Blue Ribbon Commission on Maryland Transportation Funding

Final Report
to the
Governor and Maryland General Assembly
by the
Blue Ribbon Commission on Transportation Funding

Gus Bauman, Chairman

November 1, 2011

Staffed by:
The Maryland Department of Transportation

Blue Ribbon Commission on Maryland Transportation Funding

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The Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis MD 21401-1991

The Honorable Thomas V. "Mike" Miller, Jr.
President of the Senate
H-107 State House
Annapolis MD 21401-1991

The Honorable Michael E. Busch
H-101 Speaker of the House
State House
Annapolis MD 21401-1991

Dear Governor O'Malley, President Miller, and Speaker Busch:

Respectfully submitted for your and the General Assembly's consideration is the enclosed Final Report by the Blue Ribbon Commission on Transportation Funding. The Report, which has both financial and programmatic recommendations, speaks for itself, but I wish to highlight its core concerns and recommendations.

Maryland's highly-regarded transportation network is the lifeblood of the State, directly affecting every citizen and the essential viability of our economy. Yet the State's transportation system finds itself on the verge of financial collapse unless action is taken now to change course for a new, more secure, heading. In fact, if you total just the number one priority of each of the 23 counties and Baltimore City, you would need an additional $12 billion.

We must put the trust back in the Transportation Trust Fund. And we must replenish the depleted coffers of the Trust Fund. We cannot accomplish the latter without also accomplishing the former. They are inextricably linked -- without re-establishing public trust in the inviolability of the Trust Fund, there will be little faith by the public that raising revenues for its transportation needs will correspondingly address those needs as promised.

The Blue Ribbon Commission is confident that residents, businesses, and localities would support transportation-related rate hikes if they are assured the monies will be spent for transportation purposes. One thing is clear -- should Maryland dither in this contested arena, other jurisdictions assuredly will not. In the highly competitive economic environment that we inhabit, other States and regions will not stand still. Accordingly, maintaining the Trust Fund's status quo is simply not an acceptable option, either short-term or long-term.

The Blue Ribbon Commission on Transportation Funding understands that is why you saw clearly the need to establish this Commission with the charge given it. We trust you will find our Report and recommendations, reached through consensus by a disparate group of voices (AAA not concurring), useful.

We thank the able staff of the Department of Transportation for their assistance and professionalism. We thank you for your service at this difficult time.

Sincerely,

Gus Bauman

Gus Bauman
Chairman

Blue Ribbon Commission on Maryland Transportation Funding

I. Background

The 2010 legislature of the Maryland General Assembly adopted, and Governor O'Malley signed into law, SB 229/HB 710, Chapters 525 and 526, 2010 Laws of Maryland, which establishes a Blue Ribbon Commission on Transportation Funding (see Attachment 1 for a list of Commission members). Specifically, this law requires that the Commission review, evaluate, and make recommendations concerning:

1. The current State funding sources and structure of the Maryland Transportation Trust Fund;
2. Short– and long–term transit construction and maintenance funding needs;
3. Short– and long–term highway construction and maintenance funding needs;
4. Short– and long–term pedestrian and bicycle facility construction and maintenance funding needs;
5. Options for public–private partnerships, including partnerships with local governments, to meet transportation funding needs;
6. The structure of regional transportation authorities and the ability of these authorities to meet transportation needs in various regions of the State;
7. The impact of economic development and smart growth on transportation funding; and
8. Options for sustainable, long–term revenue sources for transportation.

The law took effect July 1, 2010 and is in effect for a period of two years, through June 30, 2012. The Commission has held 14 meetings to date, chaired by Gus Bauman, beginning with the inaugural meeting on September 27, 2010. As of the submittal of this Report, the Commission has been active for 14 months. The enabling law required an Interim Report to the Governor and General Assembly, which was submitted by the January 1, 2011 due date. The Commission submitted an additional Interim Report on February 18, 2011. The February 18, 2011 Interim Report provided recommendations to the Governor and General Assembly that the Commission requested be considered in the 2011 legislative session. At that juncture, the Commission's recommendations focused on necessary near-term fixes to transportation funding in Maryland. The recommendations aimed to protect the Transportation Trust Fund by preventing further transfers from the Transportation Trust Fund for non-transportation purposes and to replenish funding to levels that can meet core transportation needs.

In the 2011 legislative session, the Legislature enacted the Budget Reconciliation and Financing Act of 2011 (BRFA) which resulted in a net increase to the Transportation Trust Fund of $43 million in FY 2012 and a net average annual increase of $80 million during the FY 2012 to FY 2016 period. The Act provides for the following changes to transportation funding:

- Realigns revenue distributions between the General Fund and the Transportation Trust Fund. Beginning in FY 2012, the Transportation Trust Fund's share of the sales and use tax is permanently credited to the General Fund, the Transportation Trust Fund's share of the corporate income tax is lowered, and the portion of the Highway User Revenue (HUR) distribution, which had been redirected from the local governments, which includes the counties, municipalities, and Baltimore City, to the General Fund, is now to be distributed to the Maryland Department of Transportation (MDOT) share of HUR beginning in FY 2013, thereby increasing MDOT's share of HUR and permanently decreasing the local share.

- A one-time transfer of $100 million from the Transportation Trust Fund to the General Fund ($60 million) and the Rainy Day Fund ($40 million) with repayment planned over FY 2013-FY 2016 period.
- Prohibits transfer of Transportation Trust Fund resources to the General Fund unless legislation provides for repayment of the funds within five years.
- Provides counties and municipalities an additional $13.3 million in FY 2012 from HUR.
- Increases various revenues, including certificate of title fee and vanity tag fee, and lowers the dealer vendor credit.

The Blue Ribbon Commission's enabling law also requires a Final Report of the Commission's findings and recommendations be submitted to the Governor and General Assembly on or before November 1, 2011. This Report is the Commission's fulfillment of that requirement. The Final Report includes all of the Commission's recommendations to the Governor and the General Assembly, including those recommendations from the Commission's Interim Report that aim to protect the Transportation Trust Fund with certain updates to reflect the relevant actions taken in the 2011 General Assembly and additional recommendations developed by the Commission since the submission of the Interim Report in February 2011.

All meeting details and other information regarding the Blue Ribbon Commission, including the Interim Reports and the Final Report, are posted on MDOT's web site (www.mdot.maryland.gov/planning/BRC).

II. Introduction

Through its deliberations and presentations from State and local representatives and national experts, the Commission has formed a consensus opinion that the State's transportation system is facing a fiscal crisis. This condition is occurring at the same time the federal government is grappling with hard choices at the national level, and the future is unclear.

The Commission's challenge, as described by its Chairman, is to address the hard fact that over recent years the Transportation Trust Fund has been effectively depleted. In order to maintain the State's economic viability and business competitiveness, it is essential that the Transportation Trust Fund be replenished and protected if Maryland is to have a first-rate highway, road, transit, and freight system for its people and for its economy to grow.

Maryland has a robust transportation planning and prioritization process that incorporates direct involvement of local and State elected officials on an annual basis. Transportation system preservation, services and opportunities throughout the State are evaluated based on the goals and objectives of the Maryland Transportation Plan (MTP) and added to the Consolidated Transportation Program (CTP). The State's transportation network serves multiple purposes. It gets employees to work; provides access to recreation, shopping, and services; and expedites the movement of goods and services throughout the State. The State's transportation network forms the backbone for the State's economy, allowing Maryland to be more competitive in domestic and global markets. Transportation is about access to home, jobs, health care, education, goods and services, and recreation, which lead to a high quality of life.

III. Purpose of this Report

As required by the Blue Ribbon Commission's enabling law, the Commission is required to submit a Final Report by November 1, 2011. This Report serves as the Commission's Final Report and outlines all of the Commission's recommendations.

IV. Recommendations

The Commission's recommendations concern both the structure of transportation funding in Maryland and the pressing need to infuse additional resources into the Transportation Trust Fund to meet critical transportation system obligations. The Commission's recommendations reflect the importance of transportation to the State's economic competitiveness, mobility, and employment.

The recommendations are structured around five issue areas with several recommended actions within each issue area. The recommendations from the February 18, 2011 Interim Report are discussed first, reflecting any changes associated with the 2011 legislative session. Additional issue areas and associated recommendations are then provided which relate to the State's smart growth goals, the potential application of value capture techniques to generate additional resources resulting from transportation investments, and the potential use of partnerships to further transportation investment in Maryland. **These recommendations are all linked—without the first recommendation to protect the Transportation Trust Fund there will be little faith by the public in the other recommendations.** For each issue area, background context is provided followed by specific recommended actions. Table 1 provides a high-level summary of the recommendations.

Table 1. Summary of Recommendations

ISSUE AREA I: Put the Trust Back in the Transportation Trust Fund
1. Protect the Transportation Trust Fund: a. Amend the Maryland Constitution to prohibit transfers out of the Transportation Trust Fund for non-transportation purposes (except in declared fiscal emergencies) b. Enact a statute that requires the Governor and the General Assembly to declare a fiscal emergency and to obtain approval of each house of the General Assembly, along with a repayment plan, before making a transfer of money from the Transportation Trust Fund to the General Fund for non-transportation purposes c. Continue to require the local government portion of Highway User Revenues (HUR) be dedicated to transportation and maintain reporting and audit procedures to ensure expenditures comply with stated requirements
ISSUE AREA II: Shore Up and Expand Core Transportation Funding
2. Raise $870 million in Net New Annual Revenues for Transportation
3. Restore the Annual Highway User Revenues (HUR) to the Local Governments
4. Study Regional Transit Financing Authorities
5. Reach the Transit Cost Recovery Ratio Goal of 35 Percent
6. Establish a Methodology for Regular Adjustment of Transit Fares to Keep Pace with Inflation
7. Eliminate Non-paying Transit Ridership
8. Increase Bonding Capacity Commensurate with Revenue Adjustments
9. Remove Cost Recovery Cap for Motor Vehicle Administration Fees

10. Implement Tolls on Portions of Maryland Transportation Authority Roadways Where No Toll is Currently Collected
11. Explore Application of Possible Additional Tolls on New Facilities or New Capacity of Existing Facilities in Conjunction with Variable Pricing Techniques Facilitated by Recent Technology
12. Facilitate Goods Movement and Expand Investment in Freight Infrastructure through Additional Revenue Mechanisms
ISSUE AREA III: Facilitate Smart Growth by Investing in Transportation in Growth Areas
13. Establish a Strategic Framework for Transportation Investment Decisions to Ensure Transportation Infrastructure Investments Support Growth Areas and Preserve Rural Areas
14. Work Cooperatively with Local Governments to Ensure County and Municipal Plans Reflect the State's Overall Growth Policies
ISSUE AREA IV: Explore Policies and Legislation to Capture Value Created by Transportation Investments
15. Identify Opportunities for Value Capture and Integrate Value Capture Analysis into Existing Transportation Decision-making Process
16. Recognize Value Created by State Transportation Investments for Local and Private Entities and Work Collaboratively to Capture this Value to Help Facilitate Transportation Investment
17. Seek Legislative Authority to Apply Tax Increment Financing Support to Highway Project Development, as Currently Provided for Targeted Transit Investment
ISSUE AREA V: Explore Policies and Legislation to Facilitate Partnerships to Enhance Transportation Investment
18. Establish Centralized Enabling Legislation for Public-Private Partnerships Outlining Efficient and Timely Legislative Reviews
19. Revise the Transportation Public-Private Partnership Program Process
20. Identify Future Public-Private Partnerships Opportunities and Integrate Public-Private Partnership Screening Analysis into Transportation Decision-making Process
21. Engage Specialized Expert Assistance in the Development of a Transportation Public-Private Partnership Program
22. Assess the Feasibility of Loaning State Funds to Localities and to Private Project Sponsors in Order to Facilitate Transportation Investment
23. Prepare to Take Advantage of any National Infrastructure Bank Program

ISSUE AREA I: Put the Trust Back in the Transportation Trust Fund

Context: Overview of the Transportation Trust Fund and Transportation Funding in Maryland

The Maryland Department of Transportation (MDOT) is structured as a special funded agency. Transportation funding in Maryland occurs through the Transportation Trust Fund and the Transportation Authority Fund. The Transportation Trust Fund currently receives funding from the motor fuel tax, motor vehicle titling tax, corporate income tax, rental vehicle sales tax, operating revenues from transit, port, and aviation fares and fees, federal funds, and various other income sources. All MDOT expenditures are made through the Transportation Trust Fund, including debt service, operating costs, the capital program, and support to local governments. The Transportation Authority Fund, used by the Maryland Transportation Authority (MDTA), is funded primarily with toll revenues.

Maryland's citizens, residents, and businesses expect that taxes and fees assessed for using the transportation system will be used to maintain and expand that system. Despite the intent to dedicate revenues to transportation uses, large transfers from the Transportation Trust Fund to the General Fund have occurred over the years (see Attachment 2 for a summary of these transfers). The majority of transfers from MDOT funds have been repaid. However, a large amount (approximately $1.1 billion) of funds from the local government portion of Highway User Revenues (HUR) has not been, and is not scheduled to be, replenished. Local government HUR refers to a portion of funds in the Gasoline and Motor Vehicle Revenue Account of the Transportation Trust Fund that is distributed to local governments, including the counties, municipalities, and Baltimore City. In the 2011 legislative session, statute was enacted that provides for repayment of future transfers from the MDOT portion of the Transportation Trust Fund to the General Fund within five years.

MDOT's structure as a special funded agency provides the flexibility to actively manage its budget and financial resources. It is essential that this flexibility, along with dedicated and secure revenue sources, be maintained and protected from use for non-transportation purposes.

Recommended Actions:

The Commission recommends the following actions with regard to the underlying structure of the Transportation Trust Fund and the importance of its restoration and continuation.

(1) Protect the Transportation Trust Fund:

a. **Amend the Maryland Constitution to prohibit transfers out of the Transportation Trust Fund for non-transportation purposes (except in declared fiscal emergencies).**
b. **Enact a statute that requires the Governor and the General Assembly to declare a fiscal emergency and to obtain approval of each house of the General Assembly, along with a repayment plan, before making a transfer of money from the Transportation Trust Fund to the General Fund for non-transportation purposes.**
c. **Continue to require the local government portion of Highway User Revenues (HUR) be dedicated to transportation and maintain reporting and audit procedures to ensure expenditures comply with stated requirements.**

While amending the Constitution would provide the best protection and is the preferred option, the Commission understands that this may take longer to accomplish than enacting a statute. The Commission further recognizes that emergency circumstances may occur during which it could be necessary for the State's General Fund to borrow from the Transportation Trust Fund. Such borrowings, however, should only be allowed to occur in very limited circumstances and under strict repayment terms. The Commission proposes that a framework for such critical emergencies be outlined that requires, for example, a clear demonstration of the emergency. Additionally, the Commission proposes that if this occurs, a specific repayment plan to the Transportation Trust Fund be created at the time of the borrowing. The Commission proposes that this require a vote of each house of the General Assembly.

As is the case for the State's portion of the Transportation Trust Fund, local funding derived from the Trust Fund should continue to be dedicated solely to transportation purposes. Appropriate reporting and audit procedures should be maintained to ensure compliance with this objective on the part of benefiting localities.

ISSUE AREA II: Shore Up and Expand Core Transportation Funding

Context: Overview of Funding Challenges

The Maryland Department of Transportation (MDOT) has traditionally had reliable sources of funding to support its programs. Reliable revenues to the Transportation Trust Fund enable MDOT to forecast, plan and program with greater predictability and efficiency. The revenue sources for the Transportation Trust Fund, however, have not kept pace with inflation nor are they sufficient to meet system obligations and expansion needs. Several factors exacerbate this problem:

- The primary sources of revenue are no longer achieving historical growth rates. The motor fuel tax is reflecting effects of a slowing in the growth of vehicle miles traveled and increased vehicle fuel efficiency. Meanwhile, the vehicle titling tax is being affected by the lagging economy.
- Other sources of transportation revenue in Maryland (i.e., all of the sales tax and a portion of the corporate income tax) have been reverted back to the General Fund.
- The growing loss of buying power due to inflation in material and construction costs also reduces MDOT's capacity for capital projects.

The Commission requested that MDOT provide information on a range of potential uses of funding resources based on historical uses and existing priorities of Transportation Trust Fund dollars. Attachment 3 summarizes this information. This list by no means fully addresses the potential range of identifiable transportation uses for the State. It does, however, begin to address the near-term and most critical investment needs.

No single funding source will be sufficient due to the magnitude of Maryland's transportation investment needs and obligations to meet current and anticipated funding needs. Currently, motor fuel taxes serve as indirect user fees for use of the transportation system and fees that the Motor Vehicle Administration (MVA) charges to drivers and vehicle owners service as direct user fees. A cap on MVA fees under current law, however, prevents consideration of MVA fee revenue in the total MDOT funding solution. Other mechanisms such as tolls and transit fares charge travelers according to when or where use of the transportation system occurs. The Maryland Transportation Authority (MDTA) serves to provide self-supporting financing, construction and operation of the State's toll highways, bridges, and tunnels. Transit fares, charged by the Maryland Transit Administration (MTA), also are a direct user fee for transportation in Maryland. Transit systems, however, generally are not self-supporting through fare revenues, so a variety of additional revenue sources (e.g., advertising revenue and government subsidies) are required to cover costs. As technology advances, new pricing and charging methods are becoming more practical alternatives to existing indirect taxes.

MDOT also is focused on cost management, to complement revenue movements, and to keep up with increasing transportation demands. The Department aggressively constrains operating expenditures to help stretch transportation dollars as a matter of practice and particularly so during the most recent economic downturn. Four years of focused cost containment have produced a leaner organization with a renewed focus on core services. Since FY 2008, MDOT has reduced its operating budget by $156 million and its authorized positions by 442. The Department continues to seek new and improved approaches to containing and reducing costs, including cost savings through innovative practices, competitive project funding to spur innovation, and fiscal efficiency, while enhancing performance in the provision of transportation projects and services throughout the State.

Maryland is a diverse state and has a transportation network that needs to serve multiple purposes, from urban to suburban to rural. Transportation is essential to provide access to homes, jobs, health care, education, recreation, shopping, and movement of goods and services; it provides a critical foundation for the State's economy. As a result, a combination of funding sources is required to address these needed investments and to provide fiscal stability and integrity to the Transportation Trust Fund.

Recommended Actions:

The Commission recommends the following actions with regard to the level of net new annual funding for transportation and the components to meet that level of funding.

(2) Raise approximately $870 million in Net New Annual Revenues for Transportation. The Commission recommends the identification of approximately $870 million in net new annual revenues to supplement currently available transportation funding to help meet State funding needs. There are overwhelming transportation needs throughout the State in system preservation and capacity improvements. In fact, just totaling the number one priority of each of the 23 counties and Baltimore City would require an additional $12 billion. The $870 million in net new annual revenues would be in addition to the State's current annual Transportation Trust Fund revenues of $3.5 billion. The Commission recommends that these funds provide for the following:

- Additional annual revenues to the Transportation Trust Fund to shore up and enhance critical state investment; and
- Restoration of Highway Use Revenue (HUR) funding for localities, which includes counties, municipalities, and Baltimore City, over time as discussed further under Recommended Action 3, below.

While the Commission considered a wide range of potential revenue sources for funding transportation (as provided in Attachment 4), the Commission recommends that the net new annual revenues for transportation be raised primarily from revenues sources that are directly related to transportation, such as the following:

- Motor fuel tax levied on gasoline and special fuels (including diesel and clean-burning fuels) at the wholesale level – Three-year phase-in of 5 cents per gallon per year and in year 4 implement an index component with a floor and a ceiling (estimated $491 million in net new revenues, growing with inflation beginning in year 4)
- Registration fees – 50 percent increase (estimated $165 million in net new revenues)
- Titling tax – increase to 6.5 percent or eliminate trade-in allowance (estimated $70 million in net new revenues)
- Maryland Transit Administration (MTA) transit fares – various fare increases to all modes and elimination of free passes in order to achieve a 35 percent farebox recovery ratio (estimated $26 million in net new revenues)
- Vehicle Emissions Inspection Program (VEIP) fee – increase to $28 (estimated $22 million in net new revenues)
- Other Motor Vehicle Administration (MVA) fees – various increases (estimated $34 million in net new revenues)

These potential revenue components for the consideration of the Governor and General Assembly include a variety of revenue sources from which to select to achieve the recommended level of annual net new funding. Together, they will raise approximately $870 million at full implementation. The Commission further recommends that should any other taxes and charges be considered that they also be tied to beneficiaries of the transportation system. The Commission specifically recommends a motor fuel tax increase be included in any package of revenue sources and that the motor fuel tax increase be phased in over several years. Other revenue sources included in the package of revenues could be implemented in full from the outset. The Commission recommends that the motor fuel tax be indexed so that it can adjust with inflationary aspects of the economy. The indexing methodology should incorporate a floor and a ceiling. Please refer to Attachment 5 for additional information on state transportation funding and specifically the motor fuel tax.

(3) **Restore the Annual Highway User Revenues to the Local Governments.** The Commission recommends that Highway User Revenue (HUR) funding for localities, which includes counties, municipalities, and Baltimore City, be incrementally returned. Previously, local governments received a larger portion of HUR. More recently, a portion of these funds has been diverted to the State's General Fund.

(4) **Study Regional Transit Financing Authorities.** The Commission recommends that regional transit financing authorities be studied as a potential means to generate additional revenue to supplement current funding to meet growing transit funding needs throughout the State. The Commission recommends that the concept of regional transit financing authorities be studied not for purposes of operating transit service but as financing structures. These authorities would allow for a variety of funding sources to be merged for the purposes of funding transit to support critically needed transit investments. Regional funding support will promote regional cooperation on transit issues.

(5) **Reach the Transit Cost Recovery Ratio Goal of 35 percent.** The Commission recommends that MTA reach the cost recovery ratio goal of 35 percent (currently, the percentage recovery is approximately 29 percent). The farebox recovery ratio of a passenger transportation system is the proportion of the amount of revenue generated through fares by customers as a percentage of the cost of its total operating expenses. In Maryland, the operating costs of the transit system have outpaced fare revenues, thus reducing the farebox recovery ratio. Historically, MTA has been subject to requirements that a certain percentage of operating expenses for the system be recovered from farebox revenue. In 2008, the farebox recovery requirement was set at 35 percent. Several options for meeting the goal have been discussed and are in the process of being implemented by MTA. The Commission recommends that these pursuits be continued and additional efforts be taken to track and control rising costs and to generate revenues that exceed the rate of growth in spending, including through improvements to ridership and the efficiency of the system.

(6) **Establish a Methodology for Regular Adjustment of Transit Fares to Keep Pace with Inflation**. The Commission recommends that transit fares be adjusted regularly to account for increases in inflation and, in part, to recover ever increasing operating expenses that outpace growth in ridership. The Commission recommends that MDOT and MTA explore, in particular, options such as indexing that would regularly adjust fares.

(7) Eliminate Non-paying Transit Ridership. The Commission recommends that MDOT and MTA reverse certain agreements with various non-profit entities for free ridership. These agreements have been established over time and do not reflect the current transportation funding difficulties now faced by the State. The Commission recommends that some of these social service programs could be encouraged and supported by State agencies through the General Fund or local jurisdictions. This recommendation includes elimination of free transit for State employees, which is currently subsidized by the Transportation Trust Fund.

(8) Increase Bonding Capacity Commensurate with Revenue Adjustments. The Department is able to leverage its revenue streams by issuing debt. Historically, MDOT has bonded to finance a portion of the transportation program. The bonds are supported by the taxes and fees in the Transportation Trust Fund and are not backed by the full faith and credit of the State of Maryland. The aggregate amount of outstanding principal for these bonds is restricted by State statute. This limitation on transportation bond borrowing should be raised to a suitable degree to allow for the increase in bonding capacity the new revenues will provide. The amount of the new limit should be consistent with the level of debt MDOT can issue as determined by its debt service coverage ratios. These ratios are used by the Department to plan bond sales in accordance with established guidelines to maintain its high credit ratings.

(9) Remove Cost Recovery Cap for Motor Vehicle Administration Fees. The Commission recommends that the existing cap on MVA fees be removed to facilitate raising potential revenue through the full range of user fee-based mechanisms for transportation uses and projects. Under current law, MVA's miscellaneous fees revenue must cover 95-100 percent of operating and capital costs. According to current law, if revenue exceeds 100 percent of expenses, MVA must reduce its fees. Thus, MVA is not in compliance with the statutory requirement if it fails to remain within the narrow 95-100 percent cost recovery window. While legislation enacted in the 2011 legislative session enabled some traditional MVA revenues to be credited to the Transportation Trust Fund, compliance with the cost recovery cap was maintained. The cap, therefore, continues to limit revenue generation as well as hinder MVA's flexibility. In addition, as MDOT continues to manage its costs and seek options to generate sufficient revenues, the cap prevents consideration of MVA fee revenue in the total MDOT funding solution. The cap should be removed to provide an additional stable revenue source, provide MDOT the flexibility to manage its resources, and enhance its toolbox of options.

(10) Implement Tolls on Portions of Maryland Transportation Authority Roadways Where No Toll is Currently Collected. The Commission recommends that MDTA review their roadways for the potential to toll currently un-tolled portions of these roadway segments (e.g., inability to place tolling infrastructure throughout the long lengths of roadways). The Commission recommends that tolls be implemented where feasible on the un-tolled portions of these roadways to cover costs to the greatest extent possible within the constraints of travel demand and toll collection mechanics.

(11) Explore Application of Possible Additional Tolls on New Facilities or New Capacity of Existing Facilities in Conjunction with Variable Pricing Techniques Facilitated by Recent Technology. The Commission recommends that MDOT and MDTA explore the ability to generate additional toll revenues via more sophisticated tolling and pricing practices such as high-occupancy tolls, congestion-based tolls, and managed lanes on new and existing facilities when adding capacity. As recently implemented on the Inter-County Connector, technology now permits charging variable pricing based on time of day and congestion levels. The Commission recommends that each of Maryland's existing toll facilities be evaluated for the potential to earn additional toll revenues from such pricing strategies, as well as other new or existing facilities when adding capacity that might benefit from this type of tolling opportunity.

(12) **Facilitate Goods Movement and Expand Investment in Freight Infrastructure Through Additional Revenue Mechanisms.** The Commission recommends that the State take action to facilitate greater investment in freight. The economic strength and success of a region is dependent upon the quality and capacity of its freight infrastructure. Neighboring states are taking aggressive action to improve goods movement. The State should consider innovative funding mechanisms to expand the pool of revenues for direct investment, incentives for private investment, and federal matching funds to help alleviate bottlenecks and address goods movement issues around the State.

ISSUE AREA III: Facilitate Smart Growth by Investing in Transportation in Growth Areas

Context: Overview of Smart Growth and Transportation Investment in Maryland

Smart growth concentrates new development and redevelopment in areas that have existing or planned infrastructure to avoid sprawl. Smart growth is sustainable and is characterized by compact, transit-oriented, bicycle-friendly land use, with neighborhood schools, walkable streets, mixed-use development and a wide range of housing choices. Its purpose is to conserve valuable natural resources through the efficient use of land, water and air; foster economic development and job growth in towns and cities (designated growth areas); expand transportation, employment, and housing choices; distribute the costs and benefits of development in an equitable manner; and promote public health. Smart growth has four primary goals:

- Support existing communities by targeting resources to support development in areas where infrastructure exists
- Save the most valuable natural resources before they are forever lost
- Save taxpayers from the high cost of building infrastructure to serve development that has spread far from our traditional population centers
- Provide Marylanders with a high quality of life, whether they choose to live in a rural community, suburb, small town, or city

In 1997, the Maryland General Assembly passed the Smart Growth and Neighborhood Conservation Act which law created Priority Funding Areas (PFAs). The PFA law requires that the State's major capital spending be directed to existing communities and other areas where local governments and the State want economic development and new growth to occur. PFAs provide target areas in which to more effectively focus state, local government, and private sector land-use decisions and resources to achieve better return or cost savings on investments.

Recommended Actions:

The Commission recommends the following actions with regard to the facilitation of smart growth via transportation investment.

(13) Establish a Strategic Framework for Transportation Investment Decisions to Ensure Transportation Infrastructure Investments Support Growth Areas and Preserve Rural Areas. The Commission recommends that transportation decision-making processes and incentives be established that are tied to economic vitality, job growth, smart growth and land use policies, including the State's smart growth policies. Strategic investments in transportation are an important part of defining and closing funding gaps, as well as promoting a healthy economy. The Commission recommends that the decision-making framework define obligations, roles, and responsibilities; seek to reduce future expansion and maintenance costs; aim to achieve multiple state policy goals; and result in a better return on investments. A clear and well-devised investment strategy will reassure Marylanders that existing new transportation revenues will be spent wisely.

(14) Work Cooperatively with Local Governments to Ensure County and Municipal Plans Reflect the State's Overall Growth Policies. County and municipal comprehensive plans are where most land use decisions are made. The Commission recommends that the State work closely with localities to ensure that, to the greatest extent possible, the State's overall growth policies and the planning visions are adhered to as a guide for decision-making at all levels of government. It is vital that the State be economically competitive with nearby states.

ISSUE AREA IV: Explore Policies and Legislation to Facilitate Value Capture

Context: Overview of Value Capture

Value capture is a tool that can be used by public entities to fund investments in infrastructure, services or other amenities by "capturing" the additional land value that these expenditures create for private property owners and developers. Research has corroborated the property value gains associated with transportation investments. These increases provide an opportunity for public sector entities, and more specifically transportation providers, to share in the value created. Recouping some of the property value gains from public investment in transport can provide a viable means to help pay for or offset infrastructure costs. Value capture tools can be segmented into two categories: project-specific tools and programmatic tools, as follows:

1. *Project Specific.* Applied to specific development projects.
   - Special assessments,
   - Tax increment financing,
   - Developer contributions (development impact fees), and
   - Joint development.
2. *Programmatic.* Applied system-wide for multiple development projects.
   - Land value taxes,
   - Split rate taxes, and
   - Transportation utility fees.

Unlocking increased land values and development potential through value capture mechanisms is not new to Maryland. However, to date in Maryland there has not been a comprehensive statewide coordination of local value capture programs or strategic planning to deploy such programs broadly or systematically. Local jurisdictions in Maryland have legal authority to use tax increment financing (TIF) and special taxing districts to finance capital projects. In 2009, this authority was expanded to projects that are designated as transit-oriented development (TOD). The new authority includes: (1) the ability to use special taxing districts to finance public infrastructure owned by the State as opposed to owned by the locality; (2) the use of special taxing districts to directly fund the construction, operations, and maintenance of public infrastructure rather than simply finance construction; (3) the use of any and all local taxes to support a TIF bond rather than just the local real estate tax; and (4) the ability to use the Maryland Economic Development Corporation (MEDCO) to issue TIF bonds. These new powers are limited to designated TOD projects except that MEDCO had existing authority to issue TIF bonds in Baltimore City.

Recommended Actions:

The Commission recommends the following actions with regard to potential expansion of the use of value capture for transportation investment.

(15) Identify Opportunities for Value Capture and Integrate Value Capture Analysis into Transportation Decision-making Process. The Commission recommends that a systematic approach be developed to enable consideration of value capture strategies as an additional revenue source that could supplement existing revenue sources for transportation. Whether MDOT determines that value capture strategies should be implemented on a "project-by-project" basis or as a systematic approach integrated into MDOT's capital budgeting and project selection process, the Commission recommends that value capture be considered both early and throughout a project's development.

(16) Recognize Value Created by State Transportation Investments for Local and Private Entities and Work Collaboratively to Capture this Value to Help Facilitate Transportation Investment. The Commission recommends that MDOT work closely with local governments and the private sector to incorporate the means by which to resolve competing priorities for value capture revenues into decision-making processes. The benefits of the transportation project to the entities involved should be given careful review relative to the risks and compromises being made. The Commission also recommends that local revenues, such as increased property taxes, that result from a State transportation project be reviewed for incorporation into the State's value capture program.

(17) Seek Legislative Authority to Apply Tax Increment Financing Support to Highway Project Development, as Currently Provided for Targeted Transit Investment. The Commission recommends that the omission of highway projects from current legislative authority regarding TIF revenues be remedied. The Commission further recommends that highway projects be incorporated to provide maximum flexibility and options in developing financing solutions for transportation projects. The Commission recommends that legislation be adopted to remedy the omission and also that associated policies and procedures be developed. These policies and procedures also should incorporate the use of special assessments and development impact fees where appropriate.

ISSUE AREA V: Explore Policies and Legislation to Facilitate Partnerships to Enhance Transportation Investment

Context: Overview of Public-Private Partnerships and Financing Tools

Given the financial challenges facing transportation in Maryland, partnerships are a viable option to creatively infuse additional dollars into transportation investments. Such partnerships can be public-private—between a public agency and the private sector— or public-public—such as between a state agency and a locality.

Public-private partnerships (P3s), increasingly used across the United States, refer to contractual agreements formed between a public agency and private sector entity that allow for greater private sector participation in the delivery of transportation projects. Traditionally in Maryland, with a few exceptions, private sector participation has been limited to separate planning, design, or construction contracts on a fee-for-service basis—based on the public agency's specifications. Expanding the private sector role could allow public agencies in Maryland to tap private sector technical, management, and financial resources in new ways to achieve public objectives such as greater cost and schedule certainty, supplementing in-house staff, innovative technology applications, specialized expertise, and access to private capital. To make these P3 projects work in Maryland, the P3 process needs to be fast, efficient, and predictable.

Public-private partnerships can provide benefits by allocating responsibilities to the party—either public or private—that is best positioned to control the activity in a manner that produces the desired result and does so most efficiently and cost-effectively. Under the right conditions, P3s have the potential to provide a wide array of benefits beyond risk sharing, including application of advanced construction techniques, operational efficiencies, and access to an expanded set of financing sources. P3s would not, however, provide a reliable and consistent revenue source for the Transportation Trust Fund. Therefore, P3s would not eliminate the need for an underlying revenue source, either conventional state and federal sources or alternative mechanisms such as tolls or other user fee mechanisms.

Maryland does not have a single, centralized enabling statute expressly authorizing transportation P3s. Instead, an often confusing collection of overlapping laws, regulations, and opinions guides the implementation of transportation P3s in Maryland. Maryland established by regulation a Transportation Public-Private Partnerships Program (TP3) for non-highway projects (Md. Code Regs §§11.07.06.01 to 14 and Md. PPP Guidance), under the statutory authority of sections 4-205 and 4-312 of the Transportation Article. A State Attorney General 1996 opinion also states that MDTA is authorized to enter into P3s for toll highways under these and other provisions (MD 81 Op. Attorney Gen. 261, issued 2/2/96). State statute now implicitly acknowledges this interpretation by addressing oversight and reporting requirements for transportation P3s, including tolled projects (Md. Transportation Code Ann. §4-406).

While MDOT does have the authority to enter into P3s, lease agreements specifically are subject to approval by the Board of Public Works (Md. Transportation Code Ann. §4- 406(f)). During the P3 evaluation and implementation process, MDOT also is required to submit several reports for review and comment to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, the House Appropriations Committee and/or the Department of Legislative Services. (Transportation Code Ann. §4-205 and §4-406—the latter under legislation enacted in 2010 [Senate Bill 979 and House Bill 1370; 2010 Md. Laws, Chap. 640 and Chap. 641]). The Board of

Public Works is not authorized to approve a P3 agreement until the budget committees have had 30 days to review and comment on the required analysis reports.

While the current P3 process allows for flexibility, it also has the potential to create a high level of uncertainty for the State's private partners. Such uncertainty could deter private sector interest in future partnerships. A clear and streamlined process that is predictable and reliable to the private sector, while retaining a certain degree of flexibility, is required to have competitive and timely negotiations.

Loan funds and other financing tools can be utilized effectively to help facilitate both local and private investment in transportation. Revolving loan funds (RLFs) have been established by several states to help fund transportation infrastructure. The primary benefit of providing loans to projects is that loan repayments are recycled for future generations of projects. State Infrastructure Banks (SIBs) are RLF programs for transportation that were initially authorized by the 1995 federal transportation legislation, the National Highway System Designation Act. This legislation provided states with initial funding for the SIBs which is essential for providing loans.

A SIB or RLF, much like a private bank, can offer a range of loans and credit assistance enhancement products to sponsors of transportation projects. SIBs or RLFs can give states the capacity to make more efficient use of transportation funds and leverage resources. A SIB or RLF, like a private bank, needs capitalization funds to get started. After an initial round of loans, the SIB or RLF can use the subsequent repayments to fund a future generation of loans. In addition, in order for a SIB or RLF to be successful, a strong pool of potential borrowers with repayment options is needed.

Currently, 32 states have SIBs and several additional states have other forms of RLFs that were initiated entirely with state funds. Maryland, to date, has not established a SIB or RLF explicitly for transportation purposes. MDOT relies on other sources of funding and financing including the Transportation Trust Fund, bonding, MDTA conduit financing, and MEDCO. In order for Maryland to establish a SIB or RLF, new statutory authority would most likely be required to issue loans and provide other forms of credit assistance, possibly to fund local roads not traditionally funded by MDOT, and possibly to facilitate repayment sources by local governments.

In addition to SIBs or RLFs that exist at the state level, Congress is currently considering a variety of proposals for a national infrastructure bank (NIB). Some proposals provide for a bank that will only assist transportation projects while other proposals seek to assist a broader range of infrastructure projects. In addition, some proposals only provide loans while others provide a combination of grants and loans. Several policy decisions would need to be addressed if a NIB is implemented, including the source of capitalization, priorities for funding, and who makes the decisions about investments, among others. For Maryland, a NIB could provide a source of flexible financing for projects of national interest but securing funds through a national program would be highly competitive.

Recommended Actions:

The Commission recommends the following actions with regard to potential expansion of the use of partnership mechanisms and financing tools to facilitate such partnerships and greater transportation investment:

(18) Establish Centralized Enabling Legislation for Public-Private Partnerships Outlining Efficient and Timely Legislative Reviews. While MDOT does have the authority to enter into transportation P3s, the State does not yet have a formal, comprehensive P3 enabling legislation. Such enabling legislation should be enacted to clearly promote a balanced approach to transportation P3s throughout the State and serve as the primary, centralized reference for transportation P3 statutory requirements. This enabling legislation need not be limited to transportation and may be extended to other forms of public infrastructure as deemed necessary. It should be relatively high level in scope, recognizing that each State agency will likely develop more detailed process and implementation regulations to meet their specific infrastructure development needs. In addition, the enabling legislation should allow for flexibility in the solicitation process, including but not limited to a process for requests for qualifications as well as requests for proposals. This enabling legislation should be flexible but include the following key components:

a. **Retain existing definition of public-private partnerships but add key distinctions between different types.** Public-private partnerships are defined in Chapter 641 of the Acts of Maryland, 2010 as "a sale or lease agreement between a unit of State government and a private entity under which the private entity assumes control of the operation and maintenance of an existing State facility; or the private entity constructs, reconstructs, finances, or operates a State facility or a facility for State use and will collect fees, charges, rents, or tolls for the use of the facility." This general definition is reasonable and should be retained in any future enabling legislation; however, distinctions between different types of P3s should be useful in recognizing that there tends to be a spectrum of public and private relationships. For instance, some proposed P3s may have a more significant impact on State debt, revenues, or budget and would be evaluated accordingly. Other P3 proposals may have a lesser impact on the State, thus requiring a streamlined, less onerous review process. In addition, the Commission wishes to ensure that all appropriate payments associated with the use or functionality of the facility are included in the definition beyond fees, charges, rents, or tolls.

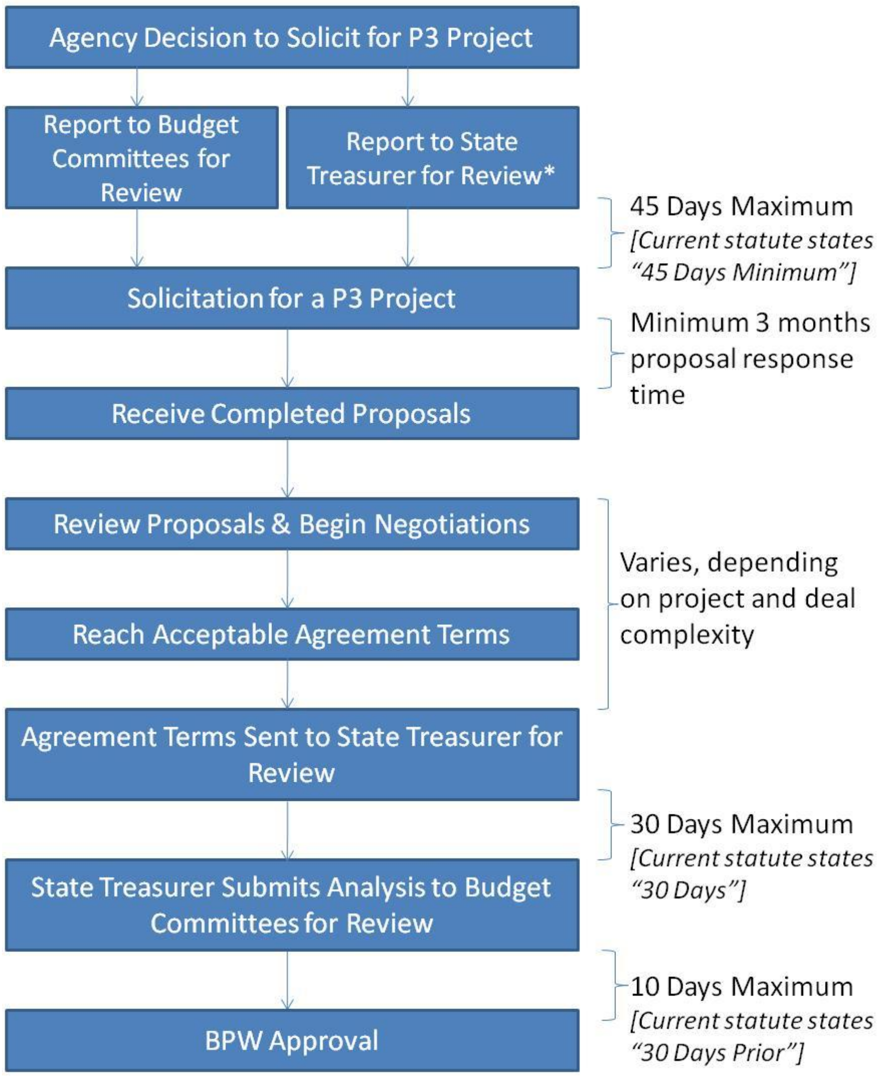
b. **Present a clear statement of motives with respect to public-private partnerships.** Any enabling legislation should clearly outline the reasons for enabling P3s in the State. Such justification should include but not be limited to:
   - Importance of sufficient quality public infrastructure to the State's economic, social, and environmental well-being
   - Increasing budget pressures and related challenges to the sufficient provision and maintenance of public infrastructure
   - Numerous and growing unfunded infrastructure project needs
   - Ability to enhance provision of sufficient quality public infrastructure on a timely basis

c. **Present a clear statement of expected/required benefits with respect to public-private partnerships.** Public-private partnerships should only be sought when the combination of benefits outweighs the additional implementation burdens. Potential benefits include:
   - Expedited project completion
   - Cost savings
   - Risk transfer to private parties
   - Net new revenue, including via financing backed by user fees for all or a portion of capital construction costs
   - State-of-the art techniques for project development and/or operation
   - Efficiency of operations and maintenance via innovative management techniques
   - Expertise in accessing and organizing the widest range of financial resources, including but not limited to new sources of private capital

d. **Establish an efficient and timely legislative review process.** Enabling legislation should establish a predictable process indicating at what specific stages in the process reviews will be needed and the appropriate timeline for such briefings or report submissions and response. Legislative review should be provided for at an early stage in the process, prior to issuing a notice of solicitation, and prior to final Board of Public Works approval. Excessive time spent on reviews, especially near the latter stages of the negotiations process, would negatively impact the value of the P3 to the State and would be perceived as a deterrent by the private sector. After successful negotiations have been achieved, it is typically in the best interest of all parties to finalize agreements and any necessary transactions as quickly as possible.

   For any of the designated review periods, the permitted period of time for response should be clearly indicated to provide for predictability. A maximum 45-day review period is reasonable early in the process prior to issuance of a solicitation, with a shorter review period, lasting no more than 10 days, during the latter negotiations stages, as the last review prior to Board of Public Works approval. If the requested response is not provided before the end of the designated review period, implicit support has been provided enabling the P3 process to continue onward. Key review periods should be established as maximum amounts of time allowed for review, not minimums. A flow chart of the Commission's recommended P3 process and associated review timeframes is provided on the following page.

Recommended P3 Review Process



The number of parties participating in the review process should be kept to a manageable number. Currently, the Senate Budget and Taxation Committee, the House Committee on Ways and Means, the House Appropriations Committee, and the Department of Legislative Services all serve important roles in the reviews process. Additional review requirements would hinder timely completion of beneficial P3 arrangements.

e. **Set firm guidelines for confidentiality and public disclosure.** Protection of proprietary information should be a core component of P3 enabling legislation. A private partner may indicate certain information as confidential and establish boundaries for the release or disclosure of key information, especially in the time period prior to contract award.

f. **Establish clear parameters for public-private partnership evaluation framework and agreement structures.** Key parameters should be established for evaluating P3s, while maintaining flexibility for each P3 to be independently negotiated. MDOT has identified the following parameters where specific policy direction would be beneficial to the State:

- **Set Maximum Terms and Potential Exceptions.** Any mandated maximum term should be long-range to allow the flexibility needed to set a term length that reflects the economics of the project. For instance, P3 contracts should be limited to 50 year term lengths, with extensions subject to legislative approval.
- **Non-Compete Clauses.** P3 agreements should prohibit a private partner from hindering the development or construction of any potentially competing facility that was planned at the time the agreement was executed. This essentially prohibits most non-compete measures. However, an agreement may provide for reasonable compensation to the private partner for adverse effects on revenues resulting from the development or construction of a then-unplanned facility.
- **Proprietary Information and Trade Secrets.** Protection of proprietary information and trade secrets is critical to the private sector. The review and ongoing oversight process should be designed to fully protect the confidentiality of sensitive private sector information.
- **Potential State Revenue Sharing When Applicable.** All forms of revenue sharing, either by upfront payments for the rights, a share of the ongoing revenue stream, or a share in the excess net (or gross) income over certain targets, should be explored in every P3 project. The economic variables of the transaction will ultimately determine the most feasible combination of options.
- **Use of Proceeds.** Proceeds from P3 agreements should be dedicated to whichever State fund revenues from the project would have originally gone to (i.e., revenues from a P3 contract for a transportation project should be dedicated to transportation). Maryland's citizens, residents, and businesses alike expect that taxes and fees assessed for using the transportation system will be used to maintain and expand that system.
- **Comprehensive Contract Conditions Regarding Future Fees or Rate Adjustments.** P3 agreements should contain comprehensive contract conditions regarding future fee or rate adjustments, although the specific methodology should offer flexibility on a per-project basis.
- **Managing State Debt Exposure While Maintaining Ability to Include State Funds or Debt.** The option of State funds or debt mechanisms should be available for use in P3 projects. They may be advantageous for specific projects to achieve the most cost-effective financing needed for a successful project. This should be done in a manner that insulates the State and limits obligation for debt repayment to the private entity.
- **Oversight, reporting, and performance measurement requirements.** Ongoing contract oversight, reporting, and performance measurement is crucial for successful P3 project implementation. Provisions for these should be included in all P3 agreements.
- **Provisions for Ongoing Maintenance by Private Contractor.** P3 agreements should include provisions for ongoing maintenance of the facility. Generally, that maintenance should be the responsibility of the private contractor, with the potential for the State to perform maintenance activities on a reimbursable basis.
- **Remedies in Case of Default.** All P3 agreements should include remedies in case of default. Such remedies would be tailored to each transaction and would not be predetermined by policy or statute.

(19) Revise the Transportation Public-Private Partnership Program Process. Since the establishment of the Transportation P3 Program in 1997, any Maryland transportation agency could consider unsolicited proposals and engage in the formation of a P3. However, one exception was noted—no agency could accept unsolicited proposals for a P3 related to highway infrastructure. Although this exception still holds true, it has been recognized that the use of P3s nationally to provide citizens with needed highway projects is growing. Other states do accept unsolicited highway P3 proposals and MDOT has made a concerted effort to understand how this is implemented, including publishing a study on current practices in highway P3s. At the same time, it has been found that the existing transportation P3 process does not provide the most effective framework for evaluating and implementing a wide range of transportation P3 projects. The Commission recommends that MDOT should further evaluate its current transportation P3 process, taking input from stakeholders into consideration, and adjust as necessary to allow the program to most effectively meet the State's infrastructure finance needs.

(20) Identify Future Public-Private Partnership Opportunities and Integrate Public-Private Partnership Screening Analysis into Existing Transportation Decision-making Process. P3s should be considered beginning in the early stages of a transportation project's development. This would support a more comprehensive, programmatic approach to P3s. The Department should incorporate an analysis of the benefit of utilizing P3s for project implementation and delivery throughout the phases of project development to determine applicability. In addition to expanding the potential for P3s to highway projects, P3s should be considered for a broad range of project types including, but not limited to:

1. Transit (e.g., bus and rail)
    - Transit stations and associated parking (lots and garages)
    - Transit maintenance facilities
2. Freight Mobility
    - Freight rail
    - Truck facilities
    - Terminal/berth facilities at the Port
    - Intermodal facilities
3. Aviation
    - Air cargo facilities
    - Parking and shuttle networks
4. General
    - IT systems
    - Other real estate/joint development opportunities

An ongoing list of high priority potential P3 projects should be maintained and re-evaluated on a regular basis.

(21) Engage Specialized Expert Assistance in the Development of a Transportation Public-Private Partnership Program. In Maryland, consultants specializing in P3s have typically been engaged by State transportation agencies on a project-by-project basis. These experts have guided the State through the solicitation, evaluation, negotiation, and deal closure steps of specific P3 projects. However, their expertise has not yet been employed in the actual development of a comprehensive, forward-looking, statewide program for transportation P3s in Maryland. A longer term, program-level consultant relationship could be more cost effective than an ad hoc approach and could allow MDOT to respond to priorities more quickly. A consultant that is already fully familiar with the State transportation program and infrastructure goals could also provide invaluable insights during all implementation stages of specific P3 projects. Tasks could include, but are not limited to:

- Identification of P3 opportunities statewide
- Review and revision of existing transportation P3 process
- Development and implementation of preliminary screening analysis for P3 project concepts
- Evaluation and development of supplementary tools, such as a transportation RLF
- Seamless guidance throughout various stages (feasibility analysis, solicitation, evaluation, negotiation, completion, ongoing oversight) of specific P3 projects

(22) Assess the Feasibility of Loaning State Funds to Localities and to Private Project Sponsors in Order to Facilitate Transportation Investment. The Commission recommends that given current funding constraints and recent federal proposals in support of infrastructure banks, the State should engage local and private sector stakeholders and fiscal leaders in the General Assembly to determine if there is market demand for loans. The Commission recommends that this initial feasibility assessment include an assessment of the types of financing instruments that could be utilized, including a SIB based on the federal program or a state-only funded RLF. This assessment should include the identification of potential capitalization sources (federal, state, local, and private) to provide the initial infusion of funding to the bank or loan fund. The State also should specifically consider the implications of such a program for future P3 initiatives. If changes to the SIB program are enacted at the federal level, such as the ability to capitalize with additional federal funds, Maryland should have the State legislative authority in place to establish a SIB and receive any provided capitalization.

In addition, the Commission recommends that MDOT pursue statutory authority to loan funds to localities for local transportation needs. This statutory authority could be part of legislative authority to establish a SIB or RLF or could be separate for one-off loans that are not part of a broader loaning program.

(23) Prepare to Take Advantage of Any National Infrastructure Bank Legislation. The Commission recommends that as Congress debates federal transportation funding legislation, Maryland should prepare itself to best take advantage of any proposals that are enacted. If a NIB is enacted, Maryland should be ready with projects that would be candidates for such loans.

V. Concluding Comments

The economy and the quality of life of the people of Maryland depend on a safe and reliable transportation system. Continued deterioration of Maryland's infrastructure will only serve to hurt an economic recovery in Maryland. Alternatively, investment in transportation will yield great economic benefits for the State.

The Commission is mindful of national efforts to develop a long-term and sustainable means of funding transportation. In addition to the recommendations contained in this report, the Commission encourages the State and the Maryland Department of Transportation to continue to identify and evaluate opportunities to ensure long-term funding sustainability and to stay engaged in related developments at the national level. These areas of study include the following, among many others:

- Development of revenue mechanisms that are directly tied to use of the transportation system, and that take into account the transition to alternative fuels (e.g., electric vehicles) and enhanced fuel economy (e.g., hybrid vehicles), commonly referred to as mileage-based or vehicle miles traveled (VMT) charges
- Consideration of energy taxes as an alternative or additional funding approach in conjunction with electric vehicle penetration
- Development of revenue mechanisms to help fund critical freight infrastructure, such as container fees, weight-distance taxes, and so forth

Benefits the State will reap from the transportation funding increase called for in this Report include:

- Near and longer-term job creation
- Greater overall economic competitiveness derived from a more state-of-the-art transportation system
- A more reliable and functional transportation system vital to quality of life
- Reduced dependence on uncertain federal funding
- Enhanced mobility and expanded transportation choices for Marylanders throughout the State
- Contributions to meeting the State's environmental objectives, including through reduced emissions from congestion reduction and expansion of transit alternatives as well as Chesapeake Bay protection investments to address transportation-related water quality impacts
- Responsible asset management

The Commission recognizes that there is no silver bullet to solve our transportation funding crisis and is mindful of the impacts that raising taxes and fees will have on Maryland's citizens and businesses. The Commission contends, however, that the consequences of not investing in infrastructure will have even greater costs and further sacrifices to the State's competitive stance within the region and the quality of life of its residents.

Attachments:

1 - Membership of the Blue Ribbon Commission
2 - Transportation Trust Fund: Transfers to/from General Fund
3 - Historic & Illustrative Uses of Additional Funds to the Transportation Trust Fund
4 - Menu of Revenue Options
5 - Additional Information on State Transportation Funding

Attachment 1. Membership of the Blue Ribbon Commission

The Blue Ribbon Commission is a twenty-eight (28) member Commission representing various transportation, economic, and environmental interests from around the State of Maryland, as required by law and outlined in the table below. Governor O'Malley appointed Mr. Gus Bauman as Chairman of the Commission. The Maryland Department of Transportation provides staff support.

Legislative Membership Requirements	Name
Business Community; two of whom represent statewide or regional organizations (3)	Gus Bauman (Chairman)
	Donald C. Fry
	Mark Friis
Transit Community (2)	Michele Whelley
	Gary Messman
Environmental Community; one of whom with a background in Smart Growth (2)	Robert J. Etgen
	Fred Tutman
American Automobile Association (1)	Lon Anderson
Freight Rail Industry (1)	Jennifer W. Macdonald
Motor Carrier Industry (1)	Don Bowman
Maryland Association of Counties (2)	Ken Ulman
	Edith Patterson succeeded by Candice Quinn Kelly during effective period of Commission
Transportation Construction Industry (1)	Stella May Miller
Maryland Municipal League (2)	Judith F. Davis
	Diane Foster
Labor Unions (2)	Jackie Jeter
	Dennis Martire
Rural Areas of the State (2)	Sharon Clark
	Monty Pagenhardt
Washington Metropolitan Area Transit Authority (1)	Elizabeth "Betty" Hewlett succeeded by Alvin J. Nichols during effective period of Commission
Senators (2)	Robert Garagiola
	Nathaniel McFadden
Delegates (2)	Tawanna P. Gaines
	Carolyn J. B. Howard
Secretary of Transportation	Beverley K. Swaim-Staley
Secretary of Budget and Management	T. Eloise Foster
Secretary of Business and Economic Development	Christian S. Johansson
Secretary of Planning	Richard E. Hall

Attachment 2. Transportation Trust Fund: Transfers to/from General Fund

MDOT Funds

FY	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 Fund (Savings and Loan) (2)	
1987		$15 million (partial payback of $129 million)
1988	$ 31 million (MEDEVAC Helicopters) (3)	$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) (4)	$12 million (final payback of $129 million)
1992	$ 48.0 million (Budget Shortfall) (5)	
1993	$ 14.3 million (Driver's Education Account) (6)	
	$ 3.8 million (Early Retirement Veto – 111 PINs) (7)	
1994	$ 1.3 million (Early Retirement Veto – 46 (PINs) (8)	
1995	$ 6.5 million (MEDEVAC Helicopters) (9)	
1997		$ 6 million (Failure of Fuel Efficiency Legislation) (10)
1998		$21 million (Failure of Fuel Efficiency Legislation) (10)
1999		$15 million (Failure of Fuel Efficiency Legislation) (10)
2001		$25 million (Woodrow Wilson Bridge/Addison Road Metrorail Extension) (11)
		$10.2 million (land adjacent to Greenbelt Metro) (12)
2002		$23.1 million (Share of rental car sales tax paid as part of transit initiative) (13)
2003	$160 million (Budget Shortfall) (14)	
2004	$155 million (Budget Shortfall) (14)	
2006		$50 million (repayment of $315 million transferred in 2003/2004)(14)
2007		$53 million (Repayment direct to MdTA for ICC) (14)
2010		$55 million (Repayment direct to MdTA for ICC) (14)
2011		$89 million (Repayment direct to MdTA for ICC) (14)
		(Final repayments of $46 million scheduled in 2012 and $22 million scheduled in 2013) (14)
TOTAL	**$571.1 million**	**$544.3 million**

Local Government Funds

Fiscal Year	Transfers from the Trust Fund to the General Fund	Transfers from the General Fund to the Trust Fund
2003	$ 17.9 million from HUR Local Portion	
2004	$102.4 million from HUR Local Portion	
2005	$102.4 million from HUR Local Portion	
2006	$ 48.5 million from HUR Local Portion	
2007		
2008		
2009		
2010	$303.7 million from 19.5% of HUR (15)	
2011	$372.6 million from 23.0% of HUR (15)	

($189 million from 11.3% of HUR scheduled in 2012) (15)

Transportation Trust Fund: Transfers to/from General Fund (continued)

(1) Authorized by Chapter 62, Acts of 1983. Preamble specified future GF repayment.

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

(3) Chapter 291, Acts of 1987 authorized creation of this fund in conjunction with the motor fuel tax increase enacted the same year. Funds did not come directly from the TTF.

(4) Authorized by Chapter 470, Acts of 1991. Funds were transferred to reduce GF shortfall. The statute contains no reference to GF repayment.

(5) Authorized by Chapter 62, Acts of 1992. Funds transferred to balance the GF budget. The statute contains no reference to GF repayment.

(6) Authorized by Chapter 269, Acts of 1992. Funds transferred to balance the GF budget. The statute contains no reference to GF repayment.

(7) Authorized by Chapter 269, Acts of 1992, and Chapter 64, Acts of 1992 (Fiscal 1993 Budget Bill). All abolished positions from any special fund were transferred to the GF, without mention of GF repayment.

(8) Authorized by Chapter 204, Acts of 1993, and Chapter 8, Acts of 1993 (Fiscal 1994 Budget Bill). All abolished positions from any special fund were transferred to the GF, without mention of GF repayment.

(9) Funds provided from the TTF via budget amendment #026-95.

(10) Payment outlined in Chapter 204, Acts of 1993 to make up for the loss of $72 million from failure of legislation relating to the fuel efficiency surcharge. The full $72 million which would have been received during the six-year forecast period included.

(11) The Governor proposed an aggregate transfer of $360 million during fiscal 2001-2005 to supplement the TTF for the State's share of constructing a new Woodrow Wilson Bridge and a Metro extension from Addison Road to the Largo Town Center. Continued transfers in fiscal 2002-2005 were contingent on the availability of general funds. Due to the budget shortfall in those fiscal years, no additional general fund support for these projects was provided.

(12) A deficiency appropriation transferred $10.2 million from the Sunny Day Fund to the Dedicated Purpose Fund (DPF) to reimburse MDOT for the purchase of land adjacent to the Greenbelt Metro station.

(13) 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.

(14) The fiscal 2003 budget reconciliation bill enacted transfers totaling $315 million from the TTF. The Budget Reconciliation Act required transfer of $50 million from the GF to the TTF in fiscal 2006. The remaining funds for repayment will be transferred from the GF direct to the MdTA to support the ICC.

(15) The following chart shows the distribution of highway user revenues for fiscal years 2010 through 2014.

	FY10	FY11	FY12	FY13	FY14 on
MDOT	70.0%	68.5%	79.8%	90.0%	90.4%
General Fund	19.5%	23.0%	11.3%	0.0%	0.0%
Baltimore City	8.6%	7.9%	7.5%	8.1%	7.7%
Counties & Municipalities	1.9%	.6%	1.4%	1.9%	1.9%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Maryland Department of Transportation

Attachment 3 – Historic & Illustrative Uses of Additional Funds to the Transportation Trust Fund

Description of item	Annualized Average Funding level in millions	What this is
MDOT System Preservation Restoration	$100	Difference from MDOT's goal to what is now funded (2010 - $864M, CTP 2011 - $753) • Hwy Maintenance @ gross cost of $8,700/lane mile @ 388.1 lane miles added/yr = $3.3M/yr over 10 years = $33M
WMATA facility upgrades	$140	From WMATA needs study – above and beyond existing funding WMATA needs study 2009
MTA – Expansion	$175	Capital needs to address doubling transit ridership goal
SHA – Expansion	$125	Historic Annualized Hwy lane mile increase (1980-2007) – 388.1 lane miles increased @ $6M/Mile over 10 yrs = $60M
Environmental - TMDL / Air Quality/ Port cleanup	$175	$100M/yr thru 2020 for Bay TMDL, $50M/yr Chrome Ore liability, $25M/yr unspecified Climate Change/AQ projects
Other expansion:		
BRAC	$25	Fund half of remaining BRAC needs at all facilities
Port business expansion	$30	Dredge placement future needs and facility expansion and improvements
BWI modernization and expansion	$20	Terminal modernization, additional runway safety improvements and expanded facilities around the airport
TOD/Sustainable Communities	$10	Facilitate future TOD projects and work more with locals
	$800	

Attachment 4. Menu of Revenue Options

Components	FY 2012 Estimated Revenue (millions)	Annual Average (millions)
Motor Fuel Tax (MFT) = 23.5¢	*$746*	
23.5 cpg Indexed to CCI		*$62*
5 cpg to 28.5 cpg		*$164*
5 cpg to 28.5 cpg+Index		*$217*
7.5 cpg to 31 cpg		*$246*
10 cpg to 33.5 cpg		*$327*
10 cpg to 33.5 cpg+Index		*$387*
4 cpg increase per year for 3 yrs (Amount shown is at Year 3)		*$393*
5 cpg increase per year for 3 yrs (Amount shown is at Year 3)		*$491*
15 cpg to 38.5 cpg		*$498*
Apply Sales Tax to Retail Price of Motor Fuel	*N/A*	
Motor Fuel Sales Tax @1%		*$102*
Motor Fuel Sales Tax @2%		*$204*
Motor Fuel Sales Tax @3%		*$307*
Motor Fuel Sales Tax @4%		*$409*
Motor Fuel Sales Tax @5%		*$511*
Motor Fuel Sales Tax @6%		*$613*
Vehicle Registrations = $50.50; $76.50 >3,700 lbs	*$364*	
25% Increase - All Classes		*$82*
50% Increase - All Classes		*$165*
75% Increase - All Classes		*$247*
100% Increase - All Classes		*$330*
50% Increase - Classes A&M Only [(1)]		*$97*
Titling Tax = 6%	*$657*	
Repeal Trade-in Allowance		*$70*
Increase Rate to 6.25%		*$35*
Increase Rate to 6.50%		*$69*
MVA Increases	*$267*	
VEIP Increase $14 to $28		*$22*
Miscellaneous Fees		*$34*
MTA Farebox Recovery	*$134*	
Increase Fares - All Modes		*$25*
Sales Tax = 6%	*$0*	
Apply to Vehicle Repair Services		*$63*
Increase Rate to 6.25%		*$193*
Increase Rate to 6.50%		*$386*
Real Property Tax = cents per $100 assessed value	*$0*	
Metropolitan [(2)]		
10% Increase - .1120 to .1232		*$61*
20% Increase - .1120 to .1344		*$123*
30% Increase - .1120 to .1456		*$185*
40% Increase - .1120 to .1568		*$246*
Rural Counties [(3)]		
10% Increase - .1120 to .1232		*$12*
20% Increase - .1120 to .1344		*$24*
30% Increase - .1120 to .1456		*$37*
40% Increase - .1120 to .1568		*$50*

[1] Class A is passenger vehicles; Class M is multi-purpose vehicles.
[2] Includes Baltimore City and Anne Arundel, Baltimore, Carroll, Cecil, Frederick, Harford, Howard, Montgomery, and Prince George's counties.
[3] Includes Allegany, Calvert, Caroline, Charles, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties.

Other Motor Fuel Revenue Options

MOTOR FUEL TAX RATE - 15.0 CPG INCREASE + INDEXED
Additional Gross Revenue
Comparison of Phase-In Scenarios
(Dollars in Millions)

Phase-In Period	Phase-In Amount	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
3 Years	5 cents/Year	$159	$322	$491	**$531**	$572	$612	$2,687
5 Years	3 cents/Year	$ 96	$193	$295	$398	$505	**$544**	$2,031

Bold indicates when indexing begins

How Maryland Funds Transportation

HOW WE PAY FOR TRANSPORTATION IN MARYLAND

State Fiscal Year 2012 transportation revenues in Maryland are made up of the following sources:

State

$2.2 billion

$746m — **Motor Fuels Tax**
23.5¢ per gallon

$657m — **Titling Tax**
6% on vehicle sales

$364m — **Registration Fees**
From $50.50 to $76.50 per vehicle

$267m — **Motor Vehicle Fees**
Varies

$158m — **Corporate Income Tax**
20.4% of all corp. income tax

$25m — **Rental Car Sales Tax**
11.5% on car rentals

Federal
18.4¢ per gallon

$760 million*

MDTA Facilities

$550 million

The Maryland Transportation Authority operates the State's eight toll facilities independent of the rest of the State transportation system:

- JFK Highway (I-95)
- Hatem Bridge (US-40)
- Fort McHenry Tunnel (I-95)
- Baltimore Harbor Tunnel (I-895)
- Key Bridge (I-695)
- Chesapeake Bay Bridge (US-50/301)
- Nice Bridge (US-301)
- Intercounty Connector (MD 200)

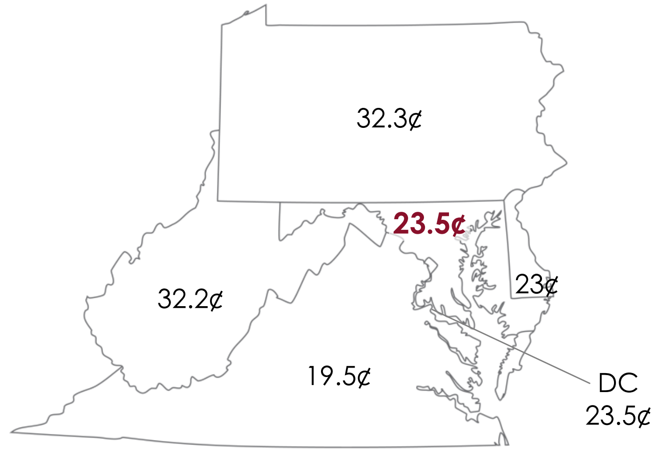
* Excludes operating revenues

Maryland's Fuel Tax

COMPARING MARYLAND'S FUEL TAX RATE (2011)

National Average:
30.5¢

Maryland Rank:
28th

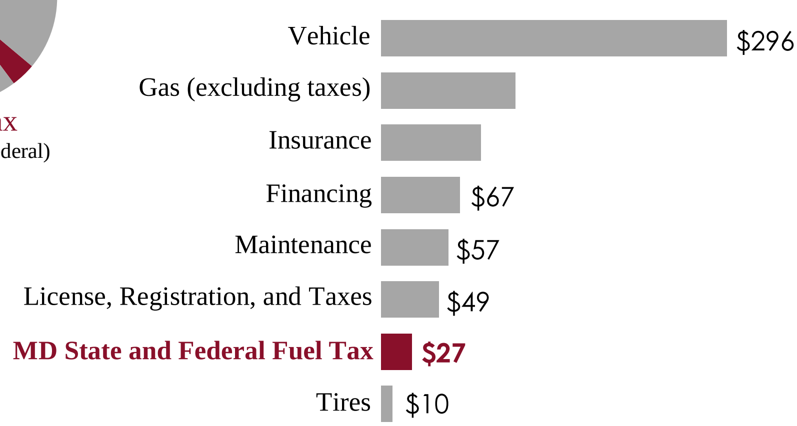


Source: American Petroleum Institute

THE COST OF THE FUEL TAX

The fuel tax makes up 3.8% of the average cost to drive a car.

Monthly Cost to Drive a Car
(Based on 2010 national averages and 15,000 miles per year, according to AAA)



ILLUSTRATIVE CHANGES TO THE STATE MOTOR FUEL TAX

A phased-in 15¢ per gallon increase (5¢ per year) in the State's motor fuel tax (imposed at the wholesale level) is likely to cost a Maryland driver less than $10 per month once fully phased in.

(Based on illustrative annual miles driven of 15,000 and fuel efficiency of 20 miles per gallon)

Current Rate	Current Monthly Cost (per vehicle)	Example Increment	Incremental Monthly Cost (per vehicle)	Annual Revenue from Increment (Year 3 of 3-Year Phase-in)
23.5¢ per gallon	$15	15¢ indexed to inflation	$9	$491M

State motor fuel tax includes wholesale-level taxes applied to gasoline (currently 23.5¢ per gallon), diesel fuel (currently 24.25¢ per gallon), and clean-burning fuels (currently 23.5¢ per gallon).