DELAWARE HOUSE BILL 140 (2015)

Title of Bill: HB 140

Purpose: To increase state Department of Motor Vehicle (DMV) fees in order to generate new revenue for transportation funding.

Status of Amendment: Signed into law July 1, 2015.

| House Bill 140 (2015) Signed into law: July 1, 2015 |
|---------------------------------|-----------------|
| **FOR** | **Senate** |
| House | Senate |
| May 14, 2015 | June 30, 2015 |
| FOR | AGAINST |
| 25 | 15 |
| 16 | 6 |

History

Transportation Funding

A 2011 report from the legislatively-commissioned Transportation Trust Fund (TTF) Task Force found for the Fiscal Year 2010- excluding federal apportionment- the Transportation Trust Fund resources consisted of:

- 28% from Interstate 95 tolls and concessions ($119.4);
- 27% from the state’s 23 cents-per-gallon gas tax and 22 cents-per-gallon special fuels tax ($112.9);
- 14% from motor vehicle document fees ($58.4);
- 11% from State Route 1 toll revenue ($45.5);
- 11% from motor vehicle registration fees ($44.5); and
- 9% from miscellaneous pledged and non-pledged revenues, as well as investment earnings ($38.7).
A 2015 analysis by the Road Information Program\textsuperscript{1}, TRIP—a nonprofit organization that “researches, evaluates and distributes economic and technical data on surface transportation issues”—found:

- 21 percent of Delaware’s major urban roads ranked in poor condition;
- 20 percent of the state’s bridges are structurally deficient or functionally obsolete;
- 34 percent of Delaware’s major urban highways are considered congested; and
- Motor vehicle travel on the state’s highways increased 42 percent between 1990-2013.

The TRIP analysis stated that poor roads cost Delaware drivers $256 million per year, or $355 annually per motorist.

The 2011 TTF Task Force identified a sizable transportation funding gap of $3.7 billion over the next 11 years, with a forecast that the state would be unable to pay for capital projects financed solely by state funds by 2012. The study also warned of the potential inability for Delaware to match federal funds for transportation projects, as well as the erosion of the Delaware Department of Transportation’s (DelDOT) core program. Without additional funding, the department would be required to delay or eliminate many planned projects.

Several reasons were cited for the shortfall, including the increasing demand on the state’s transportation infrastructure, growing debt service, lingering effects from the 2007-2009 economic recession, and rising cost of construction materials and capital equipment due to inflation.

On June 19, 2014 the state voted to raise weekend tolls on Route 1 by a dollar in order to generate approximately $10 million annually, the majority of which was designated to restoring proposed cuts to the Community Transportation Fund accounts. Localities can apply to their lawmakers to have projects financed through this fund. In addition, DelDOT was approved to borrow another $20 million earmarked solely for paving projects.

Later that summer on July 1, the state legislature approved a proposal from Gov. Jack Markell (D) to transfer $40 million which had been earmarked transportation projects in order to balance the state’s $3.8 billion operating budget for the 2015 fiscal year. The total transportation capital budget for the 2015 fiscal year dropped to $155 million, a decrease from the $192 million available for transportation funding in the 2014 fiscal year.

A 2014 emergency closure of the heavily-used I-495 bridge over the Christina River after structural damage was discovered, followed by a statewide inspection of all other bridges, provided further proof that the state’s bridges were in critical need of repair and maintenance.\textsuperscript{iii}

In 2015, DelDOT estimated the agency was facing a $780 million funding shortfall—$180 million of that needed for critical repairs—to address a backlog of unfunded statewide infrastructure projects and repairs. In February that same year, DelDOT officials warned that without new revenue for the Transportation Trust Fund, $600 million worth of highway and bridge projects would be delayed over the next six years.\textsuperscript{iv} During the meeting, Transportation Secretary Jennifer Cohan stated, “There’s no...
community leader or individual who denies we have a funding issue for the Transportation Trust Fund. Everyone acknowledges it."

**Summary of Legislation**

House Bill 140 was passed by the House on May 14 with a vote of 25-16, and failed in the Senate on June 25 with a vote of 11-10. The bill was recalled on June 30 and passed 15-6, with three Republicans and one Democrat changing their votes to support the transportation funding increase.

The $23.9 million in new revenue generated by 14 Department of Motor Vehicle fee increases is expected to be matched in borrowing over the next six years. The legislation also included a transportation fund ‘lockbox’, which will limit the use of the new vehicle fee revenue solely for construction projects. Additionally, DelDOT plans to increase oversized vehicle permits from $10 to $30, supersize permits from $30 to $60, and an ‘over-the-legal-limit’ weight fee will increase from $5 to $10 per 8,000 pounds. Altogether, DelDOT estimates an annual increase of $55 million per year. A bipartisan compromise included shifting $5 million of DelDOT operating costs from the Transportation Trust Fund to the state’s General Fund.

DMV fee increases include:

- **Vehicle document fee** (from 3.75 percent to 4.25 percent)
- **Driver’s license record sale fee**, to obtain a driver’s record ($15 to $25)
- **Vehicle title fee** (from $10 to $20)
- **Title lien fee** (from $10 to $20)
- **Vehicle registration late renewal** (from $10 to $20)
- **Driver’s license suspension reinstatement** (from $25 to $50)
- **Vehicle temporary tag**, typically issued when purchasing a vehicle (from $10 to $20)
- **Duplicate driver’s license fee** (from $10 to $20)
- **Duplicate vehicle title fee** (from $25 to $50)
- **Driver’s license late renewal** (from $1.15 to $10)
- **Driver’s license revocation reinstatement** (from $143.75 to $200)
- **Retain vehicle tag free** ($10 to $20)
- **Duplicate vehicle validation sticker fee** (from $1 to $5)
- **Duplicate vehicle registration card fee** (from $2 to $10)

“This legislation represents a significant step in addressing the revenue shortfall in the Transportation Trust Fund that has threatened our ability to ensure the modern infrastructure that is critical to our future,” said Gov. Jack Markell (D) in a July 1 press release.

“As I said in January, we have been talking about this issue for too long. Now was the time to act, and the General Assembly delivered. The funding from these efforts will help fix our roads and bridges, promote economic development, and create good construction jobs,” Markell said.
“I support legislation introduced and passed in the Senate to ensure these funds are only used to fund transportation. That is a responsible step to show the public that the increased fees and all funds allocated to the Trust Fund will be used to deal with our infrastructure needs. I thank the members of the General Assembly for coming together to make progress on one of the most important challenges facing our state,” he added.

Legislative Makeup

At the time of HB 140’s passage, Delaware’s governor Jack Markell was Democrat, and the legislature was majority Democrat. 65 percent of legislators voted to approve HB 140, while 35 percent opposed it.

- There were 37 Democrats in the Delaware legislature, with all voting in favor of HB 140 and none opposed.
- There were 25 Republicans in the Delaware legislature, with three voting to approve HB 140 and 22 opposed.

Overall Votes

[Diagram showing overall votes with 65% Yes and 35% No]

Legislators Voting for HB 140

[Diagram showing legislators voting for HB 140 with 92% Democrats and 8% Republicans]

Legislators Voting Against HB 140

[Diagram showing legislators voting against HB 140 with 100% Republicans and 0% Democrats]

Democrats

[Diagram showing Democrats with 100% Yes and 0% No]

Republicans

[Diagram showing Republicans with 88% No and 12% Yes]
Partisan Conflict

HB 140 was sponsored by Democrats and passed firmly along party lines in the House without a single Republican vote. Out of the entire state legislature, all Democrats voted to approve the bill, with only three Republicans out of 21 total Republican lawmakers supporting the transportation fund increase.

Because HB 140 was a fee-raising bill, a three-fifths majority vote was required from both chambers in order for the bill to be put before the governor. While Democrats had the three-fifths majority in the House without any additional votes, the Senate was short one Democrat vote in order to achieve passage.

After House passage of HB 140, Rep. Daniel Short (R-Seaford) stated, “We should be cutting costs, we should be looking for efficiency and we should be talking about things that are really important in this state. I stand for everybody here: It’s a simple dollar for them, but for the general public it’s a lot, lot more.”

Additionally, Rep. Short stated, “Despite negotiations between Republicans and Democrats to find a mutually acceptable long-term answer, House Democrats on Thursday unilaterally passed a bill hiking 14 vehicle related fees.”

“Putting money into a broken system with no reform is the definition of insanity,” Sen. Gregory Lavelle (R-Sharpley) said.

After the Senate’s initial rejection of HB 140, House Speaker Rep. Peter Schwartzkopf (D-Rehoboth Beach) stated, “The Democrats are willing to take the hard vote to fix the infrastructure. We care about people getting hurt on the roads, we care about putting people back to work, we care about our infrastructure.”

Delaware Democrats originally intended to pass a bill that would include $50 million annually in new revenue and another $50 million in matching borrowing. Recognizing the plan’s inability to gain traction among Republican legislators, they lowered the plan by half. Additionally, the compromise plan included a ‘lockbox’ measure requested by Republicans to ensure the funds are used for transportation construction, and a transfer of $5 million in DelDOT operating costs to the General Fund. Democrats also agreed to pass Republican-sponsored prevailing wage reform in exchange for enough support to pass the bill.

After HB 140 initially failed in the Senate with no Republican votes, three Republican state senators changed their votes to support the legislation.

Sen. Gary Simpson (R-Milford), one of the deciding votes for passage of HB 140, stated, “During the legislative session that wrapped up earlier this week, both Republicans and Democrats had to make concessions to reach an agreement that, in the end, we believe greatly benefits the residents of this state.”
Supporters

Arguments:

- Funding is critical to make needed transportation infrastructure repairs and accommodate increased tourist and residential travel.
- Delaying funding will defer or eliminate necessary repair, maintenance and modernization projects; costs would then increase with inflation and further decay of infrastructure.
- HB 140 will provide funding stability, which will help with planning long-term projects.
- HB 140 will create jobs and reinstate funding for municipalities, which had been decreased during the economic recession.

Key Players:

- **Gov. Jack Markell (D)**

A vocal supporter of increasing transportation funding, Gov. Markell called upon legislators to find a solution for DelDOT’s shortfall.

“I am open to considering all ideas to fund our infrastructure responsibly. The benefits will be immediate.”

“Repairs will only get more expensive and the condition of the roads and bridges we all travel will only worsen the longer we wait. I believe the time to act is now.”

In January 2014, Markell and then-Transportation Secretary Shailen Bhatt introduced a plan to increase the gasoline tax by 10 cents per-gallon and borrow an additional $50 million per year, a move that would have generated $100 million annually to pay for new infrastructure improvement projects. With weak state revenues and a looming election, the two were unable to find any House lawmakers willing to introduce the plan. As a compromise, lawmakers and administration officials agreed to raise weekend tolls on Route 1 by one dollar. However, with that amount still well short of the revenue needed to close DelDOT’s shortfall, Markell continued to strongly advocate for increasing transportation funding in 2015.

- **Bill Sponsors**

Primary: Rep. Schwartzkopf

“This will put people back to work; it will increase our road projects tremendously, especially on the repaving side of it. It will help our small towns; we’ll probably be able to reinstate the $7 million we took from municipal street aid.”

Delaware State Chamber of Commerce

"Though we had hoped for a total of $100MM to help fill the expected $780MM hole over the next few years, this is definitely a step in the right direction. The inclusion of a "lock box" provision and prevailing wage reform were welcome, and substantial, additions to the legislation. We hope when the General Assembly comes back in January they will make a concerted effort to continue to address Delaware's desperate need for infrastructure investment."\textsuperscript{xiv}

The Committee of 100

"Infrastructure Funding has long been a major focus of The Committee of 100 and particularly for the past two and a half years. Joining with other business groups, we presented a remarkably united front in support of additional revenues for infrastructure projects, especially the Transportation Trust Fund (TTF)."\textsuperscript{xv}

Delaware Contractors Associations

“There’s widespread support from the business community, more so than on any issue I’ve seen for a long time,” stated executive vice president John Casey.\textsuperscript{xvi}

Opponents

Arguments:

- DelDOT needs to be reformed before new revenue should be added; proposed plan does not reduce existing expenses.
- New revenue from HB 140 will be inadequate in filling the transportation funding shortfall.
- Increasing fees creates a hardship for struggling working-class and low-income residents as well as small business.

Key Players:

- Republicans

The state Republican Party as a whole strongly resisted the idea of a fee increase in order to pay for transportation construction. Instead, the party urged reform within DelDOT in order to generate additional funds without raising taxes or fees.

Republicans also strongly pushed for DelDOT operating expenses to be moved from the Transportation Trust Fund to the state’s General Fund gradually over seven years.

“While challenging, this move would solve the long-term structural funding problem, without the need for higher vehicle fees, a gas tax hike, or additional borrowing.” – Rep. Short
Upon the initial Senate rejection of HB 140, Reps. Gary Simpson (R-Milford) and Greg Lavelle (R-Sharpley) stated:

“We’re in agreement that we should fix our roads and maintain our infrastructure, that’s not the question at all. But the agreement we thought we had at 2 o’clock this afternoon evaporated at 4:15, moments before we voted on the bill. We had a number of reform measures that we were trying to institute that would have helped to fix not only the transportation system but the overall efficiency of government that, in the end, Democratic leaders and their constituencies refused to agree upon. As far as the Transportation Trust Fund, putting more money into a system we all agree is broken makes no sense at all. Over the last two years $80 million has been diverted from the trust fund into the operating budget. If that money had stayed in that fund there would be no need to raise motor vehicle fees. We need assurances that the abuse of the Transportation Trust Fund will end.”

- National Federation of Independent Business- Delaware

“Any talk of increasing fees and raising the gas tax should not be confused as sound policy making decisions. This bill is simply a lazy attempt to raise the money for unfunded projects already in the pipeline. Without meaningful reforms, there is absolutely no way we will support additional fees on the already overburdened tax payers of Delaware.

“...Many of Delaware’s small businesses are continuing to struggle to survive after the economic recession. Piling on tax or vehicle-related fees on top of the increase to the state minimum wage rate just last year, leaves many of our members asking, “Where does this end?” When will the State of Delaware stop reaching into the pockets of small business owners to temporarily solve a bigger spending problem?”

Why did it fail/succeed?

Compromise

Delaware Democrats originally intended to pass a bill that would include $50 million annually in new revenue and another $50 million in matching borrowing. Recognizing the plan’s inability to gain traction among necessary Republican legislators, they lowered the plan in half. Additionally, the plan Democrats introduced included a ‘lockbox’ measure requested by Republicans to keep the funds safe from diversions, including use on DelDOT operating costs, and ensure they are used in the most efficient manner to aid state transportation infrastructure construction.

(continued)
Governor as a Champion

Gov. Markell had been an outspoken advocate of increasing revenue to fund needed transportation infrastructure repairs and improvements. In his 2015 State of the State Address, Markell said:

“Infrastructure investments create high-paying, middle-class jobs today and they lay the foundation for future prosperity. It’s time to stop complaining about the sorry shape of our Transportation Trust Fund and fix the underlying issues.”

In his 2015 State of the State Address Markell went further, saying:

“We need a modern transportation network that allows people to travel safely and allows businesses to operate efficiently.

...We must do better. We have been talking about this for too many years. As the 2011 Transportation Trust Fund Task Force Report made clear, the condition of our roads and bridges will deteriorate without more investment. It’s that simple.

On the other hand, investing in our infrastructure will promote long-term economic activity, while reducing commute times and improving road safety. And in the short term, we can put thousands of people to work through construction – exactly the types of jobs that have suffered the most since the recession.

...Legislators have asked me a number of questions regarding my commitment to investing in transportation. Representative Miro has asked if I would consider a phase in of additional revenues. I would. Senator Lavelle and Speaker Schwartzkopf have asked if I am willing to put additional revenues into a “lockbox” – available only for transportation needs. I am. Many members have asked if I am willing to consider other changes that would make more money available for these projects. I am.

Bring me your ideas on how to fund our infrastructure responsibly, and I will work with you to pass and sign legislation to accomplish this important goal.”

Focus on Job Creation, Local Projects and Safety

Public and media outreach emphasized the dire situation of Delaware’s roads and bridges, and included a list of projects that needed funding in order to go forward.

Gov. Markell’s chief of staff, Mike Barlow, stated: "Delaware cannot fund needed safety projects or invest in job-creating infrastructure projects unless we address the shortfall in the Transportation Trust Fund."
Of the approved funds, $50 million was designated on repaving projects and bridge preservation, while street aid to the state’s towns and cities increased by $2 million, and the contributions to the community transportation funds double.

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The Transportation Investment Advocacy Center ™ (TIAC) is a first-of-its kind, dynamic education program and internet-based information resource designed to help private citizens, legislators, organizations and businesses successfully grow transportation investment at the state and local levels through the legislative and ballot initiative processes.

The TIAC website, www.transportationinvestment.org, was created so transportation investment advocates do not have to “re-invent the wheel” to mount successful campaigns. It exists to put in one place—and promote the sharing of—strategies... sample political and communications tools... legislative and ballot initiative language... and information on where to obtain professional campaign advice, research and help. To subscribe to at no cost—and receive via email—the regularly updated TIAC blog, visit the website.

In addition to the website, the TIAC program includes an annual workshop in Washington, D.C., and ongoing webinars for transportation investment advocates featuring case studies, best practices, and the latest in political and media strategies. State and local chamber of commerce executives, state legislators, state and local transportation officials, “Better Roads & Transportation” group members, industry and labor executives, and leaders of state and local chapters of national organizations who have an interest in transportation development programs are welcomed to participate.

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I. Breakdown of votes on Delaware House Bill 140 (2015)

SENATE

Senators who voted in favor of HB 140:
- Patricia Blevins (District 7 - Democratic)
- Brian J. Bushweller (District 17 - Democratic)
- Bruce C. Ennis (District 14 - Democratic)
- Bethany A. Hall-Long (District 10 - Democratic)
- Margaret Rose Henry (District 2 - Democratic)
- Gregory F. Lavelle (District 4 - Republican)
- Robert I. Marshall (District 3 - Democratic)
- David B. McBride (District 13 - Democratic)
- Harris B. McDowell (District 1 - Democratic)
- Karen Peterson (District 9 - Democratic)
- Nicole Poore (District 12 - Democratic)
- F. Gary Simpson (District 18 - Republican)
- David P. Sokola (District 8 - Republican)
- Bryan Townsend (District 11 - Democratic)

Senators who voted against HB 140:
- Colin R. J. Bonini (District 16 - Republican)
- Catherine L. Cloutier (District 5 - Republican)
- Gerald W. Hocker (District 20 - Republican)
- David G. Lawson (District 15 - Republican)
- Brian Pettyjohn (District 19 - Republican)
- Bryant L. Richardson (District 21 - Republican)

House

Representatives who voted in favor of HB 140:
- Michael A. Barbieri (District 18 - Democratic)
- James Johnson (District 16 - Democratic)
- Paul S. Baumbach (District 23 - Democratic)
- Quinton Johnson (District 8 - Democratic)
- Charles Potter Jr. (District 1 - Democratic)
- Andria L. Bennett (District 32 - Democratic)
- Helene M. Keeley (District 3 - Democratic)
- Stephanie T. Bolden (District 2 - Democratic)
- Bryon H. Short (District 7 - Democratic)
- Gerald L. Brady (District 4 - Democratic)
- John A. Kowalko (District 25 - Democratic)
- Valerie Longhurst (District 15 - Democratic)
- Melanie George Smith (District 5 - Democratic)
- William J. Carson (District 28 - Democratic)
- Sean M. Lynn (District 31 - Democratic)
- Sean Matthews (District 10 - Democratic)
- John J. Viola (District 26 - Democratic)
- John L. Mitchell (District 13 - Democratic)
- Kimberly Williams (District 19 - Democratic)
- Debra J. Heffernan (District 6 - Democratic)
- Michael P. Mulrooney (District 17 - Democratic)
- Edward S. Osinski (District 24 - Democratic)
- Peter C. Schwartzkopf (District 14 - Democratic)
- Earl G. Jaques (District 27 - Democratic)
- W. Charles Paradee (District 29 - Democratic)

Representatives who voted against HB 140:
- Harold J. Peterman (District 33 - Republican)
- Michael Ramone (District 21 - Republican)
- Harvey R. Kenton (District 36 - Republican)
- Daniel B. Short (District 39 - Republican)
- Stephen T. Smyk (District 20 - Republican)
- Richard G. Collins (District 41 - Republican)
- Jeffrey N. Spiegelman (District 11 - Republican)
- Timothy D. Dukes (District 40 - Republican)
- Joseph E. Miro (District 22 - Republican)
- Ronald E. Gray (District 38 - Republican)
- David L. Wilson (District 35 - Republican)
- Kevin S. Hensley (District 9 - Republican)
Lyndon D. Yearick (District 34- Republican)
Deborah Hudson (District 12- Republican)

William R. Outten (District 30- Republican)

“KEY FACTS ABOUT DELAWARE’S SURFACE TRANSPORTATION SYSTEM AND FEDERAL FUNDING” by TRIP, April 2015.
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