**Committee:** Directly to Council **Committee Review:** N/A

Staff: Wellons, Chen, McCartney-Green, Ndou

Purpose: Final action – vote expected

Agenda Item #1 November 8, 2021

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#### **SUBJECT**

Montgomery County's State Legislative Priorities – Maryland General Assembly 2022

#### **EXPECTED ATTENDEES**

Kathleen Boucher, Special Assistant to Director, Office of Intergovernmental Relations (OIR) Leslie Frey, Legislative Analyst, OIR Sara Morningstar, Federal Relations Coordinator and Legislative Analyst, OIR Amy Samman, Legislative Analyst, OIR Executive Department Representatives

#### **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

• Review and approve the County's State Legislative Priorities for 2022

#### **DESCRIPTION/ISSUE**

Each year, the Council and County Executive jointly approve a list of State legislative priorities for the upcoming General Assembly session. The deadline to provide the 2022 list the State Delegation is November 15, 2021.

#### **SUMMARY OF KEY DISCUSSION POINTS**

- Whether to adopt the enclosed priorities regarding:
  - COVID-19 relief and recovery;
  - Fiscal health and economic development;
  - Transportation;
  - Education;
  - o Elections;
  - o Environment;
  - Health and human services;
  - Public safety;
  - Broadband accessibility and affordability;
  - Cybersecurity; and
  - Local authority.

#### **This report contains:**

Staff Memorandum	Page :
Draft 2022 Priorities from OIR (differences from 2021 highlighted)	©1
2021 Priorities	©5
2020 Priorities	©7
2019 Priorities	©8

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#### MEMORANDUM

November 4, 2021

TO: County Council

FROM: Christine Wellons, Legislative Attorney

Carolyn Chen, Legislative Analyst

Ludeen Mc-Cartney Green, Legislative Attorney

Livhu Ndou, Legislative Attorney

SUBJECT: State Legislative Priorities – 2022 Maryland General Assembly

PURPOSE: Action – Council vote expected

On October 25, 2021, the Council reviewed and discussed a draft of the 2022 State Legislative Priorities provided by the Office of Intergovernmental Relations (OIR) (©1). During the meeting, Councilmembers discussed various potential edits and additions to the list. Those potential edits and additions are reflected in the chart below for the Council's consideration and approval.

In addition to reviewing the draft 2022 State Legislative Priorities at its October 25th meeting, the Council requested from staff a description of the processes that the Council previously agreed to regarding the Council's approach to General Assembly sessions. Part I of this memorandum provides an overview of existing and contemplated Council processes – including processes to make the Council's state legislative process more proactive and strategic.

Part II provides the chart of proposed State Legislative Priorities for the Council's review and approval. Note that OIR expects to add to this list capital projects for the Council's consideration. The County's list of priorities is due to the State Delegation on November 15, 2021.

#### I. OVERVIEW OF COUNCIL PROCESSES

In 2019, the Council decided to use the following procedures regarding the review of State legislation. The Council decided that it will consider taking a position on a pending State bill **only** if:

- ➤ It is a bicounty or local bill;
- ➤ The bill relates to the Council's state priorities;
- > The bill has significant fiscal implications;

- ➤ The bill impedes the County's authority; or
- > 5 or more Councilmembers agree the Council should take a position on the bill.

#### There are **5 potential Council positions** on pending state bills:

- > Support;
- Support with amendments;
- Oppose;
- No position; or
- ➤ "Hold" taking a position on a bill (*i.e.*, continue to monitor; do not take a position until more information is available).

During the Council's meeting on October 25, Councilmembers expressed a desire to make the Council's state legislative program more proactive and strategic. In response, Council staff plans to take a number of steps, including:

- Improving coordination and communication with Council committees, by maintaining an ongoing list of potential State legislative initiatives identified during Committee meetings and integrating the initiatives into the State priorities as the Council deems appropriate; and
- ➤ Working closely with OIR, Council Analysts, and Executive departments, strategically as a team, to implement Councilmembers' and Committees' specific legislative priorities.

An example of Council staff and OIR working together proactively to implement Council priorities would be that, in an HHS/E&C Committee worksession on September 23, 2021, regarding Increasing Diversity and Cultural Competency in Mental Health Professions, the Committees requested follow up around state legislation that might be needed to support credentials for mental health professionals from other countries. Specifically, there is a need to assess what state laws or regulations may create potential barriers for mental health professionals to work in Maryland, and what solutions may be possible with State action to facilitate career pathways in this critical service area.

Following the meeting, Council staff sent the Committees' request via email to OIR staff as well as to DHHS and OHR staff who had participated in the discussion. OIR staff reviewed related work that had been developed around this topic in previous years, and convened follow up meetings with staff in DHHS and with Council staff to discuss the specific legislative requests that would address the issue. This work is ongoing, including follow up discussion with regional advocacy organizations and review of possible regulatory solutions as well.

# II. CHART OF PROPOSED 2022 STATE LEGISLATIVE PRIORITIES

Highlighted in yellow are the priorities identified by Councilmembers or Council staff as potential additions to OIR's draft state priorities list.

Draft Priority for Council's Review & Approval	Council Staff
	Point Person
COVID-19 Relief & Economic Resilience	Wellons, Chen,
	Mc-Cartney-
Supporting ongoing COVID-19 relief and economic resilience programs including those that enhance the County's goals regarding racial equity and social justice, public health, emergency response, housing support and eviction diversion, child	Green, Ndou
care, broadband, and an inclusive and sustainable local economy.	NOTE – On Oct.
	25, the Council
	requested
	additional
	information about
	the Governor's
	COVID plan.
Fiscal Health & Economic Development	McMillan / Smith
Ensuring that the State budget respects the nexus that exists between the State's fiscal stability and its counties' fiscal health, and respects counties' role as the delivery system for public services.	
Supporting initiatives to strengthen local economic development and small businesses consistent with the priorities established by WorkSource Montgomery and the Montgomery County Economic Development Corporation.	
Supporting overriding the veto of Senate Bill 199/House Bill 114 ( <i>Transit Safety and Investment Act</i> ), which in addition to mandating additional financial support for the Maryland Transit Administration, established a Purple Line Construction Grant Program to provide funds to qualified businesses that suffered revenue losses as a result of the construction of the Purple Line.	

Draft Priority for Council's Review & Approval	Council Staff Point Person
Supporting initiatives to expand affordable housing, including funding to construct new affordable housing units and to preserve and rehabilitate existing affordable housing units.	
Supporting a higher allocation of federal 9% Low-Income Housing Tax Credits to projects located within the County.	
<u>Transportation</u>	Orlin
Ensuring a fair and equitable allocation to the County of anticipated historic increases in federal transportation funding that will flow through states and supporting efforts to enhance collaboration with State and federal partners to develop and implement a modern transportation system to address the region's current and future needs.  Securing the future of the Purple Line project.  Providing financial support and ensuring administrative cooperation for implementation of the County's bus rapid transit	NOTE: A priority regarding P3 was deleted during the Oct. 25 meeting. The remainder of the list was not discussed during
system.	the Oct. 25 meeting.
Supporting the Corridor Cities Transitway (CCT) project.	
Reinforcing the Maryland Department of Transportation's commitment to pedestrian and bicycle safety, both through policy and investment.	
Reinforcing the Maryland Department of Transportation's support for local transit and highway user revenue distributions.	
<b>Education</b>	McGuire
Continuing to implement the Blueprint for Maryland's Future in a manner that:  > maintains the State's commitment to early childhood education, high quality and diverse teachers and leaders, college and career pathways, more resources to ensure success for all students, and governance and accountability; and	NOTE – A priority regarding mental and emotional health and supports, and reducing barriers to

Draft Priority for Council's Review & Approval	Council Staff Point Person
> ensures a fair and equitable allocation of funding to support students and families served by the County's school system, including funding that helps address racial and social inequities in learning exposed by the COVID-19 pandemic.	professional licensure, has been added, per
Supporting reasonable modifications to State policies that are currently contributing to State financial participation rates in public school construction projects in Montgomery County and other counties that are well below the State's maximum public school construction cost share percentages.	comments of Councilmembers Rice and Navarro, and Council Vice-
For Montgomery College, obtaining \$3.9 million in fiscal 2023 for construction of the Catherine and Isiah Leggett Math/Science Building and \$5 million in fiscal 2023 for the renovation of the Takoma Park/Silver Spring Resource Center.	President Albornoz.
Supporting increases in culturally and linguistically proficient mental health and social/emotional learning, staffing, and practices, and reducing unnecessary professional licensure barriers.	
<u>Elections</u>	Camacho
Supporting efforts to increase State funding and support of elections, including at a minimum 50% or more of the cost of voting equipment and related systems as originally envisioned in 2001 when the State created the Uniform Statewide Voting System and to ensure that appropriate local input is obtained before the State Board of Elections makes procurement decisions that obligate County funds.	NOTE – language in the first priority has been strengthened in response to
Supporting measures to protect the Constitutional right to vote, and opposing efforts to reduce or impede that right.	Councilmember Navarro's
Supporting legislation to permit the earlier canvassing of absentee ballots to more effectively manage the volume of ballots.	comments as the GO Chair during the Oct. 25 meeting.
	The potential additional priority about the right to vote has been

Draft Priority for Council's Review & Approval	Council Staff Point Person
	added in response to Council President Hucker's remarks.
<b>Environment</b>	Levchenko
To help advance the County's chief climate goal of achieving zero greenhouse gas emissions by 2035, ensuring a fair and equitable allocation to the County of anticipated historic increases in federal infrastructure funding that will flow through states and supporting efforts to enhance collaboration with State and federal partners to address climate change. Opportunities include funds for clean energy, improved transportation options including support for electric vehicles, green bank funding to assist with leveraging private financing and funds to address energy efficiency in existing buildings. Communities across the State, the country, and the world must do their part to curb the cataclysmic social, environmental, and economic impacts of climate change. Additionally, state level support is needed for improved recycling requirements, extended producer responsibility and accountability and for support from electric utilities and distributors for transition to clean energy sources.	NOTE – Councilmembers expressed that more detail is needed. Potential additional details have been added in yellow.
Health and Human Services	McMillan
Supporting all efforts to develop and implement a Statewide plan to address the shortage of Residential Treatment Center beds for youth under age 18 who wait months to enter treatment or are not able to be served at all. The plan should increase the number of available beds and broaden the populations of youth able to be served by the program, accounting for the myriad reasons these beds are in short supply.  Supporting initiatives to mitigate eviction and to keep residents housed as part of COVID-19 economic recovery, including the reintroduction of House Bill 729/Senate Bill 530 ( <i>Landlord and Tenant – Eviction Actions- Filing Surcharge and Prohibited Lease Provisions</i> ) and House Bill 31 ( <i>Courts – Surcharges and Payment to Special Funds – Prohibited Lease Provisions</i> ) of 2021. These bills had the goal of protecting tenants from superfluous evictions filings by raising the surcharge filing fees for summary ejectment (failure to pay rent), tenant holding over, and breach of lease actions against a residential	
tenant. Maryland has among the lowest fees in the country for filing these actions; by raising the fees, landlords would not be incentivized to turn to the courts at the earliest opportunity to resolve these issues.	

Draft Priority for Council's Review & Approval	Council Staff Point Person
Public Safety	Farag
Monitoring implementation of the <i>Maryland Police Accountability Act of 2021</i> and supporting efforts to enhance this police reform package to address legal and operational challenges that rise to the surface as implementation continues to roll out at both the State and local levels.	NOTE – The addition of a priority regarding juveniles charged
Supporting efforts to reimagine how public health agencies and other social service resources can best support public safety functions, including expanding efforts to integrate behavioral health supports with law enforcement efforts.	as adults was suggested by Councilmember
Supporting legislation generally prohibiting juveniles from being charged as adults.	Jawando at the Oct. 25 meeting.
Broadband Accessibility and Affordability	Toregas
Supporting State initiatives, and enabling local initiatives, to expand broadband accessibility and affordability, with particular attention to programs and funding that ensure that urban areas are eligible to receive funding for broadband infrastructure as well as digital inclusion training and device programs.  Working to assure that the National Association of Counties (NACo) Broadband Task Force findings, NACo-Broadband-Taskforce-report.pdf (July 2021), are translated into local action items sensitive to local conditions.	NOTE – Per Councilmember Rice, these priorities have been rewritten and expanded to include NACo Task Force
	priorities.1

<sup>&</sup>lt;sup>1</sup> The NACo Broadband Task Force, co-chaired by Councilmember Rice, made preliminary findings in its July 2021 report, NACo-Broadband-Taskforce-report.pdf, including: (1) County officials play a crucial role as policymakers, funders, data aggregators, conveners, and partners in pursuing sustainable solutions to broadband access, affordability, and reliability. Therefore county officials require the knowledge, policy tools, funding resources, and support necessary to meet community broadband needs; (2) Federally supported, locally collected, and verified data is imperative to understand America's true state of connectivity; (3) Eliminating our nation's digital divide and ensuring universal, reliable, affordable broadband access will require multiple technological solutions (with redundancy and scale), including fiber, satellite, cellular, fixed wireless, cable, and future innovations; (4) Open "middle mile" systems can increase competition and result in improved affordability and access; (5) Federal resources used to eliminate the digital divide should incentivize future-proofed systems (i.e., symmetrical 1gbps network) and require coordination between local governments and Internet Service Providers (ISPs) to ensure community needs are met within acceptable timeframes; and (6) Ultimately, broadband should be regulated as a utility to eliminate the digital divide effectively and comprehensively.

Draft Priority for Council's Review & Approval	Council Point Person	Staff
Cybersecurity  Supporting funding for cybersecurity programs that enhance the County's ability to address cybersecurity threats and opposing the imposition of overly burdensome administrative (e.g., reporting) requirements on local cybersecurity officials that divert resources from necessary cybersecurity efforts.	Toregas	
Local Authority  Retaining the County's broad Home Rule Authority to ensure that the County is not preempted from enacting or enforcing its own local laws (past examples include potential restrictions on local authority regarding control of public rights of way, siting of small cell facilities, licensing of electricians, siting of large-scale solar farms, carryout bag tax, and excise tax on electronic smoking devices).	Wellons, Mc-Cartney- Green, Ndou	Chen,
Expanding the County's authority and flexibility to enact local legislation when necessary to address County priorities that are not fully addressed at the State level, including increasing County flexibility to raise revenue and have local control for property tax classification.		
Supporting overriding the veto of Senate Bill 133/House Bill 319 ( <i>Local Tax Relief for Working Families Act</i> ) which authorized local governments to impose the county income tax on a bracket basis to allow for greater progressivity in county income tax systems.		

**NEXT STEP**: The decision before the Council is whether to adopt the priories described above, with the caveats that, subject to the agreement of the County Executive and a majority of Councilmembers, the following might be added to the list before it is finalized: (1) capital projects; and (2) additional edits or additions.

This packet contains:	Circle #
Draft 2022 Priorities from OIR (differences from 2021 highlighted)	©1
2021 Priorities	©5

2020 Priorities	©7
2019 Priorities	©8

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# D R A F T (10/4/21) Montgomery County's Priorities for the 2022 Session

## **COVID-19 Relief & Economic Resilience**

• Supporting ongoing COVID-19 relief and economic resilience programs including those that enhance the County's goals regarding racial equity and social justice, public health, emergency response, housing support and eviction diversion, child care, broadband, and an inclusive and sustainable local economy.

## Fiscal Health & Economic Development

- Ensuring that the State budget respects the nexus that exists between the State's fiscal stability and its counties' fiscal health, and respects counties' role as the delivery system for public services.
- Supporting initiatives to strengthen local economic development and small businesses consistent with the priorities established by Worksource Montgomery and the Montgomery County Economic Development Corporation.
- Supporting overriding the veto of Senate Bill 199/House Bill 114 (*Transit Safety and Investment Act*), which in addition to mandating additional financial support for the Maryland Transit Administration, established a Purple Line Construction Grant Program to provide funds to qualified businesses that suffered revenue losses as a result of the construction of the Purple Line.
- Supporting initiatives to expand affordable housing, including funding to construct new affordable housing units and to preserve and rehabilitate existing affordable housing units.

#### **Transportation**

- Ensuring a fair and equitable allocation to the County of anticipated historic increases in federal transportation funding that will flow through states and supporting efforts to enhance collaboration with State and federal partners to develop and implement a modern transportation system to address the region's current and future needs.
- Ensuring that the P-3 strategy to expand I-495/I-270 is in the best interest of Maryland taxpayers and that the project includes improvement of I-270 Phase North if I-270/I-295 Phase South advances, with State support for public transit in all phases.
- Securing the future of the Purple Line project.
- Providing financial support and ensuring administrative cooperation for implementation of the County's bus rapid transit system.

- Supporting the Corridor Cities Transitway (CCT) project.
- Reinforcing the Maryland Department of Transportation's commitment to pedestrian and bicycle safety, both through policy and investment.
- Reinforcing the Maryland Department of Transportation's support for local transit and highway user revenue distributions.

#### **Education**

- Continuing to implement the Blueprint for Maryland's Future in a manner that:
  - (1) maintains the State's commitment to early childhood education, high quality and diverse teachers and leaders, college and career pathways, more resources to ensure success for all students, and governance and accountability; and
  - (2) ensures a fair and equitable allocation of funding to support students and families served by the County's school system, including funding that helps address inequities in learning exposed by the COVID-19 pandemic.
- Supporting reasonable modifications to State policies that are currently contributing
  to State financial participation rates in public school construction projects in
  Montgomery County and other counties that are well below the State's maximum
  public school construction cost share percentages.
- For Montgomery College, obtaining \$3.9 million in fiscal 2023 for construction of the Catherine and Isiah Leggett Math/Science Building and \$5 million in fiscal 2023 for the renovation of the Takoma Park/Silver Spring Resource Center.

#### **Elections**

• Supporting efforts to require the State to cover 50% of the cost of voting equipment and related systems as originally envisioned in 2001 when the State created the Uniform Statewide Voting System and to ensure that appropriate local input is obtained before the State Board of Elections makes procurement decisions that obligate County funds.

#### **Environment**

• To help advance the County's chief climate goal of achieving zero greenhouse gas emissions by 2035, ensuring a fair and equitable allocation to the County of anticipated historic increases in federal infrastructure funding that will flow through states and supporting efforts to enhance collaboration with State and federal partners to address climate change. Communities across the State, the country, and the world must do their part to curb the cataclysmic social, environmental, and economic impacts of climate change.

#### **Health and Human Services**

 Supporting all efforts to develop and implement a Statewide plan to address the shortage of Residential Treatment Center beds for youth under age 18 who wait months to enter treatment or are not able to be served at all. The plan should increase

- the number of available beds and broaden the populations of youth able to be served by the program, accounting for the myriad reasons these beds are in short supply.
- Supporting initiatives to mitigate eviction and to keep residents housed as part of COVID-19 economic recovery, including the reintroduction of House Bill 29/Senate Bill 30 (Landlord and Tenant Eviction Actions- Filing Surcharge and Prohibited Lease Provisions) and House Bill 31 (Courts Surcharges and Payment to Special Funds Prohibited Lease Provisions) of 2021. These bills had the goal of protecting tenants from superfluous evictions filings by raising the surcharge filing fees for summary ejectment (failure to pay rent), tenant holding over, and breach of lease actions against a residential tenant. Maryland has among the lowest fees in the country for filing these actions; by raising the fees, landlords would not be incentivized to turn to the courts at the earliest opportunity to resolve these issues.

#### **Public Safety**

- Monitoring implementation of the *Maryland Police Accountability Act of 2021* and supporting efforts to enhance this police reform package to address legal and operational challenges that rise to the surface as implementation continues to roll out at both the State and local levels.
- Supporting efforts to reimagine how public health agencies and other social service resources can best support public safety functions, including expanding efforts to integrate behavioral health supports with law enforcement efforts.

# **Broadband Accessibility and Affordability**

• Supporting State initiatives, and enabling local initiatives, to expand broadband accessibility and affordability, with particular attention to programs and funding that ensure that urban areas are eligible to receive funding for broadband infrastructure as well as digital inclusion training and device programs.

#### **Cybersecurity**

• Supporting funding for cybersecurity programs that enhance the County's ability to address cybersecurity threats and opposing the imposition of overly burdensome administrative (e.g., reporting) requirements on local cybersecurity officials that divert resources from necessary cybersecurity efforts.

## **Local Authority**

- Retaining the County's broad Home Rule Authority to ensure that the County is not preempted from enacting or enforcing its own local laws (past examples include potential restrictions on local authority regarding control of public rights of way, siting of small cell facilities, licensing of electricians, siting of large-scale solar farms, carryout bag tax, and excise tax on electronic smoking devices).
- Expanding the County's authority and flexibility to enact local legislation when necessary to address County priorities that are not fully addressed at the State level,

- including increasing County flexibility to raise revenue and have local control for property tax classification.
- Supporting overriding the veto of Senate Bill 133/House Bill 319 (*Local Tax Relief for Working Families Act*) which authorized local governments to impose the county income tax on a bracket basis to allow for greater progressivity in county income tax systems.

10/4/21

4



## Montgomery County's Priorities for the 2021 Session

## **COVID-19 Relief & Economic Recovery**

• Supporting public health and emergency response programs, programs to help vulnerable populations and mitigate inequities, housing support and eviction mitigation, economic recovery programs for businesses, and other relief measures designed to address the unprecedented challenges of COVID-19.

# Fiscal Health & Economic Development

- Ensuring that if State budget adjustments are necessary, the plan respects the nexus that exists between the State's fiscal stability and its counties' fiscal health, and respects counties' role as the delivery system for public services.
- Supporting initiatives to strengthen local economic development and small businesses.
- Supporting initiatives to expand affordable housing.
- Supporting Community Choice Energy.

#### **Transportation**

- Securing the future of the Purple Line project.
- Providing financial support and ensuring administrative cooperation for implementation of the County's bus rapid transit system.
- Supporting the Corridor Cities Transitway (CCT) Project.
- Consistent with the County's letter to Maryland Department of Transportation (November 9, 2020), responding to I-495/I-270 expansion plans, including through state support of public transit.
- Reinforcing the Maryland Department of Transportation's commitment to pedestrian and bicycle safety, both through policy and investment.
- Addressing the substantial revenue impacts to the Transportation Trust Fund resulting from the COVID-19 pandemic.
- Reinforcing the Maryland Department of Transportation's support for local transit and highway user revenue distributions.

#### **Kirwan**

• Overriding the Governor's veto of the Blueprint for Maryland's Future to maintain the State's commitment to early childhood education, high quality and diverse

teachers and leaders, college and career pathways, more resources to ensure success for all students, and governance and accountability, and to allow the Built to Learn Act of 2020, and the plan for increasing school construction funding that is outlined in the bill, to take effect.

• Ensuring continuity of fair and equitable State funding for the County that also addresses inequities in learning that have been exposed by the pandemic.

#### **Environment**

• Supporting initiatives at the State level to advance the County's chief climate goal of achieving zero greenhouse gas emissions by 2035.

## **Health and Human Services**

- Protecting State funding for a four percent rate increase for community services providers for people with developmental disabilities for the current fiscal year and fiscal 2022.
- Strengthening reporting requirements and accountability related to electronic billing systems used by developmental disabilities providers.

#### **Reimagining Public Safety**

- Supporting passage of Statewide legislation, including LEOBR reform, that strengthens the public safety mission of policing through greater transparency and accountability, which will help further the goal of establishing more equitable and inclusive communities throughout Maryland.
- Reimagining how public health agencies and other resources can best support public safety functions, including expanding support for mental health resources.

## **Broadband Accessibility**

• Supporting State initiatives, and enabling local initiatives, to expand broadband accessibility.

#### **Local Authority**

- Retaining the County's broad Home Rule Authority, ensuring that the County is not preempted from enacting or enforcing its own local laws (e.g., siting of small cell facilities, licensing of electricians, siting of large-scale solar farms, carryout bag tax, and excise tax on electronic smoking devices).
- Expanding the County's authority and flexibility to enact local legislation when necessary to address County priorities that are not fully addressed at the State level, including increasing County flexibility to raise revenue and have local control for property tax classification and local income tax brackets.

11/12/20



## Montgomery County's Priorities for the 2020 Session

# **Kirwan Commission**

- Ensure that the new formulas provide Montgomery County with its fair share of State funding and adequately address the needs of its students.
- Carefully review new funding requirements placed on local jurisdictions and ensure that the new formulas provide needed flexibility to counties while also recognizing the significant investments Montgomery County has made to date for its students.

## **Public School Construction**

- Support all efforts to increase statewide amounts available for public school construction.
- Request the Interagency Commission on School Construction to revisit the State Aid for School Construction Eligibility Criteria to allow for greater State participation in school construction projects.

# I-495 / I-270 Traffic Mitigation

- Work with the Administration to ensure that the first segment of the I-270/I-495
   Traffic Relief Plan include I-270, the American Legion Bridge, and the section of I-495 between these facilities.
- Secure a commitment from the Administration for an immediate, specific, and meaningful commitment to provide resources to affected Counties to meet local transportation needs as part of any P3 or tolling program.
- Reinstate the Corridor Cities Transitway in the Consolidated Transportation Plan as part of or in addition to the Traffic Relief Plan.
- Obtain a commitment from the Administration that fair consideration be given to the alternative of using the Intercounty Connector (ICC) rather than widening the Beltway between I-270 and I-95.

### **Local Decision-Making Authority, Avoiding Preemption**

• Retain the County's broad Home Rule Authority and ensure that the County is not preempted from enacting or enforcing its own local laws (e.g., siting of small cell facilities, licensing of electricians, siting of large-scale solar farms).

11/20/19



# **Montgomery County's Priorities for the 2019 Session**

#### **Education**

• *PreK-12 Public Education*. Obtaining a fair share of State aid to support the County's public schools, including retention of the State payment for teacher retirement, is a critical priority every year. The importance of achieving this goal during the 2019 Session is of utmost concern because the Commission on Innovation and Excellence in Education (Kirwan Commission) is expected to issue its final report in December. The Commission is considering proposals for improving the State's public schools that are unprecedented in scope and would impact the County and our public schools for years, possibly decades, to come.

The County became concerned about potential Commission recommendations when a State consultant issued a report in 2016 regarding the adequacy of funding of education in Maryland that included recommendations for dramatic changes to school finance formulas. For Montgomery County, the estimated result would be a reduction of \$342 million in State aid and an increase of \$842 million in mandated local aid. Unfortunately, the report estimated the full impact of the consultant's recommendations as a consolidated unit and did not provide crucial information that would have allowed the County to independently analyze the fiscal impact of each separate component. The components included centerpiece suggestions like changing the wealth formula, shifting to a statewide "comparable wage index" for regional cost adjustments, and altering the funding "weights" for higher-need students.

During the 2018 Interim, the Commission has focused on early childhood education, recruitment and retention of high quality teachers, college and career readiness (CCR) pathways, programs for students with special needs, and governance and accountability. It is considering major changes in each of these categories, including free or subsidized full-day prekindergarten for some low-income students, teacher salary increases of 10-30%, a CCR assessment in 10<sup>th</sup> Grade, supplemental funding for schools with concentrated poverty, and new State-level oversight of local school systems. Implementing these programs would require billions of dollars in new State and local funding. However, with less than two months left to complete its final report, the Commission has not yet finalized its recommendations or associated cost estimates. Although the Commission indicated recently that it will not accept some of the recommendations in the 2016 report referenced above regarding school finance formulas, the County has been unable to gain even a basic understanding of the potential local impacts of Commission recommendations because they have not crystalized to the point where that is possible.

The County requests the Delegation's support in ensuring that the Commission has sufficient time to appropriately complete its work, including adequate opportunity to receive and evaluate public comments after the Commission formalizes draft proposals. The County also requests support in obtaining any underlying data that is necessary to independently analyze costs and fiscal impacts and sufficient time after receiving that data to provide meaningful comments on draft recommendations. During the 2019 Session, it is essential that the Delegation work closely with the County, the Board of Education, and Montgomery County Public Schools to ensure equitable treatment of the County and its large, diverse, and growing student population.

• *Public School Construction*. The allocation of funds in the State capital budget remains insufficient to help counties address the public school construction needs across the State, particularly in subdivisions like Montgomery County that have experienced significant enrollment growth. Since fiscal year 2011, the State program has grown from about \$260 million a year to \$380 million a year, with a new program added in fiscal year 2016 earmarked for school systems with significant enrollment growth and/or a high utilization of relocatable classrooms. Montgomery County has benefited significantly from this program, although on a percentage basis its share of the base program has declined slightly, which was not the expectation when the new program was negotiated. Even with these increases, at \$60 million a year in State assistance (about \$21 million more than the five-year average for fiscal years 2011 through 2015), the County is struggling to make meaningful progress in addressing its public school construction needs.

While the Montgomery County Office of Management and Budget assumes in its five-year projections that the State will contribute about \$59 million annually to the County's school construction program, the County needs the help of the Delegation to substantially increase the State's commitment. This could occur by: (1) meaningfully increasing the Statewide allocation; (2) creating statutory guarantees in the base program or the program overall that will yield a greater allocation to Montgomery County and create more year to year certainty; and/or (3) revisiting legislation that was introduced in 2014 that would have allowed Montgomery County to take advantage of a program created for Baltimore City through the Maryland Stadium Authority, which would let the County "jumpstart" a larger capital program through leveraging.

• Universities at Shady Grove. After demonstrating its commitment to the expansion of Universities at Shady Grove (USG) by providing \$20 million for the construction of a new parking garage, the County urges Delegation support for University System of Maryland's (USM) request for State funds to support Science, Technology, Engineering and Mathematics (STEM) academic program development at USG from its nine USM academic partners. These programs will support the second of three installments of the Governor's Workforce Development Initiative and enhance academic/industry partnerships that are critical to creating opportunities for research, entrepreneurship, innovation, and company creation – all catalysts for a robust, economic development ecosystem in the County and State.

#### **Transportation**

• Vision Zero Coordination and State Highways as Complete Streets. Roads and facilities owned by the State are a major element of Montgomery County's street network. In many areas of Montgomery County, the State Highway is an urban or suburban street that requires facilities for all modes, along with lighting and other features that allow it to operate properly. In some cases, the State Highways are inconsistent with community needs due to high speeds, limited pedestrian crossing opportunities, missing or insufficient streetlighting, and missing or inadequate pedestrian and bicycle facilities. In support of the County's Vision Zero and the State's Towards Zero Deaths programs, the Maryland Department of Transportation (MDOT) should develop a program to rapidly respond to these critical highway safety needs.

State Highways that are Complete Streets should be a significant component of this program. It has long been the policy of MDOT to install and maintain the roadway itself and to assign sidewalk, path and streetlight installation and maintenance to local jurisdictions on the basis that those facilities are not part of Statewide mobility but are provided by the local jurisdiction to meet local needs. The County requests that the Delegation require MDOT to evaluate the costs and benefits of changing this policy. The public may be better served if the State was wholly responsible for providing safe facilities for all users of the State Highway, not just the roadway that carries motor vehicle traffic. Such a program should continue to provide opportunity for engagement of the local government and communities to ensure that the resulting streets are compatible with the communities they serve.

• *I-495/I-270 Traffic Relief Plan*. MDOT is continuing to advance a Traffic Relief Plan for these two major corridors and the project is included in the Draft Visualize 2045 Long Range Plan for the Metropolitan Washington Region. The County asks the Delegation to require MDOT to meet its stated commitment to limit the project to the existing right-of-way for these corridors and to expeditiously begin the study of improvements on I-270 north of I-370. The County also asks that MDOT be required to fully evaluate the County's recommended treatment of two reversible lanes on I-270.

The County encourages the Delegation to require that MDOT's I-495/I-270 Traffic Relief Plan include complementary investment in expanded transit options like the Corridor Cities Transitway and MD 355 Bus Rapid Transit, both of which run parallel to I-270. The County also asks the Delegation to request MDOT to include provisions that continue to encourage High Occupancy Vehicle use on I-270. When coupled with transit investment, the I-270 Traffic Relief Plan could achieve its stated goals while also supporting the County's need for improved transit options and increased alternatives to single occupancy vehicles. Both are critical to ensure the functioning of the local road network serving our activity centers and reduce the environmental impacts of our transportation system.

• *Personal Mobility Devices*. Traditionally, personal mobility devices (e.g., powered chairs and scooters) were largely used by the disabled community and caused few concerns about conflicts with motor vehicle traffic, bicycles, and pedestrians. In the last two years, there

has been tremendous growth in the variety of these devices and in their use on public roads. It is unclear how existing laws apply to these devices. The County recommends that the State Legislature convene a work group to review the definitions of these vehicles and rules of the road. The work group should also be asked to recommend best-practices and State law changes to better establish the responsibilities of personal mobility device operators and the circumstances under which the devices can be safely operated within public rights-of-way.

• *Video Bus Lane Enforcement*. Baltimore City and Montgomery County have exclusive bus lanes in place or soon to be operational. The State already permits red light cameras, speed cameras, and school bus cameras. Video enforcement of bus lanes may also be an effective approach to managing this infrastructure. In jurisdictions around the country that allow this approach, the camera is typically placed on the bus and records bus lane violators as it uses the bus lane. The County requests Delegation support of legislation that would enable the use of video cameras to strengthen enforcement of bus-only lanes. Similar legislation was introduced by Baltimore City legislators during the 2018 Session.

## **Environment**

• Increasing the Renewable Energy Portfolio Standard. Last fall, the County Council passed a resolution declaring a climate emergency and called on federal, State and local governments to (1) initiate a massive global mobilization to restore a safe climate and build a sustainable economy; and (2) reduce greenhouse gas emissions by 80% by 2027 and entirely by 2035. The Renewable Energy Portfolio Standard (RPS) requires utility companies to purchase renewable energy or renewable energy credits in an effort to shift the use of electricity produced from fossil fuels. During the 2018 Session, two bills were introduced to increase the RPS, but both were withdrawn following the committee hearings. The County requests the Delegation's support for any legislation that would substantially increase the State's RPS.

#### **Housing**

• Increasing Availability of Affordable Housing. Increasing the number of affordable housing units continues to be one of the County's most pressing problems as rental rates in the County continue to increase faster than incomes. Two local bills were enacted this year to increase the availability of affordable housing units and allow the County's Department of Housing and Community Affairs (DHCA) greater flexibility to create additional affordable housing opportunities Countywide. DHCA discussed with the Maryland Department of Housing and Community Development (DHCD) the possibility of setting aside a portion of Low Income Housing Tax credits for use by the Maryland Metropolitan Washington suburbs, similar to the carve out Virginia allows for its Northern Virginia suburbs. DHCD informed the County that due to existing funding commitments made by the State to settle fair housing complaints in the Baltimore region, a set-aside for the Washington region is not feasible. DHCA is currently discussing with DHCD an opportunity to partner to develop a funding mechanism for the preservation of market-rate affordable housing that may arise from the County's Right of First Refusal program. The

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program allows the County to purchase existing rental properties slated for private sale to assure long-term affordability for a certain number of the units. The County requests that the Delegation assist DHCA by supporting its efforts with DHCD to establish a funding partnership that would help accomplish these objectives.

#### **Health and Human Services**

- Medicaid Match for County Funds Used to Supplement Wages Paid to Developmental Disability Providers Serving County Clients. The Montgomery County Department of Health and Human Services (DHHS) received permission from the Maryland Department of Health's Developmental Disabilities Administration (DDA) in 2016 to apply for Medicaid matching funds, contingent on DDA completing a rate-setting study and releasing new DDA provider rate information. The release of the new rates has not yet occurred. This delay has prevented DHHS from applying for Medicaid matching funds for the past three years, which leaves potential federal dollars unclaimed. As the State Delegation budget committee members review the DDA budget, the County asks for assistance to ensure that the State remains supportive of the County's efforts to secure federal matching funds and the application can proceed within the current rate structure. Adjustments can be made in the future when the updated provider rates are released.
- Public Health Grant Funding. Montgomery County has had the highest tuberculosis (TB) case rate in Maryland for more than five consecutive years. In 2016, there was a 25 percent increase in TB cases in Montgomery County, many of which were complicated by the care of clients with dual diagnoses such as HIV and Diabetes. Despite the increase in rates of TB cases, grant funding from the Maryland Department of Health (MDH) was cut by 37 percent this past year. To compensate for the loss of funds, several staff positions were eliminated and the number of TB Program screening and follow-up appointments was reduced by 50 percent. Now, a wait list exists for preventive treatment of TB infection. DHHS has made MDH leadership aware of its shortfalls in this critical area. DHHS asks the State Delegation budget committee members to support the County's advocacy to restore these funds.
- hospitals have reported a significant increase in the number of behavioral health patients leading to a shortage of Crisis Evaluation Unit (CEU) beds. These patients are coming to local hospitals from within the community as well as through the public safety and corrections systems. For example, Montgomery County Department of Corrections reports that during the last fiscal year, 32 percent of its inmate population required immediate behavioral intervention. This influx of patients has created significant challenges for the hospitals located in the County. They must find extra resources to address security and staffing needs to manage the large patient volume. Once the immediate needs of patients accessing the CEU beds are met, because the availability of step-down beds is limited, patients languish in the CEU beds, further exacerbating the CEU bed shortage. The County asks the Delegation to encourage MDH to study this problem and facilitate a statewide collaboration of stakeholders to find solutions.

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• Early Care and Education. As discussed above, the Kirwan Commission is expected to recommend expansion of free or subsidized prekindergarten (PreK) services for low income students. All PreK programs, whether based in public schools or community settings, would be required to follow public PreK standards. Community providers would be required to achieve a level 3 ranking on the Maryland EXCELS Quality Rating Improvement System and submit a plan approved by the Maryland State Department of Education (MSDE) to achieve level 5 within five years. School-based PreK programs would be required to achieve a level 4 ranking and submit a plan approved plan by MSDE to achieve level 5 within five years.

Although the County strongly supports the goal of providing all children with high quality PreK services, there are significant costs associated with achieving higher levels of EXCELS standards and many small and midsize providers will find this very difficult, if not impossible, to do. This problem already exists under the State's current child care subsidy program because a provider must be EXCELS accredited to receive child care subsidy payments and receives higher reimbursements for higher EXCELS ratings. Using EXCELS ratings in this way creates a business challenge for many early child care and education providers and many are closing their doors. These are often the very providers who support low-income and immigrant families, thereby disadvantaging the same population that subsidies are intended to assist.

The County will share its concern about the declining number of early child care and education providers with the Kirwan Commission at its November 29 public hearing. We request support from the Delegation in requiring MSDE to study the reasons for the declining number of providers Statewide and report back to the General Assembly. The study should include an analysis of whether the EXCELS framework is unnecessarily complicated and overly burdensome for providers and schools, the potential positive impacts of reducing the number of rating levels to three and establishing clearly distinguishable criteria between levels, and the adequacy of resource and referral (R&R) networks.

#### **Economic Development**

• Make Office Vacancies Extinct (MOVE) Program. Legislation enacted in 2017 created a State grant program, modelled after the County's successful MOVE program, to encourage the location of new businesses and reduce office space vacancies in the State. To be eligible for State funds, counties must offer comparable incentives to these businesses. However, because the Governor has never included funds in the budget for the State program, it is not operational. If the Governor does include funds in the fiscal year 2020 budget, the County asks the Delegation to make sure the funds are appropriated; if the Governor does not, the County asks the Delegation to work with their budget committee colleagues to identify other means by which the funding goals of MOVE can be met. In addition, the County would request the Delegation's assistance in promoting the benefits of creating this type of a program to other counties since broader participation may create more of an incentive for the Governor to fund the program.

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• Businesses Impacted by State Construction Projects. When major State infrastructure projects result in the displacement of a business, the State offers a program that provides them with financial assistance. However, there is no State program that offers similar assistance to businesses that are not displaced but suffer financially from loss of business activity during the preparation and construction phases of projects. A number of small businesses located near the Purple Line alignment currently fall into this category and may need financial and/or other types of assistance to avoid having to shutter their businesses before construction is complete.

During the 2018 Session, the budget committees requested the State Highway Administration, in coordination with the Department of Commerce, to examine the issues facing businesses impacted by road construction projects and report to the committees on the feasibility of establishing a Business Retention Program to assist impacted businesses. The report is to include recommendations on how such a program should be structured and funded and identify any changes to current law that would be needed to establish such a program. While this study is limited to road construction projects, the findings should be applicable to other major construction projects, such as the Purple Line. Therefore, the County urges the Delegation to consider the report's findings with the goal of expanding State assistance programs beyond the offerings that currently exist.

## Victims' Rights

- Human Trafficking and Sexual Assault. Montgomery County urges the Delegation to continue its commitments to advancing victims' rights for all Marylanders. Better policies and laws are needed to address sexual assault and human trafficking. The County requests that the Delegation support legislative initiatives to ensure that trafficking victims who commit specific crimes while being trafficked can remove those convictions from their records. This process is called "vacatur." The County also requests that the Delegation support legislation providing immunity for trafficked minors (Safe Harbor), and the pursuit of stronger State contracting laws to protect workers from other countries from trafficking and coercive labor practices.
- Domestic Violence. The safety of victims and their children from domestic violence requires a collaborative local and State response that must include access to education and outreach services for affected Montgomery County residents. Montgomery County urges the Delegation to continue its commitment to advocate for and pursue substantive legislation to address domestic violence in Maryland, and to consider legislative recommendations that will be advanced by the Maryland Network Against Domestic Violence -- an organization that works cooperatively with Montgomery County's Domestic Violence Coordinating Council.

#### **Public Safety**

• Next-Generation 9-1-1 in Maryland. In the 2018 Session, the State established the Commission to Advance Next Generation 9-1-1 Across Maryland and charged the Commission with studying best practices for new 9-1-1 technology and making

recommendations on operational and funding issues. The availability of effective and reliable emergency service is critically important to the State and will require complicated planning matched with sufficient appropriations. The County requests the Delegation's support and attention to the Commission's preliminary report due in December to the Governor and the General Assembly that will help to guide Maryland's implementation of Next Generation 9-1-1 technology.

- School Bus Monitoring Cameras. In September, AAA-Mid Atlantic reported that 51,000 drivers over two years passed stopped Montgomery County school buses with stop-arms deployed and red lights flashing. The civil penalty for this violation recorded by a school bus monitoring camera is a prepay fine of \$250 per violation, which was increased in 2017 from \$125. Remarkably, the same violation witnessed by a police office will result in a citation of \$570 and three points on the driver's license. The Delegation supported the enactment of this important public safety legislation two years ago, and the County requests the Delegation's support in 2019 to eliminate the sunset provision on the higher fine. Until more drivers understand and obey existing school bus safety laws aimed at protecting our children, the County believes this higher fine should stay in place.
- Gang Violence. Gang-related violence, from drugs and property crime to homicide, continues to increase in Montgomery County. In 2018, the Legislature passed a crime bill that increased penalties for witness intimidation and created the Task Force to Study Maryland's Criminal Gang Statutes. While there have been numerous successful prosecutions of gang members under statutes relating to crimes of violence, prosecutors have rarely used Maryland's Gang Participation statute because its evidentiary requirements are unwieldy and in need of change. A report of the Task Force's finding is due to the Governor and the General Assembly by the end of December. The County asks the Delegation to carefully consider that report and support programs intended to deter atrisk youth and families from gang involvement, and legislation to enhance the prosecution of gang-related crimes.

#### **Core Government Functions**

• Local Decision-Making Authority. The State has delegated broad home rule authority to Charter Counties, and Montgomery County regularly exercises this authority to address matters of importance to our community that are not addressed, or are addressed differently, at the State level. Each session, the General Assembly considers legislative proposals that seek to preempt local authority. In recent years, this has included legislation relating to paid sick leave, minimum wage, solar farms and pesticides. The County expects that various preemption bills will be introduced in the 2019 Session, including bills governing the minimum wage and small cell antennas. Additionally, the Maryland Association of Counties (MACo) will seek to override the legal doctrine of implied preemption, which allows a court to invalidate a local law even when there is no express preemption language in a State statute. In recent years, courts have used this doctrine to invalidate laws governing tobacco regulation, solar farms and pesticides. The County requests that the Delegation support this MACo initiative and oppose any legislation that

seeks to expressly preempt the County's authority to enact laws that best serve our community.

• Deployment of Small Cell Wireless Antennas. According to industry representatives, small cell antennas (small cells) are an essential component of fifth generation (5G) wireless broadband technology. The industry's desire to deploy this technology quickly and at the lowest possible cost has fueled unprecedented efforts at the State and federal levels to preempt local authority to manage the placement and size of this equipment in public rights-of-way and on public property. During the 2018 Session, the industry introduced a sweeping preemption bill that was eventually withdrawn due to strong opposition from counties and municipalities. Since the end of Session, the Federal Communications Commission (FCC) has acted aggressively to impose shot clocks on applications, ban franchise fees for use of public rights-of-way, ban rent for use of public property (e.g., street lights and buildings), and limit the ability to recover administrative costs.

The County strongly supports the goal of achieving fast and reliable broadband service but believes that the extensive federal rules that already apply to small cell deployment, together with the County's efforts to develop its own balanced solution, alleviate the need for State preemption in this area. Earlier this year, the County amended its zoning laws to significantly liberalize the rules governing siting of small cells in commercial areas - the highest priority areas for the small cell industry. During the past two years, the County Executive and County Council also conducted extensive outreach efforts with residents and businesses regarding the siting of small cells in residential areas and devoted significant time and effort to considering legislation that would establish a balanced approach for these areas. The tremendous progress that has been made in analyzing issues and identifying potential options will provide a solid foundation for resolution of this issue when new County leaders take office in December. The County requests that the Delegation support the County's efforts to finalize its work on this issue and oppose any effort to preempt local authority at the State level.

## **Other Capital Projects**

- *Public School Construction* \$113,000,000. This is the Montgomery County Public School's fiscal year 2020 State aid request.
- *Montgomery College* \$35,000,000. The County is supporting Montgomery College's State capital request to construct the Takoma Park/Silver Spring Campus Math/Science building. Because of the size of the request, the State may allocate funding over more than one fiscal year.
- Avery Road Treatment Center -- \$840,000. Montgomery County is in the process of rebuilding its Avery Road Treatment Center, which offers detoxification and intermediate residential behavioral health treatment services for low-income County residents. The State committed to funding 28% of project costs. Due to recent cost increases in the price of building materials, the project is under-funded in the range of \$1.5 million to \$3 million.

The County is requesting that the State share in this cost, which at the high end would be \$840,000.

- Poolesville Economic Development Project \$1,000,000. The Montgomery County Revenue Authority is requesting a fiscal year 2020 State capital grant to help support the costs of utilizing excess land at the Poolesville Golf Course property, located in the Agricultural Reserve, to develop a comprehensive facility to support agriculture, economic development, and education/workforce development. This is a multiphase project that is focused on supporting farmers through research, sale of local crops, and alternative product development. It will support economic development in the region related to agritourism. Partnerships with educational institutions and industry will be utilized to create workforce development programs. All of these activities will help to preserve open space and foster a healthy agricultural ecosystem. The Delegation's previous financial support has allowed this project to move through the design phase and approval process, and a Request For Proposals has been issued.
- Round House Theatre \$3,000,000. The County is supporting Round House Theatre's request for a \$3 million State grant in fiscal year 2020. This would be the second installment of a multi-year State request to help support the costs of a \$9 million renovation of the Bethesda theatre, to be completed by September 2019. The County has also invested in this project.
- Olney Theatre \$2,000,000. The County is supporting Olney Theatre's request for a \$2 million State grant in fiscal year 2020. This would be the second installment of a multi-year State request to help support the costs of the Theatre's \$25 million capital improvement project to develop community amenities at the location. The County has also invested in this project.

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