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February 24, 2021

The Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis MD 21401

***Re: Letter of Information – Senate Bill 541 – Maryland Transportation Authority – John F. Kennedy Memorial Highway – Toll Plazas***

Dear Chair Kelley and Committee Members:

The Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MDTA) takes no position on Senate Bill 541 but offers the following information for the Committee’s consideration.

Senate Bill 541 would prohibit the Maryland Transportation Authority (MDTA) from making any capital investment to the toll plaza on the John F. Kennedy (JFK) Memorial Highway (I-95). When the toll plaza becomes obsolete, the MDTA would then be required to remove it and build a new one between Maryland Route 279 and Maryland Route 272.

On August 6, 2020, permanent full-time all-electronic (cashless) tolling (AET) was announced across Maryland, including at the JFK Memorial Highway. With the existing toll plaza already converted to entirely electronic toll collection, the prohibition in Senate Bill 541 conflicts with the Governor’s direction to implement all-electronic tolling statewide. Additionally, MDTA is moving toward highway speed electronic toll collection at all facilities, as is already in place at Bay Bridge, Key Bridge, Intercounty Connector (ICC)/MD 200, and I-95 Express Toll Lanes. Senate Bill 541 would also require MDTA to construct a new toll plaza, which would prevent the operational, traffic, safety, and environmental benefits of highway speed AET at a gantry.

Further, the proposed legislation would prohibit MDTA from making any future capital investments in the JFK Memorial Highway toll plaza until it becomes functionally obsolete; this violates MDTA’s Trust Agreement with its bondholders. The proposed legislation would prohibit MDTA from making \$5 million in capital investments that are currently programmed in the Consolidated Transportation Program (CTP) for projects at the JFK Memorial Highway toll plaza. MDTA will have already started constructing interim AET improvements at the toll plaza when this legislation takes effect in July 2021. It would also prevent MDTA from performing “major repairs”, which could include the replacement of damaged safety hardware, repairing damaged pavement, rehabilitation of stormwater drainage features, and canopy repairs, which would significantly reduce safety and efficiency for the users of the facility and is a direct violation of Federal Highway Administration’s safety standards.

It is also anticipated that moving the JFK tolling point at the Tydings Bridge north or south of the neighboring existing interchanges would adversely impact traffic on US Route 1, US Route 40, and other parallel routes to I-95 and interchanges because of the significant diversion around the tolling point, similar to the diversions around the Delaware toll on Route 301 on the Eastern Shore. It is estimated that approximately 7.4 million vehicles will divert from the JFK toll plaza annually to avoid the toll. Of this amount, approximately 60 to 70 percent comprises out-of-state customers. This would result in an annual revenue loss of approximately \$84.6 million at the Maryland tolling point alone. For perspective, tolls would have to be increased by at least 16% across all MDTA facilities to recoup the annual revenue loss in order to maintain the MDTA's current and projected legal rate covenant and debt service coverage ratios.

On a related note, for many years residents of Cecil County have voiced concerns about traffic diversions from I-95 to US Route 40. Should Senate Bill 541 become law, increased traffic diversion would result in significant impacts to roads maintained by Cecil County and by MDOT State Highway Administration (SHA), in particular US Route 40, thus requiring increased maintenance costs to keep the road in good repair. Increasing the likelihood of traffic diversion from I-95 will likely impact vehicle and commercial truck traffic at the 81-year-old Hatem Bridge and on local roads. We believe it is important to note that current tolling conditions play a role in MDTA's ability to offer the existing toll discount plans for the parallel route on US 40 over the Hatem Bridge, currently priced at \$20 per year for unlimited two-axle trips across that Bridge. The Hatem Bridge already offers a very low-cost commuter option for Cecil County residents to cross the Susquehanna River. Furthermore, the existing parallel route on US 1 over the Conowingo Dam is no cost for motorists.

This legislation limits MDTA's ability to maintain its facilities in a state of good repair and sound operating condition, which may have a negative effect on the credit worthiness of MDTA and lead to higher bond/loan rates. Fitch Ratings (April 30, 2020) highlighted MDTA's independence in its rationale for the assigned double-A rating. According to Moody's Toll Sector methodology, an agency's independence from the interference of general government and a degree of insulation from political interference impacts its rating scorecard by 15%. Other toll agencies such as the Miami-Dade County Expressway Authority (MDX) experienced bond ratings downgrades due to legislative interventions. A downgrade of MDTA's credit would lead to lower credit worthiness as well as higher financing rates for capital projects.

Assuming the intent of the bill is to construct a new toll plaza with toll booths, it would likely involve constructing up to 12 or more toll booths and widening I-95 to accommodate the new toll plaza. From a cost perspective, an additional \$1.6 million would be incurred to install electronic toll collection system equipment at a new toll plaza location; however, if the intent is to construct gantries (i.e., all-electronic tolling), additional costs in the amount of \$573,000 would be incurred if tolls are only collected in one direction. Approval for these additional costs would require a modification to the electronic toll collections contract and would require Board of Public Works (BPW) approval. If BPW does not approve the modification, this legislation would prevent MDTA from meeting the intent of the bill, bringing highway speed all-electronic tolling to bear, and properly maintaining the existing toll plaza.

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Lastly, on August 14, 1989, MDTA entered into an agreement with the Federal Highway Administration (FHWA) regarding eligibility for federal-aid highway funds. Subtitle 1 of the agreement states that “MDOT and the Authority agree that Interstate highway I-95 in the state of Maryland, known as the John F Kennedy Memorial Highway from Maryland Route 43 in Baltimore County to Maryland Route 279, except for the segment between Route 155 in Harford County and U.S. Route 222 in Cecil County, shall always be free of tolls.” This bill would violate the agreement.

The impact of removing the JFK toll plaza and building a new one between Maryland Route 279 and Maryland Route 272 need to be studied as part of a coordinated National Environmental Policy Act (NEPA) study, as required by federal law. Therefore, the MDTA cannot move the tolling point to a location between MD 279 and MD 272 without federal approval. Such approval requires a detailed (unfunded) study and approval is not anticipated given the likely negative consequences to neighboring routes and interchanges.

Since 1971, 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 NEPA study to identify potential improvements to I-95, Belvidere Road, and other nearby transportation facilities between MD 272 and MD 222 in Cecil County). The agency is entirely reliant on tolls collected from its users as MDTA does not receive any state General Fund or Transportation Trust Fund dollars.

The Maryland Department of Transportation and the Maryland Transportation Authority respectfully request the Committee consider this information when deliberating Senate Bill 541.

Respectfully submitted,

Bradley Ryon  
Manager, Government Relations  
Maryland Transportation Authority  
410-537-1060

Melissa Einhorn  
State Legislative Officer  
Maryland Department of Transportation  
410-865-1102