Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Gregory Slater
Acting Secretary

February 5, 2020

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis MD 21401

RE: Letter of Opposition – Senate Bill 136 – Transportation - Maryland Metro/Transit Funding

Dear Chair Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes Senate Bill 136 due to its potentially significant fiscal impact to the Transportation Trust Fund (TTF) and impact to the MDOT statewide Consolidated Transportation Program (CTP) process.

Senate Bill 136 alters portions of the Maryland Metro/Transit Funding Act passed during the 2018 Session of the Maryland General Assembly in three ways: first, it removes the state's ability to withhold funds in the event that the Washington Metropolitan Area Transit Authority (WMATA) budget increases more than 3% over the previous fiscal year, along with the three exclusions that articulate specific instances for which WMATA is permitted to exceed the 3% cap; second, it restricts the manner in which the Governor may utilize General Funds to provide the dedicated capital funding for WMATA; and lastly it would alter the complexion of the Central Maryland Regional Transit Plan Commission and Study.

During the 2018 legislative session, the Hogan Administration worked in partnership with the legislature on a shared vision to fund Maryland's commitment to addressing WMATA's dire capital funding deficit (Senate Bill 277 and House Bill 372, respectively). Both bills passed and were signed into law by Governor Hogan at a ceremony in Bethesda with local dignitaries on April 25, 2018.

The provisions of Senate Bill 277 and House Bill 372 were carefully considered throughout the 2018 legislative session and reflect shared efforts on behalf of the State of Maryland, the Commonwealth of Virginia, and the Washington, DC governments to contemporaneously increase funding to WMATA while taking the necessary steps to reform the system going forward. For Maryland, $1 billion in additional funding over the next six years was dedicated to WMATA from the TTF and the State's General Fund.

Passage of Senate Bill 136 would remove a cap on operating costs as agreed to with both WMATA and the Commonwealth of Virginia. This is an essential provision intended to control unchecked budget growth. This carefully considered provision was placed into law barely more than one year ago and has, to date, been applied to only one budget cycle (FY 2020). WMATA's FY 2020 operating budget was approved with growth of 4.3% as a result of legislative exclusions, the first year under the provisions of the 3% cap. Based on past performance, however, it is assumed that the 8% average operating budget growth rate of WMATA's budget over the past five years will continue, should this cap be removed. Through FY 2025, this higher growth rate will result in operating expenses that are cumulatively $495 million more than what is currently budgeted in MDOT's six-year financial plan. Increases in operating expenses reduce money available in the TTF to pay debt service and to meet minimum coverage requirements. As a result, MDOT would not be able to issue the amount of bonds currently included in the financial plan to fund the capital program, requiring a reduction in the size of the capital program. Between the additional funding

for WMATA operating expenditures and the reduced bonds issued the result is a potential reduction to the capital program of $1.1 billion through FY 2025. This alone equates to a 6.7% decrease in the Statewide Consolidated Transportation Program (CTP).

The bill also could require the TTF to program into the CTP the annual $167 million in dedicated capital funding for WMATA and rely on undesignated General Funds to repay the TTF year by year. Under current law, this funding is a shared responsibility of the TTF and General Fund in a transparent process that has worked so far. Limiting the flexibility built into the 2018 legislation could limit the flexibility of the TTF to respond to critical multi-modal transportation across the State. If General Funds are not programmed and shown in the GF budget as they are today the use of those funds will not be transparent to the citizens of Maryland. Putting this funding as revenue to the TTF will not have the transparence of today and if these funds are not provided in the end it will limit the ability of MDOT to issue additional bonds and MDOT will have to reduce projects totaling as much as $793 million that are currently funded in the CTP. This equates to a 5% decrease in the Statewide CTP.

Together, these combined effects could reduce funding for the statewide CTP by $1.9 billion – a 11.7% overall decrease and a 30% reduction in State funds in MDOT's statewide capital program. A reduction of this size would not only eliminate projects to address importance safety and congestion issues, but it will also further impact statewide system preservation needs on Maryland's roadways, transit systems and the Port of Baltimore.

Again, the TTF is the vehicle by which MDOT finances multi-modal transportation projects across the State. MDOT has a responsibility to all Marylanders to deliver a safe, reliable transportation network that connects people to life's opportunities. This includes projects financed and completed by MDOT, as well as grant funds paid to local counties and municipalities for the operation of their own transportation services. Imposing a burden on the TTF of this magnitude without regard to the Chapter 30 prioritization process would hamper the ability of MDOT to complete projects, operate its own transit operations, and provide crucial assistance to local governments.

Finally, this bill would alter the content and process for developing the Central Maryland Regional Transit Plan (CMRTP). The requirement to develop a plan and the establishment of the Commission were set forth in the same 2018 WMATA legislation outlined above. MDOT MTA and the CMRTP Commission have been working for well over a year in accordance with the process and scope established for the Commission in 2018.

Since July 2018, MDOT MTA has expended significant resources completing analysis, working with local transit agencies, and establishing and preparing the Commission. Further, the Commission has met half a dozen times and has made recommendations for goals, objectives, and strategies and has also prioritized corridors, in accordance with the 2018 legislation. MDOT MTA is currently preparing the draft Plan and is scheduled to submit a draft Plan to the Commission and the public this spring, just a few months before the effective date of Senate Bill 136.

The new requirements change the scope of the planning and upend the work already underway, without extending the timeframe to complete the study. Further, changing the horizon from 25 to 30 years will place the State out of sync with the Maryland Transportation Plan, the Baltimore Regional Transportation Board Long Range Plan, MDOT MTA's Cornerstone Plans, and all County long range plans. HB 372 (2018) originally had the 30-year time frame, but MDOT requested this be changed to 25 years for the aforementioned reasons. The General Assembly has recognized this in the past and struck all previous attempts to change to a 30-year timeframe.

The changes to the CMRTP as outlined in Senate Bill 136 will ultimately delay the completion of the plan by at least one year while increasing the cost by $1.5 million. Without an additional year to adjust to these changes, MDOT MTA will not be able to comply with this provision in Senate Bill 136.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant Senate Bill 136 an unfavorable report.

Respectfully submitted,

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