



**Testimony of Reinvent Albany
for the Joint Legislative Hearing on Transportation,
2021-2022 Executive Budget
January 26, 2021**

RE: New York’s Transit Systems Must Get 100% of Transit Dedicated Funds, Or Transit Systems Face More Fare Hikes and Bond Downgrades

Good afternoon. I am Rachael Fauss, Senior Research Analyst for Reinvent Albany. We advocate for more transparent and accountable state government — including for state authorities like the Metropolitan Transportation Authority (MTA) and Thruway Authority.

We are here today to recommend the following:

- 1. The Legislature should reject the Governor’s proposal to continue the “budget adjustment process” into FY 2022.**
- 2. All dedicated funds received in FY 2021 should be repaid or paid to the MTA and other transit systems from “withholdings.”**
- 3. The Legislature must get detailed information about exactly how much was received by specific transit dedicated taxes in 2020 to better understand why MTA state operating aid has been cut by \$1B for FY 2021 and FY 2022.** (Has the state raided MTA dedicated funds? If so, how much?)
- 4. All transit dedicated funds must be moved off-budget and directly remitted to the MTA and other transit systems** to prevent future raids on transit funds, and further downgrades by rating agencies.
- 5. The Legislature should hold a hearing on MTA procurement rather than accept Article VII procurement changes.** Transit agency procurement is enormous, complex and controversial. In addition to COVID-19-related emergency rules, the Governor’s Executive Order 168 from June 2017 June 2017 has been renewed 43 times. The proposed law changes and the executive orders should be considered separately from the budget.

Legislature Must Reject Continuation of Governor’s Secretive Budget “Adjustment” Process and Opaque “Withholdings.”

This budget year is like no other before, not only due to COVID-19, but also because of the Governor’s “budget adjustment” process that the Legislature has acquiesced to, and the Governor seeks to continue into FY 2022.

We are deeply concerned about the blurring of the FY 2021 and 2022 budgets, and the vagueness and slipperiness of the spending “withholding” process. As we speak, the Legislature is considering both next year’s FY 2022 budget and how to close budget gaps in the current FY 2021 budget. Additionally, FY 2021 budget numbers in the state financial plans have been “adjusted” from the adopted April 2020 budget, meaning that the Governor has moved the goalposts or baselines for reviewing funding decisions. This “blurring” of budget years makes truly understanding state spending nearly impossible and greatly diminishes the accountability of the Governor, Senate and Assembly.

The Legislature should be troubled that the Governor is proposing to continue the “adjustment process” in the FY 2022 Executive Budget. Worse yet, the Governor seeks to expand his sweeping budget powers by getting the discretion to cut whatever spending he wants with no Legislative approval should New York not get \$6B in federal aid, or for any other “similar” reason. This is a power grab by the Governor to seek unilateral authority over the FY 2022 budget and you should reject it. You should also require there to be additional, detailed transparency by agency and program of withholdings and repayments for FY 2021, and legislative input on any mid-year changes for FY 2022.

How Much Exactly Has the Governor Diverted from MTA and Other Transit Agencies? We Estimate \$600M for MTA Alone.

The Governor must be clear about which agency, authority or program he is cutting or withholding funds from. The MTA and other transit systems have been hit by millions of dollars of withholdings, yet the Legislature and public have no way to see how much was withheld in 2020. State records FOILED by Reinvent Albany from the Assembly show the Division of the Budget (DOB) formally provided the Legislature documents showing [\\$700 million](#) in withholdings for calendar year 2020. This is far short of the total of \$3.1 billion identified in [DOB’s Executive Budget financial plan](#) (see page 191 of the PDF). DOB’s list shows ten broad categories of withholdings, not by individual agency or program despite DOB saying in December that they would provide a full breakdown.

MTA budget documents suggest that these withholdings could equal approximately \$300M for 2020. In July, the MTA [added \\$600M to its deficit](#) from a loss of state

subsidies – a euphemism for state dedicated funds like the Metro Mass Transportation Operating Assistance Fund (MMTOA). This was on top of revenue losses of \$10.3B, which already accounted for drops in fare revenues collected and tax receipts.

Without enough state and federal support in 2020, the MTA had to act to close its budget gaps, as their fiscal year ended on December 31, 2020. The “withholdings” became *de facto* cuts. The MTA borrowed the max of \$3.4B from the Federal Municipal Liquidity Facility, and used \$900 million from the capital “lockbox” for operating expenses. This means there is less money to upgrade the MTA’s aging infrastructure, and increased borrowing means higher debt service payments that must be made, which will compete directly with service in the coming years.

Given better than expected tax receipt performance at the end of 2020, and Budget Director Mujica’s statement that withholdings will be reduced to 5%, the MTA must have its dedicated funding refunded. Dedicated transit funds should never have been a part of withholdings to begin with, however, and 100% of receipts that came in should be delivered to the MTA and other state transit systems.

FY 2021 and FY 2022 Budget Plans Shows \$1B Less in State Operating Aid for MTA

The Governor’s budget books show \$1B less in total state operating support for the MTA in both the “adjusted” FY 2021 budget and the proposed FY 2022 budget. This is about a 17% cut from what was adopted in April 2020. Yet nowhere is there a detailed listing of the total receipts from 2020 and those forecasted for 2021 from the various MTA dedicated fund sources. If both tax receipts are dropping *and* the state is withholding or cutting funds on top of this, this is a raid on MTA resources to prop up the state’s overall budget losses. The Legislature must seek detailed transparency of transit dedicated tax revenues to ensure that 100% of tax receipts that have come in are delivered to the MTA and other transit systems at their time of greatest need.

Lesson Learned - Move All Transit Operating Funds Off-Budget

Given the history of past raids on transit dedicated funds, current withholdings, and possible raids of dedicated funds in the FY 2021 and FY 2022 budgets, the Legislature must remit all dedicated funds directly to the MTA and other transit systems, making them no longer subject to appropriation. New MTA revenues have all been set up to be sent directly to the MTA including the For-Hire Vehicle fee, Mansion Tax, and Congestion Pricing. In 2018 and 2019 older revenue sources like the Payroll Mobility Tax and the MTA Aid package were moved off-budget. [DOB itself said](#) that “Providing these revenues directly to the MTA will remove the State's unnecessary involvement as a recipient of these funds and accelerate the availability of these funds.”

MTA Bonds Downgraded Because of State Raids on Dedicated Funds = Higher Borrowing Costs and Fare Hikes

Kroll [downgraded the MTA's bond rating last year](#) and cited the withholdings, saying that “The delay of funds is inconsistent with KBRA’s expectation of uninterrupted State support of MTA operations.” Therefore, sending dedicated funds directly to the MTA and other transit systems is not only important for accountability but will also ensure that future riders are not paying more in debt service due to state budget delays. Debt is more than 20% of the MTA’s operating budget now, which riders have been paying through their fares.

Article VII Bills

Below is our position on the Executive Budget Article VII legislation pertaining to MTA.

- **Part E - Toll Enforcement** - Support. We support congestion pricing and measures to discourage toll evasion such as increased fines for defacing or obscuring license plates in the central business district tolling region and other MTA and Port Authority bridges.
- **Part F - Procurement** - Oppose. This should be a standalone bill, not part of the budget. (See our [comment from last year](#) on similar procurement changes.)

The Governor proposes major changes, including:

- Changes to the public notification process for bids;
- Addition of design-build requirements for subway car and bus procurements;
- Removal of the term “sealed” from the bidding process; and
- Allowing competitive bidding to be deemed “impractical” if items are available through existing contracts with other states, localities or the federal government.

We recommend that the Legislature hold a hearing on MTA procurement reform.

The Executive Budget changes must be reviewed carefully, and we suggest that the Legislature obtain input from vendors to determine the impact these will have on the bidding process. A hearing would allow these proposals and the effect of ongoing Executive Orders like EO 168 to be studied more thoroughly before vast sections of law are repealed and changed.

- **Part G - MTA Utility Relocation** - No Position.
- **Part H - MTA Subway Accessibility** - No Position.
- **Part I - MTA Worker Assault and Harassment** - No Position.

Thank you for your consideration. I am available for any questions you may have.