

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 146
Appropriations

(Delegate Krebs, *et al.*)

Transportation Trust Fund Protection Act

This bill proposes to amend the Maryland Constitution to include the Transportation Trust Fund (TTF) and establish rules for its operation and funding. The bill places constitutional restrictions on transfers from TTF and use of TTF monies. Funds in the Gasoline and Motor Vehicle Revenue Account (GMVRA) must be distributed in accordance with the statutory formula in effect on October 1, 2008. It states that constitutional requirements for a majority approval of the amendment in a local jurisdiction do not apply and calls for the amendment to be submitted for a statewide vote at the next general election to be held in November 2012.

Fiscal Summary

State Effect: If adopted, the constitutional amendment would eliminate any transfers or distributions from TTF to the general fund or a special fund beginning in FY 2013. The effect of this provision on TTF revenues and expenditures is potentially significant but cannot be reliably estimated at this time and would depend on whether, and to what extent, TTF revenue distributions are not modified or transfers are not made as a result of the amendment. TTF revenues available to the Maryland Department of Transportation (MDOT) decrease by an estimated \$326.0 million in FY 2013, \$361.9 million in FY 2014, \$374.7 million in FY 2015, \$383.9 million in FY 2016, and \$388.0 million in FY 2017.

Local Effect: If passed by the General Assembly, altering the distribution of GMVRA revenues increases local highway user revenues by \$326.0 million in FY 2013, \$361.9 million in FY 2014, \$374.7 million in FY 2015, \$383.9 million in FY 2016, and \$388.0 million in FY 2017. Also, to the extent State revenues are affected by the prevention of transfers and redistribution of TTF funds, local highway user aid may be affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires TTF funds to be used only to pay the principal of and interest on transportation bonds and for any lawful purpose related to construction and maintenance of an adequate highway system or any other transportation-related purpose. No part of TTF may revert or be credited to the general fund or a special fund.

The bill creates constitutional authority for TTF's current statutory sources of revenue and requires that not less than the portion of revenue from specified fees and taxes be distributed to TTF as required in specified provisions of law in the Tax-General Article and Transportation Article as they were in effect on October 1, 2011.

The bill creates exceptions to the prohibition on TTF transfers but only for defense or relief purposes and if (1) the State is invaded or a major catastrophe occurs; (2) the Governor proclaims a state of emergency, declares that TTF funds are necessary for the immediate preservation of public health or safety, and proposes a plan to repay TTF within five years; and (3) the General Assembly approves legislation, by a three-fifths vote of both houses, authorizing the use of TTF for defense or relief purposes and approving a repayment plan. The authorizing legislation may contain only those provisions required to authorize the use of TTF for defense or relief purposes.

Current Law: After meeting debt service requirements, MDOT may use funds in TTF for any lawful purpose related to the exercise of its rights, powers, duties, and obligations. Beginning July 1, 2012, TTF funds may not be transferred or diverted to the general fund unless legislation is enacted prior to the diversion that repays the TTF funds within five years. Also, no part of TTF may revert or be credited to the general fund and no part may revert or be credited to a special fund, unless the transfer is approved by the Legislative Policy Committee. If the committee fails to reject the transfer within 15 days after the transfer is presented, it is deemed to be approved.

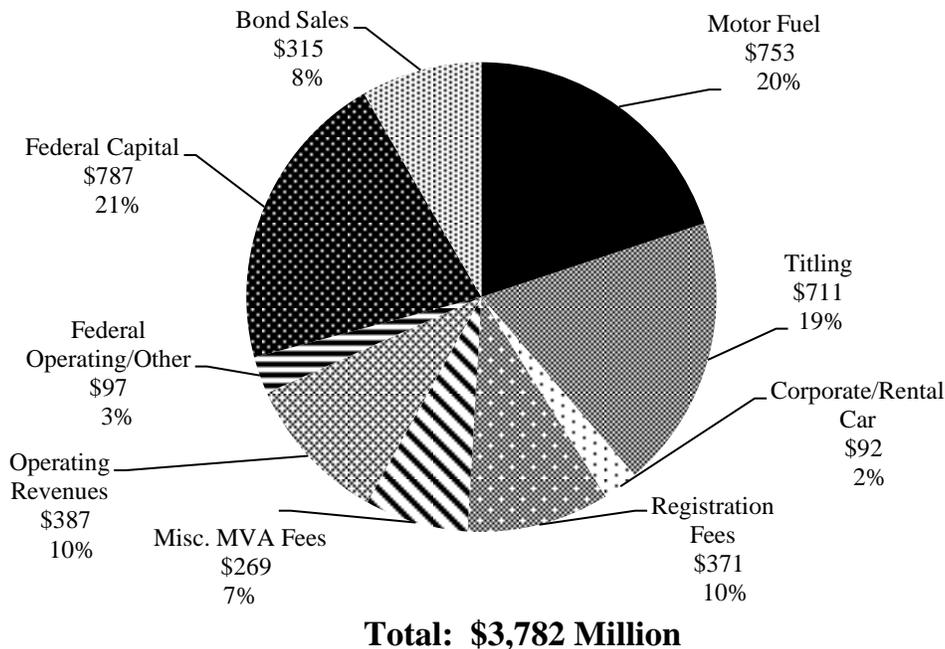
TTF's GMVRA revenue (commonly known as highway user revenue) must be distributed to the general fund, MDOT, and local jurisdictions as follows:

- 23% in fiscal 2011 and 11.3% in fiscal 2012 to the general fund;
- 68.5% in fiscal 2011, 79.8% in fiscal 2012, 90% in fiscal 2013, and 90.4% in fiscal 2014 and future years to MDOT; and
- the balance to counties, municipalities, and Baltimore City.

Background: TTF is a nonlapsing special fund that provides funding for transportation. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. MDOT issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. The Maryland Transit Administration, Motor Vehicle Administration, Maryland Port Administration, and Maryland Aviation Administration generate operating revenues that cover a portion of their operating expenditures.

The tax and fee revenues allocated to TTF include motor fuel taxes, titling taxes, vehicle registration fees, a portion of the rental car sales and corporate income taxes, and other miscellaneous motor vehicle fees. **Exhibit 1** shows that TTF’s largest revenue sources in fiscal 2013 are the motor fuel and titling taxes and federal aid for the capital program, which represent \$2.3 billion (60%) of all fund sources. MDOT is projecting that \$315 million in bonds will be sold to supplement the transportation capital program in fiscal 2013.

Exhibit 1
Transportation Trust Fund
State-sourced Revenues and Federal Funds
Fiscal 2013
(\$ in Millions)



MVA: Motor Vehicle Administration
 Source: Governor’s Budget Books, Fiscal 2013, Volume I, pages 580-584

Highway User Revenues

A portion of TTF revenues is credited to GMVRA and is distributed to local jurisdictions, the general fund, and MDOT. The funds retained by TTF support MDOT's capital program, debt service, and operating costs. Local governments use highway user revenues to help develop and maintain local transportation projects. **Exhibit 2** summarizes the distribution of highway user revenue in fiscal 2012 through 2015.

Exhibit 2
Highway User Revenue Distribution Under Current Law
Fiscal 2012-2015
(\$ in Millions)

	Fiscal 2012		Fiscal 2013		Fiscal 2014		Fiscal 2015	
	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>
MDOT	79.8%	\$1,317	90.0%	\$1,467	90.4%	\$1,604	90.4%	\$1,661
General Fund	11.3%	186	0.0%	0	0.0%	0	0.0%	0
Baltimore City	7.5%	124	8.1%	132	7.7%	137	7.7%	141
Counties	0.8%	13	1.5%	24	1.5%	26	1.5%	28
Municipalities	0.6%	10	0.4%	7	0.4%	7	0.4%	7
Total	100.0%	\$1,650	100.0%	\$1,630	100.0%	\$1,774	100.0%	\$1,837

MDOT: Maryland Department of Transportation

Source: Department of Legislative Services

In recent years, a significant portion of the local share of highway user revenue has been diverted to the State's general fund to help balance the State's budget. Previously, the statutory distribution formula allocated 70.0% of highway user revenue to MDOT and 30.0% to local jurisdictions. However, the Budget Reconciliation and Financing Act (BRFA) of 2009 (Chapter 487) reduced the local share of highway user revenues for fiscal 2010 and 2011 and transferred the revenues to the general fund. That legislation also adjusted the State-local distribution of highway user revenue, beginning in fiscal 2012, to 71.5% to TTF and 28.5% to local jurisdictions. The distribution of highway user revenues was adjusted further in fiscal 2010 and 2011. Most recently, in accordance with the BRFA of 2011 (Chapter 397), the \$1.65 billion in estimated fiscal 2012 highway user revenue was distributed as follows: \$1.3 billion (79.8%) to MDOT; \$186.5 million (11.3%) to the general fund; \$123.8 million (7.5%) to Baltimore City; \$13.2 million (0.8%) to counties; and \$9.9 million (0.6%) to municipalities.

Exhibit 3 details recent and planned transfers of highway user revenues to the general fund under current law.

Exhibit 3
Highway User Revenue Distributed to the General Fund Under Current Law
Fiscal 2003-2013
(\$ in Millions)

<u>Fiscal Year</u>	<u>Amount</u>
2003	\$18
2004	102
2005	102
2006	23
2007	0
2008	0
2009	0
2010	304
2011	377
2012	186
2013 (est.)	0

Source: Department of Legislative Services

Blue Ribbon Commission on Transportation Funding

Chapters 525 and 526 of 2010 established the Blue Ribbon Commission on Transportation Funding. The commission was tasked with reviewing, evaluating, and making recommendations on a variety of issues, including (1) the current State funding sources and structure of TTF; (2) short- and long-term transit and highway construction and maintenance funding needs; (3) options for public-private partnerships to meet transportation funding needs; (4) the structure of regional transportation authorities and their ability to meet transportation needs; and (5) options for sustainable, long-term revenue sources for transportation. During the September 2010 to October 2011 period, the 28-member commission held 14 meetings and received feedback from numerous experts and affected parties.

The commission's November 1, 2011 final report recommends, among other things, protecting and increasing transportation funding and facilitating funding partnerships. **Exhibit 4** summarizes key recommendations included in the final report. The bill implements some of the commission's recommendations.

Exhibit 4
Summary of the Final Recommendations of the
Blue Ribbon Commission on Transportation Funding

Protect and Increase Transportation Funding

- Amend the Maryland Constitution to prohibit transfers from TTF to nontransportation purposes, except in fiscal emergencies.
- Raise \$870 million in new annual revenues for transportation by, for example, increasing (1) the motor fuel tax over three years by five cents per gallon per year and then indexing it to inflation; (2) vehicle registration fees by 50%; and (3) other transportation revenues.
- Restore the allocation of annual highway user revenue aid to local governments.
- Increase transportation bonding capacity commensurate with revenue adjustments.
- Remove the cost-recovery cap for Motor Vehicle Administration fees.
- Consider establishing tolls on new or expanded transportation facilities in conjunction with variable pricing techniques.

Support Transit

- Reach the transit cost-recovery ratio goal of 35%.
- Regularly adjust transit fares and eliminate nonpaying ridership.

Support State Growth Policies

- Collaborate with local governments to ensure local plans reflect State growth policies.

Capture Value Created by Transportation Investments

- Integrate value capture analysis into transportation decisionmaking.
- Seek authority to apply tax increment financing support to highway project development.

Facilitate Transportation Financing Partnerships

- Establish centralized enabling legislation for public-private partnerships (P3) outlining efficient and timely legislative review.
- Revise the current transportation P3 process.
- Assess the feasibility of loaning State funds to local governments and private sponsors to facilitate transportation investments.

Source: Blue Ribbon Commission on Transportation Funding Final Report, November 2011.

State Fiscal Effect: Assuming approval of the amendment in the November 2012 general election, this bill makes less likely any future transfers from TTF. Likewise, the bill establishes TTF revenue sources as part of the constitution rather than statute, which makes any alteration in the distribution of TTF revenue sources subject to the constitutional amendment process and restricts the State's flexibility to modify those revenue distributions. Absent one of the specified emergencies, any proposed transfers or changes in distribution to the general fund or another special fund would require an additional constitutional amendment. Legislative Services advises that, in the absence of the availability of transfers from TTF, any future shortfalls in the general fund could require additional and possibly significant expenditure reductions or revenue increases.

If the constitutional amendment is approved, GMVRA revenues must be distributed as they were on October 1, 2008, which was as follows: 70.0% to MDOT and 30.0% to local jurisdictions. Under current law, MDOT retains 90.0% of GMVRA revenues in fiscal 2013 and 90.4% in fiscal 2014 and future years; however, under the bill, MDOT would retain only 70%. Thus, altering the distribution formula decreases TTF revenues available to MDOT by 20 to 20.4 percentage points or \$326.0 million in fiscal 2013, \$361.9 million in fiscal 2014, \$374.7 million in fiscal 2015, \$383.9 million in fiscal 2016, and \$388.0 million in fiscal 2017, totaling \$1.7 billion over the five-year period. (For fiscal 2013, this assumes the allocation of GMVRA revenues would, in the absence of the bill, occur after the general election.)

To the extent the loss of GMVRA revenue prevents MDOT from meeting debt service obligations, significant budget reductions, primarily to MDOT's capital program, are required. MDOT advises that it would be required to reduce its 2012-2017 capital budget by approximately one-third, or \$3.2 billion, to meet required bond coverage ratios. Without a new source of revenue, a reduction of this magnitude would effectively end all State-funded expansion projects, significantly reduce system preservation projects, and limit major equipment purchases.

The bill could affect the way MDOT administers its funds in the future due to its more narrow definition of the authorized use of funds from “any lawful purpose” under current law to “any lawful purpose related to the construction and maintenance of an adequate highway system or any other transportation-related purpose.”

State costs of printing absentee and provisional ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections’ budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: Current law requires 10% of GMVRA revenues to be allocated to local jurisdictions as highway user revenue in fiscal 2013 and 9.6% in fiscal 2014 and future years. However, if the constitutional amendment is approved, 30% of GMVRA revenues must be allocated to local jurisdictions. Thus, altering the distribution formula increases local jurisdictions’ highway user revenues by 20 to 20.4 percentage points or \$326.0 million in fiscal 2013, \$361.9 million in fiscal 2014, \$374.7 million in fiscal 2015, \$383.9 million in fiscal 2016, and \$388.0 million in fiscal 2017.

Local boards of elections’ printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections’ budgets.

Additional Comments: The bill creates a constitutional requirement to dedicate not less than the portion of certain revenues to TTF that were dedicated as of October 1, 2011. This requirement could be interpreted to mean the same dollar amount, effectively establishing a mandatory funding requirement.

Additional Information

Prior Introductions: HB 21 of the 2011 special session was referred to the House Rules and Executive Nominations Committee, but no further action was taken. HB 518 of 2011, a similar bill, received a hearing in the House Appropriations Committee, but no further action was taken. In addition, similar bills were introduced in the 2003 and 2004 sessions.

Cross File: None.

Information Source(s): Maryland Association of Counties, Department of Budget and Management, Maryland Department of Transportation, Department of Legislative Services

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