



May 24, 2022

Kathy C. Hochul
Governor, State of New York

VIA EMAIL

Re: Billions of Opaque “Lump Sums” Passed In the Budget Risk Massive Waste and Major Corruption, and are the Opposite of the “New Era of Transparency.”

Dear Governor Hochul,

We welcomed you entering office with a promise of a “new era of transparency” for New York State government. Nothing is more fundamental to this transparency than showing taxpayers – and all New Yorkers pay taxes – exactly how their money is spent.

Unfortunately, this year’s budget includes billions of dollars in lump sum appropriations which allow spending decisions to be made unilaterally and without public notice after the budget is passed. This must change. These include broadly defined pots that are planned to be spent on currently unidentified purposes, as in the \$350 million “Long Island Investment Fund,” and larger, broader pots that are ostensibly for emergency response purposes, such as the \$8 billion in special emergency appropriations.

Lump sum pots, like all forms of secret discretionary spending, are a major corruption risk and are not likely to be allocated to agreed upon priorities. Watchdogs have long documented the inherent lack of accountability of these funds, and recent history includes high-profile state corruption schemes that revolve around them, including:¹ ex-Lieutenant Governor Benjamin’s

¹ See Citizens Union’s “Spending in the Shadows” reports:
https://citizensunion.org/wp-content/uploads/2016/02/CU_SpendingintheShadows_DiscretionaryFundsInNYS_September_2013.pdf

alleged use of “bullet aid,” former Assembly Speaker Sheldon Silver’s kick back scheme with health care funds, and former Senate Leader Malcolm Smith’s claim that he could steer multi-modal funds.

New York should start a new era. We implore you to fulfill your pledge to bring greater transparency and accountability to state government by vastly reducing the use of lump sum funds in the budget and instead specifically itemize planned spending. Any remaining lump sum appropriations must be completely and publicly transparent.

Specifically, we ask that you:

- 1. Avoid using lump sum pots in the state budget** - While we understand the desire to have some budgetary flexibility, there should be clear limitations on the use of lump sum funds, and full disclosure of what they fund. Any remaining lump sum pots included in the budget should be:
 - limited in scope, with specifically defined uses (not unrestricted);
 - subject to Comptroller review; and
 - publicly disclosed after they are itemized in an open data format, including with information about the involvement of elected officials in their distribution.

In the final FY 2023 budget, at least \$8 billion in lump sum funds were approved in the state operations budget alone, including a \$6 billion “public health emergency” pot and a \$2 billion “special emergency” pot that is “solely for transfer by the governor,” both of which are exempt from Comptroller review.² These specific pots were opposed³ by watchdogs. These appropriations were added or amended to provide greater flexibility to manage State finances early in the pandemic. Today, the fiscal landscape is vastly improved and stable. The appropriations now create more fiscal and ethical risk than they provide insurance against emergencies.

We understand that some of these pots are “dry appropriations,” meaning that there is not currently funding identified for their use. However, there is no way that the public can be aware of this, given that the final budget does not explain this. Additionally, the Division of the Budget could choose to identify funding and spend from them, given that the final budget *legally authorizes* their use with no requirements for oversight or public notice.

https://citizensunion.org/wp-content/uploads/2015/04/CU_SpendingInTheShadows_FY2014-16_Update_3-19-15.pdf

<https://citizensunion.org/portfolio-item/citizens-unions-state-spending-in-the-shadows-report-finds-2-4-billion-in-opaque-funds-in-nearly-80-lump-sum-pots-in-state-budget/>

² Office of the Comptroller, “State Fiscal Year 2022-23 Enacted Budget Analysis.” May 2022.

<https://www.osc.state.ny.us/reports/state-fiscal-year-2022-23-enacted-budget-analysis>

³ Watchdog Groups Letter, “Watchdog Groups Urge Legislature to Reject Extraordinary Budget Powers.” March 2, 2022.

<https://reinventalbany.org/2022/03/watchdog-groups-urge-legislature-to-reject-extraordinary-budget-powers/>

2. **Fully disclose all details of past and future lump sum pots, as promised in your [Executive Chamber](#) and [Division of the Budget](#) October 2021 Transparency Plans -** Your transparency plans said the Division of the Budget would “publish all plans approved by the Budget Director that allocate legislative and executive discretionary lump sum appropriations and capital appropriations contained in the Enacted Budget.” As of the date of this letter, this pledge has not been fulfilled. As part of this, the plans should be released in open data format, and include, at a minimum:
 - recipients of funds, including specific amounts; and
 - legislative sponsors of funds.

3. **Support and sign into law [A7925-A \(Zebrowski\)](#) / [S6809-A \(Reichlin-Melnick\)](#) to restore many of the Comptroller’s powers to review state contracts before they are signed.** This legislation is strongly [supported by watchdogs](#). The bill codifies a [2019 Memorandum of Understanding](#) between Comptroller DiNapoli and then-Governor Andrew Cuomo which restored the Comptroller’s authority to do a “pre-audit” review of many SUNY, CUNY, and Office of General Services contracts.

Corruption, misallocation, and abuse siphon public funds from New Yorkers – including the most vulnerable – and erode the public’s confidence in state government. Lump sum funds are ripe for abuse, unlikely to be allocated to agreed to priorities, and should only be used when there is no good alternative and a clear public need.

Again, we urge that you greatly reduce the total size of lump sum appropriations in the budget and recognize the need to make lump sums completely transparent to the public.

Thank you for your consideration.

Sincerely,

John Kaehny
Executive Director
Reinvent Albany

Tim Hofer
President and CEO
Empire Center

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Cc. Comptroller Tom DiNapoli
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