



**Testimony of Rachael Fauss, Reinvent Albany at  
NYS Legislature Oversight Hearing, MTA COVID-19 Response**

***Re: State Legislative Oversight Crucial for Future of MTA;  
MTA Dedicated Funds Must Be Moved Off-Budget to Protect from Raids***

**August 25, 2020**

Good morning, Chairs Comrie, Kennedy, and Paulin and other members of the Senate and Assembly committees on Transportation and Corporations, Authorities and Commissions. I am Rachael Fauss, Senior Research Analyst for Reinvent Albany. We advocate for a more transparent and accountable state government – including for state authorities like the MTA.

First, we would like to thank you for holding this oversight hearing on the MTA and the financial and operational impacts of COVID-19. We strongly support increased oversight by the legislature, particularly in times when the state government is acting in an emergency capacity, and ask that you hold an additional hearing on the MTA this fall, ideally in October. This oversight will be particularly important prior to the MTA's release of a November Financial plan and adoption of a 2021 budget this December, given its dire financial condition. It will also ensure that there is greater public transparency and the opportunity for comment on the potential fate of the MTA's 2020-2024 capital program, which is currently on pause.

These are difficult times for the MTA and all New Yorkers, and we are fully cognizant of the political difficulties that the MTA faces in providing full information about the scenarios that are likely if federal funding does not fully make up for their deficit, both for the operating budget and the capital program. The State Legislature therefore has a responsibility to riders and taxpayers to ensure that the MTA and those it serves come out of this crisis as unscathed as possible, and learn from this to prevent or mitigate future financial calamities.

The MTA's financial crisis is of a magnitude never experienced before, and comes at a time when the MTA was already on precarious financial footing. Its debt service already reached record levels – nearly 20% of operating revenues – before COVID hit, and with the massive drop in fare revenue and tax receipts means, the MTA is losing \$200 million a week.<sup>1</sup> Any options for addressing the MTA's deficit must learn from the past, and ensure that riders in future years aren't suffering under a transit system that is so saddled with debt that it can't maintain service levels or a state of good repair. The only option that will not create devastating consequences for riders remains Congress providing a massive infusion of emergency aid of more than \$10B.

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<sup>1</sup> <https://gothamist.com/news/mta-losing-200-million-every-week-thanks-fiscal-tsunami-caused-pandemic>

My written testimony has more detail on the following items, which I will summarize for you:

1. **Federal funding for the MTA would benefit not only the NYC region, but the nation as a whole, as MTA spending** creates jobs across the US.
2. **Deficit borrowing is a last-resort option for the MTA given its current huge debt load - currently \$2.8B in 2020.** MTA debt service will reach 26% of operating revenues next year - up from 11% in 2004 - and more debt could cripple the system's future. Also on MTA debt:
  - a. The Federal Reserve's Municipal Liquidity Facility terms should be improved with zero- or very-low interest rates and longer-term borrowing; and
  - b. The State Legislature should require an independent debt affordability study be conducted by the State Comptroller to determine the red line for MTA debt.
3. **MTA dedicated funds must be protected from raids**, as the Governor and MTA indicated \$600M will be raided by the state if federal funding does not come through for the state as a whole. We call on the Legislature to "lockbox" Mass Transportation Operating Assistance (MTOA) funds by moving them off-budget and no longer subject to appropriation, like the Payroll Mobility Tax (PMT). In moving the PMT off-budget in 2018, the Division of the Budget even said it "will remove the State's unnecessary involvement as a recipient of these funds and accelerate the availability of these funds."<sup>2</sup>
4. **The MTA should look at further opportunities for sharing crowding and cleaning information as open data** to build trust with the public.

### **Federal Funding Remains Only Solution That Won't Harm Riders**

Congress must act soon to deliver at least \$10B for the MTA, as federal emergency aid is the only option that won't result in negative consequences for riders, either in the short- and or long-term. The MTA has already spent down all of the \$3.8B from the CARES Act as of July 24th<sup>3</sup> - a month ago - and is in limbo as the U.S. Senate Republicans have failed to offer an aid package that addresses the \$32B needed for mass transit across the country. New York City's recovery is also essential to the nation, as the metro region is the driver of 10% of US GDP.

As highlighted in our report from June 2020, *Investing in the MTA is Investing in America*<sup>4</sup>, the MTA's ability to remain fully operational and in a state of good repair is in the interest of the entire country. The MTA is the largest mass transit system in the nation, carrying 40% of all passengers, and its \$17B operating budget is larger than that of many states. From 2011-2018, one-third of *all* its payments to vendors were made outside NYS, with \$8B invested across the country, creating as many as 100,000 jobs. These funds went to 47 of the 50 states, with significant investments made in both red and blue states, including \$1.4B in Pennsylvania, \$293M in Ohio, and \$219M in Texas. Our map of MTA spending across the US is on the next page, and our [full report is available on our website](#).

<sup>2</sup> NYS Division of the Budget. MTA FY 2020 Executive Budget.

<https://www.budget.ny.gov/pubs/archive/fy20/exec/agencies/appropData/MetropolitanTransportationAuthority.pdf>

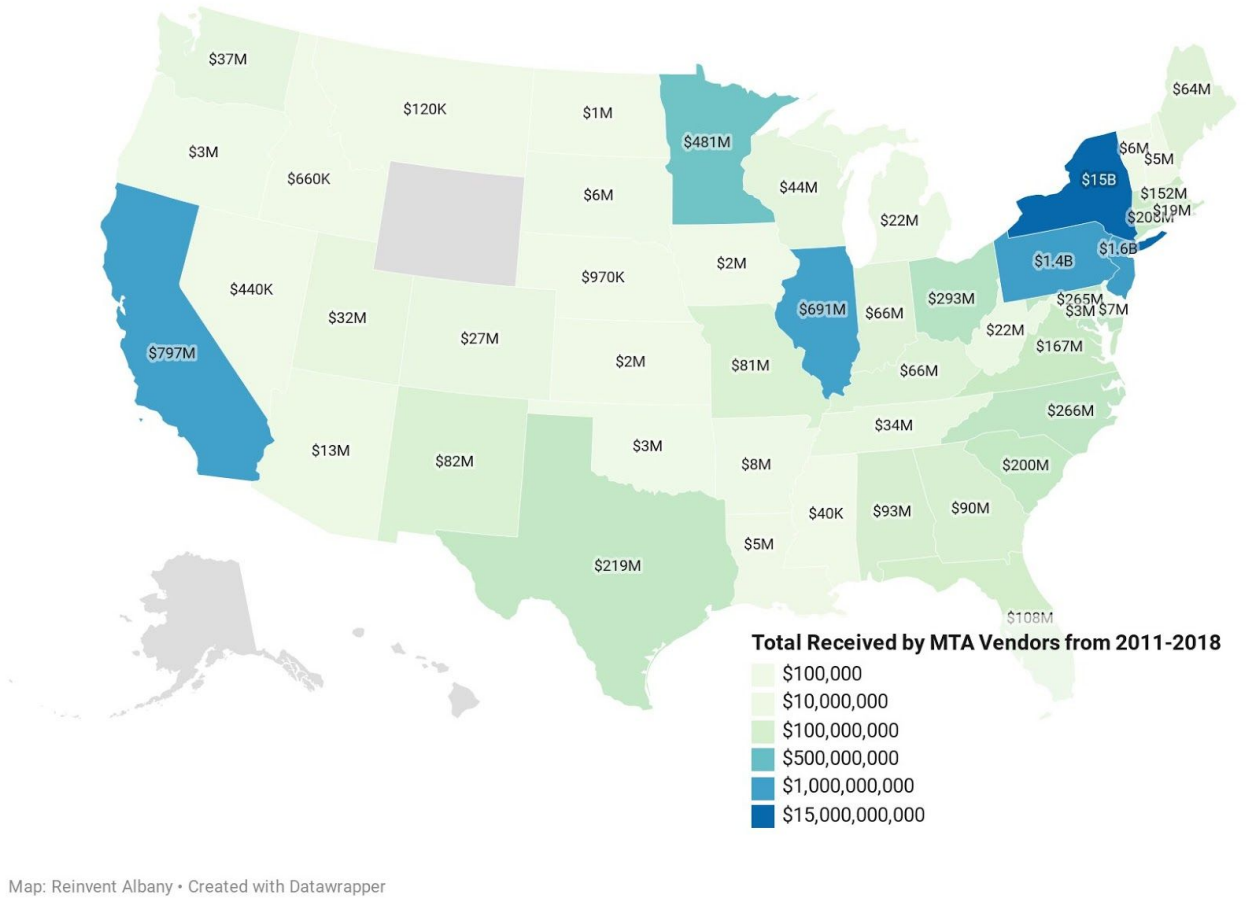
<sup>3</sup> MTA. Press Release. MTA Announces CARES Act Funding Exhausted Tomorrow. July 23, 2020.

<http://www.mta.info/press-release/mta-headquarters/mta-announces-cares-act-funding-exhausted-tomorrow>

<sup>4</sup> Reinvent Albany. Investing in the MTA is Investing in America. June 2020.

<https://reinventalbany.org/2020/06/watchdog-report-investing-in-the-mta-is-investing-in-america/>

## MTA Spending on Outside Vendors by State, by Reinvent Albany



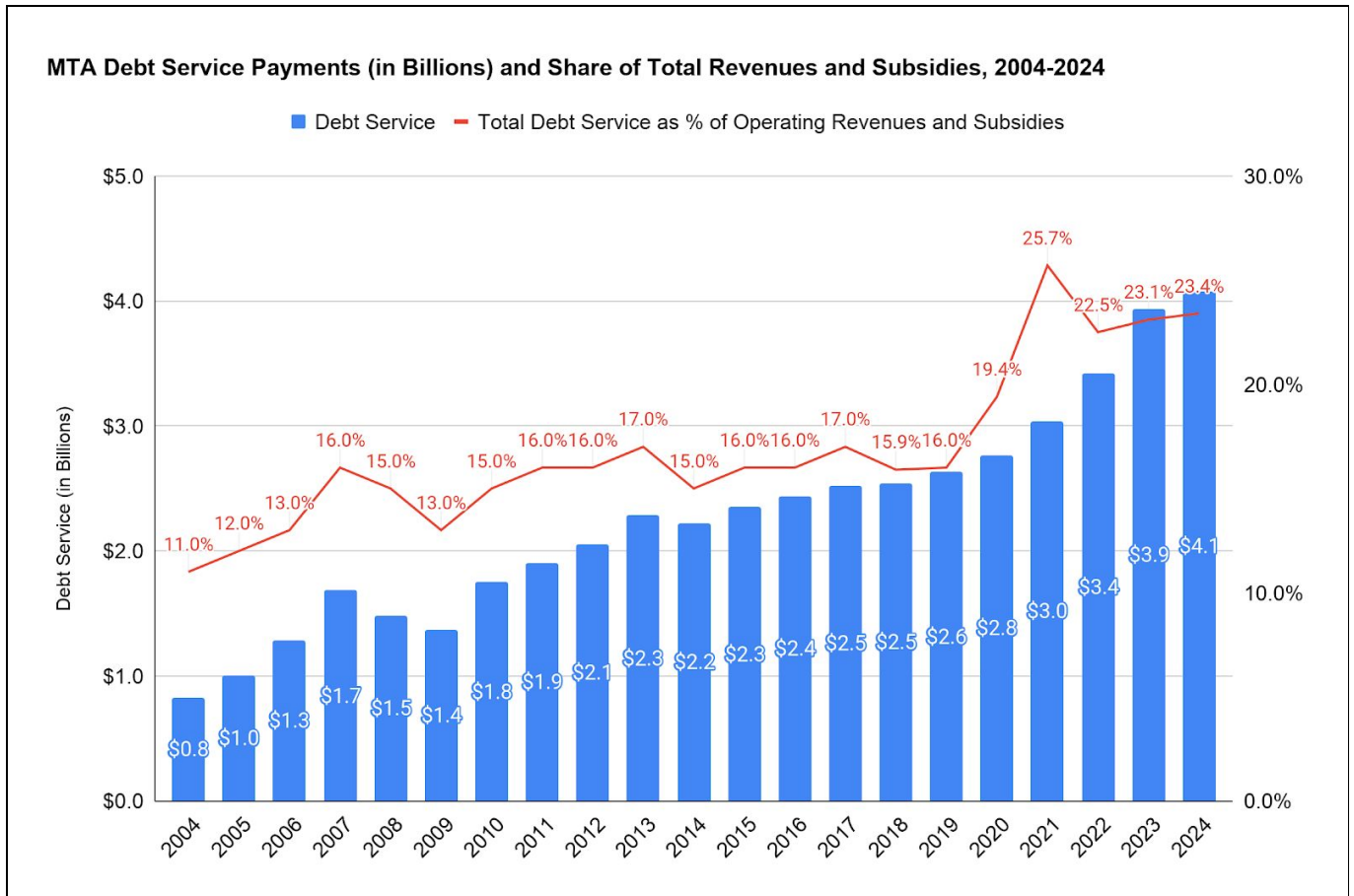
### Deficit Borrowing is a Last-Resort, Risky Option

As the MTA looks at its options to balance its budget, deficit borrowing for up to \$10B as authorized in the state budget this year is a risky, last-resort option akin to putting rent and groceries on your credit card with the hope of an uncertain, future bail out. For another analogy, Chairman Foye said that deficit borrowing is like “going to the top of 2 Broadway and lighting million dollar bills and throwing them into Broadway.”<sup>5</sup> The MTA’s current debt load will already creep up to nearly 26% of operating revenues in 2021<sup>6</sup>, and additional borrowing would further increase its massive debt service payments. Even with perhaps rosy expectations that the economy will rebound, it will remain above 20% of MTA operating revenues through 2024. For historical context, the MTA’s debt load was 11% of operating revenues in 2004.

<sup>5</sup> Muoio, Danielle. “The nation’s biggest public transit system is facing ruin. Will Congress save it?” Politico. 8/16/2020. <https://www.google.com/amp/s/www.politico.com/amp/news/2020/08/16/mta-new-york-biggest-public-transit-system-congress-395717>

<sup>6</sup> MTA July 2020 Financial Plan, Debt Affordability Statement, Page 94 <https://new.mta.info/document/18461>

A chart of the MTA’s debt load from 2004-2024 (projected) is below<sup>7</sup>:



The only option for a limited level of borrowing that could be sustainable is if the Federal Reserve expands and further improves its Municipal Liquidity Facility (MLF) Program. It currently allows designated Revenue Bond Issuers (RBIs) like the MTA to borrow up to 20% of revenues (unclear if this is only for fare revenue, or also includes state dedicated taxes). The MTA recently sold \$450M to the MLF, at 1.92%.<sup>8</sup> This followed the Fed reducing interest rates of the program by half a percent. It is a positive development that the MTA is able to borrow from the Fed at a lower rate than the public markets. If the Fed allowed zero- or low-interest loans over a longer period of time, this could be even more beneficial for the MTA.<sup>9</sup> However, \$465M is less than a nickel on the dollar of what the MTA is asking for in emergency aid through 2021 (\$10B). It is also only a small fraction of their current yearly debt service payments, which total \$2.8B for 2020. Congress must deliver a huge boost of COVID emergency aid so the MTA can avoid the revolving debt escalator.

<sup>7</sup> Data from MTA Debt Affordability Statements, 2004-2020 from Financial Plans. See 2020 statement here: <https://new.mta.info/document/18461>

<sup>8</sup> Chappata, Brian. “New York’s MTA Is Saved Less by Fed and More by Kroll.” Bloomberg Opinion. 8/19/2020. <https://www.bloomberg.com/opinion/articles/2020-08-19/new-york-s-mta-saved-less-by-fed-and-more-by-kroll>

<sup>9</sup> For more information see: <https://reinventalbany.org/2020/08/august-update-on-feds-500b-municipal-liquidity-facility/>

We also continue to recommend that an independent affordability study be conducted of MTA debt to objectively determine where the red line is on MTA debt (note: Reinvent Albany believes we already crossed it) and assess the MTA's options for mitigation in the future. This should be conducted by the State Comptroller.

### ***Need for State Dedicated Funds to be Protected***

The state must also do its part to ensure that the MTA is on stable financial footing. MTA dedicated taxes have taken a hit due to the economic crisis with lower tax receipts, and must not *also* be raided by the Governor to make up for the state's budget shortfalls. Dedicated funds were created to be reliable, stable sources of funding for the MTA, in good times and bad. If ever there was a time to send every dollar of transit-dedicated funds to the MTA, it is now.

The Governor and MTA in late July stated that without federal emergency funds for NYS, there would be \$600M in "reductions" to the MTA's state subsidies.<sup>10</sup> The largest state subsidy for the MTA that is still appropriated is the Metropolitan Mass Transportation Operating Assistance Fund (MMTOA), which was budgeted to bring in \$2.1B for the MTA in 2020. These potential "cuts" would in fact be raids of MTA dedicated funds, as by law these dedicated funds are intended for one purpose only: operating MTA service, not propping up the state's general fund shortfalls. This would occur through the budget adjustment process that was authorized as part of the April budget by the Governor and Legislature, but has not yet been used.

We again call on the Governor to respect MTA dedicated taxes, and for the legislature to reverse any raids via the budget adjustment process, as the legislature has 10 days to submit its own financial plan under the adjustment process established in the Aid to Localities budget.

The movement over the last several years has been to better protect MTA funds through lockboxes or under the sole custody of the State Comptroller and MTA. Below is a timeline of recent changes to the MTA's dedicated taxes:

#### **2018**

- **Payroll Mobility Tax** moved off-budget, no longer subject to appropriation (\$1.6B budgeted for 2020, with \$244M in "replacement" funds) in adopted state budget
- **For-Hire Vehicle Fee** (congestion charge, Phase 1) created off-budget through adopted state budget (\$385M total budgeted for 2020)
  - Fees go to New York City Transportation Assistance Fund, which includes: (1) subway action plan account (first \$301M for 2020); (2) outer borough

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<sup>10</sup> MTA. Statement from MTA Chairman and CEO Patrick J. Foye on HEALS ACT. July 28, 2020.

[https://apps.cio.ny.gov/apps/mediaContact/public/view.cfm?parm=E1C5974F-BDAF-FB2B-C064C4E18AD14315\\_748A47DD-5056-9D2A-102A368FC26196A4](https://apps.cio.ny.gov/apps/mediaContact/public/view.cfm?parm=E1C5974F-BDAF-FB2B-C064C4E18AD14315_748A47DD-5056-9D2A-102A368FC26196A4)

See also Governor Cuomo's letter to Congress, July 29, 2020

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Gov\\_Letter\\_to\\_Schumer\\_Gillibrand\\_and\\_Members.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Gov_Letter_to_Schumer_Gillibrand_and_Members.pdf)

transportation account (next \$50M); and (3) the general transportation account for any additional proceeds.

- Governor signs **Lockbox Bill** in December 2018 ([A8511 - Dinowitz/S6807 - Golden](#) of 2018) which requires the governor to issue a “diversion impact statement” detailing the impact on transit agencies’ operations if dedicated mass transit funds are diverted to the general fund or other funds by passage of legislation.<sup>11</sup> This followed a years-long campaign after the Governor diverted nearly \$400M from the MTA from 2011 - 2015.

## 2019

- **Congestion pricing** approved along with **internet sales tax** and **mansion tax** in adopted state budget, all in a lockbox (internet sales and mansion taxes are expected to raise \$625M in 2020, and congestion pricing is expected to raise \$1B per year)
- More MTA funds moved off-budget from the **MTA Aid Trust** (totalled \$265M in 2019) in the adopted state budget which includes: learner’s permit/license fee; vehicle registration fee; rental car tax and taxi surcharge.

The Division of the Budget has supported these past actions, stating that moving the PMT and MTA Aid Trust off-budget and 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 (emphasis added).”<sup>12</sup>

We agree, and looking forward, the Mass Transportation Operating Assistance fund (MTOA) - the parent fund of MMTOA that funds mass transit systems across the state - and all other MTA funds should be moved off-budget. We call on the legislature to ensure that, at a minimum, MTOA is moved off-budget to ensure that the largest remaining pot of MTA funds is safeguarded and no longer under the threat of raids from the Governor.

## Better Sharing of Crowding and Cleaning Information

The MTA has been making strides to provide riders with timely information about crowding and capacity on trains, commuter rails and buses, but more can be done to increase public access to this data. In April 2020 we released an analysis of BART’s transparency during COVID, and noted areas where MTA could improve.<sup>13</sup>

Since then, the MTA has published daily ridership numbers<sup>14</sup> for the subways, buses, commuter rails and access-a-ride, as well as Bridges and Tunnels traffic numbers. This includes

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<sup>11</sup> For more information see:

<https://reinventalbany.org/2019/01/ov-cuomo-signs-into-law-transit-lockbox-bill-he-previously-vetoed-and-gutted/>

<sup>12</sup> NYS Division of the Budget. MTA FY 2020 Executive Budget.

<https://www.budget.ny.gov/pubs/archive/fy20/exec/agencies/appropData/MetropolitanTransportationAuthority.pdf>

<sup>13</sup> <https://reinventalbany.org/2020/04/how-the-mta-can-share-more-ridership-and-financial-data-during-covid-19/>

<sup>14</sup> <https://new.mta.info/coronavirus/ridership>

spreadsheets in CSV format with data back to March 1st, but for the commuter railroads which provide data back to April 1st.

The MTA has also released real-time information on crowding where its systems allow for this analysis, and is working on providing it for all modes of transport:

- As of June 2020, Long Island Rail Road's TrainTime app lists real-time crowding information.<sup>15</sup>
- As of July 2020, the MYmta App now includes bus ridership tracking, which is mirrored on the MTA website. The numbers of riders is now listed on the app and website for arriving buses on the schedule.<sup>16</sup>
- A hack-a-thon was also held in July to work toward releasing crowding information to Metro North passengers.<sup>17</sup>
- The MTA has debuted technology as of July to allow location-specific service information on 9,000 digital screens, which could be integrated with real-time information about crowding on the subways and platforms.<sup>18</sup>

Going forward, we are encouraged that the MTA is looking into ways to provide more real-time crowding information about the subways and Metro North. The MTA should also ensure that detailed historic ridership information – by hour or service-period – is provided in an open data format. This will allow the public to analyze ridership trends and make more informed choices about when to ride the trains and buses.

Additionally, the MTA should provide open data about its cleaning efforts with real-time information about when stations, train cars and buses were cleaned and how often, in as much detail as possible. This should be provided on the MTA website or MYmta app, and historic information could be released as open data. While the MTA has publicly stated that the system is being cleaned multiple times a day, whatever management tool is being used to track this could be used to generate public information, providing accountability and transparency of cleaning efforts. The public is better able to trust in the reliability of information when they can see it directly themselves. Additionally, more data will allow a better assessment of whether cleaning efforts are proportional to need, particularly as more information is learned about the virus and its transmission. For example, a recent New York Times article<sup>19</sup> noted that the subway's air circulation is much higher than office buildings, and is likely more important for preventing the spread of the virus than surface cleaning efforts.

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<sup>15</sup> <http://www.mta.info/press-release/lirr/long-island-rail-road-unveils-first-north-america-traintime-app-capacity-tracker>

<sup>16</sup> <https://nyc.streetsblog.org/2020/07/22/keep-your-distance-mymta-app-now-includes-bus-crowd-data-sometimes/>

<sup>17</sup>

<http://www.mta.info/press-release/metro-north/mta-suny-cuny-and-microsoft-launch-virtual-hackathon-improve-real-time>

<sup>18</sup> MTA. Press Release. MTA Deploying 9,000 New Digital Screens Systemwide with Real-Time, Location-Specific Information for Customers. July 7, 2020.

<http://www.mta.info/press-release/nyc-transit/mta-deploying-9000-new-digital-screens-systemwide-real-time-location>

<sup>19</sup> Goldbaum, Christina. "Is the Subway Risky? It May Be Safer Than You Think." New York Times. August 2, 2020. <https://www.nytimes.com/2020/08/02/nyregion/nyc-subway-coronavirus-safety.html>

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