HB 1322

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1322 (Delegate Beidle, *et al.*)

Environment and Transportation and Appropriations

Local Infrastructure Fast Track for Maryland Act

This bill alters the distribution of funds in the Gasoline and Motor Vehicle Revenue Account (GMVRA) over seven years beginning in fiscal 2018 and establishes a minimum distribution to municipalities from fiscal 2018 through 2023. The bill authorizes the Office of Legislative Audits (OLA) to audit local governments to ensure highway user revenues are used for an authorized purpose. The Maryland Department of Transportation (MDOT) may not disburse highway user revenues to a jurisdiction for 12 months if the jurisdiction has used its revenues for an unauthorized purpose or has not submitted a related annual report; any undisbursed funds revert to the Transportation Trust Fund (TTF). Finally, the bill requires the Department of Budget and Management (DBM), by December 31, 2017, to submit a report regarding local infrastructure to the General Assembly.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: TTF revenues available to MDOT decrease by an estimated $98.7 million in FY 2018, $146.8 million in FY 2019, $194.7 million in FY 2020, $245.3 million in FY 2021, and $296.2 million in FY 2022. Combined with a reduction in bond issuances and corresponding debt service savings, TTF revenues available to MDOT decrease by approximately $1.9 billion over the five-year period. The effect is greater in future fiscal years as the bill continues to reduce MDOTs share of GMVRA revenues through FY 2024. General fund expenditures likely increase significantly for DBM to complete the required report, and completion of the report may not be possible in the timeframe established by the bill. Other agencies can provide input on the report using existing resources. OLA can implement the bill with existing resources, as discussed below.

Local Effect: The bill alters the distribution of GMVRA revenues, thereby increasing local highway user revenues by an estimated $98.7 million in FY 2018, $146.8 million in FY 2019, $194.7 million in FY 2020, $245.3 million in FY 2021, and $296.2 million in FY 2022. To the extent that local highway user revenues are withheld and revert to TTF, revenues decrease; however, any such impact is speculative and not assumed in this analysis. Local governments can provide input to DBM using existing resources.

Small Business Effect: None.

Analysis

Bill Summary:

Distribution of Highway User Revenues

Exhibit 1 summarizes the bill's proposed distribution of highway user revenues in fiscal 2018 through 2025. Additional distributions to municipalities must be made from MDOT's share of GMVRA revenues from fiscal 2018 through 2023, if necessary, to ensure that the total distributions, including any capital transportation grants, are at least $26.4 million each fiscal year.

Exhibit 1
Proposed Highway User Revenue Distribution
Fiscal 2018-2025
($ in Millions)

	FY 2018	FY 2019	FY 2020	FY 2021
MDOT	85.0%	82.5%	80.0%	77.5%
Baltimore City	8.3%	8.7%	9.2%	9.7%
Counties	5.1%	7.1%	9.0%	10.9%
Municipalities	1.6%	1.7%	1.8%	1.9%

	FY 2022	FY 2023	FY 2024	FY 2025
MDOT	75.0%	72.5%	70.0%	70.0%
Baltimore City	10.2%	11.1%	12.1%	12.1%
Counties	12.7%	14.1%	15.4%	15.4%
Municipalities	2.1%	2.3%	2.5%	2.5%

MDOT: Maryland Department of Transportation

Source: Department of Legislative Services

Audits Related to the Use of Highway User Revenues

OLA is expressly authorized to audit any officer or unit of a county or municipality that received a distribution of highway user revenues in the preceding fiscal year. An audit must ensure that the local government is using highway user revenues for the purposes authorized by State law. OLA must be given access to inspect the records, including those that are confidential, of any officer or unit of a county or municipality.

Department of Budget and Management Local Infrastructure Report

The report required of DBM must include information on the current functional capability, maintenance level, potential obsolescence, and need for expansion of multiple modes of infrastructure and identify current and potential sources of revenue that are, or could be, targeted to address unmet needs for each mode of infrastructure detailed in the report. The report must include, at a minimum, information regarding each of the following modes of infrastructure: (1) water and wastewater delivery and retrieval systems; (2) wastewater treatment facilities; (3) 9-1-1 emergency number response systems; (4) public safety radio systems; (5) high-speed broadband access; (6) bridges and other transportation arteries; (7) evacuation resources; (8) school facility maintenance needs; and (9) any other area of critical infrastructure DBM determines appropriate for a similar evaluation. For each mode of infrastructure, DBM must seek input from related and specifies entities.

Current Law: 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. 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.

Debt Service Requirements and Practices

State law and agency debt practices limit Consolidated Transportation Bond (CTB) issuances with three criteria: a debt outstanding limit and two coverage tests. The debt outstanding limit is set in statute at $4.5 billion. The two coverage tests are established in the department's bond resolutions and require that annual net income and pledged taxes from the prior year each equal at least 2.0 times the maximum level of future debt service payments on all CTBs outstanding and to be issued. The department has adopted a management practice that requires minimum coverages of 2.5 times maximum future debt service. The net income coverage test is the ratio of all the prior year's income (excluding federal capital, bond proceeds, and third-party reimbursements) minus prior year operating expenses, debt service payments, deductions for nontransportation agencies, and local transportation aid to maximum future annual debt service and typically is the limiting coverage ratio. The pledged taxes coverage test measures annual net revenues from vehicle excise, motor fuel, rental car sales, and corporate income taxes (excluding refunds and all statutory deductions) as a ratio of maximum future annual debt service.

If either of these coverage ratios fall below the 2.0 times level, the department is prohibited under its bond covenants from issuing additional debt until the ratios are once again at the minimum 2.0 times level.

Highway User Revenues – Distributions and Authorized Purposes

TTF's GMVRA revenue (commonly known as highway user revenue) must be distributed to MDOT and local jurisdictions as follows:

- 90.4% to MDOT;
- 7.7% to Baltimore City;
- 1.5% to counties; and
- 0.4% to municipalities.

A local government entity may only use its share of highway user revenues for authorized purposes related to transportation infrastructure construction and maintenance. By January 1 of each year, Baltimore City, each county, and each municipality that received highway user revenues in the preceding fiscal year must submit a report to the State Highway Administration (SHA) that shows the actual costs of the preceding fiscal year, shows the current year budget, accurately identifies costs for specific and authorized projects, shows funds diverted from the local general fund to pay for authorized projects, and lists authorized projects that have been delayed due to lack of funding. SHA may not make a disbursement of highway user revenues to any jurisdiction that has not submitted this report.

Office of Legislative Audits

Generally, OLA must conduct a fiscal/compliance audit of each unit of the State government (except for units of the Legislative Branch) at an interval ranging from three to four years, unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required. Each agency or program may be audited separately or as part of a larger organizational unit of State government. OLA has the authority to conduct a separate investigation of an act or allegation of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources. OLA also may audit any county officer or unit that collects State taxes.

Background: For more information regarding transportation aid to local governments and highway user revenues, please see the **Appendix – Highway User Revenues**.

To restore highway user revenues to local governments, the *Consolidated Transportation Program* (CTP) for fiscal 2017 through 2022 has set aside $100 million in fiscal 2019, $148 million in fiscal 2020, $198 million in fiscal 2021, and $248 million in fiscal 2022, for a total of $694 million. The CTP also sets aside $53 million in fiscal 2018; however, these funds are being distributed to local governments as capital transportation grants, of which $27.4 million goes to counties, $5.5 million goes to Baltimore City, and $20.1 million goes to municipalities. Budget bill language specifies that the grants be distributed to the counties and municipalities using the highway user formula.

State Fiscal Effect:

Maryland Department of Transportation – Highway User Revenues

Altering the distribution formula in the manner required by the bill decreases TTF revenues available to MDOT by an estimated $98.7 million in fiscal 2018, $146.8 million in fiscal 2019, $194.7 million in fiscal 2020, $245.3 million in fiscal 2021, and $296.2 million in fiscal 2022, totaling $981.7 million over the five-year period. Additional distributions to municipalities due to the minimum distribution established by the bill are not anticipated to be necessary in any fiscal year, as discussed below in the Local Fiscal Effect section of this fiscal and policy note.

Additionally, the TTF revenue loss limits MDOT's ability to issue CTBs in support of its capital program. MDOT advises that, after taking into account a reduction in bond issuances to meet its bond coverage ratios, the $981.7 million reduction in highway user revenues requires it to reduce its capital budget by nearly $1.6 billion. This estimate is based on MDOT's current projected revenues and does not take into account any debt service savings. MDOT advises that this effect may be partially offset because it has reserved about $747.0 million in revenues over the next five fiscal years for the restoration of local highway user revenues pending gubernatorial or legislative action.

The Department of Legislative Services (DLS) estimates that the $981.7 million reduction in highway user revenues available to MDOT over the five-year period requires MDOT to reduce its bond issuances by approximately $1.1 billion, resulting in an initial reduction of $2.1 billion in revenues available to MDOT. As MDOT issues less debt under the bill, it experiences a corresponding reduction in debt service payments. When debt service savings of $185.0 million are taken into account, the net decrease in MDOT's capital budget is $1.9 billion. This estimate reflects MDOT's reserved $747.0 million for the restoration of highway user revenues through the capital program because the Governor's current proposal is to distribute those revenues through MDOT's capital budget as capital transportation grants.

To the extent that a local government does not use its share of the revenues for an authorized purpose or does not submit its required annual report in future fiscal years, TTF revenues increase as the local government's share of highway user revenues reverts to TTF. However, whether and to what extent this occurs cannot be predicted and is, therefore, not assumed in this analysis.

Office of Legislative Audits – Audits Relating to the Use of Local Highway User Revenues

OLA advises that, because the bill does not mandate an audit of the counties and municipalities that receive highway user revenues, it plans to examine the issue during its periodic fiscal compliance audits of MDOT and SHA. At that point, OLA will determine whether to investigate specific local governments based on (1) the professional judgment of the auditor; (2) the amount of revenues in question; and (3) the potential for misuse or abuse of the revenues. Any subsequent audit needed as a result of OLA's findings can likely be handled using existing budgeted resources.

Department of Budget and Management – Local Infrastructure Study

General fund expenditures likely increase significantly for DBM to complete the infrastructure report required by the bill. DBM does not have the specialization necessary to examine the many technical aspects of the modes of infrastructure specified by the bill. Therefore, it likely needs to contract with multiple specialists to assist in the analysis needed to complete the required report. To reduce costs, and as required by the bill, DBM plans to request assistance from other State agencies. However, the bill only requires specified State agencies *to provide input to* DBM. Thus, it is unclear to what extent other agencies assist DBM. Accordingly, a reliable estimate of the increase in costs for DBM cannot be made at this time. DBM advises, however, that costs could exceed $1 million.

DBM also advises, and DLS concurs, that despite the deadline established by the bill to complete the required report, the actual completion of the report is likely to take significantly longer than six months. Including information on the current functional capability, maintenance level, potential obsolescence, and need for expansion of the specified modes of infrastructure, as required by the bill, involves significant and time-consuming investigations and collaboration with affected entities. DBM advises that the completion of the required report could take as long as two years.

Local Fiscal Effect: Altering the GMVRA distribution formula increases local jurisdictions' highway user revenues by an estimated $98.7 million in fiscal 2018, $146.8 million in fiscal 2019, $194.7 million in fiscal 2020, $245.3 million in fiscal 2021, and $296.2 million in fiscal 2022. The distribution of the increase between Baltimore City, counties, and municipalities is shown in **Exhibit 2**. Additional distributions to municipalities are not necessary because the projected distribution exceeds the bill's $26.4 million required minimum distribution in each fiscal year. Specifically, municipalities are projected to receive $29.3 million in fiscal 2018, $31.6 million in fiscal 2019, $33.7 million in fiscal 2020, $36.1 million in fiscal 2021, and $40.4 million in fiscal 2022.

Exhibit 2
Projected Increase in Local Distribution of Highway User Revenues
Fiscal 2018-2022
($ in Millions)

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Baltimore City	$11.0	$18.6	$28.1	$38.0	$48.1
Counties	65.8	104.0	140.4	178.7	215.4
Municipalities	21.9	24.1	26.2	28.5	32.7
Total	**$98.7**	**$146.8**	**$194.7**	**$245.3**	**$296.2**

Note: Totals may not sum due to rounding.
Source: Department of Legislative Services

Exhibit 3 shows the increase in highway user revenues distributed to localities and the total amount of highway user revenues distributed to localities from fiscal 2018 through 2022 under the bill (by county). (The total highway user revenues in this exhibit do not reflect the fiscal 2018 capital transportation grants for counties, municipalities, and Baltimore City.)

As noted above, to the extent that a local government does not use its share of the revenues for an authorized purpose or does not submit its required annual report in future fiscal years, local revenues decrease as the local government's share of revenues revert to TTF. However, whether and to what extent this occurs cannot be predicted, and is, therefore, not assumed in this analysis.

It is assumed that local government entities are able to provide input to DBM regarding the local infrastructure report with existing local resources.

Exhibit 3
Local Government Increase and Total – Highway User Revenues
Fiscal 2018-2022
($ in Millions)

	FY 2018		FY 2019		FY 2020		FY 2021		FY 2022	
	Increase	Total	Increase	Total	Increase	Total	Increase	Total	Increase	Total
Allegany	$2.2	$3.0	$3.0	$3.8	$3.7	$4.6	$4.5	$5.3	$5.3	$6.2
Anne Arundel	7.9	11.1	12.1	15.3	16.0	19.3	20.2	23.5	24.3	27.7
Baltimore City	11.0	151.7	18.6	161.6	28.1	172.2	38.0	184.4	48.1	196.2
Baltimore	9.9	14.0	15.7	19.9	21.1	25.4	26.9	31.2	32.4	36.8
Calvert	1.8	2.5	2.7	3.4	3.6	4.3	4.5	5.2	5.4	6.2
Caroline	1.3	1.9	1.9	2.5	2.5	3.0	3.1	3.6	3.7	4.2
Carroll	4.0	5.5	5.6	7.2	7.3	8.8	8.9	10.6	10.7	12.3
Cecil	2.2	3.0	3.1	4.0	4.1	4.9	5.0	5.9	6.0	6.9
Charles	2.7	3.7	4.0	5.1	5.3	6.4	6.7	7.8	8.1	9.2
Dorchester	1.5	2.1	2.2	2.8	2.8	3.4	3.5	4.1	4.2	4.8
Frederick	5.7	7.8	7.8	10.0	9.8	12.0	12.0	14.2	14.2	16.5
Garrett	1.6	2.3	2.4	3.1	3.1	3.8	3.9	4.6	4.7	5.4
Harford	4.4	6.2	6.5	8.2	8.4	10.2	10.5	12.3	12.5	14.4
Howard	3.8	5.4	6.0	7.6	8.1	9.8	10.4	12.0	12.5	14.2
Kent	0.8	1.1	1.1	1.4	1.4	1.7	1.8	2.1	2.1	2.4
Montgomery	12.4	17.3	17.9	22.9	23.2	28.1	28.7	33.8	34.3	39.5
Prince George's	11.7	16.1	16.3	20.8	20.7	25.3	25.3	30.0	30.2	34.9
Queen Anne's	1.4	2.0	2.2	2.8	2.9	3.5	3.6	4.2	4.4	5.0
St. Mary's	2.0	2.8	3.1	3.9	4.1	5.0	5.2	6.1	6.3	7.2
Somerset	0.8	1.2	1.2	1.6	1.6	2.0	2.0	2.4	2.4	2.8
Talbot	1.4	1.9	1.9	2.5	2.4	3.0	2.9	3.5	3.5	4.0
Washington	3.5	4.8	4.9	6.2	6.2	7.5	7.5	8.9	9.0	10.4
Wicomico	2.8	3.8	3.8	4.9	4.8	5.9	5.8	6.9	6.9	8.0
Worcester	1.9	2.7	2.7	3.5	3.5	4.2	4.3	5.0	5.1	5.9
Total	**$98.7**	**$274.2**	**$146.8**	**$325.1**	**$194.7**	**$374.4**	**$245.3**	**$427.8**	**$296.2**	**$480.9**

Notes: Totals may not sum due to rounding.
Estimate assumes that highway road miles and vehicle registrations in fiscal 2018 remain constant through fiscal 2022.
Source: Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: SB 586 (Senator King, *et al.*) - Budget and Taxation.

Information Source(s): Maryland Department of Transportation; Department of Budget and Management; Maryland Association of Counties; Maryland Municipal League; Baltimore City; Montgomery County; Maryland Department of the Environment; Maryland Institute for Emergency Medical Services Systems; Department of Public Safety and Correctional Services; Public School Construction Program; Department of Legislative Services

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md/mcr

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Appendix – Highway User Revenues

Transportation Aid to Local Governments

In fiscal 2017, local governments received $177.4 million in State aid from highway user revenues and $25.0 million for special transportation grants. **Exhibit 1** shows the amount of State aid for local transportation programs in each county, including municipalities and Baltimore City, in fiscal 2017.

Highway User Revenues – Generally

Since the early 1900s, the State has shared motor vehicle-related revenues with the counties and Baltimore City. Initially these revenues consisted of vehicle registration fees. In 1927, when the gasoline tax increased from $0.02 to $0.04 per gallon, the State began sharing these taxes with local governments. In 1968, the General Assembly approved legislation that established a formula for apportioning the county and municipal shares of highway user revenues. The legislation also initiated the sharing of motor vehicle titling taxes with the subdivisions. Legislation enacted in 1970 created the Maryland Department of Transportation (MDOT) and a consolidated Transportation Trust Fund (TTF). As provided by that legislation, the State shares with the counties, Baltimore City, and municipalities those revenues credited to the Gasoline and Motor Vehicle Revenue Account in TTF, more commonly referred to as "highway user revenues." Currently, the revenues dedicated to the account include all or some portion of the motor vehicle fuel tax, vehicle titling tax, vehicle registration fees, short-term vehicle rental tax, and State corporate income tax.

Exhibit 1
Transportation Aid Programs
Fiscal 2017

County	Highway User Revenues	County Grants	Municipal Grants	Elderly/ Disabled	Paratransit	Per Capita Aid	Per Capita Rank
Allegany	$846,247	$68,992	$946,170	$141,544	-	$28	8
Anne Arundel	3,281,132	427,654	815,824	245,966	$434,969	9	21
Baltimore City	142,300,081	2,000,000	-	379,335	-	233	1
Baltimore	4,179,019	603,016	-	395,836	-	6	24
Calvert	731,936	91,983	242,833	127,003	76,099	14	16
Caroline	537,372	58,112	346,075	120,217	13,333	33	6
Carroll	1,566,587	163,549	1,113,337	151,029	-	18	14
Cecil	866,118	94,409	544,504	134,073	-	16	15
Charles	1,086,188	139,396	308,803	137,609	-	11	19
Dorchester	600,433	64,322	397,539	122,724	50,000	38	3
Frederick	2,182,072	197,292	2,094,250	159,159	-	19	12
Garrett	655,843	77,295	308,881	119,664	-	39	2
Harford	1,761,565	201,844	932,354	170,371	-	12	17
Howard	1,605,565	231,677	-	162,520	430,000	8	23
Kent	307,200	33,022	201,383	120,217	13,333	34	4
Montgomery	4,937,050	539,991	3,070,971	379,107	-	9	22
Prince George’s	4,487,929	430,215	3,871,992	332,819	450,000	11	20
Queen Anne’s	586,661	77,181	133,094	122,064	-	19	13
St. Mary’s	821,725	113,820	84,636	131,054	135,000	12	18
Somerset	337,151	40,729	141,077	117,447	-	25	9
Talbot	537,984	47,317	539,925	120,217	13,334	34	5
Washington	1,365,307	128,092	1,227,574	146,917	-	19	11
Wicomico	1,073,152	95,128	1,063,820	134,508	-	23	10
Worcester	758,771	74,964	614,960	134,508	110,000	33	7
Total	**$177,413,088**	**$6,000,000**	**$19,000,002**	**$4,305,908**	**$1,726,068**	**$35**	

Note: Highway User Revenues column includes municipal aid.
Source: Department of Legislative Services

Highway User Revenues – Distribution

Historically, highway user revenues have been distributed to (1) TTF for MDOT's capital program, debt service, and operating costs and (2) to the counties, Baltimore City, and municipalities to assist in the development and maintenance of local transportation projects. In fiscal 2009, prior to recent budget reconciliation legislation reducing the local share of highway user revenues to help balance the budget, the $1.6 billion in highway user revenues were distributed as follows:

- $1.1 billion (70%) to MDOT;
- $187.6 million (12.06%) to Baltimore City;
- $239.4 million (15.38%) to counties; and
- $39.8 million (2.56%) to municipalities.

In response to the ongoing budget crisis, the Budget Reconciliation and Financing Act of 2010 (Chapter 484) significantly reduced the share of highway user revenues distributed to the counties and municipalities to allow a portion of the revenues to be allocated to the general fund for budget relief. In accordance with Chapter 484, in fiscal 2011, the $1.6 billion in highway user revenues were distributed as follows:

- $1.1 billion (68.5%) to MDOT;
- $377.1 million (23.0%) to the general fund;
- $129.5 million (7.9%) to Baltimore City;
- $8.2 million (0.5%) to counties; and
- $1.6 million (0.1%) to municipalities.

The following year, the Budget Reconciliation and Financing Act of 2011 (Chapter 397) divorced the relationship between highway user revenues and the general fund, reducing the distribution of highway user revenues to the general fund in fiscal 2012 and ending the distribution to the general fund in fiscal 2013. **Exhibit 2** illustrates this transition and funding from fiscal 2012 through 2015.

Baltimore City has generally received a larger share of highway user revenues than other local jurisdictions because the State does not conduct highway maintenance or construction in Baltimore City (except for portions of I-95) as it does in the counties. The city's share of total highway user revenues is currently 7.7% each year, as shown in Exhibit 2. The allocations made to counties and municipalities are distributed based on road miles and vehicle registrations.

Exhibit 2
Highway User Revenues – Distribution
Fiscal 2012-2015
($ in Millions)

	Fiscal 2012		Fiscal 2013		Fiscal 2014		Fiscal 2015	
	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars
MDOT	79.8%	$1,318.6	90.0%	$1,445.4	90.4%	$1,543.4	90.4%	$1,597.9
General Fund	11.3%	186.7						
Baltimore City	7.5%	123.9	8.1%	130.1	7.7%	131.5	7.7%	136.1
Counties	0.8%	13.2	1.5%	24.1	1.5%	25.6	1.5%	26.5
Municipalities	0.6%	9.9	0.4%	6.4	0.4%	6.8	0.4%	7.1
Total	**100%**	**$1,652.3**	**100%**	**$1,606.0**	**100%**	**$1,707.3**	**100%**	**$1,767.6**

MDOT: Maryland Department of Transportation
Source: Department of Legislative Services

Municipal Transportation Grants and Special Grants for the Counties and Baltimore City

Since fiscal 2014, municipalities have received additional transportation aid in the form of municipal transportation grants; municipalities received $15.4 million in such grants in fiscal 2014, $16 million in fiscal 2015, $19 million in fiscal 2016, and $19 million in fiscal 2017. In fiscal 2016 and 2017, the counties and Baltimore City were also awarded additional transportation aid through special grants; in each of those years, Baltimore City received $2 million, and the counties received a total of $4 million. Although the municipal transportation grants and the special grants are supplemental to the amounts received from highway user revenues, the grants have been distributed using the highway user revenue formula. In addition, the counties and Baltimore City received $10 million for pothole repairs in fiscal 2014, which was distributed on the basis of county road miles.