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Permanent Citizens Advisory Committee to the MTA (PCAC)
Transportation Communication Union (TCU) • Transport Workers Union (TWU) International
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Riders Alliance • Rise and Resist Elevator Action Group • SMART Transportation Division
StreetsPAC • Transportation Alternatives • Tri-State Transportation Campaign

March 5, 2021

Senate Majority Leader Andrea Stewart-Cousins
Assembly Speaker Carl Heastie

Re: Please Reject \$160M Raids on Dedicated Transit Funds in One-House Budget Bills, and Ensure \$524M in Withheld Funds are Repaid to MTA from FY 2020-2021

Dear Majority Leader Stewart-Cousins and Speaker Heastie,

Our groups ask that the Senate and Assembly reject the proposed raids on dedicated transit funds in the Governor's Executive Budget in your one-house budget bills. The Governor's FY 2021-2022 budget would transfer approximately \$145 million in MTA dedicated funds to the state's general fund, as part of a \$160 million total raid on statewide dedicated transit funds.¹ Additionally, we ask that the Legislature ensure that all \$524 million in withheld funds from FY 2020-2021 is repaid to the MTA, as well as all withholdings from other mass transit agencies.

Legislature Must Reject \$160M Raids From State Mass Transit Systems to General Fund

According to the Assembly's "Yellow Book" analysis,² the Governor's Executive Budget would divert \$160 million from seven different dedicated mass transit funds to the state's general fund. The MTA's share of this is approximately \$145 million. This includes raids from the Metro Mass Transportation Operating Assistance Fund (MMTOA - \$107 million) and the Central Business District Trust Fund (from Internet Sales Tax funds - \$6.5 million), among others. The raids take

¹ Guse, Clayton. "Cuomo pushes \$145M raid on funds dedicated to cash-strapped MTA." New York Daily News. February 11, 2021.
<https://www.nydailynews.com/new-york/ny-cuomo-mta-dedicated-funds-raid-20210211-gefymoswmjfw7m7mmy2wbvc3gm-story.html>

² New York State Assembly. Yellow Book, FY 2021-22 Executive Budget. Page 109 of PDF.
<https://nyassembly.gov/Reports/WAM/2021yellow/2021files/2021yellowbook.pdf>

place in the Article VII Public Protection and General Government Legislation.³ They do not include a diversion impact statement, as required by the 2018 Transit Lockbox Law passed by the Legislature, which would show the impact on transit service.⁴

Raids of dedicated transit funds are a backdoor tax on riders that the State Legislature must reject because riders may be forced to make up for this shortfall with a fare hike or service cuts. Fare hikes and service cuts will disproportionately harm low-income riders. The fare and toll hikes proposed by the MTA in November 2020 would raise \$148 million for the MTA in 2021, an amount nearly equivalent to the raid.⁵ Toll increases were approved in February 2021 and fare hikes have been postponed, but are still on the table with the state dedicated fund raids.

Dedicated taxes are created by the Legislature to fund a specific purpose or program and are categorically different from the state general fund. In the case of dedicated transit taxes, they were created to provide stable operating support for transit agencies. Raiding dedicated transit funds breaks trust with the public, who pay these taxes with the understanding that they will fund transit service. Dedicated taxes have already declined due to the COVID-19 pandemic, and now would be raided for the state general fund -- a double hit to transit agencies.

\$524M Withheld from MTA in FY 2021 Must Also Be Repaid

The MTA has also had hundreds of millions of dollars withheld in 2020 through the “budget adjustment process” authorized by the FY 2020-2021 Aid to Localities legislation. Only on February 19, 2021 in response to a press inquiry did the Division of the Budget provide the total withholding amount for the MTA in FY 2021: \$426 million to be repaid, with \$98 million more potentially to be “cut” as part of “across-the-board” withholdings, for a total of \$524 million – half a billion dollars – withheld from the MTA.⁶ It is unknown exactly when the \$426 million will be repaid. It is also unclear if this \$98 million “cut” is similarly a raid for the state general fund, adding to the FY 2022 raid of \$145 million, for potentially about \$240 million in MTA raids over a two-year period. These are funds that would be used for operating and maintaining the system, which the MTA will need to identify through other cuts and reductions, or fare and toll increases.

The withholdings have also harmed the MTA’s credit ratings. Late payments of state dedicated funds was specifically cited in a downgrade by Kroll, a ratings agency, which said: “The delay of funds is inconsistent with KBRA’s expectation of uninterrupted State support of MTA operations...the timely release of State appropriated funds is critically important.”⁷ Withholdings of more than half a billion dollars added considerable strain to the MTA in 2020, given its cash

³ Article VII Public Protection and General Government Legislation, Page 197 of PDF.

<https://www.budget.ny.gov/pubs/archive/fy22/ex/artvii/ppgg-bill.pdf>

⁴ For more information see:

<https://reinventalbany.org/2018/12/50-groups-urge-governor-cuomo-to-sign-transit-lockbox-bill-passed-unanimously-by-state-assembly-and-senate/>

⁵ MTA Fare and Toll Policy Review. November 18, 2020. <https://new.mta.info/document/24141>

⁶ Robbins, Christopher. “Still Faces State Budget “Raid”.” February 19, 2021. Gothamist. <https://gothamist.com/news/mta-avoids-catastrophic-cuts-but-still-faces-state-budget-raid>

⁷ Kroll. Metropolitan Transportation Authority (MTA) Transportation Revenue Bonds Surveillance Report. October 5, 2020. <https://new.mta.info/document/20586>

flow problems resulting from huge drops in ridership. In the absence of both state and federal support in 2020, the MTA was forced to borrow \$3.4 billion for operating expenses from the Federal Reserve, and plans to use \$900 million for operating expenses through the end of 2021 from its capital lockbox.

Legislature Left in the Dark About Withholdings

Despite the disclosure of the total amount withheld from the MTA in FY 2021, the Division of the Budget has still not provided a list of all withholdings from calendar year 2020 for various recipients - individual state agencies, authorities, municipalities, and other service providers. The Legislature has been formally notified of less than 25% of these withholdings.⁸ MTA Chief Financial Officer Bob Foran said in response to press inquiries at the MTA's January 2021 Board meeting that the MTA adjusted its 2020 budget to account for a \$261 million loss from state withholdings.⁹ This amount is considerably less than provided by the DOB on February 19, 2021 of \$524 million total that was not provided to the MTA in 2020 by the state from withholdings and potential cuts.

Raids on State Dedicated Funds Undermines MTA Case for Federal Funding

The MTA is facing the worst financial crisis in its history, and is seeking an additional \$8 billion in federal funding to bridge its budget gaps in the coming years. For the state to raid and withhold hundreds of millions in dedicated funds risks securing these critical federal emergency funds. There should be no fungibility of state dedicated funds, and receipt of federal aid cannot be an excuse for the state to raid or withhold dedicated transit funding.

Again, we ask that the \$160M raid on mass transit dedicated funds in the FY 2022 Executive Budget be rejected in the Senate and Assembly one-house bills, and for the Legislature to ensure all \$524M in dedicated funds are restored to MTA from FY 2021, as well as all withholdings from other state transit systems.

Thank you for your consideration of this matter. Should you wish to discuss this, please contact Rachael Fauss, Senior Research Analyst, Reinvent Albany, at rachael@reinventalbany.org.

Sincerely,

⁸ For more information see: <https://reinventalbany.org/2021/01/gov-cuomos-fy-21-22-budget-continues-opaque-withholdings-and-grants-extraordinary-powers-to-executive/>

⁹ MTA Board Meeting, Press Q&A. January 21, 2021. Available at: <https://youtu.be/wy7pRsuAols?t=7956>

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Cc.

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Senator Leroy Comrie, Chair, Authorities Corporations and Commissions Committee
Senator Tim Kennedy, Chair, Transportation Committee
Assemblymember Helene Weinstein, Chair, Ways and Means Committee
Assemblymember Amy Paulin, Chair, Authorities, Corporations and Commissions Committee
Assemblymember William Magnarelli, Chair, Transportation Committee