Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 591 (Delegates Barkley and Krebs)
Appropriations

Transportation Trust Fund - Transfer or Diversion of Funds - Voter Approval

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. 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. Thus, it supersedes the current statutory requirement to distribute 19.3% of TTF highway user revenues to the general fund, which is estimated to total $337.6 million in FY 2013, $352.8 million in FY 2014, $365.2 million in FY 2015, and $373.3 million in FY 2016. While total TTF revenue would increase, the portion retained by the Maryland Department of Transportation (MDOT) would actually decrease by an estimated $26.2 million in FY 2013, $27.4 million in FY 2014, $28.4 million in FY 2015, and $29.0 million in FY 2016. The *overall* effect 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.

($ in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	$0	($337.6)	($352.8)	($365.2)	($373.3)
SF Revenue	$0	$337.6	$352.8	$365.2	$373.3
SF Expenditure	$0	-	-	-	-
Net Effect	$.0	$.0	$.0	$.0	$.0

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

Local Effect: If approved, the constitutional amendment would increase local highway user revenue by an estimated $363.8 million in FY 2013, $380.2 million in FY 2014, $393.5 million in FY 2015, and $402.3 million in FY 2016. Also, to the extent State revenues are affected by the prevention of transfers and redistribution of TTF funds, local highway user aid may be further affected. Expenditures are not 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, 2010. Also, funds in the Gasoline and Motor Vehicle Revenue Account (GMVRA), commonly known as highway user revenue, must be distributed in accordance with the statutory formula in effect on October 1, 2008.

The bill creates an exception to the prohibition on TTF transfers if approval for a transfer is granted through a referendum in a general election by a majority of qualified voters.

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. 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 must be distributed to the general fund, MDOT, and local jurisdictions as follows:

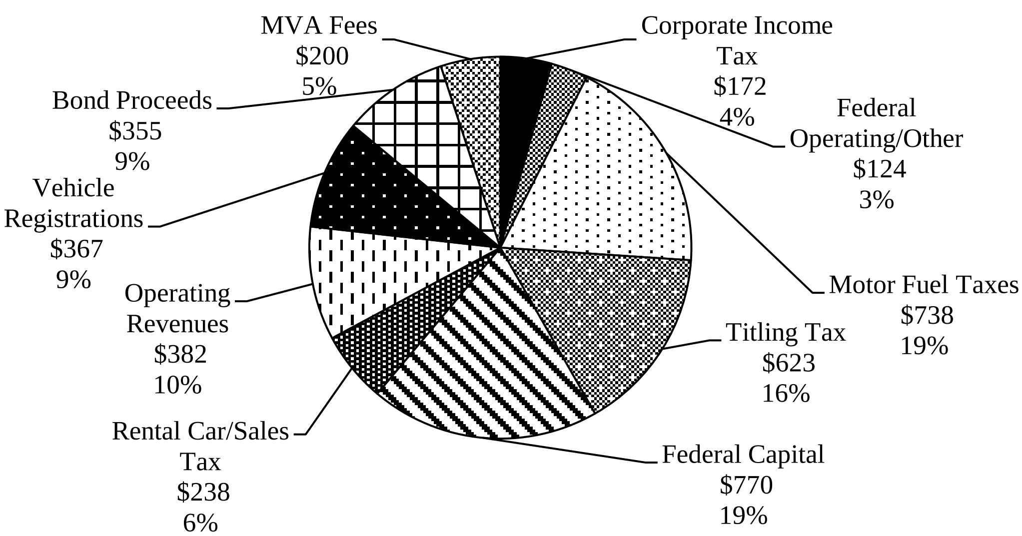
- 19.5% in fiscal 2010, 23% in fiscal 2011, 20.4% in fiscal 2012, and 19.3% in fiscal 2013 and future years to the general fund;
- 70% in fiscal 2010, 68.5% in fiscal 2011, and 71.5% in fiscal 2012 and future years to MDOT; and
- the balance to local jurisdictions.

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, rental car sales taxes, titling taxes, vehicle registration fees, a portion of the sales and corporate income taxes, and other miscellaneous motor vehicle fees. A portion of these revenues is credited to the GMVRA and is distributed to local jurisdictions, the general fund, and TTF. The funds retained by TTF support MDOT's capital program, debt service, and operating costs.

Exhibit 1 shows that TTF's largest revenue sources in fiscal 2012 are the motor fuel and titling taxes and federal aid for the capital program, which represent almost $2.0 billion (56%) of all fund sources. MDOT is projecting that $355 million in bonds will be sold to supplement the transportation capital program in fiscal 2012.

Exhibit 1
Transportation Trust Fund
State-sourced Revenues and Federal Funds
Fiscal 2012
($ in Millions)



Total $3,968 Million

MVA: Motor Vehicle Administration
Source: Governor's Budget Books, Fiscal 2012, Volume I, pages 578-582

TTF 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. (See **Appendix 1**) 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. In fiscal 2008 and previous years, 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 revenue 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. A year later, BRFA of 2010 (Chapter 484) again altered the distribution of highway user revenue, further reducing the share of revenues distributed to the counties and municipalities, while increasing the portion going to the general fund. In accordance with Chapter 484, in fiscal 2011, the $1.6 billion in estimated highway user revenue was distributed as follows: $1.1 billion (68.5%) to MDOT; $370.0 million (23.0%) to the general fund; $127.1 million (7.9%) to Baltimore City; $8.0 million (0.5%) to counties; and $1.6 million (0.1%) to municipalities.

Exhibit 2 summarizes the distribution of highway user revenue in fiscal 2010 through 2013, and **Exhibit 3** details recent and planned transfers of highway user revenues to the general fund under current law. The exhibits do not reflect proposed actions in BRFA of 2011 (HB 72/SB 87) that alter the allocation of highway user revenue.

Exhibit 2
Highway User Revenue Distribution Under Current Law
Fiscal 2010-2013
($ in Millions)

	Fiscal 2010		Fiscal 2011		Fiscal 2012		Fiscal 2013	
	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars
MDOT	70.0%	$1,088	68.5%	$1,102	71.5%	$1,185	71.5%	$1,251
General Fund	19.5%	304	23.0%	370	20.4%	338	19.3%	338
Baltimore City	8.6%	134	7.9%	127	7.5%	124	7.5%	131
Counties	1.5%	23	0.5%	8	0.5%	8	1.4%	24
Municipalities	0.4%	6	0.1%	2	0.1%	2	0.3%	5
Total	**100.0%**	**$1,555**	**100.0%**	**$1,609**	**100.0%**	**$1,658**	**100.0%**	**$1,749**

Note: The exhibit does not include an $18 million underpayment in fiscal 2010 which will be made up in fiscal 2011. Numbers may not sum to total due to rounding.
MDOT: Maryland Department of Transportation
Source: Department of Legislative Services

Exhibit 3
Highway User Revenue Distributed to the General Fund Under Current Law
Fiscal 2003-2016
($ in Millions)

Fiscal Year	Amount
2003	$18
2004	102
2005	102
2006	23
2007	0
2008	0
2009	0
2010	304
2011	370
2012 (est.)	338
2013 (est.)	338
2014 (est.)	353
2015 (est.)	365
2016 (est.)	373

Source: Department of Legislative Services

In accordance with a provision in BRFA of 2010, 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 an estimated $5 million to $6 million in interest income will be withheld from TTF in fiscal 2011.

2011 Budget Reconciliation Legislation

Two provisions in the proposed BRFA of 2011 (HB 72/SB 87) have a financial impact on TTF that is relevant to this bill. One provision proposes to transfer approximately $100 million from MDOT's share of highway user revenue in fiscal 2012 with $60 million going to the general fund and approximately $40 million to the Rainy Day Fund to maintain a 5% balance. The Administration does not propose a repayment of those funds. The second provision seeks to permanently transfer the interest income earned from TTF to the general fund. Currently, MDOT's financial forecast assumes the revenue from interest income as part of its spending plan, totaling $20 million over the fiscal 2012 through 2016 period. If this provision is adopted, MDOT would be required to identify additional revenues or reductions.

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. The commission must submit an interim report by January 1, 2011, and a final report by November 1, 2011, providing findings and recommendations to the Governor and the General Assembly.

In February 2011, the commission released an interim report that recommends (1) adopting an amendment to the Maryland Constitution prohibiting transfers from TTF to nontransportation purposes, except in specified fiscal emergencies; (2) retaining the existing portion of sales and corporate tax revenue dedicated to TTF; (3) restoring highway user revenues to local governments; (4) raising $800 million in net new annual funding for transportation through a combination of net new revenues and bonding; (5) increasing leveraging and bonding; and (6) removing the cost-recovery cap for Motor Vehicle Administration fees.

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 approval through a referendum, 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 the current distribution and any future transfers from TTF, any future shortfalls in the general fund could require additional and possibly significant expenditure reductions or revenue increases.

The bill requires GMVRA revenues to be distributed as they were on October 1, 2008, which was as follows: 70.0% to MDOT and 30.0% to local jurisdictions. In accordance with current law, in fiscal 2013, GMVRA revenues must be distributed as follows: 71.5% to MDOT, 9.2% to local jurisdictions, and 19.3% to the general fund. Thus, assuming approval of the constitutional amendment, in fiscal 2013 and future years general fund revenue decreases and TTF revenue increases by an estimated $337.6 million in fiscal 2013, $352.8 million in fiscal 2014, $365.2 million in fiscal 2015, and $373.3 million in fiscal 2016 from this provision alone. (For fiscal 2013, this assumes that the allocation of GMVRA revenues to the general fund would, in the absence of the bill, occur after the general election.) Under current law, MDOT retains 71.5% of GMVRA revenues; however, under the bill, MDOT would retain only 70%. Thus, MDOT's portion would actually decrease by 1.5 percentage points or $26.2 million in fiscal 2013, $27.4 million in fiscal 2014, $28.4 million in fiscal 2015, and $29.0 million in fiscal 2016.

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."

Local Fiscal Effect: Current law requires 9.2% of GMVRA revenues to be allocated to local jurisdictions as highway user revenue in fiscal 2013 and future years. However, if the constitutional amendment is approved, 30% would be allocated to local jurisdictions. Thus, local jurisdictions' portion of highway user revenue would increase by 20.8 percentage points or $363.8 million in fiscal 2013, $380.2 million in fiscal 2014, $393.5 million in fiscal 2015, and $402.3 million in fiscal 2016.

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, 2010. This requirement could be interpreted to mean the same dollar amount, effectively establishing a mandatory funding requirement.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 9, 2011
mc/lgc

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Appendix 1
Transportation Trust Fund
Transfers to/from State General Fund

Fiscal Year	Transfers from the Trust Fund to the General Fund	Transfers from the General Fund to the Trust Fund
1984	$29 million (Budget Shortfall) (1)	
1986	$100 million Md. Deposit Insurance (2) Fund (Savings & Loan Crisis)	
1987		$15 million (Partial Payback of $129 million)
1988		$30 million (Partial Payback of $129 million)
1989		$36 million (Partial Payback of $129 million)
1990		$36 million (Partial Payback of $129 million)
1991	$22.2 million (Budget Shortfall) (3)	$12 million (Final Payback of $129 million)
1992	$48 million (Budget Shortfall) (4) Equal to biennial registration windfall	
1993		
1994		
1995		
1996		
1997		$6 million (Failure of Fuel Efficiency Legislation) (5)
1998		$21 million (Failure of Fuel Efficiency Legislation) (5)
1999		$15 million (Failure of Fuel Efficiency Legislation) (5)
2000		
2001		$25.1 million (Wilson Bridge/Addison Road Extension) (6) $10.2 million (Land Adjacent to Greenbelt Metro Station (7)
2002		$23.1 million (Share of Rental Car Sales Tax Paid in fiscal 2002 as Part of Transit Initiative)(8)
2003	$160.0 million (Budget Shortfall) (9)	
2004	$154.9 million (Budget Shortfall) (9)	
2005		
2006		$50.0 million Partial Payback of $314.9 million (10)
2007		
2008		
2009	See note 11	
2010	See note 11	
2011	See note 11	
2012	See note 11	
2013	See note 11	
Total Paid	**$514.1 million**	**$279.4 million**
ICC Repayment		264.9 million (12)
Total with ICC	**$514.1 million**	**$544.3 million**

Note 1: Authorized by Chapter 62 of 1983. Preamble specified future GF repayment.

Note 2: Authorized by Chapter 1 of 1986. Preamble and body specify repayment of this transfer, and the $29 million transfer from the 1983 session.

Note 3: Authorized by Chapter 470 of 1991. Funds were transferred to reduce GF shortfall. The statute contains no reference to GF repayment.

Note 4: Authorized by Chapter 62 of 1992. Funds transferred to balance the GF budget. The statute contains no reference to GF repayment.

Note 5: Payment outlined in Chapter 204 of 1993 to make up for the loss of $72 million from failure of legislation relating to the fuel efficiency surcharge.

Note 6: Budget bill appropriations were made in 2001 ($50 million) and 2002 ($45 million) to supplement the TTF to be used for the State's share of constructing a new Woodrow Wilson Bridge (WWB) and a Metro extension from Addison Road to the Largo Town Center. Chapter 440 of 2002 (2002 BRFA) removed all funding for WWB and Addison Road except the $25 million that had already been expended in 2001.

Note 7: Chapter 102 of 2001 (Fiscal 2002 Budget Bill) authorized a deficiency appropriation for $10.2 million for the acquisition of land adjacent to the Greenbelt Metro Station. The deficiency was offset by the withdrawal of a $10 million appropriation from the Economic Development Opportunities Program Fund.

Note 8: Chapter 440 of 2002 (2002 BRFA) altered provisions of the transit initiative. The TTF share of the rental car sales tax was returned to 45% and $9.6 million from the uninsured motorist fee.

Note 9: Chapter 203 of 2003 (2003 BRFA/HB 935) transferred a total of $314.9 million to the GF and required that the Administration submit a plan by December 1, 2003, on the proposed repayment of funds.

Note 10: Chapter 430 of 2004 (2004 BRFA) included a provision to repay the TTF the $314.9 million borrowed in 2003 and 2004. It required that a general fund surplus in excess of $10 million be appropriated to the TTF, not to exceed $50 million per year and only until such time that $314.9 million is repaid to the TTF.

Note 11: Chapter 10 of 2008 (SB 46) repealed the sales tax on computer services. As part of the package to replace this revenue, the TTF share of the sales tax was reduced from 6.5% to 5.3% through fiscal 2013. After fiscal 2013, the TTF share of the sales tax will revert to 6.5%. The revenue going to the GF instead of the TTF is as follows: $51.1 million in fiscal 2009, $53.4 million in fiscal 2010, $55.8 million in fiscal 2011, $58.3 million in fiscal 2012, and $60.9 million in fiscal 2013 (this does not include the TTF share of revenue from the computer services sales tax attributed to the TTF). These numbers total $279.5 million and are based on projections from the fiscal note for SB 46. Statute does not contain a repayment plan to the TTF for the revenue transfer or diversion.

Note 12: This total reflects general funds or general obligation bond funds anticipated or received by the Maryland Transportation Authority for the InterCounty Connector (ICC) as part of the repayment of $314.9 million transferred from TTF in fiscal 2003 and 2004. The remaining $50 million of the ICC repayment was made in fiscal 2006 and is reflected separately in the table.

Source: Department of Legislative Services