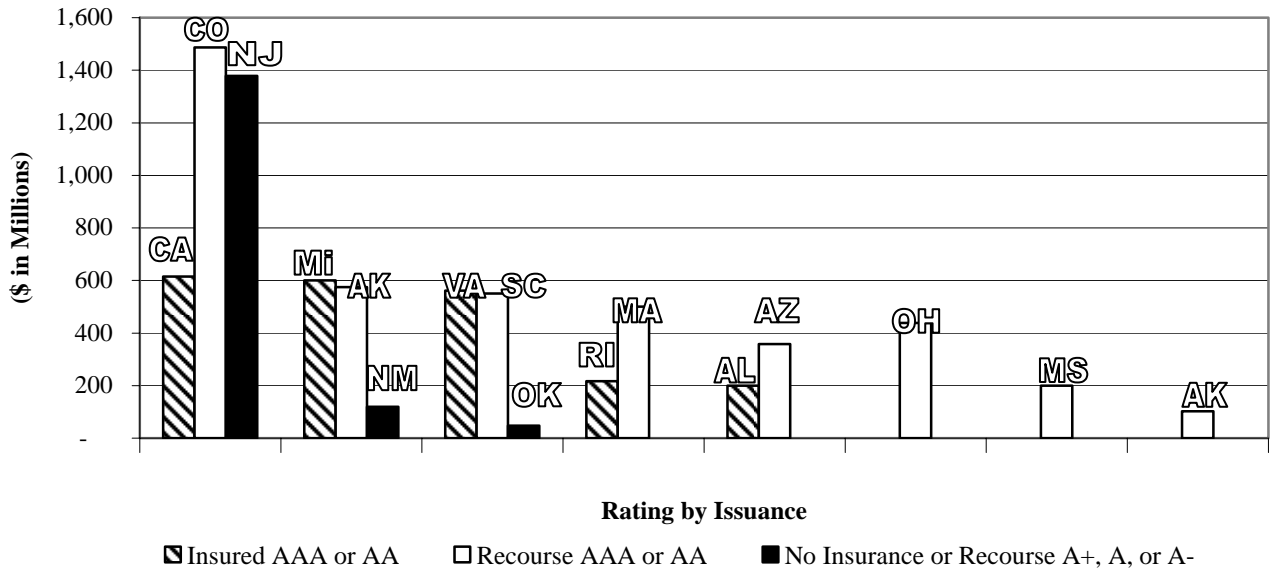
- **GARVEE Issues:** There are a number of issues related to the use of GARVEE bonds that call into question the viability of selling \$1.0 billion in debt backed by federal revenue. This includes:
 - **TEA-21 Reauthorization:** Since the expiration of the transportation reauthorization in September 2003, Congress has been unable to reach agreement on a new authorization. The fifth extension of funding ends in May 2005, but it is not clear if the new authorization will be completed by that date, nor what the funding level will be, which is the major point of difference, will be resolved. Given the delay, Congress is considering adopting an authorization that is only five years in length, meaning that any GARVEE issued with a 15-year maturity could potentially span three rather than two reauthorizations (depending on the date of issuance). MDOT projects that Maryland will receive \$530 million per annum in federal highway aid on average from the new reauthorization, which is \$100 million higher than the State's average receipt of \$430 million per annum during the TEA-21 period. Given a lack of support for a federal gas tax increase, significantly higher funding should not be expected in future years;
 - **Obligational Authority:** Although MDOT estimates the State will receive \$530 million per annum in federal highway aid, this estimate does not appear to reflect the obligational authority (OA) limitations imposed by Congress annually on such aid. Under TEA-21, Maryland generally received an obligational authority of 94%, which meant that Maryland could only obligate 94% of the amount it received in contract authority under TEA-21. This means that even if the State received an average amount of \$530 million per annum in

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contracting authority, the State could expend only approximately \$500 million per annum (of which up to \$108 million could be directed to debt service on a GARVEE bond issuance). This is an important concept to remember in the context of the amount of debt service allowed for GARVEE bonds;

- ***Debt Service Limit:*** Current law limits debt service to 13% of future transportation aid, which when combined with the 15-year limit on maturity, could limit total GARVEE bond sales to about \$600 million when OA is taken into consideration. Legislation has been submitted to increase the limit on federal aid that may be directed toward repayment of a GARVEE to 20% of federal aid to accommodate the sale of \$1 billion in debt. However, the Department of Legislative Services (DLS) has determined that with a 94% OA, the limit would have to be raised to 22%. While a number of other states do not have limits on GARVEE debt service, DLS advises that Louisiana and Florida both have limits of 10% (neither state has issued a GARVEE to date) and California recently reduced its statutory limit from 30 to 15% based on expected use of GARVEES as well as the expectation of a better credit rating (California received an underlying rating of AA- from all three rating agencies but also insured its issuance to receive a AAA rating);
- ***Level of Federal Funds Committed to the ICC:*** Does the legislature want to commit 20 to 22% of its future federal highway aid cash flow to the ICC? Such a commitment of funding would leave less funding for other major capital projects and could exacerbate pressure for State tax and fee revenue increases to address other unmet transportation needs;
- ***Rating Agency Expectations:*** There are numerous factors that will affect the rating of a GARVEE issuance. Some of the best practices include:
 - ***Federal Fund Pledge:*** The rating agencies expect all federal fund PAYGO to be pledged to repayment of GARVEE debt service, despite the direct pay method that would be adopted. Maryland's bond covenants would need to indicate that it would reduce its federal capital program if federal funds decrease to ensure that payment of debt service is the number one priority;
 - ***Bond Insurance or Other Recourse:*** Most of the large GARVEE bond issues have been insured to AAA or have been backed by a pledge of State-sourced revenues in addition to federal highway aid. As shown in **Exhibit 22** states that sold GARVEES with no insurance or recourse received at best a rating of A+. The addition of insurance can expect to increase the rating to AAA but also will add between 20 and 50 basis points to the cost of the sale;
 - ***Debt Outstanding Impact on Debt Affordability Limits:*** Two rating agencies indicated that even if GARVEE bonds have no pledge of State revenue as a recourse, they do plan to consider the GARVEE debt outstanding when comparing State supported debt outstanding against the 3.2% of personal income criterion. Currently, the State has about \$1.0 billion in additional capacity under the 3.2% limit, but this could become more constrained if additional GO debt is sold to support public school construction;

**Exhibit 22
GARVEE Bond Issuances and Ratings by State**



Source: Department of Legislative Services

- **Limited Maturity:** The rating agencies are looking more favorably to GARVEE issued for no more than two federal authorization cycles. Many states that have issued GARVEE debt have done so for 6- or 12-year periods. Maryland’s 15-year maturity limit is supportable by the market but will likely yield a higher underlying rating. For example, Oklahoma issued \$48 million in GARVEE bonds and had 8 times debt service coverage, but also a 15-year maturity; Oklahoma’s GARVEE issuance received an underlying rating of only A+. By contrast, California which has 12-year maturity limits received underlying ratings of AA-;
- **Debt Service Coverage:** The rating agencies also consider the level of debt service coverage when rating a GARVEE issuance. Debt service coverage compares maximum debt service to the level of federal appropriations. If Maryland commits 20% of its federal highway aid appropriation to debt service, this would yield a coverage rate of five times compared against the total estimated average authorization of \$530 million, or four-and-a-half times if OA is factored in. DLS assumes that the maximum debt service for a AAA insured issuance would equate to about \$108 million. At 13%, the bond sale would have to be limited to between \$600 million and \$640 million; equaling seven to nine times coverage. Higher coverage levels equate to better ratings, but as seen in the example of Oklahoma, even higher coverage ratios can be offset by the risks associated with longer maturities;

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- **Other Factors:** Other factors that can affect the rating of a GARVEE issuance include total levels of debt, debt management policies, the State's fiscal management and other factors. Maryland currently has an AAA rating on its general obligation debt, which reflect the State's strong fiscal management and debt policies.
- **Impact of Delays:** The agency has indicated that funding delays could be expected to add \$100 million per year to the total cost of the ICC. Court challenges by opponents of the project represents may or may not have an impact on the project timeline. Should higher inflation become a factor due to delays or other cost overruns, it is not apparent how additional costs would be funded.

Financing Plan Options

The agency's plan for financing the ICC is viable but will result in:

- high financing costs due to the costs of issuing GARVEEs, as well as a high reliance on overall debt;
- potential pressure to raise special fund taxes and fees to address other unmet transportation needs since up to 22% of federal appropriations could be dedicated to debt service;
- potential toll increases if ICC tolls are not sufficient to pay expected levels of MdTA backed debt; and
- the need for additional resources if the project is delayed or experiences cost overruns due to inflation or other factors.

There are a number of potential financing options to be pursued which could mitigate the overall cost of financing the ICC, and enable the State to maintain the current GARVEE limitations.

- **Cash:** Increased use of cash would require lower debt sales and yield resultant reductions in interest costs. Currently, \$200 million in PAYGO funds are planned to be expended on the ICC (\$150 million TTF/\$50 federal), which represents only 8% of the total cost. Application of an additional \$250 million in cash to the project could save an estimated \$130 million in interest costs. DLS estimates that \$365 million in cash is not accounted for in the TTF forecast currently and could be dedicated to the ICC. As shown in **Exhibit 23**, revenues unaccounted for in the TTF forecast includes the planned repayment of \$225 million from the general fund to the TTF (as shown in the Administration's general fund forecast), the proceeds from the planned sale of the World Trade Center, and \$120 million that the agency withholds for changes in revenue sources (in addition to \$122 million reserved for operating contingencies and cost-of-living increases). Instead of withholding \$120 million over the forecast period, a capital reserve account could be established by sweeping unappropriated special fund tax and fee revenue into this account. Between fiscal 2000 and 2004, MDOT realized over \$200 million in additional special fund revenue at closeout each year.

Exhibit 23
Available Cash Not Counted in the TTF Forecast
Fiscal 2005 – 2010

	<u>FY 05</u>	<u>FY 06</u>	<u>FY 07</u>	<u>FY 08</u>	<u>FY 09</u>	<u>FY 10</u>	<u>Total</u>
TTF Repayment from General Funds			\$8	\$25	\$75	\$117	\$225
World Trade Center Sale ⁽¹⁾		\$20					20
Reserve for Changes in Revenues	\$20	20	20	20	20	20	120
Total	\$20	\$40	\$28	\$45	\$95	\$137	\$365

⁽¹⁾ World Trade Center proceeds could range from \$10 million to \$40 million. \$20 million is assumed for illustration.

Source: *Fiscal 2006 Maryland Budget Highlights: Appendix F*; Maryland Department of Transportation

- **Consolidated Transportation Bonds:** DLS estimates that there is \$250 million in capacity for additional sale of CTBs that could be applied to the ICC. The timing of the sales could be \$100 million each in fiscal 2006 and 2008 and \$50 million in fiscal 2010. Moreover, the additional cash that the TTF will receive in future years could serve as additional leverage for CTBs, which could be used to mitigate the level;
- **Additional Federal Aid:** As the reauthorization is under consideration, MDOT should work with the State's congressional delegation to request additional federal PAYGO earmarked funds for the ICC;
- **TIFIA Loan:** As an alternative to the sale of a portion of the \$1.2 billion in MdTA and ICC backed debt, the agency should consider submitting an application to the Federal Highway Administration for a direct loan under the Transportation Infrastructure Finance and Innovation Act (TIFIA). As a surface transportation project costing more than \$100 million and having a toll component, the project would be eligible to borrow up to 33% of the project's cost at Treasury rates through this program. Loans can be repaid over a 35-year period after project completion and repayments may be deferred up to 10 years. Although the interest rates are higher than tax exempt financing, the advantage of a TIFIA loan compared to GARVEES is that it does not come out of Maryland's future highway funding – it is a nationwide, competitive program. It would have no effect on Maryland's future highway funding, assuming the revenues chosen for repayment are not taken out of Maryland's existing State highway monies. It is net new credit for Maryland.

Recommendations

Funding for the ICC can be accomplished at a lower cost through the use of cash and use of CTBs. Issues surrounding the use of high proposed issuances of GARVEE bonds can also be mitigated, permitting the State to keep the level of debt service allocated from federal fund cash flow to 13%. A summary of one alternative financing scenario is shown in **Exhibit 24**.

Exhibit 24 One Potential Alternative ICC Financing Proposal

GARVEEs <u>AAA Ins</u>	CTBs <u>AA</u>	<u>Federal</u>	Cash Current <u>TTF</u>	Added <u>TTF</u>	MdTA Toll/ICC <u>AA</u>	<u>Total</u>
\$500	\$250	\$50	\$150	\$250	\$1,200	\$2,400
		Cash			19%	
		Bonds			81%	
		GARVEE debt service			10.3%	
		GARVEEs with 87% OA			11.8%	
		Debt Service Savings			137	

Source: Department of Legislative Services

DLS recommends that MDOT demonstrate to the General Assembly that all alternative financing methods, including additional cash, consolidated transportation bonds, TIFIA loans, and other measures were considered in developing the current financing plan. Moreover, the agency should demonstrate how the current financing plan is superior to alternative methods that are available. In considering GARVEE bond legislation during the 2005 session, the General Assembly may wish to consider further restricting the amount of federal highway aid that can be used for GARVEE debt service payments to 13% of the 87% contracting authority. This level would more conservatively reflect the actual funding Maryland will receive based on the annual OA that Congress uses to limit transportation spending.

2. Transfers between the TTF, MdTA, and General Fund Lack Transparency

MDOT's six-year TTF forecast typically lists under revenues the net revenues from taxes and fees, operating, and miscellaneous revenues; revenue from bond sales and bond premiums; and transfers. **Exhibit 25** illustrates revenue transfers that are and are not accounted for in the TTF forecast. This includes the final \$154.9 million transfer from the TTF to the general fund in fiscal 2004 (per Chapter 203, Acts of 2003) and continued annual payments of \$43 million from the MdTA to the TTF to support Governor Glendenning's transit initiative.

Exhibit 25
Transportation Trust Fund Forecast
Revenue Transfers
Fiscal 2004 – 2010
(\$ in Millions)

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Total</u>
To the General Fund	-\$155							-\$155
From the MdTA	43	\$43	\$43	\$43				172
To the MdTA ⁽¹⁾			30	30	\$30	\$30	\$30	150
Grand Total	-\$112	\$43	\$73	\$73	\$30	\$30	\$30	\$167

⁽¹⁾ Not reflected as a transfer in the TTF forecast, but funds are instead appropriated in the SHA capital program.

Source: Maryland Department of Transportation

Historically, the transfers shown have provided the full accounting for funds sent to or from the general fund, and to or from the MdTA for monies lent or repaid. The fiscal 2004 through 2010 TTF forecast differs from prior forecasts in two respects:

- **No General Fund Repayment of \$300 Million Is Reflected:** The TTF forecast shows the \$50 million from the unappropriated fiscal 2004 general fund surplus at closeout, as the initial repayment from the general fund. As noted, the Administration’s out-year general fund forecast anticipates a payment of another \$225 million in fiscal 2007 through 2010. While not guaranteed, MDOT makes no provision for this additional revenue in its long-term forecast; and
- **Transfer to the MdTA for the ICC:** As noted, MDOT plans to transfer \$150 in special funds and \$50 million in earmarked federal funds to the MdTA. Instead of reflecting the special funds as a revenue transfer, the agency has elected to appropriate the funds in the SHA capital program. Further obfuscating the transfer is the fact that the appropriated dollars do not appear on the separate project information form for the ICC but instead represent the difference between the appropriation and the sum of all the project detail in the CTP. This approach deviates from the normal accounting for revenue transfers and is less transparent for purposes of oversight.

Issues related to these observations, for legislative consideration, include:

- **Uniformity and Transparency:** All spending for the ICC project should be clearly accounted for between the MdTA and the TTF. MDOT should reflect the \$30 million special fund and \$10 million federal fund appropriations for each of fiscal 2006 through 2010 in the ICC project information form of the SHA portion of the CTP;

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- **Coordination:** The forecasts for the MdTA, TTF, and general fund should match with respect to revenues to and from each fund; and

It is recommended that:

- MDOT list the \$30 million special fund appropriations and \$10 million federal fund appropriations for the ICC project on the project information form of the SHA portion of the CTP; and
- MDOT and the Department of Budget and Management should coordinate better to ensure that all general fund and TTF transfers and repayments are correctly reflected in both the TTF and general fund forecasts.

3. Reauthorization of Federal Transportation Spending Delayed

TEA-21 – the six-year federal authorization act for federal transportation spending for the period 1998 through 2003 – expired October 1, 2003. As Congress was unable to pass a reauthorization act prior to the expiration of TEA-21, legislation was enacted to implement numerous extensions of TEA-21 – the latest through May 2005.

As shown in **Exhibit 26**, under TEA-21 Maryland has received an annual average of \$430 million in federal highway funds. MDOT is assuming that under reauthorization, Maryland will receive an annual average of \$530 million in federal highway funds, an increase of \$100 million. Under prior transportation authorization, the Intermodal Surface Transportation Act (ISTEA), in place from 1992 to 1997, Maryland received an annual average of \$355 million in federal highway funds. Under TEA-21, Maryland received an increase of \$75 million over ISTEA.

Exhibit 26
Federal Transportation Authorization
Average Levels Received by Maryland
1992 to Present
(\$ in Millions)

	1992-1997 <u>ISTEA</u>	1997 to Present <u>TEA-21</u>	<u>Pending Auth.</u>
Annual average of federal highway funds received by Maryland	\$355	\$430	\$530 ²

Source: Maryland Department of Transportation

² Annual amount assumed by MDOT under new transportation authorization.

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There remain many questions associated with federal transportation reauthorization. Given the many other initiatives Congress plans to consider in 2005, they will need to move quickly to get a new measure approved before the May deadline. Competing bills introduced by the Administration, House, and Senate have differed widely in terms of the total size of federal programs provided. For example, the Administration bill and Senate bill considered in 2004 differed by over \$50 billion. As Congress takes on the issue once again in 2005, bills introduced may not have the same funding levels as legislation approved in 2004 because lawmakers may decide to write a five-year bill instead of a six-year authorization. Furthermore, there is no guarantee that further extensions will not occur after May 2005. Funding levels could very well remain stable in the near term.

DLS recommends that MDOT comment on its current assumptions for future federal aid and the impact of continued delay on ongoing capital projects.

4. Statutory Changes Recommended to Codify Submission of Draft and Final Capital Program and Supporting Transportation Forecast

Annually each fall, MDOT prepares a draft TTF forecast, a six-year draft capital program (a.k.a. the CTP), and a 20-year MTP. Per Section 2-103.1 of the Transportation Article, MDOT must visit each county by November 15 to provide information from the draft CTP and MTP to each local government and local delegation. Historically, this information has always been prepared by September each year and copies of the forecast and draft CTP provided to DLS. Similarly, the final CTP and forecast have traditionally been submitted to the legislature and DLS on the third Wednesday of January each year, in conjunction with the Governor's budget submission. Actual provisions in the *Annotated Code* do not exist however, which explicitly stipulate that these documents be submitted for legislative review.

Over the past year, the Administration was reluctant to provide copies of the draft CTP and the forecast supporting the draft CTP. The draft CTP was provided in segments throughout the fall as each county was visited, as opposed to providing one complete document in September as was done in years past. The draft forecast was not provided until DLS identified budget bill language pertaining to non-traditional debt reports that were to be included with the annual September and January financial forecasts. The lack of timely submission of both the draft and final CTPs and September and January financial forecasts impedes legislative oversight by the Spending Affordability Committee in the fall, as well as the timely preparation of analysis materials during the legislative session.

It is recommended that statutory provisions be added to the Transportation Article via budget reconciliation legislation to stipulate the submission of the draft CTP and supporting TTF financial forecast by September 1 each year and the submissions of the final CTP and supporting financial forecast by the third Wednesday of January each year at the time the Governor is required to submit the budget.

Recommended Actions

1. Add the following language:
 1. It is the intent of the General Assembly that projects and funding levels appropriated for capital projects, as well as total estimated project costs within the Consolidated Transportation Program (CTP), shall be expended in accordance with the plan approved during the legislative session. The department shall prepare a report to notify the budget committees of the proposed changes in the event the department modifies the program to:
 - (1) Add a new project to the construction program or development and evaluation program meeting the definition of a “major project” under Section 2-103.1 of the Transportation Article which was not previously contained within a plan reviewed in a prior year by the General Assembly and will result in the need to expend funds in the current budget year; or
 - (2) Change the scope of a project in the construction program or development and evaluation program meeting the definition of “major project” under Section 2-103.1 of the Transportation Article which will result in an increase of more than 10 percent or \$1,000,000, whichever is greater, in the total project costs as reviewed by the General Assembly during a prior session.

For each change, the report shall identify the project title, justification for adding the new project or modifying the scope of the existing project, current year funding levels, and the total project cost as approved by the General Assembly during the prior session compared with the proposed current year funding and total project cost estimate resulting from the project addition or change in scope.

Notification of changes in scope shall be made to the General Assembly concurrent with the submission of the draft and final CTP. Notification of new construction project additions, as outlined in paragraph (1) above, shall be made the General Assembly prior to the expenditure of funds or the submission of any contract for approval to the Board of Public Works.

Explanation: Adoption of annual budget bill language is recommended to require the department to notify the budget committees of proposed changes to the transportation capital program that will add a new project that was not in the 2005 CTP or will increase a total project’s cost by more than 10%, or \$1.0 million due to a change in scope. Reports are to be submitted with the draft and final versions of the CTP, with each using the 2005 session CTP as the basis for comparison.

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Information Request	Author	Due Date
Capital Budget Changes	MDOT	With draft CTP With final CTP

2. Add the following language:

It is the intent of the General Assembly that funds dedicated to the Transportation Trust Fund shall be applied to purposes bearing direct relation to the State transportation program, unless directed otherwise by legislation. To implement this intent for the Maryland Department of Transportation in fiscal 2006, no commitment of funds in excess of \$250,000 may be made nor such as an amount may be transferred, by budget amendment or otherwise, for any project or purpose not normally arising in connection with the ordinary ongoing operation of the department and not contemplated in the budget approved or the last published *Consolidated Transportation Program* without 45-day review and comment by the budget committees.

Explanation: This annual language prohibits the use of transportation funds for use other than for transportation-related purposes without review and comment by the budget committees.

Information Request	Author	Due Date
Information on non-transportation expenditures exceeding \$250,000	MDOT	As Needed

3. Add the following language:

The Maryland Department of Transportation (MDOT) shall not expend funds on any job or position of employment approved in this budget in excess of _____ positions and _____ contractual full-time equivalents paid through special payments payroll (defined as the quotient of the sum of the hours worked by all such employees in the fiscal year divided by 2,080 hours) of the total authorized amount established in the budget for MDOT at any one time during fiscal 2006. The level of how many contractual full-time equivalents may be exceeded only if MDOT notifies the budget committees of the need and justification for additional contractual personnel due to:

- (1) business growth at the Port of Baltimore and Baltimore-Washington International Airport which demands additional personnel; or
- (2) emergency needs which must be met (such as transit security or highway maintenance).

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The Secretary shall use the authority under Section 2-101 and 2-102 of the Transportation Article to implement this provision. However, any authorized job or position to be filled above the permanent position ceiling approved by the Board of Public Works shall count against the Rule of 50 imposed by the General Assembly. The establishment of new jobs or positions of employment not authorized in the fiscal 2006 budget shall be subject to Section 7-236 of the State Finance and Procurement Article, and the Rule of 50.

Explanation: The General Assembly has established a position ceiling for the Maryland Department of Transportation each year to limit growth in regular positions and contractual full-time equivalents.

Information Request	Author	Due Date
Additional regular positions and contractual FTEs	MDOT	As Needed

Transportation Trust Fund Forecast
Fiscal 2005 – 2010
(\$ in Millions)

Fund Balance	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	Total FY 05-10
Starting Balance	\$145	\$288	\$100	\$100	\$100	\$100	\$100	\$288
Closing Balance	288	100	100	100	100	100	100	100
Net Revenues								
Taxes and Fees	\$1,412	\$1,596	\$1,608	\$1,638	\$1,666	\$1,691	\$1,709	\$9,908
Operating/Misc.	618	467	435	409	420	433	455	2,619
GF Payments/Repayments	-155	0	50	0	0	0	0	50
MdTA Transfer	43	43	43	43	0	0	0	129
Net Revenues Subtotal	\$1,918	\$2,106	\$2,136	\$2,090	\$2,086	\$2,124	\$2,164	\$12,706
Bonds Sold	320	35	320	175	145	175	225	1,075
Bond Premiums	10							0
Subtotal	\$2,248	\$2,141	\$2,456	\$2,265	\$2,231	\$2,299	\$2,389	\$13,781
Expenditures								
Debt Service	\$135	\$154	\$150	\$135	\$143	\$159	\$170	\$911
Operating	1,178	1,211	1,266	1,336	1,403	1,471	1,542	8,229
Total Capital	792	964	1,040	794	685	669	677	4,829
Subtotal	\$2,105	\$2,329	\$2,456	\$2,265	\$2,231	\$2,299	\$2,389	\$13,969
Debt								
Debt Coverage Ratio – Net Income	3.5	3.7	5.5	5.1	4.1	3.3	2.8	
Debt Outstanding	\$1,186	\$1,105	\$1,333	\$1,441	\$1,516	\$1,610	\$1,749	
Highway User Grants*	\$378	\$452	\$555	\$565	\$573	\$579	\$585	\$3,309
Highway User Funds to General Fund	\$102	\$102						\$102
Capital Summary								
State Capital	\$792	\$966	\$1,038	\$797	\$691	\$675	\$682	\$4,849
Federal Capital	589	752	738	662	572	433	441	3,598
Total	\$1,381	\$1,718	\$1,776	\$1,459	\$1,263	\$1,108	\$1,123	\$8,447

* Highway User Grant figures in fiscal 2004 and 2005 are net of deductions taken from these grants and diverted to the general fund. These deductions totaled \$102.4 million in both fiscal 2004 and 2005.