MARYLAND DEPARTMENT OF TRANSPORTATION

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

James F. Ports, Jr.
Secretary

March 9, 2022

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

Re: Letter of Information – Senate Bill 726 – Transportation – Highway User Revenues – Revenue and Distribution

Dear Chairman Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 726 but offers the following information for the Committee's consideration.

Senate Bill 726 would increase highway user revenue (HUR) capital grants to local jurisdictions beginning in FY 2025. Under current law, HUR capital grants are distributed to local jurisdictions based on a formula established in law that considers a percentage of certain revenues in the Gasoline and Motor Vehicle Revenue Account in the Transportation Trust Fund (TTF). Through FY 2024, 13.5% of HUR funds are distributed to local jurisdictions and the remaining 86.5% are retained by the MDOT to invest in Maryland's statewide multi-modal transportation system. Beginning in FY 2025, this distribution changes to 9.6% to local jurisdictions and 90.4% to the MDOT.

Senate Bill 726 would increase the percentage distributed to local jurisdictions to 30%, with the remaining 70% retained by the MDOT, beginning in FY 2025, resulting in a funding loss of approximately $436 million to the MDOT. The actual amount of funds distributed will vary based on actual revenues received. The MDOT's current financial plan assumes that the current distribution of HUR capital grants (13.5% to locals and 86.5% to the MDOT) remains in place throughout the forecasted period. This assumption reduces the amount of additional funding that is required under Senate Bill 726; however, there is still a significant reduction of funding to MDOT's capital program, and subsequent increase in local government funding, of approximately $353 million per year.

The MDOT's Final FY 2022 – 2027 Consolidated Transportation Program and accompanying financial plan released in January of this year reflect HUR percentages continuing at their current rate of 13.5 percent, which will increase highway user revenue capital grants by an estimated $83 million per year starting in FY 2025.

HUR capital grants are paid from the MDOT's capital program, and the current six-year capital program is fully subscribed, meaning that all available funding is programmed for capital projects. Passage of Senate Bill 726 would require the MDOT to redirect $353 million per year of funding from current capital projects to the HUR capital grants. The total impact to the six-year CTP would be $1.1 billion as a result.

A $1.1 billion reduction in the MDOT's capital program will have a significant impact on the MDOT's ability to fund critical system preservation projects across all modes of transportation. This reduction in capital spending will also impact the MDOT's ability to provide required State funding matches to federal funds. Without sufficient State match funding, the MDOT may not be able to utilize all federal funding available, especially regarding the additional federal funding expected from the Infrastructure Investment and Jobs Act (IIJA). Significant portions of the additional funding available from IIJA are in the form of discretionary grants, which often require State matches of 20% or more. The MDOT would be at risk of not being able to compete for these funds if it cannot identify required State matching funds.

Proponents of Senate Bill 726 may refer to this bill as a "restoration" of historical funding levels for HUR funding; however, it is important to remember that there were a number of related actions that took place when that decision was made. After a series of changes to revenues and transfers between the State's General Fund, the TTF, and the local share of HUR during the period from 2007 to 2011, the legislature permanently credited the TTF with a larger share of HUR funds to offset a revenue loss caused by redirecting a portion of revenues from the TTF to the State's General Fund.

Facing a structural deficit of nearly $2 billion in 2007, then-Governor Martin O'Malley called a special session of the legislature that resulted in several actions to increase revenues to the State's General Fund and the TTF, including increasing the sales tax, personal income tax, corporate income tax, tax on cigarettes, vehicle excise (titling) tax, and certificate of title fees. The legislature increased the State's sales tax from 5% to 6%, expanded the sales tax to computer services, dedicated a portion (6.5%) of sales tax revenues to transportation, and ended certain required transfers from the TTF to the State's General Fund. In total, these actions increased annual revenues to the TTF by $413 million, with the largest portion of that, estimated at $291 million, due to the changes in sales tax revenues.

Not long after the 2007 Special Session, the revenue outlook took a dramatic turn when the Great Recession began, and legislators were again facing a structural budget gap. During the 2008 legislative session, the legislature repealed the sales tax on computer services and reduced the share of sales tax revenues distributed to the TTF from 6.5% to 5.3%, thus reducing revenues to the TTF by $70 million.

Still facing a budget shortfall when returning for the 2009 legislative session, the General Assembly took multiple actions to balance the budget, including transferring funding from the local share of HUR funds to the General Fund and permanently reducing the locals share of HUR funds from 30% to 28.5%. In 2010, additional one-time transfers were made from the locals share of HUR funds to the State's General Fund and a permanent change was made to the distribution formula to redirect 19.3% of HUR funds from local jurisdictions to the State's General Fund.

During the 2011 session, the legislature sought to divorce the relationship between the TTF and the State's General Fund. The share of the State sales tax to transportation was eliminated and the TTF's share of corporate income tax revenues was reduced from 24% to 17.2%, resulting in an annual revenue loss to the TTF of $340 million. To offset this impact, the legislature credited the 19.3% distribution of HUR funding from the State's General Fund to the MDOT. Thus, when discussing the reduction of HUR funding to local jurisdictions, it is critical to remember that it was not an isolated decision; rather, it occurred as part of a series of related actions that intended to keep the MDOT from the loss of revenues caused by the redirection of other revenues from the TTF to the State's General Fund. Therefore, from a revenue capacity standpoint, setting the local share of HUR funding to 30% provides less transportation funding for the MDOT's critical system preservation needs than was available a decade ago.

The Maryland Department of Transportation respectfully requests that the Committee consider this information when deliberating Senate Bill 726.

Respectfully submitted,

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