MARYLAND DEPARTMENT OF TRANSPORTATION

Wes Moore
Governor
Aruna Miller
Lieutenant Governor
James F. Ports, Jr.
Secretary

January 24, 2023

The Honorable Ben Barnes
Chair, House Appropriations Committee
Room 121, House Office Building
Annapolis MD 21401

Re: ***Letter of Information – House Bill 51 – Department of Transportation – Consolidated Transportation Program and Debt Limit of Grant Anticipation Revenue Vehicle Bonds***

Dear Chair Barnes and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on House Bill 51 but offers the following information for the Committee's consideration.

House Bill 51 modifies the existing Grant Anticipation Revenue Vehicle (GARVEE) bond program and requires MDOT to maintain a $30 million revenue contingency in every year of its financial plan. The MDOT supports having multiple funding and financing options available to continue its investments in Maryland's multi-modal transportation system; however, it is necessary that these be done in a way that assures the effectiveness of the program. Constraints placed on the GARVEE bond program in House Bill 51 reduce the likelihood that MDOT would be able to utilize the program. Without the ability to utilize the program, credit rating agencies will still take into consideration the available debt authorization when making credit decisions, even if there are no planned debt issuances.

House Bill 51 establishes six transit projects that bond proceeds may be issued for. Three of the projects identified involve facilities not owned by the MDOT, thus ineligible for this type of financing per federal law (Susquehanna River Rail Bridge; Baltimore and Potomac Tunnel; Brunswick, Penn, and Camden Lines). These facilities are owned by private entities (Amtrak and CSX) and as such, would be ineligible for tax-exempt financing by MDOT.

Under federal law, projects financed by future transit funding must be eligible for funding under Title 49 of the Code of Federal Regulations. Generally, eligibility is limited to facilities owned and operated by an eligible recipient of grant funding (i.e., MDOT Maryland Transit Administration) and federal requirements for project planning, development, and procurement must be followed. Even if the projects were eligible for financing, there is greater value in using Maryland's federal funds and tax-supported debt to maintain its own infrastructure rather than funding improvements to privately-owned assets.

Bonds backed by future federal aid allow MDOT to accelerate the delivery of capital projects rather than delaying projects until sufficient pay-as-you-go funding is available. This allows MDOT to better match the timing of available funding for a project with the future benefits of the project. Bonds backed by future federal aid are referred to as GARVEEs when used for highway projects and secured by federal highway funds or Grant Anticipation Notes (GANs) when used for transit projects and secured by federal transit funds.

Under current law, a maximum one-time issuance of $750 million of GARVEE bonds may take place. This authorization was previously exhausted in 2008 with the issuance of $750 million in GARVEE bonds for construction of the Intercounty Connector (MD 200). House Bill 51 establishes $750 million as a debt outstanding limit, rather than an issuance limit, thus allowing additional issuances so long as the total amount of bonds outstanding remains below the limit.

House Bill 51 allows for additional issuances of GARVEE bonds and continues the current secondary pledge (backstop) of the Transportation Trust Fund. This may be viewed as a credit negative by credit rating agencies for MDOT's Consolidated Transportation Bonds (CTBs). The CTBs help to fund MDOT's six-year capital program. Currently, rating agencies cite in their ratings reports that although the Transportation Trust Fund is a backstop to Maryland's GARVEE bond program, no additional GARVEEs may be issued under current law.

A change in law that authorizes additional GARVEE issuances, whether the issuances take place or not, would be factored in when rating MDOT's CTBs and may have a negative impact on MDOT's credit profile. Utilizing the Transportation Trust Fund as a backstop to the bonds also requires that GARVEE bond debt be included in State debt affordability calculations made by the Capital Debt Affordability Committee.

House Bill 51 also requires MDOT to maintain a revenue contingency of $30 million in each year of its financial plan. There are already multiple levels of conservatism built into MDOT's financial plan. Establishing the revenue contingency would reduce funds available for the capital program by $115 million over the six-year period and thus would require a reduction to the capital program or an increase in CTB issuances by a like amount to offset the impact of the revenue reduction.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating House Bill 51.

Respectfully submitted,

Jaclyn Hartman
Chief Financial Officer
Maryland Department of Transportation
410-865-1035

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
410-865-1090