Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 1054 (The President)(By Request - Administration)
Rules

Transportation Infrastructure Investment Act of 2013

This Administration bill (1) imposes additional motor fuel taxes on all fuels except aviation gasoline and turbine fuel based on the retail price of gasoline and inflation; (2) reduces the excise tax imposed on gasoline and clean-burning fuel by 5 cents per gallon; (3) places restrictions on transfers from the Transportation Trust Fund (TTF) and use of TTF monies; (4) increases the vehicle registration fee surcharge, the revenue from which is credited to the Maryland Emergency Medical System Operations Fund (MEMSOF); (5) requires the Maryland Transit Administration (MTA) to increase base fare prices beginning in fiscal 2015; (6) requires the Governor to include in the capital budget specified appropriations to the State Highway Administration (SHA) for use in complying with the Watershed Implementation Plan (WIP); and (7) establishes a Local and Regional Transportation Funding Task Force.

Except for specified provisions, the bill takes effect June 1, 2013.

Fiscal Summary

State Effect: Special fund revenues for MEMSOF increase by $1.4 million in FY 2013 and by about $17.0 million annually thereafter due to the increase in vehicle registration fee surcharges. TTF revenues increase by $81.5 million in FY 2014, with the State share increasing by $94.2 million. Bond revenues and expenditures increase beginning in FY 2015. General fund expenditures may decrease by $2.7 million in FY 2013 due to the elimination of a MEMSOF deficiency appropriation. (Future year estimates reflect increased bond debt service expenditures.) TTF expenditures increase minimally in FY 2013 and by $0.3 million in FY 2014 due to Maryland Department of Transportation (MDOT) implementation costs. Future year TTF expenditure decreases reflect decreased WIP expenditures.

($ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	$98.2	$338.9	$570.2	$605.9	$650.3
Bond Rev.	$0	$45.0	$65.0	$85.0	$100.0
GF Expenditure	-	$2.3	$5.5	$12.3	$21.0
SF Expenditure	$.3	($25.8)	($18.6)	($11.9)	($11.9)
Bond Exp.	$0	$45.0	$65.0	$85.0	$100.0
Net Effect	$98.0	$362.4	$583.3	$605.5	$641.2

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local highway user revenues decrease by $12.7 million in FY 2014 and by $13.2 million in FY 2018. Local expenditures are not affected.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment as discussed below.

Analysis

Bill Summary:

Overview

As described below, the bill increases transportation funding by (1) increasing motor fuel taxes and (2) requiring MTA to increase base fare prices beginning in fiscal 2015 and every three years thereafter. The bill also (1) requires the Governor to include in the capital budget specified appropriations to SHA for use in complying with WIP, thereby replacing certain TTF expenditures; and (2) increases the vehicle registration fee surcharge, the revenue from which is credited to MEMSOF.

Generally, the bill prohibits the transfer or diversion of funds from TTF to the general fund or a special fund unless the transfer or diversion is approved through legislation passed by a three-fifths majority of specified full standing committees in each of the two houses of the General Assembly and then enacted into law. A transfer or diversion may also be provided if the Governor declares a state of emergency and also declares that the revenues are needed for defense or relief purposes after a major catastrophe or if the State is invaded. Lastly, the bill establishes a Local and Regional Transportation Funding Task Force.

The bill alters motor fuel taxes by:

- indexing motor fuel tax rates, except for aviation and turbine fuel, to inflation beginning in fiscal 2014;

- subject to the adjustment above, reducing the excise tax rate imposed on gasoline and clean-burning fuel by 5 cents beginning in fiscal 2014;

- imposing a sales and use tax equivalent rate of 2% on all motor fuel except for aviation and turbine fuel beginning in fiscal 2014, increasing to 4% beginning in fiscal 2015;

- increasing the sales and use tax equivalent rate from 4% to 6% beginning in fiscal 2016 unless federal legislation is enacted by June 1, 2015, authorizing the State to require the collection of the sales and use tax on sales made by out-of-state sellers to Maryland consumers; and

- if federal legislation on sales tax collection is enacted and takes effect by June 1, 2015, the sales and use tax equivalent rate remains at 4% and the Comptroller is then required to distribute 4% of total State sales and use tax revenues to TTF.

Motor Fuel – Sales and Use Tax Equivalent Rate

The bill imposes a sales and use tax equivalent rate on motor fuel based on the retail price of regular unleaded gasoline, excluding federal and State taxes, as determined by the Comptroller's Office. The tax is determined by multiplying the applicable percentage rate times the annual average retail price, less federal and State taxes, rounded to the nearest tenth of a cent.

The sales and use tax equivalent rate is imposed at the beginning of each fiscal year. By June 1 of each year, the Comptroller's Office is required to calculate the average retail price of regular gasoline (excluding federal and State taxes) over a specified 12-month period and determine the tax to be imposed in the next fiscal year.

The rate imposed in fiscal 2014 is 2%, increasing to 4% in fiscal 2015. Beginning in fiscal 2016, the rate will increase from 4% to 6% unless federal legislation is enacted by June 1, 2015, authorizing the State to require the collection of the sales and use tax on sales made by out-of-state sellers to Maryland consumers. If federal legislation on sales tax collection is enacted and takes effect by June 1, 2015, the sales and use tax equivalent rate remains at 4% and the Comptroller is then required to distribute 4% of State sales and use tax revenues to TTF.

Motor Fuel Tax – Rate Reduction and Indexing

Subject to the inflation adjustment described below, the motor fuel tax on gasoline and clean-burning fuel is reduced by 5 cents per gallon to 18.5 cents per gallon beginning in fiscal 2014.

The bill indexes the motor fuel tax rates for all fuels, except for aviation or turbine fuel, to the annual change in the Consumer Price Index (CPI). Beginning July 1, 2013, motor fuel tax rates will increase annually if the Comptroller's Office determines the CPI has increased over a specified 12-month period. The increase will be the percentage growth in the CPI multiplied by the motor fuel tax rates, rounded to the nearest one-tenth of one cent. Motor fuel tax rates will remain unchanged if there is no increase in the CPI.

Transportation Trust Fund Protections

The bill prohibits the transfer or diversion of funds from TTF to the general fund or a special fund unless the transfer or diversion is approved through legislation passed by a three-fifths majority of specified full standing committees in each of the two houses of the General Assembly and then enacted into law. The bill deletes a provision requiring the Legislative Policy Committee to approve the transfer or diversion of TTF to a special fund.

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 and (2) the Governor proclaims a state of emergency and declares that TTF funds are necessary for the immediate preservation of public health or safety.

Prior to the General Assembly enacting legislation approving the transfer or diversion of funds from TTF and prior to the Governor issuing a state of emergency, the Treasurer must advise the Governor and General Assembly of the potential impact of the transfer or diversion on MDOT's credit rating and a determination must be made of the potential impact of the transfer or diversion on the additional bonds test set forth in the Secretary of Transportation's resolution and MDOT's credit rating. A transfer or diversion may not occur if it would cause MDOT to fail the additional bonds test or result in a downgrade of MDOT's bonds. Provisions of the bill concerning the transfer or diversion of funds from TTF do not apply to highway user revenues distributed to local governments.

The bill alters requirements associated with repaying TTF when funds from TTF are transferred or diverted. Repayment requirements are broadened to apply when funds from TTF are transferred or diverted to a special fund, and not just the general fund. The bill deletes a provision requiring legislation to be enacted prior to transferring or diverting funds from TTF that provides for repayment within five years, and instead requires repayment within five years as follows:

- at least 10% of the funds transferred or diverted in a fiscal year must be repaid in the first fiscal year after the transfer or diversion;
- a cumulative total of at least 30% of the funds transferred or diverted in a fiscal year must be repaid within two fiscal years after the transfer or diversion;
- a cumulative total of at least 55% of the funds transferred or diverted in a fiscal year must be repaid within three fiscal years after the transfer or diversion;
- a cumulative total of at least 80% of the funds transferred or diverted in a fiscal year must be repaid within four fiscal years after the transfer or diversion; and
- a cumulative total of 100% of the funds transferred or diverted in a fiscal year must be repaid within five fiscal years after the transfer or diversion.

Maryland Transit Administration Fares

Beginning in fiscal 2015 and every three years thereafter, MTA must increase base fare prices, to the nearest 10 cents, based on a specified triennial increase in the Consumer Price Index for all urban consumers in the Washington-Baltimore Metropolitan area.

Funding for WIP Compliance

The bill requires the Governor to include in the capital budget specified appropriations to SHA for use in complying with WIP. The required appropriations equal $45.0 million in fiscal 2015, $65.0 million in fiscal 2016, $85.0 million in fiscal 2017, and $100.0 million in each of fiscal 2018 and 2019.

Local and Regional Transportation Funding Task Force

The bill establishes a Local and Regional Transportation Funding Task Force to study and make recommendations on the feasibility of creating regional transit financing entities and local-option transportation revenues to raise funds for local and regional transportation system needs. A report of the task force's findings and recommendations must be provided to the Governor and the General Assembly by December 15, 2013.

Vehicle Registration Fee Surcharge

The bill increases the annual vehicle registration fee surcharge from $13.50 to $17.00, with the additional fees credited to MEMSOF. The fee is collected on a biennial basis.

Current Law/Background:

Motor Fuel Tax

The State motor fuel tax rate per gallon or gasoline-equivalent gallon is 23.5 cents for gasoline, 24.25 cents for special fuel (diesel), 7 cents for aviation gasoline and turbine fuel, and 23.5 cents for clean burning fuel. Motor fuel tax revenues are projected to total $745.5 million in fiscal 2014.

Some states, including Maryland, impose only a motor fuel excise tax, while other states impose both an excise tax and a sales tax or equivalent tax. The total state motor fuel tax rates for gasoline in neighboring jurisdictions are shown in **Exhibit 1**. These rates are in addition to a federal motor fuel tax of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel fuel. Maryland's motor fuel tax rates are lower than the average rate imposed in other states – Maryland's gasoline tax rate is currently the twenty-eighth highest rate (diesel twenty-seventh highest). Maryland's motor fuel tax rate is not adjusted periodically for inflation.

Exhibit 1
Total State Motor Fuel Tax Rates in Neighboring Jurisdictions
(Cents per Gallon)

	Sales Tax	Variable Rate	Gasoline	Diesel
Delaware		-	23.0¢	22.0¢
District of Columbia		-	23.5	23.5
North Carolina		Yes	37.8	37.8
Pennsylvania		Yes	32.3	39.2
Virginia	Yes*	-	19.9	20.2
West Virginia		Yes	34.7	34.7
Maryland		-	**23.5¢**	**24.25¢**
National Average		-	30.4¢	30.0¢

Note: The tax rates for other states may include additional state taxes and fees.

*Virginia imposes a 2.1% sales tax in Northern Virginia for transportation that is collected at the distributor level.

Source: American Petroleum Institute

Transportation Trust Fund

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. TTF funds may not be transferred or diverted to the general fund unless legislation is enacted prior to the diversion that repays the funds within five years. Also, no part of TTF may revert or be credited to the general fund or 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 Gasoline and Motor Vehicle Revenue Account (GMVRA) revenue (commonly known as highway user revenue) must be distributed to MDOT and local jurisdictions as follows:

- 90% in fiscal 2013 and 90.4% in fiscal 2014 and future years to MDOT; and
- the balance to counties, municipalities, and Baltimore City.

MDOT is responsible for statewide transportation planning and the development, operation, and maintenance of key elements of the transportation system. MDOT is organized into several administrations – State highway, motor vehicle, aviation, port, and transit. Other departmental components include the Office of the Secretary and certain advisory and zoning boards. A separate Maryland Transportation Authority (MDTA) operates revenue-generating transportation facilities. Consequently, MDOT 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 Martin State Airport, Baltimore/Washington International Thurgood Marshall Airport (BWI), and terminals in the Helen Delich Bentley Port of Baltimore.

Transportation Trust Fund – Receipts

TTF is a nonlapsing special fund that provides funding for transportation projects. 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 MTA, Motor Vehicle Administration, Maryland Port Administration, and Maryland Aviation Administration generate operating revenues that cover a portion of their operating expenditures. **Exhibit 2** shows that TTF's fiscal 2012 end-of-year fund balance totaled $187 million.

Exhibit 2
Transportation Trust Fund Revenues and Expenditures
Fiscal 2012
($ in Millions)

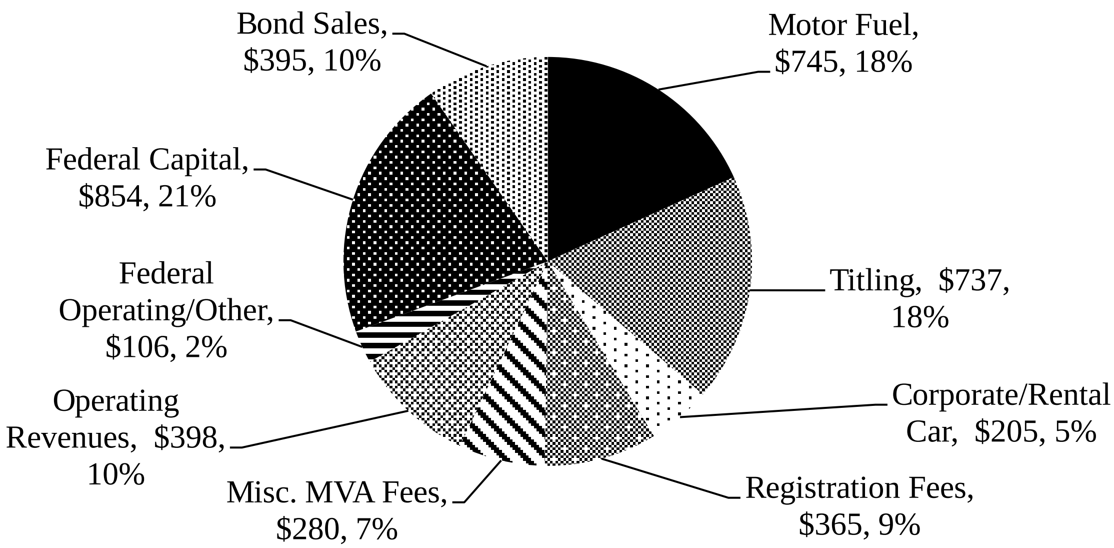
	Actual FY 2012
Starting Fund Balance	**$221**
Revenues	
Titling Taxes	$632
Motor Fuel Taxes	734
Sales Tax	24
Corporate Income, Registrations, and Misc. MVA Fees	795
Other Receipts and Adjustments	515
Bond Proceeds and Premiums	130
Total Revenues	**$2,830**
Uses of Funds	
MDOT Operating Expenditures	$1,572
MDOT Capital Expenditures	736
MDOT Debt Service	172
Highway User Revenues	147
Other Expenditures	237
Total Expenditures	**$2,864**
Final Ending Fund Balance	**$187**

MVA = Motor Vehicle Administration

Source: Maryland Department of Transportation, January 2013

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 3** shows that TTF's largest revenue sources in fiscal 2014 are the motor fuel and titling taxes and federal aid for the capital program, which represent $2.3 billion (57%) of all fund sources. MDOT is projecting that $395 million in bonds will be sold to supplement the transportation capital program in fiscal 2014.

Exhibit 3
Transportation Trust Fund
State-sourced Revenues and Federal Funds
Fiscal 2014
($ in Millions)



Total: $4,084 Million

Source: Governor's Budget Books, Fiscal 2014, Volume I, pages 584-588

Transportation Trust Fund – Highway User Revenues

A portion of TTF revenues is credited to GMVRA and is distributed to local jurisdictions 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 4** summarizes the distribution of highway user revenue in fiscal 2013 through 2016.

Exhibit 4
Highway User Revenue Distribution under Current Law
Fiscal 2013-2016
($ in Millions)

	Fiscal 2013		Fiscal 2014		Fiscal 2015		Fiscal 2016	
	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars
MDOT	90.0%	$1,444	90.4%	$1,578	90.4%	$1,636	90.4%	$1,683
Baltimore City	8.1%	130	7.7%	134	7.7%	139	7.7%	143
Counties	1.5%	24	1.5%	26	1.5%	27	1.5%	28
Municipalities	0.4%	6	0.4%	7	0.4%	7	0.4%	7
Total	**100.0%**	**$1,604**	**100.0%**	**$1,745**	**100.0%**	**$1,810**	**100.0%**	**$1,861**

Note: Totals may not sum due to rounding.

Source: Department of Legislative Services

Transportation Trust Fund – Transfers to the General Fund

In the past, revenues have been transferred from TTF to the general fund and the general fund has subsequently repaid TTF. In recent years, however, 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, HB 101) reduced the local share of highway user revenues for fiscal 2010 and 2011 and transferred a portion of 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. Budget reconciliation legislation in 2010 and 2011 made further adjustments to the allocation of highway user revenues and transfer of TTF revenues to the general fund. There is no statutory requirement to transfer funds from TTF to the general fund in fiscal 2013 or future years.

In accordance with a provision in the BRFA of 2010 (Chapter 484, SB 141), all interest income earned from TTF must be credited to the general fund in fiscal 2010 and 2011. MDOT advises that $5.4 million in interest income was transferred to the general fund in fiscal 2010 and $7.3 million was transferred in fiscal 2011.

Maryland Transit Administration Farebox Recovery

MTA must separately recover from fares and other operating revenues at least 35% of the total operating costs for bus, light rail, and Metro subway services in the Baltimore region and for passenger railroad services under MTA's control, such as MARC service. To achieve this requirement, MTA must adjust fare prices and other operating revenues as needed and may not reduce the level of services provided. MTA must increase fares or other operating revenues to meet the 35% statutory farebox recovery requirement and is prohibited from reducing services to meet the farebox recovery requirement. MTA must hold a public hearing on all proposed transit plans or proposed revisions or amendments to existing plans.

MTA operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, Metro subway, commuter buses, MARC trains, and mobility/paratransit vehicles. MTA fares were last increased in fiscal 2004.

The farebox recovery ratio is the ratio of public transit operating revenues compared to operating expenditures. To the extent expenditures are not covered by fares, the operating deficit for public transit is paid from TTF. Farebox revenue is impacted by both the level of fare assessed as well as ridership. To the extent ridership growth and corresponding fare revenue do not keep pace with expenditure growth, the farebox recovery ratio declines.

As illustrated in **Exhibit 5**, MTA has not achieved 35% farebox recovery for Baltimore area services in recent years. MTA's Baltimore area services ratio decreased from 29% in fiscal 2008 to 28% in fiscal 2012. This decline is largely attributed to annual operating expenditures, for items such as labor, fuel, and equipment repair, growing faster than annual operating revenues. Baltimore area core services last had a farebox recovery rate of 35% in fiscal 2004. MDOT advises that, to meet the current statutory 35% farebox recovery ratio, the existing $1.60 fare must increase to approximately $2.10 in fiscal 2014 to generate $22.0 million in additional revenue. MTA has not announced any plans to increase fares in the near future, however.

Exhibit 5
MTA Farebox Recovery Ratio
Fiscal 2008-2013

	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 (est.)
Baltimore Area Services	29%	31%	28%	28%	28%	29%
Maryland Area Regional Commuter	53%	44%	48%	55%	58%	56%

Source: Maryland Transit Administration

Vehicle Registration Surcharge/MEMSOF

MEMSOF is used to fund several components of Maryland's emergency medical services system, including (1) Maryland State Police Aviation Command (MSPAC); (2) the Maryland Institute for Emergency Medical Services Systems (MIEMSS); (3) the R. Adams Cowley Shock Trauma Center; (4) the Maryland Fire and Rescue Institute (MFRI); (5) local grants under the Senator William H. Amoss Fire, Rescue, and Ambulance Fund; and (6) the Volunteer Company Assistance Fund. Of these components of the emergency medical services system, Aviation Command (41%), MIEMSS (22%), Amoss Fund (18%), and MFRI (13%) make up the largest portions of MEMSOF expenditures.

MEMSOF expenditures typically exceed revenues on an annual basis. From fiscal 1993 to 2012, registration revenues grew by about 1.1%, while expenditures grew by about 3.3%. This imbalance is generally attributable to the effect of inflation on ongoing expenditures without a corresponding inflation adjustment for the surcharge that supports MEMSOF. To address this funding imbalance, Chapter 33 of 2001 (SB 292) increased the annual vehicle registration surcharge, which is the principal source of revenue for MEMSOF, from $8 to the current level of $11; as vehicles are registered biennially, the actual surcharges collected increased from $16 to $22. However, under current fiscal trends, MEMSOF is projected to end fiscal 2015 with a negative balance; if not for a fiscal 2013 deficiency appropriation in the Governor's proposed fiscal 2014 budget of $2.7 million the fund balance would likely be negative by the end of fiscal 2014.

Chesapeake Bay Total Maximum Daily Load Obligations

In December 2010, the U.S. Environmental Protection Agency established a Chesapeake Bay Total Maximum Daily Load (TMDL), as required under the federal Clean Water Act and in response to consent decrees in Virginia and the District of Columbia. The Chesapeake Bay TMDL sets the maximum amount of nutrient and sediment pollution the bay can receive and still attain water quality standards. It also identifies specific pollution reduction requirements; all reduction measures must be in place by 2025, with at least 60% of the actions completed by 2017. As part of the Chesapeake Bay TMDL, bay jurisdictions must develop WIPs that identify the measures being put in place to reduce pollution and restore the bay.

SHA has an important role to play in the bay cleanup process. SHA owns over 2,500 stormwater management facilities and nearly 17,000 lane miles of roadway located throughout the State. Thus, the preliminary estimate of stormwater costs for MDOT in the Phase II WIP is $1.5 billion between fiscal 2010 and 2025. Current MDOT estimates include $376.7 million in funding needs for SHA costs related to WIP implementation between fiscal 2013 and 2018. MDOT's fiscal 2013-2018 *Consolidated Transportation Program* (CTP) includes $138.1 million in funding for SHA's WIP efforts. Thus, MDOT projects a funding shortfall of about $238.5 million between fiscal 2013 and 2018. DLS advises that, while technological innovation, economies of scale, and experience in implementing the WIP may result in changes to overall WIP costs, the share of WIP costs to be borne by SHA may also change due to future adjustments to the WIP.

Sales and Use Tax Collection – Remote Sales

Pursuant to past U.S. Supreme Court rulings, most notably in the 1992 case *Quill Corp. v. North Dakota*, Internet and mail-order retailers are only required to collect sales tax from purchases made by out-of-state customers if the retailer maintains a physical presence (*e.g.*, a store, office, or warehouse) in the customer's home state. When a remote seller is not required to collect the sales tax, the customer is ultimately responsible for paying the use tax on the purchase. However, the rate of customer use tax compliance is very low and the tax is difficult to enforce. As the magnitude of online purchases has grown significantly, the inability of states and local jurisdictions to require remote sellers to collect sales tax has led to an erosion of state and local sales and use tax bases and also created an unlevel playing field for "brick and mortar" businesses.

In the Quill decision, the U.S. Supreme Court ruled that the U.S. Congress could pass legislation to expressly authorize states to require remote sellers to collect the sales tax on online sales. The Marketplace Equity Act, the Marketplace Fairness Act, and the Main Street Fairness Act have recently been introduced at the federal level to authorize states to extend sales and use tax collection responsibility to certain remote sellers. A recent study by the Comptroller's Office estimated that enactment of the federal Main Street Fairness Act would have increased net State sales tax revenues by $123 million in fiscal 2013, while enactment of the federal Marketplace Equity Act would have increased net State sales tax revenues by $173 million in fiscal 2013.

State and Local Fiscal Effect: Each of the bill's provisions are discussed below. **Appendix 1** shows the fiscal effect of each provision.

Motor Fuel Taxes

The bill imposes an additional sales and use tax equivalent rate on motor fuel, indexes the excise tax rates to inflation, and reduces the gasoline and clean-burning fuel tax rate by 5 cents. As a result, net TTF revenues increase by $81.5 million in fiscal 2014. **Exhibit 6** illustrates the fiscal effect and the cumulative increase in motor fuel tax rates under the bill.

Exhibit 6
Cumulative Tax Rate Increase and Estimated Revenue Impact
Fiscal 2014-2018
($ in Millions)

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Rate Increase					
Gasoline	1.9¢	9.4¢	17.3¢	18.3¢	19.2¢
Special Fuel	7.1¢	14.7¢	22.7¢	23.8¢	24.9¢
Revenues					
Sales and Use Tax Equivalent Rate	$200.8	$419.2	$439.9	$454.5	$468.8
Contingent Rate Increase*	0	0	197.0	204.0	210.0
5-cent Excise Tax Reduction**	(132.5)	(133.5)	(135.0)	(136.0)	(137.1)
CPI Indexing	13.2	26.2	41.0	55.9	70.9
Total Increase	**$81.5**	**$311.9**	**$542.9**	**$578.4**	**$612.6**
State	**$94.2**	**$324.7**	**$555.9**	**$591.5**	**$625.8**
Locals – LHUR	**($12.7)**	**($12.8)**	**($13.0)**	**($13.1)**	**($13.2)**
Baltimore City	(10.2)	(10.3)	(10.4)	(10.5)	(10.6)
Counties	(2.0)	(2.0)	(2.0)	(2.0)	(2.1)
Municipalities	(0.5)	(0.5)	(0.5)	(0.5)	(0.5)

*Sales and use tax equivalent rate increases from 4% to 6% beginning in fiscal 2016 unless certain federal legislation is enacted by June 1, 2015.

**Applies to gasoline and clean-burning fuel only.

Source: Department of Legislative Services

The estimated revenue increase shown above is based on the forecasted price and total gasoline consumption. It assumes that gasoline prices will increase on average by about 3% annually. DLS advises that the retail price of gasoline is volatile and difficult to predict. These estimates do not account for unforeseen supply shocks or disruptions that may increase the price of motor fuel. DLS also advises that the out-year revenue estimates may be significantly different depending on the actual change in fuel prices. The difficulty of accurately estimating fuel prices could make programming for the capital program more difficult because the program relies on cash flow estimates of spending.

The bill does not impose a floor tax on any person possessing motor fuel for sale at the start of any day when a tax rate authorized by the bill is imposed or adjusted. As a result, revenues may be less than estimated.

The estimate shown in Exhibit 6 reflects the impact of the sales and use tax equivalent rate increasing to 6% in fiscal 2016. If federal legislation on sales tax collection is enacted and takes effect by June 1, 2015, thus enabling the State to collect additional sales and use tax revenues, the sales and use tax equivalent rate on motor fuel remains at 4% and the Comptroller is then required to distribute 4% of total State sales and use tax revenues to TTF. **Exhibit 7** shows the impact on revenues, if 4% of total State sales and use tax revenues are directed to TTF. Under current law, sales and use tax revenues are distributed to the general fund. As a result, there will be a corresponding decrease in general funds representing foregone general fund revenues.

Exhibit 7
Estimated Revenue Impact of Distributing 4% of Total Sales Tax Revenues to TTF
Fiscal 2014-2018
($ in Millions)

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
TTF	$176.5	$183.6	$191.7	$201.1	$210.3
General Fund	(176.5)	(183.6)	(191.7)	(201.1)	(210.3)
Net Effect	**$0**	**$0**	**$0**	**$0**	**$0**

Appendix 2 shows more detail on the change in motor fuel tax rates by tax change in each fiscal year.

MDOT Capital Program

MDOT is authorized to issue revenue bonds, called Consolidated Transportation Bonds (CTBs), for its capital program. These bonds are not backed by the full faith and credit of the State. There are specific limits on the amount of CTBs that can be issued. Currently there is a statutory limit of $2.6 billion for CTBs. Further, MDOT uses two different debt service coverage ratios, the net income test and the pledged taxes test, with the net income test the limiting factor. MDOT has agreed to maintain a 2.0 coverage ratio with bond holders whereby the pledged taxes or net income has to be 2.0 times greater than the maximum debt service. Currently MDOT uses a 2.5 coverage ratio to be conservative. MDOT’s debt also counts toward State debt measures. Currently, the State’s ability to issue debt is constrained by the debt service as a percentage of revenues measure. In fiscal 2017 and 2018, the State is approaching the current 8.0% limit.

Typically, when MDOT is provided additional revenue, the debt outstanding cap is increased in recognition of MDOT's ability to issue more debt; however, the bill does not provide such an increase. DLS estimates that capital program spending could increase by as much as $1.2 billion over the six-year period assuming the debt outstanding limit remains at $2.6 billion. If the debt outstanding limit is increased, DLS advises the capital program could increase even more.

Vehicle Registration Fee Surcharge – MEMSOF

Special fund revenues for MEMSOF increase by $1.4 million in fiscal 2013, and by approximately $17 million annually beginning in fiscal 2014, under the bill's $3.50 increase in the annual vehicle registration surcharge. This estimate includes additional interest income generated and retained in MEMSOF and reflects an effective date of June 1, 2013. With the surcharge increase under the bill, MEMSOF is projected to maintain a fund balance of more than $3.1 million in fiscal 2014 and more than $18.8 million by fiscal 2018. Without a surcharge that is adjusted for inflation, MEMSOF expenditures will exceed revenues in the future, but not likely until after fiscal 2020.

General fund expenditures decrease by $2.7 million in fiscal 2013 assuming the additional surcharge revenues eliminate the need for a general fund deficiency appropriation included in the Governor's proposed fiscal 2014 budget for MSPAC. TTF expenditures increase by $10,000 in fiscal 2014 for MVA to reprint forms and other documents to reflect the surcharge increase.

Funding for WIP Compliance

General obligation (GO) bond proceeds increase by $45.0 million in fiscal 2015, $65.0 million in fiscal 2016, $85.0 million in fiscal 2017, and $100.0 million annually in fiscal 2018 and 2019 under the bill's mandated capital budget appropriations. Assuming that the GO bonds required by the bill to be included in the annual capital budget represent *additional* bond issuances, and do not replace any currently planned issuances, then debt service costs increase by $2.3 million in fiscal 2015, $5.5 million in fiscal 2016, $12.3 million in fiscal 2017, $21.0 million in fiscal 2018, and $30.8 million in fiscal 2019. This estimate assumes an interest rate of 5% each year and no payment of principal for two years following the bond issuance.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund. Revenue sources for the fund include State property taxes, premium from bond sales, and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the Annuity Bond Fund to make up any differences between the debt service payments and funds available from property taxes and other sources. General fund expenditures could increase and/or the

State property tax rate could be increased in order to meet these additional debt service payments.

It should be noted that the additional GO bonds mandated in the bill are likely to require an increase in future recommended GO bond authorization levels by the Capital Debt Affordability Committee. However, to the extent that the Governor's future capital budgets include reductions to incorporate the bill's mandated appropriations so as to not increase overall issuances of GO debt within the capital program, debt service costs would not increase and an increase in GO bond authorization levels would not be necessary.

TTF expenditures decrease by $25.8 million in fiscal 2015 assuming the GO bonds replace capital spending currently included in the 2013-2018 CTP for fiscal 2015. Future TTF savings include $18.6 million in fiscal 2016 and $11.9 million annually in fiscal 2017 and 2018. This estimated TTF savings reflects the annual funding currently provided in the CTP, excluding $3 million annually that is assumed by MDOT to reflect operating expenditures.

Maryland Transit Administration Fares

While MTA is required to charge a base fare of approximately $2.10 in order to meet the current statutory 35% farebox recovery ratio, MTA fares are much lower, as previously described. For purposes of this analysis, it is assumed that the current $1.60 fare is adjusted in accordance with the bill.

The bill requires MTA base fare prices to increase in fiscal 2015 and every three years thereafter, to the nearest 10 cents, to reflect a specified rate of inflation. Therefore, TTF revenues increase by $10.0 million annually during the fiscal 2015 through 2017 period, and by $20 million in fiscal 2018 as a result of indexing fares to inflation. This estimate reflects current transit ridership and does not account for the potential impact increased fares may have on ridership.

Prior to any fare increase or modification of the fare structure, MTA must hold public meetings. Thus, to the extent fares are increased in fiscal 2015 and 2018, TTF expenditures increase minimally in fiscal 2014 and 2017 to hold public meetings.

Local and Regional Transportation Funding Task Force

TTF expenditures increase by $250,000 in fiscal 2014 for contractual costs associated with contributing to meetings, completing research, and assisting in developing recommendations within a short period of time. This cost is based on estimates MDOT received from consulting firms.

Small Business Effect: Small businesses for which motor fuel constitutes a significant portion of their costs (transportation firms, delivery companies, taxicabs, etc.) will have increased tax burdens as a result of the bill. The incidence of the tax will be shared by customers (including other businesses) through higher product prices and by owners of the small businesses. Small businesses may potentially benefit to the extent that additional funding improves the State's transportation infrastructure.

Additional Comments: While the bill requires MTA fares to be indexed to inflation, the frequency with which fares should be increased is not expressly stated. This analysis assumes fares must be increased every three years, because the bill requires indexing in accordance with a three-year inflation period.

Because MDTA's Transportation Authority Fund is considered a special fund in most circumstances, the bill may preclude MDTA from receiving TTF funds. Specifically, since SHA is the designated recipient of federal transportation funds, MDTA may have difficulty with implementing certain federal financing instruments, such as federal Transportation Infrastructure Finance and Innovation Act loans and grant anticipation revenue vehicles.

Also, the bill may prohibit fees collected by the Maryland Aviation Administration from being transferred to MDTA to pay debt associated with improvements at BWI Thurgood Marshall Airport.

Additional Information

Prior Introductions: None.

Cross File: HB 1515 (The Speaker)(By Request - Administration) - Ways and Means.

Information Source(s): Economy.com, U.S. Energy Administration, Maryland Department of Transportation, Maryland Institute of Emergency Services Systems, Maryland Department of the Environment, Global Insight, Maryland Transportation Authority, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2013
ncs/jrb

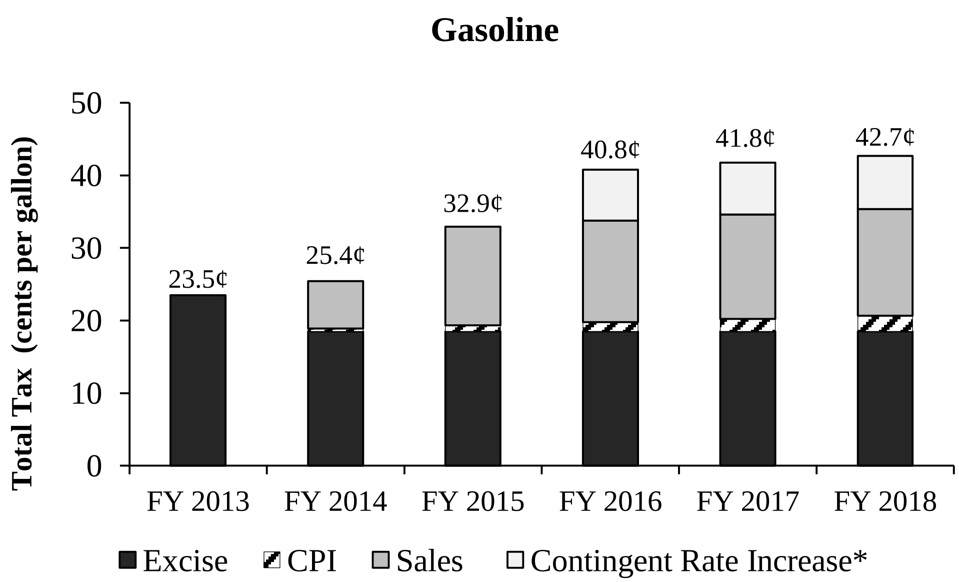
Analysis by: Robert J. Rehrmann
Amanda M. Mock
Evan M. Isaacson
Jon Martin

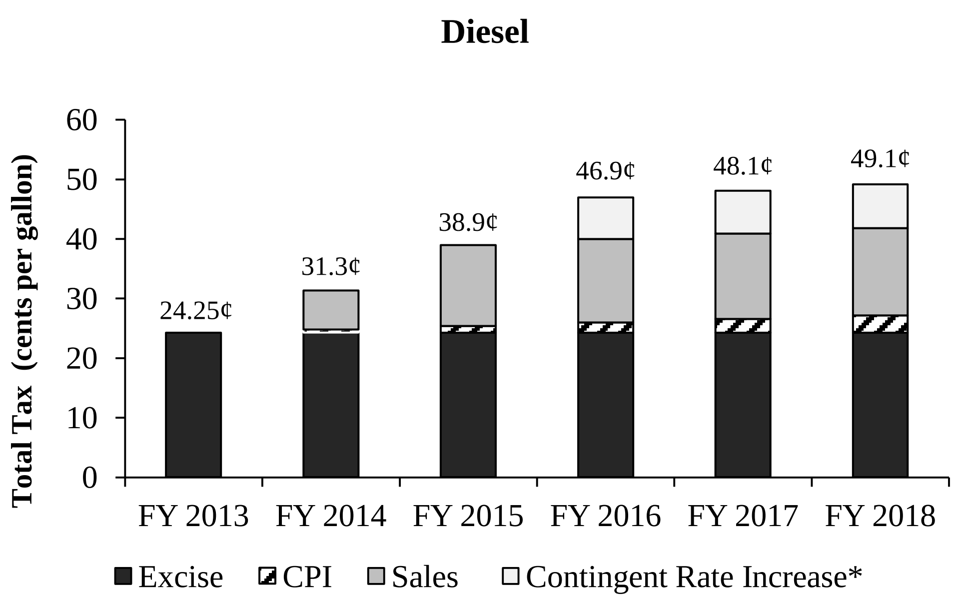
Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix 1 – Fiscal Effect
Fiscal 2013-2018
($ in Millions)

	FY 13	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Revenues						
TTF						
Sales and Use Tax Equivalent Rate	$0.0	$200.8	$419.2	$439.9	$454.5	$468.8
Contingent Rate Increase	0.0	0.0	0.0	197.0	204.0	210.0
5-cent Excise Tax Reduction	0.0	(132.5)	(133.5)	(135.0)	(136.0)	(137.1)
CPI Indexing	0.0	13.2	26.2	41.0	55.9	70.9
Farebox Recovery	0.0	0.0	10.0	10.0	10.0	20.0
Total TTF	**$0.0**	**$81.5**	**$321.9**	**$552.9**	**$588.4**	**$632.6**
Registration Surcharge	**$1.4**	**$16.7**	**$17.0**	**$17.2**	**$17.5**	**$17.7**
Bond Revenues – SHA	**$0.0**	**$0.0**	**$45.0**	**$65.0**	**$85.0**	**$100.0**
Total Revenues	**$1.4**	**$98.2**	**$383.9**	**$635.2**	**$690.9**	**$750.3**
Expenditures						
TTF						
MDOT Costs	$0.0	$0.3	$0.0	$0.0	$0.0	$0.0
WIP	0.0	0.0	(25.8)	(18.6)	(11.9)	(11.9)
Total TTF	**$0.0**	**$0.3**	**($25.8)**	**($18.6)**	**($11.9)**	**($11.9)**
Vehicle Surcharge (GF)	**($2.7)**	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Bond Expenditures – SHA	**$0.0**	**$0.0**	**$45.0**	**$65.0**	**$85.0**	**$100.0**
WIP – Bond Debt Service (GF/SF)	**$0.0**	**$0.0**	**$2.3**	**$5.5**	**$12.3**	**$21.0**
Total Expenditures	**($2.7)**	**$0.3**	**$21.5**	**$51.9**	**$85.4**	**$109.1**
Net Effect	**$4.1**	**$98.0**	**$362.4**	**$583.3**	**$605.5**	**$641.2**

Appendix 2 – Proposed Motor Fuel Taxes





Proposed Motor Fuel Taxes

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Gasoline						
Excise	23.5¢	18.5¢	18.5¢	18.5¢	18.5¢	18.5¢
CPI Indexing	0	0.4	0.8	1.3	1.7	2.2
Sales	0	6.5	13.6	14.0	14.4	14.7
Contingent Rate Increase*	0	0.0	0.0	7.0	7.2	7.3
Total	**23.5¢**	**25.4¢**	**32.9¢**	**40.8¢**	**41.8¢**	**42.7¢**
Diesel						
Excise	24.25¢	24.25¢	24.25¢	24.25¢	24.25¢	24.25¢
CPI Indexing	0	0.5	1.1	1.7	2.3	2.9
Sales	0	6.5	13.6	14.0	14.4	14.7
Contingent Rate Increase*	0	0	0	7.0	7.2	7.3
Total	**24.25¢**	**31.31¢**	**38.93¢**	**46.93¢**	**48.06¢**	**49.10¢**

*Sales and use tax equivalent rate increases from 4% to 6% beginning in fiscal 2016 unless certain federal legislation is enacted by June 1, 2015.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Transportation Infrastructure Investment Act of 2013

BILL NUMBER: **HB 1515 / SB 1054**

PREPARED BY: Maryland Department of Transportation
(Dept./Agency)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

___ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

_√__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

To the extent small businesses use motor vehicles or trucks as part of their operations, they will pay additional costs to operate their vehicles. There are, however, numerous benefits to the increase in transportation infrastructure investment that will result from this legislation.

- ♦ Studies have shown that a lack of investment in highway system preservation causes more wear and tear on vehicles.
- ♦ Economic studies conducted nationally and by MDOT, show that transportation investments save and create jobs that help sustain the economy. USDOT reports that 13 direct, indirect and induced jobs are created for each $1 million in transportation infrastructure spending. Small businesses would participate in this benefit to the extent they are part of any of the direct, indirect or induced job creation
- ♦ Studies regarding the cost of congestion show that certain highway and transit improvements reduce the amount of time people spend in their cars and therefore provide a positive economic benefit.