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January 25, 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 59 – Maryland Transportation Authority – Options for the Payment of Tolls and Civil Penalties***

Dear Chairman Guzzone and Members of the Committee:

The Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MDTA) take no position on Senate Bill 59 but offer the following information for the Committee's consideration.

The proposed legislation (1) requires the MDTA provide certain users of Transportation Facilities Projects a range of options to pay for toll transactions and penalties at toll facilities; (2) authorizes the MDTA to refer certain unpaid tolls and penalties to the State's Central Collection Unit (CCU) for collection; (3) requires the MDTA to recall certain unpaid video tolls and penalties from the CCU under certain circumstances; (4) requires the MDTA to waive penalties under certain circumstances; and (5) requires the MDTA to offer a certain installment plan agreement to certain persons for the payment of certain tolls and penalties. If enacted, Senate Bill 59 would have a significant fiscal and operational impact on the MDTA.

The MDTA would like to note for the Committee that it has engaged in conversations with the bill sponsor about areas of concern in the bill, as drafted, as well as common goals. The MDTA looks forward to continuing its working relationship with the bill sponsor in the hope of reaching a consensus on bill language.

### **Toll Collection at MDTA Facilities**

The bill requires that, to the greatest extent feasible, the MDTA provide *E-ZPass* account holders and other users of Transportation Facilities Projects the option to pay for toll transactions and associated penalties at toll collection facilities via cash, check, money order, and electronic funds transfer through certain methods. In August 2020, all-electronic (AET)/cashless tolling was implemented permanently across all toll facilities in Maryland. As such, complying with this provision would be impracticable as it would require the MDTA to restore cash collection at all of its toll collection facilities, including the Intercounty Connector and I-95 Express Toll Lanes which have been AET/cashless facilities since their opening.

It is estimated that it would cost \$335 million to restore cash collections at the MDTA's legacy facilities and to begin collecting cash at the Intercounty Connector and I-95 Express Toll Lane facilities. Also, it would cost approximately \$14.8 million annually in personnel expenses to hire toll collectors and supervisors for 24-hour operations at the MDTA's current toll facilities. Additional toll collector positions are needed as a result of employee attrition and efforts undertaken by the MDTA to transition toll collectors into new jobs following the conversion to AET/cashless tolling. Additionally, restoring cash collections would result in additional costs for armored car pick up services as well as higher bank fees due to daily cash deposits. Aside from the financial implications, resuming cash collections at MDTA facilities would eliminate the long-term benefits of AET/cashless tolling such as the environmental benefits from better fuel efficiency, reduced emissions, reduced traffic congestion, reduced crashes and increased driver and MDTA employee safety.

In addition, due to the large number of electronic funds transfer apps and the large growth of the variety of such apps it would be difficult to implement the digital wallet provision of the bill to cover all available electronic fund transfer apps "to the greatest extent feasible."

### **Recall of Debt & Civil Penalty Waiver**

Senate Bill 59 requires the MDTA to recall a delinquent account from the Central Collections Unit (CCU) if the account exceeds \$300 in unpaid video tolls and associated civil penalties and the delinquent account holder agrees to enter into a certain installment plan. Senate Bill 59 also requires the MDTA to waive civil penalties associated with the toll debt recalled if (1) the notice of toll due (NOTD) for the video toll in question was sent more than 60 days after the video toll transaction occurred; and (2) the MDTA is responsible for the delay in the timely processing of the video toll transactions due to COVID-19 or other factors.

Under current law, there is no time requirement for when the MDTA must mail notice to a customer of their toll due after the customer incurs the transaction. As drafted, the civil penalty waiver provision does not limit the 60-day timeframe for mailing a NOTD to COVID-19-related delays, resulting in a broad application that all NOTDs be mailed within 60 days of the transaction. Currently, the MDTA's tolling system provider is under no contractual obligation to issue NOTDs within 60 days of the transaction and if enacted, Senate Bill 59 would require the MDTA to amend its contractual agreement. The costs associated with the MDTA amending its agreement with the tolling system provider are unknown. Furthermore, the current system allows customers to receive a 15 percent discount of up to \$5 if a video toll is paid before mailing. Requiring earlier mailings would result in customers receiving less opportunity to receive the early payment discount.

In response to the COVID-19 pandemic and to assist and provide financial relief to its customers, the MDTA ceased cash tolling operations and initiated statewide all-electronic tolling in March 2020. In addition, the MDTA also paused processing and mailing NOTDs to assist citizens who may have lost their job or had reduced hours due to COVID. As Maryland moved into Phase III of its COVID-19 recovery plan, the MDTA resumed mailing NOTDs in October 2020, beginning with unpaid transactions for trips made from March through June 2020. The temporary pausing of the mailing of

NOTDs, coupled with the MDTA's transition to its Third Generation Electronic Toll Collection System, resulted in a significant backlog of customer NOTD mailings.

As of January 11, 2022, 1.8 million citations remain unpaid that are associated with transactions that were not processed during the mid-March 2020 to mid-October 2020 timeframe. If the civil penalties associated with these transactions are waived, the amount of outstanding debt owed to the MDTA would be reduced by as much as \$45.7 million. Furthermore, the civil penalty is one of the strongest tools to trigger payments on the original tolling due. Eliminating the civil penalties will discourage compliance and cooperation with the State's tolling systems and will reduce tolling payments on valid tolls. The MDTA already can and often does provide courtesy waivers of civil penalties when working with customers to resolve their outstanding toll debt. In doing so, the agency often waives the civil penalty amount owed.

### **Installment Plan**

While noting that the MDTA already has the authority to enter into installment plans with customers and can coordinate with the CCU to offer customer installment plans, Senate Bill 59 requires the MDTA to offer an installment plan agreement to any delinquent account holder, *E-ZPass* account holder, or Pay-by-Plate customer alleged to be liable for unpaid video tolls and associated civil penalties that total at least \$300. Installment plan participants are required to make monthly installment payments of 10 percent per month on the total amount of the unpaid video tolls and associated civil penalties owed. Given that the legislation does not specify a timeframe for the repayment of outstanding video tolls and civil penalties, it could take over 15 years for all accounts that would qualify for an installment plan to remit all unpaid tolls and civil penalties.

Personnel costs associated with hiring the needed contractual positions to establish and administer the installment plans is estimated to total approximately \$252,000 annually. Additionally, it is estimated that it would cost approximately \$2.1 million to (1) modify the MDTA's existing tolling system to establish a mechanism for administering and tracking monthly installment plan accounts in lieu of CCU performing these activities. Furthermore, additional costs totaling \$452,000 would be required to provide customers with the option to make payments using a digital wallet payment platform. It is also unclear whether the MDTA would have to accept payment from a third-party app which would result in additional costs to the MDTA. It is important to note that the costs above assume that the installment plans will be managed with proper system changes that allow for effective and efficient account management, and not extraordinary manual efforts that may be required to comply with the legislation based on the effective date of July 1, 2022. Costs will be higher to comply with the stated effective date of the legislation.

### **Trust Agreement**

Since 1971, the MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities, as well as for financing new transportation projects under its purview, such as the Governor Harry W. Nice/Senator Thomas "Mac" Middleton Bridge in Charles County. The agency is entirely reliant on tolls collected from its users, as the MDTA does not receive any State General Fund or Transportation Trust Fund dollars. In accordance with the MDTA's Trust

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Agreement with bondholders, toll revenues are first pledged to pay operating expenses, including debt service for bonds that are used to fund major transportation projects at existing and new facilities.

The MDTA is governed by a Trust Agreement with its bondholders, as allowed by statute. Revenues from Transportation Facilities Projects are pledged as bondholder security to repay the MDTA's debt. If the proposed civil penalty waiver and protracted installment payment plan goes into effect as written in the bill, it could cause the MDTA to fail to generate sufficient revenues to comply with the Rate Covenant. Failure to comply with the Rate Covenant would cause the MDTA to be in default of its contractual obligations under its Trust Agreement with its bondholders. Additionally, violations of the Trust Agreement may result in a downgrading of the MDTA credit rating by the rating agencies. Other toll agencies, such as the Miami-Dade County Expressway Authority (MDX), experienced bond ratings downgrades due to legislative interventions that interfered with its toll rate setting autonomy. A downgrade of MDTA's credit would lead to lower credit worthiness as well as higher financing rates for capital projects.

**Effective Date**

Finally, the effective date of the legislation does not permit traditional procurements and reasonable and feasible timeframes for tolling system modifications for proper account management and would result in additional expenses. Even with emergency procedures, the MDTA does not anticipate it is feasible to comply with the legislation within the timeframe provided.

The Maryland Department of Transportation respectfully requests the Committee consider this information as it deliberates Senate Bill 59.

Respectfully submitted,

Bradley Ryon  
Manager, Government Relations  
Maryland Transportation Authority  
410-387-5253

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