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President
Andrew S. Rein

December 13, 2022

The Honorable Kathy Hochul
Governor of the State of New York
NYS State Capitol Building
Albany, NY 12224

Dear Governor Hochul:

The Citizens Budget Commission (CBC) recommends that you veto A3801A/S3587C, the “toll payer protection act,” which would limit the ability of State authorities to collect tolls by mail and impose penalties for non-payment.

This bill would set requirements for the operation of cashless tolling systems already in place on roads and bridges operated by the New York State Thruway Authority, Metropolitan Transportation Authority (MTA) Bridges and Tunnels, the Port Authority of New York and New Jersey (PANYNJ), and other tolling authorities. Specifically, among other design requirements, this bill would:

- Set parameters for cashless tolling programs, including requirements for toll liability notification, display of tolls on signage, debt collection procedures, reporting requirements, and other components;
- Cap the penalty that may be assessed for non-payment of tolls at \$5 after 30 days and the greater of \$25 or double the unpaid toll after 60 days; and
- Require MTA Bridges and Tunnels to implement an amnesty program covering the period beginning November 1, 2016, and at least eight weeks thereafter.

The operational requirements and penalty limits are problematic because they will constrain the ability of the tolling authorities to collect due tolls and penalties. Authorities should have appropriate flexibility to ensure that tolls, which are needed and legitimately levied, are paid.

The bill's operational requirements are more stringent than current operations of the already existing toll by mail program. These new requirements may unnecessarily reduce collections. For example, the bill requires that initial bills be sent to drivers within 30 days, and if the tolling authority fails to do so, the driver is not liable for their tolls; currently the Thruway Authority reports billing within "30-40 days."¹ While prompt billing is important, forgiving tolls because billing is slower than proscribed in legislation may unnecessarily reduce critical infrastructure maintenance revenues.

The bill's fixed penalty levels for late payment of tolls (\$5 fee after 30 days and \$25 fee or double the toll after 60 days from initial billing) could reduce collections.² While the bill would codify the current \$5 initial late fee, it would reduce the penalty after 60 days (currently \$50) in most cases. CBC agrees with the veto memos for previous versions of this bill that concluded it "lowers to the point of insignificance, any penalty that could be charged for nonpayment," and "hamstring[s] the State's enforcement ability."³

A separate problem stems from the required amnesty period included in this bill. The eight-week amnesty period, at a minimum, would have an unknown fiscal impact on the pre-existing revenues due to MTA Bridges and Tunnels. Of note, the amnesty program in this version is longer than in the twice-vetoed previous versions, which had a five-week amnesty period. Regardless of the length of time, granting amnesty for non-payment of legitimate tolls and charges is bad precedent and may increase the delinquency rate if drivers believe their liabilities may eventually be cleared.

Toll revenues are critical to maintaining New York's roads and bridges, as well as other transportation and transit capital assets. When the Thruway Authority's toll rates were frozen from 2016 to 2020, the State diverted nearly \$2 billion of general State revenue to [backfill the Thruway budget](#) and [fund capital projects, costs that should have been supported by toll revenue](#). MTA Bridges and Tunnels relies on strong toll receipts [to support operations](#) and the capital plan for not only for bridges and tunnels, but also for the transit system.

Further troubling is the lack of a fiscal impact statement to accompany this bill. This bill would reduce toll and penalty revenue, likely requiring diversion of general revenues or leading to underinvestment in assets. It should not have been passed, nor should it be

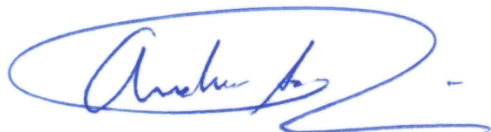
signed, without knowing how much money currently designated to other purposes may have to be diverted, or disinvested from New York's transportation assets, which already are not in a state of good repair. The fiscal benefits of this would accrue to the small share of drivers who should be paying tolls by mail, including non-resident drivers. While the still nascent cashless tolling program should be carefully monitored, a clear majority of trips already automatically pay their tolls via E-ZPass: 83 percent of tolls on the NYS Thruway, 88 percent on the PANYNJ crossings, and 95 percent on the MTA Bridge and Tunnel crossings.⁴

Versions of this bill also passed the Legislature in 2018 (A9805A/S8946) and 2019 (A7587A/S6113A). On both occasions, at those times the Governor rightly vetoed this legislation (Veto Number 341 of 2018 and Veto Number 201 of 2019).

Contrary to the intent and likely result of this legislation, the State should be working to improve collection of user fees on toll roads and bridges in order to support New York's critically needed infrastructure.

I encourage you to veto this bill.

Sincerely,



Andrew S. Rein
President
Citizens Budget Commission

¹ New York State Thruway Authority, "What is Cashless Tolling" (accessed July 11, 2022), www.thruway.ny.gov/cashless/billing.html.

² New York State Thruway Authority, "What is Cashless Tolling" (accessed July 11, 2022), www.thruway.ny.gov/cashless/billing.html; New York State Bridge Authority, "Cashless Tolling Is Bridging The Hudson Valley" (accessed July 11, 2022), <https://nysba.ny.gov/cashless-tolling>; and Port Authority of New York & New Jersey, "All Cashless Tolling" (accessed July 11, 2022), www.panynj.gov/bridges-tunnels/en/cashless-tolling---b-t.html.

³ Veto Number 341 of 2018 and Veto Number 201 of 2019.

⁴ New York State Thruway Authority, *Vehicles Trips, Miles and E-Zpass Statistics, December 2021*, www.thruway.ny.gov/about/financial/monthly/2021/vtm/dec2021vtm.pdf; Port Authority of New York and New Jersey, *2021 Monthly Traffic and Percent of E-ZPass Usage*, www.panynj.gov/content/dam/bridges-tunnels/pdfs/traffic-e-zpass-usage-2021.pdf; and Metropolitan Transportation Authority, *Bridges and Tunnels Committee Meeting* (June 27, 2022), <https://new.mta.info/document/89776>.