Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 233 (Senator Jacobs, *et al.*)
Budget and Taxation

Transportation Trust Fund - Appropriation of General Fund Surplus

This bill requires the Governor to allocate any unappropriated general fund surplus over $10 million to the Transportation Trust Fund (TTF) in the annual budget bill after making existing statutory appropriations beginning in fiscal 2014. Surplus general funds appropriated to TTF may not exceed $50 million annually and $1.1365 billion cumulatively. Any unappropriated general fund balance available after making existing statutory allocations to the Revenue Stabilization Account, the State transfer tax special fund, and TTF, as required by the bill, must be appropriated to the Revenue Stabilization Account.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Since an unappropriated general fund surplus is not anticipated over the next five years, the bill is not expected to affect State finances. However, to the extent an unappropriated general fund surplus over $10 million occurs, TTF revenues could increase by up to $50 million annually due to the bill's repayment provisions and appropriations to the Revenue Stabilization Account could decrease by a commensurate amount. Any such redirection of funds cannot be reliably estimated at this time. It would depend on, among other things, the amount of any unappropriated general fund surplus, the amount eligible for repayment, and the status of repaying the State transfer tax special fund.

Local Effect: None. However, State transportation aid to local governments may increase to the extent any unappropriated general fund surplus is allocated through TTF to local governments.

Small Business Effect: None.

Analysis

Current Law: The State Reserve Fund provides a means to designate monies for future use. It is a general description for four individual accounts: the Revenue Stabilization Account (Rainy Day Fund), the Dedicated Purpose Account, the Catastrophic Event Account, and the Economic Development Opportunities Program Account (Sunny Day Fund).

The Revenue Stabilization Account was established in 1986 to retain State revenues to meet future needs and to reduce the need for future tax increases by moderating revenue growth. The account consists of direct appropriations in the budget bill and interest earned from all State Reserve Fund accounts.

If the account's fund balance is between 3.0% and 7.5% of projected general fund revenues, the Governor must include in the budget bill at least $50.0 million or whatever amount is required for the account balance to exceed 7.5% of estimated general fund revenues for that year. If the account fund balance is below 3.0% of the estimated general fund revenues for that fiscal year, an appropriation of at least $100.0 million must be made to the account.

If the account's balance exceeds 7.5% of projected general fund revenues, the Governor is not required to include additional funds for the account in the budget bill.

The Governor may transfer funds from the account to the general fund as necessary to support the operation of State government on a temporary basis, if the transfer (1) does not result in an account balance below 5% of the estimated general fund revenues for the fiscal year in which the transfer is made; and (2) is authorized by either an Act of the General Assembly or the State budget bill as enacted. However, if the transfer would result in an account balance below 5% of the estimated general fund revenues for the fiscal year in which the transfer is made, the Governor may transfer funds only if the transfer is authorized by an Act of the General Assembly other than the State budget bill.

The Governor must appropriate an amount equal to any unappropriated general fund balance at closeout from the second preceding fiscal year in excess of $10.0 million into the account. This appropriation to the account is referred to as the "sweeper provision." This appropriation must be made to the budget two years after the unappropriated general fund surplus is realized but may be reduced by a required appropriation to the State transfer tax special fund.

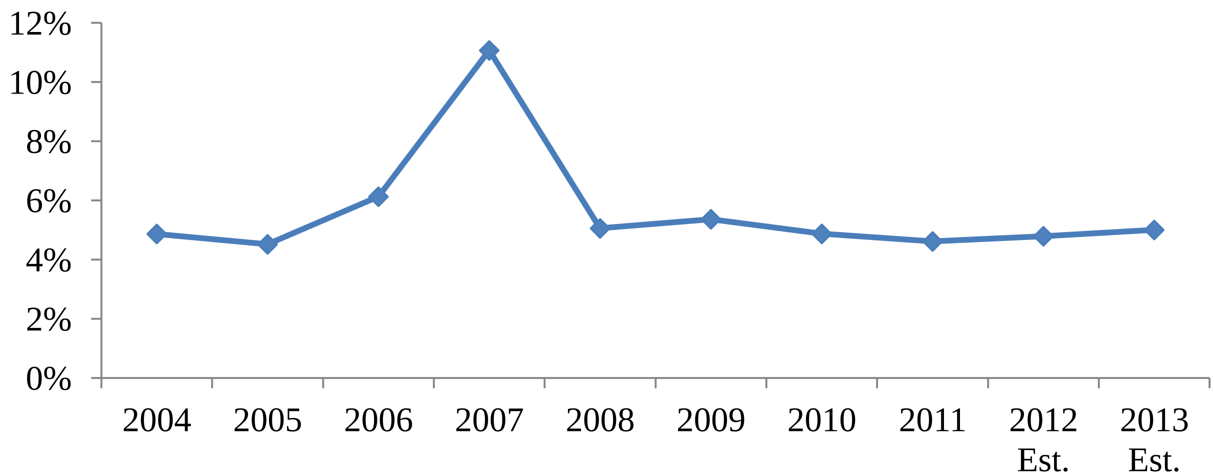
In accordance with provisions in the Tax Property Article, any transfer tax revenues transferred to the general fund from the transfer tax special fund after fiscal 2005 must be repaid by the general fund beginning in fiscal 2012. The law requires that an amount equivalent to unappropriated general fund revenues exceeding $10.0 million be appropriated into the transfer tax special fund. The maximum annual transfer is limited to $50.0 million. In fiscal 2006, $90.0 million was transferred from the transfer tax special fund to the general fund. Provisions in budget reconciliation legislation have deferred repayment of this amount to date.

Background:

Revenue Stabilization Account

Over the last decade, the State has maintained at least the required balance of 5.0% of estimated general fund revenues in the Revenue Stabilization Account. Balances peaked in fiscal 2007 when unexpected revenue attainments were appropriated to the account. Although legislation was enacted to establish a funding goal of 7.5%, balances above 5.0% have been used annually to mitigate persistent general fund shortfalls. **Exhibit 1** illustrates the balance in the account from fiscal 2004 through 2011 and the projected balance for fiscal 2012 through 2013 relative to the percentage of general fund revenues.

Exhibit 1
Revenue Stabilization Account End-of-year Balances
Relative to Percentage Benchmarks
Fiscal 2004-2013



Source: Department of Budget and Management

Section 15 of the Budget Reconciliation and Financing Act (BRFA) of 2012 (SB 152/HB 87) proposes to further defer the repayment of transfer tax revenues from unappropriated general fund surplus revenues. The provision provides general mandate relief through fiscal 2017, which would delay the start of repayment to fiscal 2018, at the earliest, if enacted.

Transportation Trust Fund

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. The Maryland Department of Transportation (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.

A portion of TTF revenues is credited to the Gasoline and Motor Vehicle Revenue Account (highway user revenues) and must be distributed to the general fund, MDOT, and local jurisdictions. 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. Since fiscal 2003, local highway user revenues have been transferred to the general fund by a total of $1.1137 billion according to the Department of Legislative Services (**Appendix 1**).

The BRFA of 2004 (Chapter 430) included provisions, similar to those in the bill, requiring repayment of transferred TTF revenues with specified unappropriated general fund surplus funds. However, Chapter 471 of 2005 subsequently repealed these TTF repayment provisions.

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's November 1, 2011 final report recommends, among other things, protecting and increasing transportation funding and facilitating funding partnerships. The report includes an attachment illustrating that approximately $1.1 billion in local highway user revenues were diverted from local governments to the general fund in fiscal 2003 through 2012.

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 - February 14, 2012
ncs/rhh

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Appendix 1
Highway User Revenues
Transfers to/from State General Fund

Fiscal Year	Transfers from Local Highway User Revenues To the General Fund
2003	$17.9 million[1]
2004	$102.4 million[1]
2005	$102.4 million[1,2]
2006	$22.7 million[3]
2010	$304.0 million[4]
2011	$377.0 million[5]
2012	$187.3 million[6]
Total	**$1,113.7 million**

[1] Chapter 203 of 2003 (the Budget Reconciliation and Financing Act or BRFA of 2003) authorized a reduction of the local share of highway user revenues (HUR) that would then be transferred to the general fund (GF). This includes $17.9 million in fiscal 2003, $102.4 million in fiscal 2004, and $51.2 million in fiscal 2005. Since this money came out of the local portion of HUR, the money would not have gone to the Transportation Trust Fund (TTF) regardless. Statute contains no reference to GF repayment.

[2] Chapter 203 of 2003 (BRFA of 2003) authorized a reduction of the local share of HUR and transfer to the GF of $51.2 million. Chapter 430 of 2004 (BRFA of 2004) added an additional $51.2 million to this number for a total of $102.4 million. Since this money came out of the local portion of HUR, this money would not have gone to TTF regardless. Statute contains no reference to GF repayment.

[3] Chapter 444 of 2005 (BRFA of 2005) redirected $48.5 million from the local share of HUR to the GF and $25.8 million of Community Safety and Enhancement Program funds were restricted to be used for one-time transportation capital grants allocated under the same statute governing HUR. Since this money came from the local share of HUR, it would not have gone to TTF regardless. Statute contains no reference to GF repayment.

[4] Chapter 487 of 2009 (BRFA of 2009) transferred $101.9 million from the local share of HUR to the GF in fiscal 2010 and 2011. In addition, $60.0 million was transferred from the local share of HUR to the GF. During the 2009 interim, the Governor reduced the local share of HUR by $159.5 million in fiscal 2010 with the intention of transferring those funds to the GF in fiscal 2010. SB 141 of 2010, as introduced, continued that reduction in fiscal 2011 and 2012. In total, approximately $340.3 million was to be transferred to the GF in fiscal 2011 and 2012. In fiscal 2010, the prior actions of the legislature plus the $159.5 million transfer resulted in a planned transfer of $321 million. Chapter 484 of 2010 (BRFA of 2010) reduced the fiscal 2010 transfer to the GF in recognition of the local jurisdictions having already received payments in fiscal 2010 greater than the amount allowed for in the Administration's proposal. Revenue over attainment increased the total GF transfer to $304.0 million.

[5] In accordance with Chapter 484 of 2010, in fiscal 2011, the GF transfer was $363.4 million, an increase compared to the Administration's proposal to offset the reduced transfer in fiscal 2010. Due to revenue growth, the final amount transferred was $377.0 million. In fiscal 2012, the transfer was $338.4 million, to reflect the Administration's proposal. In fiscal 2013 and beyond, 19.3% of HUR is transferred to the GF, this equates to approximately $339.4 million in fiscal 2013.

[6] Chapter 397 of 2011 (BRFA of 2011) ended the GF distribution of HUR from the local share, beginning in fiscal 2013 as part of the reconciliation of revenues between the GF and the TTF. To accomplish this, there is a transfer of HUR in fiscal 2012. The TTF, GF, and local HUR are all held harmless in fiscal 2012 and beyond.

Source: Department of Legislative Services