



Andrew M. Cuomo
Governor

John Flanagan
Minority Conference Leader

Carl E. Heastie
Assembly Speaker

William Barclay
Assembly Minority Leader

Andrea Stewart-Cousins
Senate Majority Leader

March 9, 2020

Re: Reverse Executive Budget Changes to Refunds of Appropriation

Dear Governor Cuomo and Legislative Leaders:

Our organizations advocate for accountable and transparent government. We were concerned to find two measures in the Executive Budget that would undermine the transparency of the state’s spending and interfere with the constitutional authority of the Office of the State Comptroller to accurately report on state spending.

Specifically, we oppose the measure in the Executive Budget which broadens so-called *refunds of appropriation*. Currently, common practice provides that if the state receives a refund from a vendor because of an overpayment or some other mistake, the appropriation authority is restored to account for the error. However, the Executive Budget proposes to vastly expand this practice to include reimbursements from third parties, including when the state is paid for providing a service. Rather than recording expenses and related reimbursements individually, the proposed change would require the State Comptroller to essentially pretend the spending and reimbursements never occurred, thereby making the actual spending for particular appropriations in the budget less clear (introductory headers in state operations, local aid, and capital

appropriation bills, as well as sections 50-53 of part VV of Public Protection and General Government Article VII).

This proposal would also require the Office of the Comptroller to credit refunds to the current fiscal year rather than the year the expense originally occurred. This again would cloud state spending.

Integrating these changes into the State Comptroller's monthly and annual cash reports, and to accounting of spending and receipts, is in conflict with the Comptroller's constitutional auditing authority and generally accepted accounting principles (GAAP).

A second and equally problematic proposal would authorize the Director of the Division of the Budget to transfer funding from state operations to any department, agency or public authority. This language is found in over 100 appropriations throughout the State Operations appropriation bill. This proposal would allow the Executive to effectively override a legislatively approved funding allocation, and by shifting funds after adoption, undermine transparency.

We call on you to reject both of these proposals so that the state's spending is transparent and accurate and the Comptroller's Office retains its independent constitutional authority to utilize best practices in monitoring state revenues and expenditures and the legislature can preserve its authority in the budget making process.

Sincerely,

John Kaehny
Executive Director
Reinvent Albany

Susan Lerner
Executive Director
Common Cause

David J. Friedfel
Director of State Studies
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Blair Horner
Executive Director
New York Public Interest Research Group

CC:

State Comptroller Tom DiNapoli

Robert Mujica, Director, Division of Budget

Liz Krueger, Chair, State Senate Finance Committee

Helene E. Weinstein, Chair, Assembly Ways & Means Committee