

Department of Legislative Services  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

Senate Bill 677

(Senator Brinkley)

Budget and Taxation

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**Transportation Trust Fund - Dedicated Highway Funds**

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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.

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**Fiscal Summary**

**State Effect:** If adopted, the constitutional amendment would, beginning in FY 2013, eliminate any transfers or distributions from TTF to the general fund or a special fund that are not consistent with current law. The current statutory allocation of TTF revenue to the general fund would continue. Also, special fund revenues would be shifted from several modes within the Maryland Department of Transportation (MDOT) to the State Highway Administration (SHA), resulting in a significant reduction in the operating budgets of several modes and eliminating all MDOT special fund capital programs except SHA and the Washington Metropolitan Area Transit Authority (WMATA). The bill's *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 constitutional amendment.

**Local Effect:** 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.

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## 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 transportation. No part of TTF may revert or be credited to the general fund or a special fund, unless authorized by law in effect on October 1, 2010. The bill authorizes the distribution of Gasoline and Motor Vehicle Revenue Account funds to the general fund in accordance with a specified provision of law as it was in effect on October 1, 2010; however, the portion of funds distributed to the general fund may not increase.

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.

The bill requires that all motor fuel tax revenues, motor carrier tax revenues, motor vehicle excise tax revenues, and vehicle registration fees credited to TTF be used only for specified highway purposes. The bill expands the definition of highway purposes to include police services and ferry operations.

**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 Gasoline and Motor Vehicle Revenue Account revenue (commonly known as highway user revenue), which, among other things, consists of specified motor fuel tax receipts and registration fees, 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:** 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 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, and terminals in the Helen Delich Bentley Port of Baltimore.

### *TTF Revenue 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 Maryland Transit Administration (MTA), Motor Vehicle Administration (MVA), Maryland Port Administration (MPA), and Maryland Aviation Administration (MAA) generate operating revenues that cover a portion of their operating expenditures. **Exhibit 1** shows that TTF's fiscal 2010 end-of-year fund balance totaled \$234.0 million.

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 Gasoline and Motor Vehicle Revenue Account 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.

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**Exhibit 1**  
**Transportation Trust Fund Actual Revenues Received**  
**Fiscal 2010**  
**(\$ in Millions)**

	<u><b>Actual 2010</b></u>
<b>Starting Fund Balance</b>	<b>\$245</b>
<b>Revenues</b>	
Titling Taxes	\$543
Motor Fuel Taxes	721
Sales Tax	218
Corporate Income, Registrations, and Misc. MVA Fees	690
Other Receipts and Adjustments	501
Bond Proceeds and Premiums	140
<b>Total Revenues</b>	<b>\$2,813</b>
<b>Uses of Funds</b>	
MDOT Operating Expenditures	\$1,583
MDOT Capital Expenditures	575
MDOT Debt Service	151
Highway User Revenues	146
General Fund Transfer	304
Other Expenditures	47
<b>Total Expenditures</b>	<b>\$2,806</b>
<b>Ending Fund Balance</b>	<b>\$252</b>
Less Highway User Revenues Adjustment	-18
<b>Final Ending Fund Balance</b>	<b>\$234</b>

MDOT: Maryland Department of Transportation

MVA: Motor Vehicle Administration

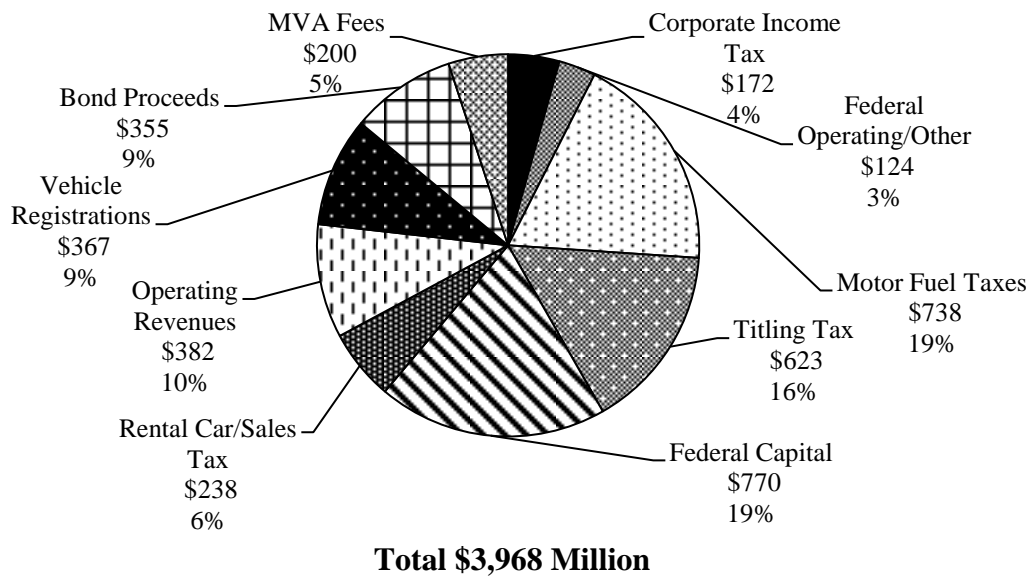
Note: Numbers may not sum to total due to rounding.

Source: Maryland Department of Transportation, Transportation Trust Fund Forecast, January 2011

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**Exhibit 2** 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 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 2**  
**Transportation Trust Fund**  
**State-sourced Revenues and Federal Funds**  
**Fiscal 2012**  
**(\$ in Millions)**



MVA: Motor Vehicle Administration

Source: Governor’s Budget Books, Fiscal 2012, Volume I, pages 578-582

Total State and federal funding in the Governor’s proposed fiscal 2012 budget for roads and highways is approximately \$1.2 billion, which represents 34% of total transportation funding. This amount includes \$1.1 billion for SHA and \$134.3 million in local highway user grants. State funding for mass transit services is \$1.4 billion in fiscal 2012, which represents 40% of total transportation funding. This amount includes \$1.0 billion for MTA and \$385.6 million for WMATA. State funding for MPA is \$139.5 million or 4% of total funding; whereas MAA receives \$232.5 million or 7% of total funding. The remaining transportation funds go to debt service, the Secretary’s Office, and MVA. **Exhibit 3** categorizes the Governor’s proposed fiscal 2012 budget by operating and pay-as-you-go capital budgets for each modal administration, debt service, and local highway user grants.

**Exhibit 3**  
**Transportation Budget Overview<sup>1</sup>**  
**Fiscal 2010-2012**

	<u>FY 2010</u>	<u>FY 2011 Working</u>	<u>FY 2012 Proposed</u>	<u>FY 2011-12 Change</u>	<u>FY 2011-12 % Change</u>
<b>Operating</b>					
Secretary's Office	\$71,811,322	\$72,916,554	\$76,339,647	\$3,423,093	4.7%
WMATA	215,736,365	228,276,357	238,950,000	10,673,643	4.7%
State Highway Administration	296,444,865	217,970,178	212,149,953	-5,820,225	-2.7%
Port Administration	68,237,209	51,192,520	44,999,818	-6,192,702	-12.1%
Motor Vehicle Administration	146,316,250	160,235,942	164,944,459	4,708,517	2.9%
Transit Administration	610,283,871	613,826,533	653,215,088	39,388,555	6.4%
Aviation Administration	173,748,913	172,890,057	175,208,873	2,318,816	1.3%
<b>Subtotal</b>	<b>\$1,582,578,795</b>	<b>\$1,517,308,141</b>	<b>\$1,565,807,838</b>	<b>\$48,499,697</b>	<b>3.2%</b>
<b>Debt Service</b>	<b>\$145,037,088</b>	<b>\$163,984,750</b>	<b>\$184,671,475</b>	<b>\$20,686,725</b>	<b>12.6%</b>
<b>Local Highway User Grants<sup>2</sup></b>	<b>\$145,342,840</b>	<b>\$154,941,995</b>	<b>\$134,280,018</b>	<b>-\$20,661,977</b>	<b>-13.3%</b>
<b>Capital</b>					
Secretary's Office	\$28,643,125	\$52,862,612	\$55,516,104	\$2,653,492	5.0%
WMATA	80,785,400	119,949,000	146,616,000	26,667,000	22.2%
State Highway Administration <sup>3</sup>	752,824,106	871,654,000	873,447,704	1,793,704	0.2%
Port Administration	70,023,485	75,617,497	94,550,440	18,932,943	25.0%
Motor Vehicle Administration	21,507,846	22,046,966	17,740,630	-4,306,336	-19.5%
Transit Administration	305,787,256	371,213,000	361,363,701	-9,849,299	-2.7%
Aviation Administration	30,091,507	49,651,000	57,269,000	7,618,000	15.3%
<b>Subtotal</b>	<b>\$1,289,662,725</b>	<b>\$1,562,994,075</b>	<b>\$1,606,503,579</b>	<b>\$43,509,504</b>	<b>2.8%</b>
<b>Total of All Funds</b>					
Special Fund	\$2,357,602,464	\$2,460,718,091	\$2,575,787,033	\$115,068,942	4.7%
Federal Fund	804,905,620	938,443,200	915,408,247	-23,034,953	-2.5%
Reimbursable Fund	113,364	67,670	67,630	-40	-0.1%
<b>Grand Total</b>	<b>\$3,162,621,448</b>	<b>\$3,399,228,961</b>	<b>\$3,491,262,910</b>	<b>\$92,033,949</b>	<b>2.7%</b>

WMATA: Washington Metropolitan Area Transit Authority

<sup>1</sup> This chart does not reflect several proposed budget reductions in the fiscal 2012 budget bill and other funding for the capital program, such as passenger facility charges, customer facility charges, local county participation, federal funds for WMATA, and funds from the Transportation Security Administration.

<sup>2</sup> Includes operating funds only.

<sup>3</sup> Includes county and municipality capital funds.

Source: Maryland State Budget

## *Roads and Highways*

Most State and local transportation resources are dedicated to the State's highway system. SHA is responsible for more than 5,200 miles or approximately 16,800 lane miles of road, 2,500 bridges, 3,500 small stream crossing structures, and 80 miles of sound barriers. It also has responsibility for planning, designing, constructing, and maintaining these roads and bridges to safety and performance standards while considering sociological, ecological, and economic concerns.

### *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, however, a significant portion of the local share of highway user revenue has been diverted to the 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 revenue for fiscal 2010 and 2011 and transferred those 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 4** summarizes the distribution of highway user revenue in fiscal 2010 through 2013, and **Exhibit 5** details recent and planned transfers of highway user revenue 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.

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**Exhibit 4**  
**Highway User Revenue Distribution under Current Law**  
**Fiscal 2010-2013**  
**(\$ in Millions)**

	<b>Fiscal 2010</b>		<b>Fiscal 2011</b>		<b>Fiscal 2012</b>		<b>Fiscal 2013</b>	
	<b><u>Percent</u></b>	<b><u>Dollars</u></b>	<b><u>Percent</u></b>	<b><u>Dollars</u></b>	<b><u>Percent</u></b>	<b><u>Dollars</u></b>	<b><u>Percent</u></b>	<b><u>Dollars</u></b>
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
<b>Total</b>	<b>100.0%</b>	<b>\$1,555</b>	<b>100.0%</b>	<b>\$1,609</b>	<b>100.0%</b>	<b>\$1,658</b>	<b>100.0%</b>	<b>\$1,749</b>

MDOT: Maryland Department of Transportation

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.

Source: Department of Legislative Services

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**Exhibit 5**  
**Highway User Revenue Distributed to the General Fund under Current Law**  
**Fiscal 2003-2016**  
**(\$ in Millions)**

<b><u>Fiscal Year</u></b>	<b><u>Amount</u></b>
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

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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 transferred 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 to TTF 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 spending 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 revenue 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 MVA 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 in statute, which makes any alteration in the distribution of TTF revenues subject to the constitutional amendment process and restricts the State's flexibility to modify those revenue distributions. 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 additional future transfers from TTF, future shortfalls in the general fund may require additional and possibly significant expenditure reductions or revenue increases.

In addition, if the proposed constitutional amendment is approved in November 2012, a major portion of TTF revenues would be dedicated solely to highway purposes in fiscal 2013 and future years. This would significantly strain the operating budgets of all modes except SHA and WMATA and likely eliminate the special fund capital programs of all modes except for SHA and WMATA. From TTF, the State is obligated to pay debt service on Consolidated Transportation Bonds and make full payment of WMATA operating and capital costs, resulting in reduced special funds for all other modes' operating expenses and likely no funds for capital projects. However, significant additional funding would be available for SHA's operating and capital programs.

**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.

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### **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 7, 2011  
mc/lgc

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

<u>Fiscal Year</u>	<u>Transfers from the Trust Fund to the General Fund</u>	<u>Transfers from the General Fund to the Trust Fund</u>
1984	\$29 million (Budget Shortfall) <sup>1</sup>	
1986	\$100 million Md. Deposit Insurance <sup>2</sup> 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) <sup>3</sup>	\$12 million (final payback of \$129 million)
1992	\$48 million (Budget Shortfall) <sup>4</sup> Equal to biennial registration windfall	
1993		
1994		
1995		
1996		
1997		\$6 million (failure of fuel efficiency legislation) <sup>5</sup>
1998		\$21 million (failure of fuel efficiency legislation) <sup>5</sup>
1999		\$15 million (failure of fuel efficiency legislation) <sup>5</sup>
2000		
2001		\$25.1 million (Wilson Bridge/Addison Road extension) <sup>6</sup> \$10.2 million (land adjacent to Greenbelt Metro Station) <sup>7</sup>
2002		\$23.1 million (share of rental car sales tax paid in fiscal 2002 as part of transit initiative) <sup>8</sup>
2003	\$160.0 million (Budget Shortfall) <sup>9</sup>	
2004	\$154.9 million (Budget Shortfall) <sup>9</sup>	
2005		
2006		\$50.0 million partial payback of \$314.9 million <sup>10</sup>
2007		
2008		
2009	See note 11	
2010	See note 11	
2011	See note 11	
2012	See note 11	
2013	See note 11	
<b>Total Paid</b>	<b>\$514.1 million</b>	<b>\$279.4 million</b>
ICC Repayment		264.9 million <sup>12</sup>
<b>Total with ICC</b>	<b>\$514.1 million</b>	<b>\$544.3 million</b>

<sup>1</sup>Authorized by Chapter 62 of 1983. Preamble specified future general fund repayment.

<sup>2</sup>Authorized by Chapter 1 of 1986. Preamble and body specify repayment of this transfer, and the \$29 million transfer from the 1983 session.

<sup>3</sup>Authorized by Chapter 470 of 1991. Funds were transferred to reduce general fund shortfall. The statute contains no reference to general fund repayment.

<sup>4</sup>Authorized by Chapter 62 of 1992. Funds transferred to balance the general fund budget. The statute contains no reference to general fund repayment.

<sup>5</sup>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.

<sup>6</sup>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.

<sup>7</sup>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.

<sup>8</sup>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.

<sup>9</sup>Chapter 203 of 2003 (2003 BRFA/HB 935) transferred a total of \$314.9 million to the general fund and required that the Administration submit a plan by December 1, 2003, on the proposed repayment of funds.

<sup>10</sup>Chapter 430 of 2004 (2004 BRFA) included a provision to repay 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 TTF, not to exceed \$50 million per year and only until such time that \$314.9 million is repaid to TTF.

<sup>11</sup>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 general fund instead of 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 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 TTF for the revenue transfer or diversion.

<sup>12</sup>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