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By: ~~Senators Kramer, Brinkley, and Colburn~~ Colburn, Lawlah, Ruben, Hogan, Jones, and DeGrange DeGrange, Garagiola, Forehand, Giannetti, and Gladden

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 3, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Transportation Funding - Mass Transit - Funding Study**

3 ~~FOR the purpose of altering the distribution of sales and use tax revenue; creating a~~  
 4 ~~Mass Transit Account within the Transportation Trust Fund; providing for the~~  
 5 ~~distribution of certain sales and use tax revenue to the Mass Transit Account~~  
 6 ~~within the Fund; pledging certain taxes collected to pay the principal and~~  
 7 ~~interest on certain bonds; limiting the use of the Mass Transit Account to~~  
 8 ~~funding certain transit expenses; providing that certain revenues distributed to~~  
 9 ~~the Mass Transit Account are in addition to and may not supplant certain other~~  
 10 ~~funds for mass transit; stating the intent of the General Assembly that the~~  
 11 ~~Washington Metropolitan Area Transit Authority Board of Directors adopt~~  
 12 ~~certain financial planning and business practices; requiring the Maryland~~  
 13 ~~Department of Transportation to conduct certain analyses on the operating and~~  
 14 ~~capital funding needs for transit over a certain period of time; requiring the~~  
 15 ~~Department to conduct certain reviews of the funding structures of certain other~~  
 16 ~~transit systems; requiring the Department to identify certain funding strategies;~~  
 17 ~~establishing a certain steering committee; providing for the membership of the~~  
 18 ~~steering committee; requiring the Department to submit a certain report; and~~  
 19 ~~generally relating to the funding of mass transit in the State.~~

20 ~~BY repealing~~

21 ~~Article Transportation~~

22 ~~The subtitle designation "Subtitle 4. Transportation Revenue Sharing Fund" of~~

23 ~~Title 3~~

24 ~~Annotated Code of Maryland~~

1 ~~(2001 Replacement Volume and 2005 Supplement)~~

2 ~~BY adding to~~

3 ~~Article Tax General~~

4 ~~Section 2-1302.2~~

5 ~~Annotated Code of Maryland~~

6 ~~(2004 Replacement Volume and 2005 Supplement)~~

7 ~~BY repealing and reenacting, with amendments,~~

8 ~~Article Tax General~~

9 ~~Section 2-1303~~

10 ~~Annotated Code of Maryland~~

11 ~~(2004 Replacement Volume and 2005 Supplement)~~

12 ~~BY repealing and reenacting, with amendments,~~

13 ~~Article Transportation~~

14 ~~Section 3-215(b) and 3-216~~

15 ~~Annotated Code of Maryland~~

16 ~~(2001 Replacement Volume and 2005 Supplement)~~

17 ~~BY adding to~~

18 ~~Article Transportation~~

19 ~~Section 3-401 to be under the new subtitle "Subtitle 4. Mass Transit Account"~~

20 ~~Annotated Code of Maryland~~

21 ~~(2001 Replacement Volume and 2005 Supplement)~~

22

Preamble

23 WHEREAS, The Maryland Department of Transportation is studying the future  
 24 transit needs of the Baltimore and Washington regions and several major transit  
 25 projects are under consideration, including the Red and Green lines in Baltimore City,  
 26 the Bi-County Transitway, the Corridor Cities Transitway, and the expansion of the  
 27 Washington Metro to BWI-Thurgood Marshall Airport; and

28 WHEREAS, In January 2005, a Blue Ribbon Panel identified an average annual  
 29 shortfall of \$300 million in the Washington Metropolitan Area Transit Authority's  
 30 (WMATA) capital funding needs through 2015. In response, legislation was  
 31 introduced in Congress to provide a substantial federal commitment to funding  
 32 WMATA, contingent on participating state and local governments earmarking funds  
 33 from dedicated funding sources for the same purpose; and

34 WHEREAS, Maryland supports efforts to obtain additional federal assistance  
 35 for the operations, maintenance and expansion of WMATA, given the federal  
 36 government's reliance on the transit system; and

1 WHEREAS, Maryland has and will continue to meet its obligation to fund its  
2 share of WMATA's operating and capital needs, as evidenced by the State's  
3 participation in Metro Matters; and

4 WHEREAS, Maryland has statewide transit funding needs that should be  
5 addressed using a statewide approach that is equitable for all regions; now, therefore,

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That:

8 (a) The Maryland Department of Transportation shall provide an analysis of  
9 operating and capital funding needs for transit in the State over a twenty year  
10 horizon. The analysis shall include a comprehensive, financially unconstrained  
11 review of potential needs. Projections should provide detail on operating and capital  
12 assumptions, including baseline growth, system preservation, service expansion, and  
13 system expansion including all new transit projects currently under study. To the  
14 extent practical, the analysis shall consider previous studies or approved service  
15 expansion plans for the Washington Metropolitan Area Transit Authority (WMATA),  
16 Maryland Transit Administration services (Metro, Light Rail, Bus, Commuter Bus,  
17 and MARC), and locally operated transit systems.

18 (b) The Maryland Department of Transportation shall conduct a review of how  
19 transit services are funded across the country and in select cities outside the United  
20 States with large transit systems. The review should provide a list of revenue sources  
21 used, examples of the mix of sources applied, and other detailed information helpful  
22 to considering transit funding strategies. This review should consider state, regional,  
23 and local approaches to funding transit systems, including capital expansion projects.  
24 The study may discuss the policy considerations of potential revenue sources not  
25 currently used in Maryland.

26 (c) The Maryland Department of Transportation shall identify State funding  
27 strategies to take advantage of potential new federal funding for WMATA that could  
28 be authorized by pending federal legislation.

29 (d) (1) There is a Transit Funding Study Steering Committee.

30 (2) The Steering Committee shall meet periodically to provide guidance  
31 and direction to the Maryland Department of Transportation in conducting the  
32 studies and analysis required under this section.

33 (3) The Steering Committee shall consist of the following members:

34 (i) Three members of the Senate of Maryland, appointed by the  
35 President of the Senate;

36 (ii) Three members of the House of Delegates, appointed by the  
37 Speaker of the House;

38 (iii) The Secretary of Transportation, or the Secretary's designee;  
39 and

1 (iv) The Secretary of Budget and Management, or the Secretary's  
 2 designee.

3 (e) The Maryland Department of Transportation shall submit a report to the  
 4 General Assembly on or before December 15, 2006, in accordance with § 2-1246 of the  
 5 State Government Article, that includes the studies and analysis required under this  
 6 section.

7 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~  
 8 ~~MARYLAND, That the subtitle designation "Subtitle 4. Transportation Revenue~~  
 9 ~~Sharing Fund" of Title 3 of Article—Transportation of the Annotated Code of~~  
 10 ~~Maryland be repealed.~~

11 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~  
 12 ~~read as follows:~~

13 ~~Article—Tax—General~~

14 ~~2-1302.2.~~

15 (A) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, BEGINNING~~  
 16 ~~WITH THE FISCAL YEAR THAT BEGINS ON JULY 1, 2008, AND FOR EACH FISCAL YEAR~~  
 17 ~~THEREAFTER, AFTER MAKING THE DISTRIBUTION REQUIRED UNDER §§ 2-1301~~  
 18 ~~THROUGH 2-1302.1 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE~~  
 19 ~~MONTHLY 5% OF THE REMAINING SALES AND USE TAX REVENUE TO THE MASS~~  
 20 ~~TRANSIT ACCOUNT OF THE TRANSPORTATION TRUST FUND ESTABLISHED UNDER §~~  
 21 ~~3-216 OF THE TRANSPORTATION ARTICLE.~~

22 (B) ~~FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2007, ONLY, INSTEAD OF~~  
 23 ~~THE DISTRIBUTION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE~~  
 24 ~~COMPTROLLER SHALL DISTRIBUTE MONTHLY TO THE MASS TRANSIT ACCOUNT 2.5%~~  
 25 ~~OF THE REMAINING SALES AND USE TAX REVENUE.~~

26 ~~2-1303.~~

27 ~~After making the distributions required under §§ 2-1301 through [2-1302.1]~~  
 28 ~~2-1302.2 of this subtitle, the Comptroller shall pay:~~

29 (1) ~~revenues from the hotel surcharge into the Dorchester County~~  
 30 ~~Economic Development Fund established under Article 83A, § 5-216 of the Code; and~~

31 (2) ~~the remaining sales and use tax revenue into the General Fund of the~~  
 32 ~~State.~~

1

**Article—Transportation**2 ~~3-215.~~

3 (b) The tax levied and imposed by this section consists of that part of the  
4 following taxes that are retained to the credit of the Department after distributions to  
5 the political subdivisions:

6 (1) The motor fuel tax revenue distributed under §§ 2-1103(2) and  
7 2-1104(4) of the Tax—General Article;

8 (2) The income tax revenue distributed under § 2-614 of the Tax—  
9 General Article;

10 (3) The excise tax imposed on vehicles by Part II of Title 13, Subtitle 8 of  
11 this article; [and]

12 (4) The sales and use tax revenues distributed under § 2-1302.1 of the  
13 Tax—General Article; AND

14 (5) THE SALES AND USE TAX REVENUES DISTRIBUTED UNDER § 2-1302.2  
15 OF THE TAX—GENERAL ARTICLE.

16 ~~3-216.~~

17 (a) There is a Transportation Trust Fund for the Department.

18 (b) Except as otherwise expressly provided by statute, there shall be credited  
19 to the Transportation Trust Fund for the account of the Department all taxes, fees,  
20 charges, and revenues collected or received by or paid, appropriated, or credited to the  
21 account of the Department or any of its units in the exercise of their rights, powers,  
22 duties, or obligations, including the cash proceeds of the sale of consolidated  
23 transportation bonds, notes, or other evidences of obligation issued by the  
24 Department, any General Fund appropriations, and the proceeds of any State loan or  
25 federal grant made for transportation purposes.

26 (c) (1) There shall be maintained in the Transportation Trust Fund one or  
27 more sinking fund accounts to which shall be credited and from which shall be paid,  
28 from the proceeds of the taxes levied and imposed for that purpose or from any other  
29 funds of the Department, amounts sufficient at all times to meet the debt service on  
30 all bonds of prior issues and consolidated transportation bonds from time to time  
31 outstanding and unpaid.

32 (2) (i) The Gasoline and Motor Vehicle Revenue Account, the Driver  
33 Education Account, [and] the Motorcycle Safety Program Account, AND THE MASS  
34 TRANSIT ACCOUNT shall be maintained in the Transportation Trust Fund.

35 (ii) In each fiscal year, the Department shall budget from federal  
36 funds available to the Department, other funds in the Transportation Trust Fund, and  
37 any other funds available to the Department, an amount sufficient to fund projects

1 and programs determined by the Secretary to be necessary to achieve the bicycle and  
2 pedestrian transportation goals identified for the fiscal year under Title 2, Subtitle 6  
3 of this article.

4 (d) (1) After meeting its debt service requirements, the Department may use  
5 the funds in the Transportation Trust Fund for any lawful purpose related to the  
6 exercise of its rights, powers, duties, and obligations.

7 (2) Expenditures under this subsection shall be made in accordance with  
8 any appropriation provided for in any applicable budget bill or supplementary  
9 appropriation bill. However, an appropriation proposed to be made to any unit in the  
10 Department or proposed to be made for any designated transportation activity,  
11 function, or undertaking that has been reduced by the General Assembly may not be  
12 restored, for the same purpose as originally proposed, except in an emergency, by the  
13 budget amendment procedure of § 7-209 of the State Finance and Procurement  
14 Article, or otherwise if the General Assembly in striking or reducing the  
15 appropriation, prohibited its restoration. However, except for emergency capital  
16 projects, if the General Assembly explicitly reduces in the budget bill an  
17 appropriation proposed for a major capital project as defined in § 2-103.1(a)(4) of this  
18 article, the appropriation may not be restored for the same purpose as originally  
19 proposed by the budget amendment procedure of § 7-209 of the State Finance and  
20 Procurement Article or otherwise unless the General Assembly, in striking or  
21 reducing the appropriation, expressly authorized its restoration.

22 (3) (i) During the period of fiscal years 1988 through 1992 as included  
23 in the annual State Report on Transportation, the Department shall utilize all of its  
24 share of the revenues attributable to the 5 cent increase of the motor fuel tax under  
25 the provisions of Chapter 291 of the Acts of 1987 and credited to the Transportation  
26 Trust Fund under § 2-1104 of the Tax General Article and the proceeds of any  
27 increased indebtedness based on that revenue and credited to the Transportation  
28 Trust Fund to fund Department projects for the construction, reconstruction, and  
29 rehabilitation of the State highway system.

30 (ii) During the period of fiscal year 1988 through fiscal year 1992  
31 the total level of State funds appropriated to the State Highway Administration for  
32 construction, reconstruction and rehabilitation of the State highway system,  
33 including the revenues referred to in subparagraph (i) above, shall be at least 70  
34 percent of the total appropriation of State funds in the consolidated transportation  
35 capital program.

36 (iii) The Secretary of the Department shall submit, subject to §  
37 2-1246 of the State Government Article, to the Legislative Policy Committee and the  
38 Department of Legislative Services a report:

39 1. Prior to the beginning of each session through the 1991  
40 session, detailing the intended use of the new revenues; and



1 (i) The sinking fund requirements established for the payment of  
 2 the principal of and interest on those bonds shall remain unchanged, as if this section  
 3 had not been enacted; and

4 (ii) The taxes and revenues pledged to the payment of the principal  
 5 of and interest on those bonds as they become due and payable may not be repealed,  
 6 diminished, or applied to any other purpose until:

7 1. The bonds and the interest on them have become due and  
 8 fully paid; or

9 2. Adequate and complete provision for payment of the  
 10 principal and interest has been made.

11 (f) (1) No part of the Transportation Trust Fund may revert or be credited to  
 12 the general funds of this State. No part of the Transportation Trust Fund may revert  
 13 or be credited to a special fund of the State, unless otherwise provided by law. No part  
 14 of the Transportation Trust Fund may revert or be credited to a special fund of the  
 15 State pursuant to the provisions of § 7-209(e)(2) of the State Finance and  
 16 Procurement Article, unless the transfer is approved by the Legislative Policy  
 17 Committee. Failure of the Legislative Policy Committee to reject the transfer within  
 18 15 days after presentation before the Legislative Policy Committee shall be deemed to  
 19 be approval.

20 (2) Notwithstanding any other provision of law, for fiscal year 1984 only,  
 21 \$29,000,000 of the funds in the Transportation Trust Fund which are not required by  
 22 law to be distributed to the counties or Baltimore City and which have not been  
 23 pledged or otherwise committed to the payment of or as security for the payment of  
 24 any bonds or debt issued or incurred pursuant to this article shall be transferred and  
 25 credited to the general funds of the State on or before June 30, 1984 and shall be  
 26 available for appropriation from the general funds in fiscal year 1984.

27 ~~SUBTITLE 4. MASS TRANSIT ACCOUNT.~~

28 ~~3-401.~~

29 (A) ~~THERE IS A MASS TRANSIT ACCOUNT IN THE TRANSPORTATION TRUST~~  
 30 ~~FUND.~~

31 (B) ~~ALL REVENUES DISTRIBUTED TO THE TRANSPORTATION TRUST FUND~~  
 32 ~~UNDER § 2-1302.2 OF THE TAX GENERAL ARTICLE SHALL BE CREDITED TO THE~~  
 33 ~~MASS TRANSIT ACCOUNT.~~

34 (C) ~~FUNDS FROM THE MASS TRANSIT ACCOUNT MAY ONLY BE USED TO FUND:~~

35 (1) ~~CAPITAL AND OPERATING EXPENSES OF THE WASHINGTON~~  
 36 ~~METROPOLITAN AREA TRANSIT AUTHORITY (WMATA), INCLUDING ADDITIONAL~~  
 37 ~~FUNDING FOR THE MAINTENANCE AND IMPROVEMENT OF THE TRANSPORTATION~~  
 38 ~~SYSTEM OF WMATA CONSISTENT WITH:~~

1                   (4)     ~~LEGISLATION ENACTED BY CONGRESS PROVIDING ADDITIONAL~~  
 2 ~~FEDERAL GRANTS TO WMATA FOR THE MAINTENANCE AND IMPROVEMENT OF THE~~  
 3 ~~TRANSPORTATION SYSTEM; AND~~

4                   (II)    ~~LEGISLATION PASSED BY THE COUNCIL OF THE DISTRICT OF~~  
 5 ~~COLUMBIA AND THE VIRGINIA GENERAL ASSEMBLY DEDICATING REVENUES FOR~~  
 6 ~~THE SAME PURPOSE;~~

7                   (2)     ~~CAPITAL AND OPERATING EXPENSES OF THE MARYLAND TRANSIT~~  
 8 ~~ADMINISTRATION; AND~~

9                   (3)     ~~GRANTS TO LOCAL JURISDICTIONS FOR MASS TRANSIT CAPITAL AND~~  
 10 ~~OPERATING EXPENSES.~~

11    (D)    (1)     ~~THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THAT THE~~  
 12 ~~MASS TRANSIT ACCOUNT BE THE SOLE SOURCE OF FUNDING FOR THE CAPITAL AND~~  
 13 ~~OPERATING EXPENSES OF THE MARYLAND TRANSIT ADMINISTRATION, THE CAPITAL~~  
 14 ~~AND OPERATING EXPENSES OF WMATA, OR LOCAL GRANTS TO LOCAL JURISDICTIONS~~  
 15 ~~FOR MASS TRANSIT CAPITAL AND OPERATING EXPENSES.~~

16                   (2)     ~~THE REVENUES CREDITED TO THE MASS TRANSIT ACCOUNT UNDER~~  
 17 ~~THIS SECTION ARE IN ADDITION TO AND MAY NOT SUPPLANT ANY FUNDS WITHIN~~  
 18 ~~THE TRANSPORTATION TRUST FUND NECESSARY TO PAY THE PROJECTED MASS~~  
 19 ~~TRANSIT OPERATING AND CAPITAL COSTS IDENTIFIED IN THE DEPARTMENT'S~~  
 20 ~~APPROVED CONSOLIDATED TRANSPORTATION PROGRAM FOR FISCAL YEARS 2006~~  
 21 ~~THROUGH 2011.~~

22    SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the  
 23 General Assembly that the Washington Metropolitan Area Transit Authority  
 24 (WMATA) Board of Directors should study and adopt the following improvements to  
 25 WMATA's financial planning and business practices:

26    (1)     ~~after consultation with stakeholders and the funding jurisdictions,~~  
 27 ~~complete a strategic plan that:~~

28                   (i)     ~~prioritizes goals for the transportation system and strategies to~~  
 29 ~~achieve these goals; and~~

30                   (ii)    ~~adopts performance measures and benchmarks, which are reported~~  
 31 ~~through the annual budget process to the Board and funding jurisdictions;~~

32    (2)     ~~develop a long range budget plan, outlining WMATA's long term capital~~  
 33 ~~and operating needs and funding requirements; and~~

34    (3)     ~~adopt an annual 5 year service and financial plan that:~~

35                   (i)     ~~outlines planned transportation services;~~

36                   (ii)    ~~estimates the operating costs of planned service expansions; and~~

1            (iii)    ~~includes detailed expenditure and revenue projections.~~

2            SECTION 4. 2. AND BE IT FURTHER ENACTED, That this Act shall take  
3 effect July 1, 2006.