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December 6, 2018

TO: Assembly Speaker Carl Heastie
New York State Legislature

FROM: Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: Demand that You Substantiate Your November 30, 2018 Testimony before the New York State Compensation Committee with EVIDENCE – as You Furnished NONE

I believe you were present for my oral testimony at the Friday, November 30, 2018 hearing of the New York State Compensation Committee, which immediately followed yours. Is that correct? Did you hear what I said? I stated that you had “testified without evidence” – and that your “self-serving-claims” about “how hard-working, how responsive the Senate and the Assembly are, is fraud, is deceit”, “rebutted” by CJA’s second citizen-taxpayer action, to which you are a named defendant, as well as by the other evidence I handed up.

What is your response to my testimony? What do you deny or dispute about it – and with what evidence?

In the event the Compensation Committee has not already requested your response – consistent with its fact-finding function (Part HHH, §4, ¶1) pertaining to the first “appropriate factor[]” it is required to “take into account”, *to wit*, “the parties’ performance and timely fulfillment of their statutory and Constitutional responsibilities” (Part HHH, §2, ¶3) – absent which the other factors are irrelevant – annexed is my transcription of what I stated at the hearing (Exhibit A), made from the video, as well as my written testimony, with its accompanying excerpt of provisions from the New York State Constitution pertaining to the budget and the requirement that the Legislature’s proceedings be open (Exhibit B). The voluminous evidence I handed up to the Committee, in substantiation of my testimony, is accessible from CJA’s website, www.judgewatch.org, via the homepage link “2018 Compensation Commission – Unconstitutionality in Plain Sight”. This evidence is but a fraction of what CJA’s website posts, most-notably, the “paper trail” of my correspondence to you, to other legislative leaders, and to rank-and-file legislators – upon which the second citizen-taxpayer action rests.

As illustrative of this correspondence, to which neither you nor your legislative colleagues responded – so-recited by the pleadings in the citizen-taxpayer action:

- (1) CJA’s January 15, 2016 letter entitled: “Immediate Oversight Required” and whose first specific was “The Commission on Legislative, Judicial and Executive Compensation and its statute-repudiating, fraudulent, and unconstitutional December 24, 2015 Report with ‘force of law’ judicial salary recommendations”;¹
- (2) CJA’s follow-up January 28, 2016 letter entitled “To Which Committee(s) Have You Assigned Oversight of the Dec. 24, 2015 Report of the Commission on Legislative, Judicial and Executive Compensation...?”;
- (3) CJA’s February 3, 2016 e-mail entitled “Feb. 4th ‘Public Protection’ Budget Hearing: Questions for Temporary Senate Pres. Flanagan & Assembly Speaker Heastie”;
- (4) CJA’s January 9, 2017 e-mail request for a meeting – & completed request form;²
- (5) CJA’s February 6, 2017 letter whose title was two questions: “(1) Where are your appointments to the Commission on Government Administration and to the Commission on State-Local Relations, required by Legislative Law Article 5-A?; (2) When will you be responding to my requests for a meeting for purposes of preventing a repeat of the constitutional, statutory, and legislative rule violations chronicled by the September 2, 2016 verified complaint in CJA’s citizen-taxpayer action?”.³

¹ See Exhibit A to CJA’s September 2, 2016 verified complaint in 2nd citizen-taxpayer action: ¶¶283, 289, 292, 296, 314, 425 (March 23, 2016 verified second supplemental complaint in 1st citizen-taxpayer action) [R.151-157; R.161; R.201].

² See CJA’s March 29, 2017 verified supplemental complaint in 2nd citizen-taxpayer action, ¶¶142-146 [R.684-685].

³ See CJA’s March 29, 2017 verified supplemental complaint in 2nd citizen-taxpayer action, at ¶¶216-220 [R.706-708].

To assist you in responding, I have posted this illustrative correspondence on CJA's webpage for this letter⁴ – annexing hereto only the February 6, 2017 letter (Exhibit C-1) because it is directly germane to the FOIL/records request I e-mailed yesterday to the Assembly's records access officer – and thereafter furnished to the Compensation Commission by an e-mail entitled "Assembly Speaker Heastie's fraudulent, deceitful presentation in support of legislative pay raises – as established by EVIDENCE" (Exhibit D).

Is it your contention that an assembly speaker, properly discharging the duties of his office, could – as you have – ignore the February 6, 2017 letter and other serious and substantial correspondence – with your legislative colleagues, in leadership and the rank-and-file doing likewise – while blithely continuing all the misfeasance and nonfeasance particularized therein and, simultaneously, entreating for pay raises with pretenses about how deserving you are.

By the way, following my testimony at the hearing, I had occasion to speak with Assemblyman Gary Pretlow, who had accompanied you. Assemblyman Pretlow, a recipient of the February 6, 2017 letter (Exhibit C-2) was your appointed co-chair to your "Workgroup on Legislative Process, Operations, and Public Participation" that you formed in April 2015 and whose March 17, 2016 report recommended that Assembly committee meetings be live-streamed on the Assembly's website, with the videos promptly archived and made available and easily accessible. Indeed, the annotation to the first of these several recommendations was:

"If it takes significant time and cost to implement full, high-quality video of all committees, a simple webcam and/or audio access should be implemented promptly, with full video access as soon as practicable, beginning with key committees like Codes and Ways & Means." (at p. 2).

I asked Assemblyman Pretlow why – more than 2-1/2 years after that March 17, 2016 report – there is still NO live-stream or video of Assembly committee meetings – further pointing out that the Senate has been live-streaming and videoing its committee meetings since 2009. He had no comprehensible answer. What is yours?

Inasmuch as you referenced, in your testimony, the Assembly's "37 standing committees and 13 joint legislative commissions", I call upon you to explain why – if you actually believe they are functioning in a legitimate, constitutionally-acceptable fashion – you are not proudly live-streaming and videoing their meetings.

⁴ The direct link to CJA's webpage for this letter is here: <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/hhh-compensation-committee/12-6-18-ltr-to-heastie.htm> – and all referred-to evidence is accessible therefrom.

In fact, the Assembly's own website reveals that your "13 joint legislative commissions" are sham, as most have no members, other than a chair, and several haven't even a chair – and, yesterday, I e-mailed a FOIL/records request to the Assembly's records access officer, based thereon, thereafter supplying same to the Compensation Committee by an e-mail entitled "Assembly Speaker Heastie's fraudulent, deceitful presentation in support of legislative pay raises – as established by EVIDENCE" (Exhibit D). And making the reality of your "13 joint legislative commissions" all the more indefensible is the notice I furnished you, your fellow legislative leaders, pertinent committee chairs, ranking members, and rank-and-file legislators by CJA's above February 6, 2017 letter (Exhibit C-1), which, as aforesaid, you and they all ignored – a fact recounted by CJA's March 29, 2017 verified supplemental complaint in the second citizen-taxpayer action [R.706-708 (¶¶216-220)] in support of the first cause of action of CJA's September 2, 2016 verified complaint pertaining to the unconstitutionality of the Legislature's budget, as written and as applied. [R.99-102 (¶¶23-102); R.159-162 (¶¶301-316); R.254-260 (¶¶76-98); R.291-294 (¶¶169-178)]

As for your sham 37 standing committees, why don't you demonstrate their functioning, in the context of the current 2018-2019 fiscal year budget. Please start with the Assembly Ways and Means Committee – the only one whose funding is specified in the Legislature's budget – and to which all the Governor's budget bills, introduced on January 18, 2018, were "referred".

As the Governor's revenue budget bill #S.7509/A.9509 ended up as the vehicle for Part HHH, establishing the Compensation Committee, begin with that bill. That is what I was intending to do, as part of my testimony, substantiated by relevant records, which I had brought to the hearing, only to be cut off because of the Committee's demand that I conclude my testimony because of its 5-minute time-limitation for registered speakers.

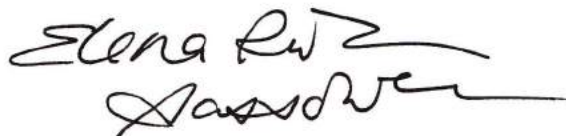
How was the revenue budget bill "amended" – apart from the Governor's 30-day amendment, of right, which changed his bill #S.7509/A.9509 to #S.7509-a/A.8509-a. Then what happened? Where was the vote, on March 13, 2018, that "amended" #A/9509-a to #A.9509-b? Was it by the members of the Ways and Means Committee – and, if so, at what meeting? And where was the vote by the Ways and Means Committee – or the Assembly – on March 30, 2018 – that voted to "amend" #A.9509-b to make it #A.9509-c? Isn't it correct that NO Assembly members ever voted to "amend" #A.9509-a to #A.9509-b – which was done, behind-closed-doors, by staff. Likewise, that NO Assembly members ever voted to amend the staff-"amended" #A.9509-b to #A.9509-c, with its inserted HHH – which was done by you, Governor Cuomo, and Temporary Senate President Flanagan, behind-closed-doors, as part of your "three-men-in-a-room" budget deal-making. What legal authority do you have for the Legislature to operate in such fashion?

There is so much more to say – but the Compensation Committee is meeting at 2:30 p.m. today and this is enough, for present purposes. Suffice to add, however, that pursuant to Article VII, §1 of the

New York State Constitution, the Legislature's "[i]temized estimates of [its] financial needs..., certified by the presiding officer of each house" were due to be furnished to Governor Cuomo by December 1st – the day after your November 30th testimony before the Compensation Committee. What did you furnish? Was it a proposed budget, transmitted by a one-sentence letter signed by you and Temporary Senate President Flanagan, replicating the same constitutional violations and deficiencies as the second citizen-taxpayer action chronicles with respect to your proposed budgets for fiscal years 2016-2017 and 2017-2018 – and about which I testified at the Legislature's budget hearing this past February 5th, in opposition to the Legislature's proposed fiscal year 2018-2019 budget, handing up a written statement, with questions for you and Mr. Flanagan – the same as I handed up to the Compensation Committee on November 30th. How about answering the questions – including as to "the process, if any, by which the Legislature's budget for fiscal year 2018-2019 was compiled"

Meantime, and so that the Compensation Committee can be alerted to its duty to require you to answer comparable questions pertaining to the Legislature's budget for fiscal year 2019-2020, attached is CJA's November 30th FOIL/records request for same (Exhibit E), e-mailed to the Assembly records access officer and Secretary of the Senate, within hours of my testimony before the Compensation Committee.

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ruiz". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Enclosures: Exhibits A-E

cc: NYS Compensation Committee
Assemblyman Gary Pretlow
The Public
The Press

**Oral Testimony of Center for Judicial Accountability Director Elena Sassower
at the November 30, 2018 hearing of the New York State Compensation Committee**

Transcription from VIDEO by Elena Sassower -- at 39 minutes/15 seconds

Thompson: Our next speaker is Elena Sassower, director of the Center for Judicial Accountability.

....

Sassower: Before beginning, and before my time begins to run, I'd like to protest the restricted nature of this hearing, curtailing testimony so that it's no more than five minutes, no matter how serious and substantial. The fact is you had, at your last hearing, two days ago, you had only three registrants, plus an additional person, four. Here, you also have only a handful. There is no reason that you shouldn't relax the time restrictions, so that people who have taken their time and made the effort to prepare testimony can give you the benefit of what they have prepared.

That being said I am and have tried to limit my remarks.

My name is Elena Sassower. I am director and cofounder of the Center for Judicial Accountability, a nonpartisan, nonprofit citizens' organization that, for the past seven years, has "chronicled that the constitutional officers of our state's three government branches have been colluding to secure for themselves undeserved, unconstitutional pay raises by an unconstitutional commission scheme."

That is the opening of the written statement that I have prepared and that has been distributed to you – as well as distributed a selection from our New York State Constitution relating to the budget and to the openness that the Constitution prescribes for the activities of the Legislature.

The written statement identifies that our website, www.judgewatch.org, has posted on it the evidence substantiating the written presentation that you have been provided and furnishes the proof of what has been going on with respect to these commission-based, these commission, compensation commissions.

It identifies that posted are, in addition to the evidence, are three lawsuits that have been brought, that we have brought, challenging what's been going on with these commissions and their "force of law" recommendations.

These three lawsuits, the first was a declaratory judgment action, in 2012, and the subsequent two lawsuits were citizen-taxpayer actions that not only addressed the unconstitutionality and unlawfulness of the statutes that created these compensation commissions, but, additionally, laid out the unconstitutionality and the unlawfulness of the budget.

The second of the citizen-taxpayer actions is still live and unfolding and at the Appellate Division, Third Department. And, as identified in the written statement, it is essential that each of the committee members here and your counsel review the record of that second citizen-taxpayer action, so that you can know, for a certainty, that you have nowhere to go with, insofar as recommendations.

Firstly, because the second citizen-taxpayer action establishes that this commission scheme, this committee scheme, is unconstitutional for a myriad of reasons.

The second reason that the citizen-taxpayer action is so important, so critical, so dispositive, is that it, it establishes the first criteria, the first factor that you are required to take into account in making your recommendations. And you have skipped over that factor – because all the financial, economic factors don't come to bear, are completely irrelevant where you haven't met the first criteria. And what is that? The statute requires that, the statute requires, that – I'm sorry – that the parties' performance and timely fulfillment of their Constitutional and statutory responsibilities be taken into account .

What the citizen-taxpayer action demonstrates is that the budget is off the constitutional rails, is rife with constitutional violations, statutory violations, rule violations – and this is illustrative, it's not just the budget, but the legislative branch is not operating at any kind of constitutional level. All of this is laid out in the citizen-taxpayer action.

Mr. Heastie testified, without any evidence.

Thompson: Ms. Sassower, I'm going to have to ask you to conclude

Sassower: He made self-serving claims all of which are rebutted.

Thompson: I am going to have to ask you to conclude.

Sassower: Okay, then I will –

Thompson: We have copies of your testimony.

Sassower: I understand, so –

Delgado: I want to hear it, I want to hear the rest of your testimony

Sassower: Thank you.

Thompson: You guys can have a conversation outside.

Sassower: I am, I am identifying what I am furnishing you --

Thompson: Okay.

Sassower: – and that is the appeal briefs and the three-volume record on appeal that is presently before the Appellate Division, en route to the Court of Appeals, in the

second citizen-taxpayer action, suing the Governor, the Legislature, Mr. Heastie, by name, Mr. Flanagan, by name, as the Temporary Senate President, the Senate, Comptroller DiNapoli, former Attorney General Schneiderman, the Chief Judge – who was supposed to be among you, but I understand has recused herself.

Thompson: Ms. Sassower, I am going to have to ask you to conclude, right now.

Sassower: Alright. So –

Stringer: Thank you.

Sassower: – this establishes is that what Mr. Heastie had to say, about how hard-working, how responsive the Senate –

Thompson: Ma'am.

Sassower: – and the Assembly are, is fraud, is deceit.

Thompson: There are other people waiting, there are other people waiting to speak.

Sassower: And with respect, okay

Thompson: Thank you.

Stringer: Thank you.

McCall: Thank you.

Sassower: Now, additionally, additionally, I am handing up, because the citizen-taxpayer action chronicles the unconstitutionality and the lawlessness with respect to the state budget –

Thompson: Okay, Ms. Sassower, that's it. Thank you.

Stringer: Thank you.

Thompson: Thank you, so much.

Sassower: – but the Brennan Center for Justice issued reports, going back to 200[4], then 2006, 2008, where they chronicled that the Legislature is the most dysfunctional in the country –

Thompson: Ms. Sassower.

Sassower: – and they attributed it to the rules,

Thompson: Ma'am, please.

Sassower: They did not examine the budget. And so –

Stringer: Do you want to adjourn just for five minutes?

Thompson: No.

McCall: No.

Thompson: No.

Sassower: – and so the citizen-taxpayer action is actually a companion to the important Brennan Center reports,

Stringer: Ma’am, Ma’am, ma’am, thank you very much.

Sassower: Your comparisons to other states –

Stringer: Thank you.

Thompson: Thank you. Thank you.

Sassower: – well maybe other states are functional, maybe their legislatures and public officers are not corrupt.

[committee aide removes microphone from podium where Sassower is speaking]

McCall: Thank you very much.

Stringer: You should call up the next speaker.

Sassower: And by the way, the legislation that created this commission is an unconstitutional rider. Okay?

McCall: Okay. Thank you.

Sassower: And you are concealing that it is part of the revenue bill.

Thompson: The next person is Alex Camarta, Senior Policy Advisory from Reinvent Albany.

Sassower: What revenue is produced by this, this Part HHH?

Thompson: Ma’am.

McCall: Thank you.

Thompson: Excuse me. There’s someone else waiting to sp –

Stringer: Thank you.

Sassower: It was inserted after behind-closed-doors, three-men-in-a-room dealmaking –

McCall: Thank you.

Stringer: Thank you.

Sassower: – completely unlawful, unconstitutional.

[committee aide restores microphone as Alex Camarta comes up]

McCall: Thank you.

Sassower: And you need evidence and the legislators need to come and deny and dispute what is, what is laid out in the citizen-taxpayer action.

Delgado: It's a done deal.

McCall: Thank you, very much.

Sassower: Lastly,

Thompson: No, we've already lastly.

Sassower: -- as to what is going on in this current, fiscal year budget, I testified, twice, in January and in February, regarding the Legislative budget, the Judiciary budget.

Thompson: There's someone right behind you, waiting to speak, please, right there.

Delgado: He can wait.

Stringer: Thank you.

Sassower: It's all there. It's evidence.

McCall: Thank you very much.

Sassower: Thank you.

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Testimony of Elena Ruth Sassower Director, Center for Judicial Accountability, Inc. (CJA)

November 30, 2018 Public Hearing New York State Compensation Committee

My name is Elena Sassower. I am director and co-founder of the Center for Judicial Accountability, Inc. (CJA), a nonpartisan, nonprofit citizens' organization. For the past seven years, we have chronicled that the constitutional officers of our state's three government branches have been colluding to secure for themselves undeserved, unconstitutional pay raises by an unconstitutional commission scheme. Our website, www.judgewatch.org, features a prominent homepage link entitled: "2018 Compensation Commission – Unconstitutionality in Plain Sight", from which you can access the video and documentary evidence pertaining to these seven years, in substantiation of my testimony before you.

The statute that has created this Compensation Committee, whose §4(¶)2 gives its pay recommendations "the force of law", is largely identical to the 2010 statute that created the Commission on Judicial Compensation, enacted without legislative due process and by a "message of necessity". Likewise, it is largely identical to the 2015 budget statute that repealed and replaced it with the Commission on Legislative, Judicial, and Executive Compensation, also enacted without legislative due process and by a "message of necessity". CJA has litigated the unconstitutionality of these two predecessor statutes, *as written, as applied*, and by their enactment, in three lawsuits, each expressly "on behalf of the People of the State of New York and the Public Interest": a declaratory judgment action commenced in March 2012 and, thereafter, two citizen-taxpayer actions commenced in March 2014 and September 2016, respectively, that additionally demonstrated that the New York state budget is "OFF THE CONSTITUTIONAL RAILS", violating a mountain of constitutional provisions, statutes, and legislative rules in a "grand larceny of the public fisc" on a massive scale.

As the record of these three lawsuits establish, resoundingly, the only reason we did not obtain summary judgment declarations on all our causes of action, long ago, is that then Attorney General Schneiderman, unlawfully representing himself and his fellow defendants – Governor Cuomo, Comptroller DiNapoli, the prior and present Senate Majority Leader, the Senate, the prior and present Assembly Speaker, the Assembly, and the prior and present Chief Judge – corrupted the judicial process with litigation fraud, because he had NO legitimate defense, and was rewarded with fraudulent decisions by judges with HUGE financial interests in the commission-based judicial pay raises those statutes enabled and which the budget pays out, without a line item as to their cost. To date, since April 1, 2012, the payout for the commission-based judicial pay raises has been well over

\$300 million dollars, with state judges currently receiving salaries of approximately \$75,000 a year more than they are entitled.

Over the past four months, Attorney General Underwood has continued former Attorney General Schneiderman's *modus operandi* of litigation fraud before the Appellate Division, Third Department in the still-live second citizen-taxpayer action. The ten causes of action of its verified complaint include three challenging the Commission on Legislative, Judicial, and Executive Compensation's enabling statute and the Commission's misfeasance and violations of that statute in rendering its report recommending judicial pay raises, materially replicating the misfeasance and violations of the Commission on Judicial Compensation, by its judicial pay raise recommending report.

Your review of the record of CJA's second citizen-taxpayer action is ESSENTIAL as it will convince you that in all respects but one, this Committee's enabling statute is unconstitutional, *as written*, that the process leading to its enactment, *via* the budget, without legislative due process, and by a "message of necessity", is unconstitutional, and that even were the statute and enactment constitutional, which they are not remotely, there is no way that the Committee's four statutorily-designated members – the statutorily-designated Chief Judge having reportedly recused herself, based on possible constitutional challenge to the statute coming before the Court of Appeals – can rectify their violation of the statute by failing to discharge their duties for nearly 7-1/2 months of the Committee's statutorily-fixed 9-month life (§7), clearly motivated by election year political calculations.

The single respect in which this Committee's enabling statute is less unconstitutional than the enabling statutes of the two compensation commissions is that its §2(¶3) specifies that "the parties' performance and timely fulfillment of their constitutional and statutory responsibilities" are among the "appropriate factors" the Committee is required to "take into account" – placing it first among the statute's eight enumerated "appropriate factors". This is as it should be because a public officer not performing the constitutional and statutory duties of his office is not earning his existing salary – making superfluous the subsequent seven economic factors whose consideration might incline toward a pay raise. Indeed, more than seven years ago, in advocacy before William Thompson, Jr., then chairman of the Commission on Judicial Compensation, I argued and demonstrated, based on analysis of the New York State Constitution, that it would be unconstitutional to give pay raises to judges who are corrupt and not doing their jobs – where, additionally, all avenues for disciplining and removing them are corrupted. The Commission on Judicial Compensation, under Chairman Thompson, ignored and concealed this in its report recommending judicial pay raises – just as the Commission on Legislative, Judicial and Executive Compensation would do, four years later, by its report of further judicial pay raise recommendations.

As for the Committee's statutory mandate to consider not only "performance...of...statutory and Constitutional responsibilities", but "timely fulfillment" thereof, this is code for the state budget – and so-reinforced by the statute's §2(¶4b) reference to "timely legislative passage of the budget", repeated in §2(¶4c) as having "the same meaning as defined in subdivision 3 of section 5 of the legislative law", *to wit*,

“that the appropriation bill or bills submitted by the governor pursuant to section three of article seven of the state constitution have been finally acted on by both houses of the legislature in accordance with article seven of the state constitution and the state comptroller has determined that such appropriation bill or bills that have been finally acted on by the legislature are sufficient for the ongoing operation and support of state government and local assistance for the ensuing fiscal year. In addition, legislation submitted by the governor pursuant to section three of article seven of the state constitution determined necessary by the legislature for the effective implementation of such appropriation bill or bills shall have been acted on. Nothing in this section shall be construed to affect the prohibition contained in section five of article seven of the state constitution.”

In other words, pursuant to Legislative Law §5-a, timeliness with respect to “legislative passage of the budget” has no date, but rests on compliance with Article VII and, seemingly, §4, whose relevant language – providing for a rolling budget, enacted bill by bill – reads:

“Such an appropriation bill shall when passed by both houses be a law immediately without further action by the governor, except that appropriations for the legislature and judiciary and separate items added to the governor’s bills by the legislature shall be subject to his approval as provided in section 7 of article 4.”

This is a further reason why the Committee’s review of CJA’s second citizen-taxpayer action is ESSENTIAL, as the verified complaint, pertaining to fiscal year 2016-2017, and the supplemental verified complaint, pertaining to fiscal year 2017-2018, furnish the open-and-shut, *prima facie* evidence of the Legislature’s flagrant violation of Article VII, §4 and other Article VII provisions, including by a cause of action as to the unconstitutionality of “three-men-in-a-room” budget deal-making, conducted behind-closed-doors, and involving the amending of bills. Such first-ever cause of action – and the other six pertaining to the budget – are DISPOSITIVE as to how flagrantly the governor and legislators – with the complicity of the comptroller and attorney general – have driven the state budget “OFF THE CONSTITUTIONAL RAILS”, repudiating, as well, both statutory provisions and legislative rules. As the Committee is mandated to “take into account” the statutory “appropriate factors” of “performance” and “timeliness”, this puts an END to any recommendation of pay raises for such constitutional officers, all of whom must be indicted – not given pay raises – for the larceny of taxpayer monies and other corruption for which they are responsible.

The Constitution of the State of New York

ARTICLE III LEGISLATURE

[Journals; open sessions; adjournments.] § 10. Each house of the legislature shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days. (Formerly § 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE VII STATE FINANCES

[Estimates by departments, the legislature and the judiciary of needed appropriations; hearings.] Section 1. For the preparation of the budget, the head of each department of state government, except the legislature and judiciary, shall furnish the governor such estimates and information in such form and at such times as he may require, copies of which shall forthwith be furnished to the appropriate committees of the legislature. The governor shall hold hearings thereon at which he may require the attendance of heads of departments and their subordinates. Designated representatives of such committees shall be entitled to attend the hearings thereon and to make inquiry concerning any part thereof.

Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house, and of the judiciary, approved by the court of appeals and certified by the chief judge of the court of appeals, shall be transmitted to the governor not later than the first day of December in each year for inclusion in the budget without revision but with such recommendations as he may deem proper. Copies of the itemized estimates of the financial needs of the judiciary also shall forthwith be transmitted to the appropriate committees of the legislature. (Amended by vote of the people November 8, 1977.)

[Executive budget.] § 2. Annually, on or before the first day of February in each year following the year fixed by the constitution for the election of governor and lieutenant governor, and on or before the second Tuesday following the first day of the annual meeting of the legislature, in all other years, the governor shall submit to the legislature a budget containing a complete plan of expenditures proposed to be made before the close of the ensuing fiscal year and all moneys and revenues estimated to be available

therefor, together with an explanation of the basis of such estimates and recommendations as to proposed legislation, if any, which he may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures. It shall also contain such other recommendations and information as he may deem proper and such additional information as may be required by law. (New. Derived in part from former § 2 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938; amended by vote of the people November 2, 1965.)

[Budget bills; appearances before legislature.] § 3. At the time of submitting the budget to the legislature the governor shall submit a bill or bills containing all the proposed appropriations and reappropriations included in the budget and the proposed legislation, if any, recommended therein.

The governor may at any time within thirty days thereafter and, with the consent of the legislature, at any time before the adjournment thereof, amend or supplement the budget and submit amendments to any bills submitted by him or submit supplemental bills.

The governor and the heads of departments shall have the right, and it shall be the duty of the heads of departments when requested by either house of the legislature or an appropriate committee thereof, to appear and be heard in respect to the budget during the consideration thereof, and to answer inquiries relevant thereto. The procedure for such appearances and inquiries shall be provided by law. (New. Derived in part from former §§ 2 and 3 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Action on budget bills by legislature; effect thereof.] § 4. The legislature may not alter an appropriation bill submitted by the governor except to strike out or reduce items therein, but it may add thereto items of appropriation provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose. None of the restrictions of this section, however, shall apply to appropriations for the legislature or judiciary.

Such an appropriation bill shall when passed by both houses be a law immediately without further action by the governor, except that appropriations for the legislature and judiciary and separate items added to the governor's bills by the legislature shall be subject to his approval as provided in section 7 of article IV. (New. Derived in part from former § 3 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Restrictions on consideration of other appropriations.] § 5. Neither house of the legislature shall consider any other bill making an appropriation until all the appropriation bills submitted by the governor shall have been finally acted on by both houses, except on message from the governor certifying to the necessity of the immediate passage of such a bill. (New. Derived in part from former § 4 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Restrictions on content of appropriation bills.] § 6. Except for appropriations contained in the bills submitted by the governor and in a supplemental appropriation bill for the support of government, no appropriations shall be made except by separate bills each for a single object or purpose. All such bills and such supplemental appropriation bill shall be subject to the governor's approval as provided in section 7 of article IV.

No provision shall be embraced in any appropriation bill submitted by the governor or in such supplemental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation

to such appropriation. (New. Derived in part from former § 22 of Art. 3 and former § 4 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Appropriation bills.] § 7. No money shall ever be paid out of the state treasury or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object or purpose to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum. (New. Derived in part from former § 21 of Art. 3. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ART. IV

ARTICLE IV EXECUTIVE

[Action by governor on legislative bills; reconsideration after veto]

§7. Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if the governor approve, he or she shall sign it; but if not, he or she shall return it with his or her objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the governor. In all such cases the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him or her, the same shall be a law in like manner as if he or she had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after such adjournment. If any bill presented to the governor contain several items of appropriation of money, the governor may object to one or more of such items while approving of the other portion of the bill. In such case the governor shall append to the bill, at the time of signing it, a statement of the items to which he or she objects; and the appropriation so objected to shall not take effect. If the legislature be in session, he or she shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he or she shall withhold approval from any item or items contained in a bill appropriating money. (Formerly §9. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938; further amended by vote of the people November 6, 2001.)

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel: 914-421-1200

E-Mail: mail@judgewatch.org

Website: www.judgewatch.org

February 6, 2017

TO: Senate Majority Coalition Leader John Flanagan
Assembly Speaker Carl Heastie
Senate Minority Leader Andrea Stewart-Cousins
Assembly Minority Leader Brian Kolb

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
Constituents of Senator Stewart-Cousins (35th Senate District)
& of Assemblyman David Buchwald (93rd Assembly District)

RE: (1) Where are your appointments to the Commission on Government Administration and to the Commission on State-Local Relations, required by Legislative Law Article 5-A?;
(2) When will you be responding to my requests for a meeting for purposes of preventing a repeat of the constitutional, statutory, and legislative rule violations chronicled by the September 2, 2016 verified complaint in CJA's citizen-taxpayer action?

On Friday, February 3, 2017, at a local budget hearing sponsored by the Westchester legislative delegation, I asked Assemblyman Thomas Abinanti whether – as reflected by the Assembly website – he is chair of the Legislature's Commission on Government Administration. He confirmed that he is – and then, in response to my inquiry about the Commission's other members, stated they have not yet been appointed.

Legislative Law Article 5-A (§§82, 83) establishes 13 legislative commissions. Among them are the Commission on Government Administration (§83-c) and the Commission on State-Local Relations (§83-h), each of which was to have ten members, appointed as follows:

“...three members of the senate shall be appointed by the temporary president of the senate; three members of the assembly shall be appointed by the speaker of the assembly; two members of the senate shall be appointed by the minority leader of the senate; and two members of the assembly shall be appointed by the minority leader of the assembly. From among the members so appointed, a chairman and a vice chairman shall be designated by the joint action of the temporary president of the senate and the speaker of the assembly....” (Legislative Law §83-c(1); §83-h(3)).

EC-1

Consequently – and with all deference to Assemblyman Abinanti – he cannot lawfully chair the Commission on Government Administration – as Legislative Law §83-c(1) expressly requires that you first appoint all ten members, which – according to Assemblyman Abinanti – you have not yet done.

Please, therefore, immediately rectify your violations of Legislative Law §83-c(1) by making your ten appointments to the Commission on Government Administration and designating its chair and vice-chair from among them. Likewise, please immediately rectify your violations of Legislative Law §83-h(3) pertaining to the Commission on Local-State Relations, which apparently now has neither a chair nor members.

Both Commissions have time-sensitive work to do that is all the more exigent because key standing committees of the Legislature are NOT discharging their oversight responsibilities. This was the subject of my extensive testimony at the Legislature’s January 30th budget hearing on “Local Government Officials/General Government”. The committees I named as derelict with respect to oversight of the Judiciary, of its chief monitor – the Commission on Judicial Conduct – of judicial compensation, of district attorneys, of district attorney compensation, and of state aid to the counties for district attorney salaries – were:

- the Senate Judiciary Committee;
- the Assembly Judiciary Committee;
- the Senate Codes Committee;
- the Assembly Codes Committee;
- the Senate Committee on Local Government; and
- the Assembly Committee on Local Governments.

In addition to these six standing committees are four more I might have also identified, by name:

- the Senate Committee on Crime Victims, Crime, and Correction;
- the Senate Committee on Investigations and Government Operations;
- the Assembly Committee on Governmental Operations; and
- the Assembly Committee on Oversight, Analysis, and Investigation.

Then, of course – and but for the fact that I was testifying before the chairs and ranking members of the Senate Finance Committee and the Assembly Ways and Means Committee who bear greatest culpability for the mountain of constitutional, statutory, and legislative rule violations that have created the HUGE slush fund that is the state budget – I would have also specified those two committees, the largest of the Senate and Assembly, whose nonfeasance and misfeasance with respect to oversight is evident from the budget hearings, as, likewise, from their incompetent, substandard, and intentionally misleading “White Book”, “Blue Book”, “Yellow Book” and “Green Book” purported “analyses” of the budget.

In the event you have not personally viewed the VIDEO of my January 30th testimony at the budget hearing on “Local Government Officials/General Government” and the VIDEO of my testimony the following day at the January 31st budget hearing on “Public Protection”, I ask that you do so IMMEDIATELY, in further support of my January 9th written requests to meet with you, to which I also testified. The VIDEOS and my meeting requests are all posted on CJA’s website, www.judgewidth.org, accessible *via* the prominent homepage link “2017 Legislative Session”.

Likewise, if you have not yet personally examined the September 2, 2016 verified complaint in CJA’s citizen-taxpayer action and the record thereon – about which I also testified – you must do so IMMEDIATELY. It, too, is readily accessible from CJA’s website, including *via* the prominent homepage link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three Men in a Room’ Governance”.

The first cause of action of the verified complaint, detailing the unconstitutionality of the legislative budget, *as written and as applied*, presents multiple paragraphs relating to the Commission on Government Administration, the Commission on State-Local Relations, and other legislative commissions and standing committees. Chief among these paragraphs are the following:

“28. ...the Legislature’s proposed budget, *on its face*, is not ‘itemized estimates of the financial needs of the legislature’... its section entitled Senate and Assembly Joint Entities’ (...) omits most of the joint commissions that the Legislature is required to establish and fund pursuant to Legislative Law, Article 5-A (§§82, 83). Among these, the Legislative Commission on State-Local Relations and the Legislative Commission on Government Administration. Additionally, the Administrative Regulations Review Commission, required to be established and funded pursuant to Legislative Law, Article 5-B (§§86-88) is omitted.

29. Upon information and belief, the Legislature’s joint entities, mandated by Legislative Law Articles 5-A and 5-B, to the extent they exist, have only appointed chairs, collecting stipends. They have no funding, or virtually none – a fact concealed by the legislative budget’s violation of the Article VII, §1 requirement of ‘itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house’.

30. The consequence of the Legislature’s facial violation of Article VII, §1 by its budget is the unconstitutionality of that budget, *as applied*. Without funding, the joint legislative commissions are not functioning – and cannot function – as Legislative Law Article 5-A and 5-B intended them to^{fn2}. They are sham, just as the Legislature’s standing committees, which, excepting the Senate Finance

^{fn2} Likewise not functioning, for lack of funding, is another commission established by the Legislative Law: the Law Revision Commission, established by Legislative Law Article 4-A.”

Committee and Assembly Ways and Means Committee, have no appreciable funding.

31. As illustrative, neither the Legislative Commission on State-Local Relations, nor the Legislative Commission on Government Administration, nor any of the Legislature's standing committees, such as the Senate Committee on Local Government, the Assembly Committee on Local Governments, the Senate Judiciary Committee, or the Assembly Judiciary Committee have engaged in any oversight of the statutory link between judicial salaries and district attorney salaries, established more than 40 years ago by Judiciary Law §183-a, or of the related provisions of County Law §§700.10 and 700.11 pertaining to district attorney salaries and state aid to the counties for those salaries, or of the outpouring of state dollars to the counties, *via* the budget, for district attorney salary reimbursement that violates these express statutory provisions.

32. Nor are these legislative committees and commissions – or the Senate Finance Committee and Assembly Ways and Means Committee – remotely responsive and responsible, upon being given notice of their duty to protect the counties and the state from the costs of district attorney salary increases having absolutely no basis other than Judiciary Law §183-a and whose consequence is to compound the theft of taxpayer monies resulting from the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report. The legislative defendants are perfectly willing to countenance and continue a run-away 'gravy train' of district attorney salary increases that are the by-product of the statutorily-violative, fraudulent, and unconstitutional December 24, 2015 report...."

It was last June, in the wake of multiple Senate and Assembly bills aimed at giving the counties \$1,600,000 in additional aid for district attorney salaries for fiscal year 2016-2017 that I first tried to contact the Legislature's Commission on State-Local Relations and Commission on Government Administration, *via* the chairs identified by the Assembly's website as Assemblyman Sean Ryan and Assemblyman Brian Kavanagh, respectively. The experience compelled me to file a June 9, 2016 FOIL/records request with the Senate and Assembly in an effort to ascertain if these two important statutory commissions in fact exist and are operational. A copy of the FOIL/records request and the Senate and Assembly responses are enclosed.

Suffice to say that when I testified at the January 30th and 31st budget hearings in Albany – and on February 3rd, when I testified before Assemblyman J. Gary Pretlow, Assemblyman Steven Otis, and Assemblywoman Sandy Galef at the local budget hearing in Westchester – I brought with me the June 9, 2016 FOIL/records request and the Senate and Assembly responses, as well as many additional FOIL/records requests I had filed for documents relating to other government operations – the responses to which further evidenced the utter nonfeasance of Senate and Assembly committees in discharging basic oversight responsibilities, including where statutorily-contemplated.

I look forward to your scheduling meetings at which we can sit down and discuss the situation – and as soon as possible. I would be pleased to meet with you either individually or together – and to include the chairs and ranking members of the 12 Senate and Assembly standing committees hereinabove identified, as well as the chairs and vice-chairs of the Commission on Government Administration and Commission on State-Local Relations – and, additionally, the co-chairs of the Administrative Regulations Review Commission, established pursuant to Legislative Law Article 5-B (§§86-88).

Thank you.



Enclosure: CJA's June 8, 2016 FOIL/records request & Senate and Assembly responses

cc: Senate Majority Coalition/Independent Democratic Conference Leader Jeffrey Klein

Senate Judiciary Committee

Chair: Senator John Bonacic
Ranking Member: Senator Brad Hoylman

Assembly Judiciary Committee

Chair: Assemblywoman Helene Weinstein
Ranking Member: Assemblyman Michael Montesano

Senate Codes Committee

Chair: Senator Andrew Lanza
Co-Chair: Senator Diane Savino
Ranking Member: Senator Daniel Squadron

Assembly Codes Committee

Chair: Assemblyman Joseph Lentol
Ranking Member: Assemblyman Al Graf

Senate Committee on Local Government

Chair: Senator Kathleen Marchione
Ranking Member: Senator Todd Kaminsky

Assembly Committee on Local Governments

Chair: Assemblyman William Magnarelli
Ranking Member: Assemblyman Christopher Friend

Senate Committee on Crime Victims, Crime, and Correction

Chair: Senator Patrick Gallivan
Ranking Member: Senator Jamaal Bailey

Senate Committee on Investigations and Government Operations

Chair: Senator Terrence Murphy

Ranking Member: Senator Brad Hoylman

Assembly Committee on Governmental Operations

Chair: Assemblywoman Crystal Peoples-Stokes

Ranking Member: Assemblyman Mark Johns

Assembly Committee on Oversight, Analysis, and Investigation

Chair: Assemblyman Matthew Titone

Ranking Member: Assemblyman Joseph Errigo

Senate Finance Committee

Chair: Senator Catharine Young

Vice-Chair: Senator Diane Savino

Ranking Member: Senator Liz Krueger

Assembly Ways & Means Committee

Chair: Assemblyman Herman Farrell, Jr.

Ranking Member: Assemblyman Bob Oaks

Assemblyman Thomas Abinanti – chair/Commission on Government Administration

Assemblyman Sean Ryan – former chair/Commission on State-Local Relations

Assemblyman Brian Kavanagh – former chair/Commission on Government Administration

Senator Chris Jacobs – co-chair/Administrative Regulations Review Commission

Assemblywoman Aravella Simotas – co-chair/Administrative Regulations Review Commission

Assemblyman J. Gary Pretlow (member/Codes Committee; Ways & Means Committee)

Assemblyman Steven Otis (member/Committee on Local Governments)

Assemblywoman Sandy Galef (member/Committee on Governmental Operations)

Assemblyman David Buchwald (member/Judiciary Committee;

Committee on Local Governments;

Committee on Governmental Operations)

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

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Website: www.judgewatch.org

June 9, 2016

TO: Secretary of the Senate Francis Patience
Assembly Records Access Officer Robin Marilla

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: RECORDS REQUEST: Legislative Commission on State-Local Relations and
Legislative Commission on Government Administration

Legislative Law, Article 5-A (§§82, 83), entitled “Legislative commissions”, establishes 12 legislative commissions – which are to be repealed/sunset on June 30, 2017. Among these are the “Legislative commission on state-local relations” (Legislative Law §83-h) and the “Legislative commission on public management systems”, which also goes by the name “legislative commission on government administration” (Legislative Law §83-c).

Each of these two commissions is to have ten members appointed as follows:

“three members of the senate shall be appointed by the temporary president of the senate; three members of the assembly shall be appointed by the speaker of the assembly; two members of the senate shall be appointed by the minority leader of the senate; and two members of the assembly shall be appointed by the minority leader of the assembly. From among the members so appointed, a chairman and a vice chairman shall be designated by the joint action of the temporary president of the senate and the speaker of the assembly. Any vacancy that occurs in the commission or in the chairmanship or vice chairmanship shall be filled in the same manner in which the original appointment or designation was made.” (Legislative Law §83-h(3); §83-c(1)).

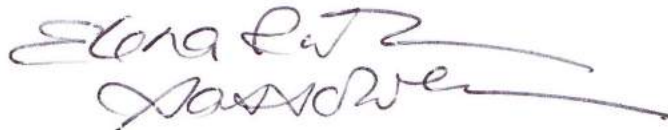
Legislative Law §82 provides:

“Expenditures made from appropriations and reappropriations to the legislature for services and expenses of shared legislative commissions, task forces and councils, including, but not limited to those set forth in this article and article five-B of this chapter, shall be paid upon the approval of the temporary president of the senate and the speaker of the assembly, unless otherwise specified by law. Such expenditures shall be payable after audit by and on the warrant of the comptroller upon vouchers certified by the temporary president of the senate or his or her designee and the speaker of the assembly or his or her designee.”

Pursuant to Senate Rule XV, "Freedom of Information", and Assembly Rule VIII, "Public Access to Records", request is made for:

- (1) records identifying the members of these two legislative commissions since 2000 – including the dates each member was appointed and by which legislative leader – and the designation of their chairs and vice chairs and the dates thereof;
- (2) records pertaining to appropriations and reappropriations for each of these two legislative commissions since 2007;
- (3) records of activity by these two legislative commissions beyond what is reflected on the Assembly webpage of "Updates" for each:
<http://nyassembly.gov/comm/?sec=post&id=54>
<http://nyassembly.gov/comm/?sec=post&id=49> – printouts of which are attached, together with printouts of the Assembly webpages of the current memberships, identifying only their Assembly chairs:
<http://nyassembly.gov/comm/?sec=mem&id=54>
<http://nyassembly.gov/comm/?sec=mem&id=49>.¹

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ritz" with a stylized flourish underneath.

Enclosures

¹ The Senate webpage entitled, "Senators, Committees, and Other Legislative Groups" <https://www.nysenate.gov/senators-committees>, lists neither legislative commission – and no results are found using the Senate website's search feature.

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- [Gordon Named Chair of Legislative Commission on State-Local Relations](#) - June 23, 2009
- [The Legal Framework for Providing Local Government Services](#) - January 8, 2008
- [Notice of Public Hearing - Invasive Species and Pathogens](#) - August 24, 2007
- [Catalog of State and Federal Programs Aiding New York's Local Governments - 2007 Edition](#) - July 27, 2007
- [Catalog of State and Federal Programs Aiding New York's Local Governments - 2005 Edition](#) - May 27, 2005
- [Catalog of State and Federal Programs Aiding New York](#) - November 20, 2003
- [Catalog of State and Federal Programs Aiding New York](#) - June 29, 2001

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- [Notice of Roundtable – Waste Reduction, Food Donation, and Materials Recovery at State and Local Government Food Service Operations](#) - November 6, 2014
- [Notice of Public Hearing - Adopting environmentally friendly policies at State Authorities and Agencies](#) - May 10, 2013
- [Legislative Update from the NYS Assembly Commission on Government Administration - Summer 2012](#) - August 3, 2012
- [Public Hearing Summary](#) - June 11, 2012
- [Second Look Project](#) - June 11, 2012
- [Notice of Public Hearing - The State's Information Technology Infrastructure](#) - May 7, 2012
- [Over the Backyard Fence: A Round Table Discussion on State Structures and Innovations](#) - September 19, 2011
- [Mission Statement of the Commission on Government Administration](#) - April 1, 2011
- [Legislative Update from the NYS Assembly Commission on Government Administration - Summer 2010](#) - June 10, 2010
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - August 23, 2005
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - December 30, 2005
- [Notice of Public Hearing - Examination of the Procurement Stewardship Act and Procurement Issues](#) - August 16, 2005
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - January 14, 2005
- [First Responders: A Last Priority? - The Status of New York State's Preparedness](#) - April 26, 2004
- [Legislative Update from the Commission on Government Administration](#) - December 24, 2002
- [Legislative Update from the NYS Assembly Commission on Government Administration](#) - February 20, 2002

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Elena Sassower

From: Senate Foil <foil@nysenate.gov>
Sent: Thursday, June 16, 2016 12:13 PM
To: Center for Judicial Accountability; cja@judgewatch.org
Subject: Records Request/Response: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration
Attachments: Rules and Regulations March 2013.pdf

June 16, 2016

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
Post Office Box 8101
White Plains, NY 10602
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated June 9, 2016 pursuant to the Freedom of Information Law.

You are requesting miscellaneous information relating to the Legislative Commission on State-Local Relations and Legislative Commission on Government Administration.

We are currently working on your request and expect to be able to respond in the near future.

I have attached a copy of the Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

From: "Center for Judicial Accountability" <elena@judgewatch.org>
To: "Senate Foil" <foil@nysenate.gov>, <marillr@assembly.state.ny.us>
Date: 06/09/2016 09:55 AM
Subject: Records Request: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration

Elena Sassower

From: Senate Foil <foil@nysenate.gov>
Sent: Wednesday, June 22, 2016 9:52 AM
To: Center for Judicial Accountability
Subject: Freedom of Information Request/Response: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration
Attachments: Rules and Regulations March 2013.pdf

June 22, 2016

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
Post Office Box 8101
White Plains, NY 10602
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated June 9, 2016 pursuant to the Freedom of Information Law.

You are requesting miscellaneous information relating to the Legislative Commission on State-Local Relations and Legislative Commission on Government Administration.

Please be advised after a search by numerous New York State Senate offices there are no documents / records responsive to your request.

I have attached a copy of the Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

From: "Center for Judicial Accountability" <elena@judgewatch.org>
To: "Senate Foil" <foil@nysenate.gov>,
<marillr@assembly.state.ny.us>
Date: 06/09/2016 09:55 AM
Subject: Records Request: Legislative Commission on State-Local Relations & Legislative Commission on Gov't Administration



**THE ASSEMBLY
STATE OF NEW YORK
ALBANY**

Public Information Office
Robin Marilla
Records Access Officer

Room 202
Legislative Office
Building
Albany, New York 12248
(518) 455-4218

June 29, 2016

Dear Ms. Sassower:

In your recent correspondence dated June 9, 2016, you requested the following records in relation to the Legislative Commission on State-Local Relations and the Legislative Commission on Government Administration:

1. Records identifying the members of these commissions since 2000 – including the dates each member was appointed and by which legislative leader – and the designation of their chairs and vice chairs and the dates thereof. While I was unable to locate a list of members of these commissions, I am attaching a list of the Members of the Assembly who were appointed as chairs of these commissions.
2. Records pertaining to appropriations for each of these two legislative commissions since 2007. Please be advised that the Legislative Budget is available for public inspection and copying.
3. Records of activity by these commissions beyond what is reflected on the Assembly web page of “updates” for each commission. Please be aware that the only records of activity by these commissions that are available for public inspection and copying are posted on the Assembly website in the locations you referenced. Please note, however, that a Notice of a Roundtable, dated September 22, 2015, was recently posted on the website under the heading, “Updates from the Commission on State-Local Relations.”

If I can be of any further assistance, please feel free to contact me.

Sincerely,
Robin L. Marilla

Government Administration/Public Management Systems

2001-02 : Jeffrey Dinowitz
2003-04 : David Koon

2005-08 : Joan Millman
2009-10 : Adam Clayton Powell
2011-12 : George Latimer
2013- : Brian Kavanagh

State-Local Relations

2001-02 : Sam Colman
2005-08 : Darrel Aubertine
2009-10 : Tim Gordon

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, February 7, 2017 2:19 PM
To: 'garyp@legislator.com'; 'PretloJ@nyassembly.gov'
Cc: 'stewart@nyassembly.gov'
Subject: Letter to Leadership: (1) Legislative Law Article 5-A Commissions on Gov't Administration & State-Local Relations; (2) requested meetings to prevent repeat of constitutional, statutory, & legislative rule violations re: fiscal year 2017-18 budget
Attachments: 2-6-17-ltr-to-leadership-with-enclosures.pdf

Dear Assemblyman Pretlow,

Thank you for having given me the opportunity to testify at the February 3rd local budget hearing, sponsored by the Westchester legislative delegation.

Attached is my yesterday's letter to Senate & Assembly leadership – to which you are an indicated recipient. I sent it to your generic Assembly e-mail address yesterday. However, I am now additionally sending it to the direct e-mail address you were kind enough to provide me with during our conversation together following my testimony, as well as to the e-mail of your office manager/legislative director Kereama Gorousingh.

As you are a member of the Assembly Ways & Means Committee – in addition to the Assembly Codes Committee -- I ask that you take steps to ensure that EVERY member of those two committees view the VIDEOS of my January 30th and 31st testimony in Albany at the Legislature's budget hearings on "Local Government Officials/General Government" and "Public Protection". Appropriate, responsive action is ESSENTIAL – as the violations of prior budget cycles, to which I testified there – and at the February 3rd local budget hearing before you -- are REPEATING. They are posted on CJA's website, www.judgewatch.org – and the direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2017-legislature/new-year.htm>.

I am available to assist you, to the max.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200
www.judgewatch.org

From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]
Sent: Monday, February 6, 2017 3:32 PM
To: 'flanagan@nysenate.gov' <flanagan@nysenate.gov>; 'speaker@nyassembly.gov' <speaker@nyassembly.gov>; 'Carl Heastie' <cehbronx@gmail.com>; 'scousins@nysenate.gov' <scousins@nysenate.gov>; 'kolbB@nyassembly.gov' <kolbB@nyassembly.gov>
Cc: 'jdklein@nysenate.gov' <jdklein@nysenate.gov>; 'bonacic@nysenate.gov' <bonacic@nysenate.gov>; 'hoylman@nysenate.gov' <hoylman@nysenate.gov>; 'WeinstH@assembly.state.ny.us' <WeinstH@assembly.state.ny.us>; 'montesanom@assembly.state.ny.us' <montesanom@assembly.state.ny.us>; 'lanza@nysenate.gov' <lanza@nysenate.gov>; 'savino@nysenate.gov' <savino@nysenate.gov>; 'squadron@nysenate.gov' <squadron@nysenate.gov>; 'LentolJ@nyassembly.gov' <LentolJ@nyassembly.gov>; 'grafa@nyassembly.gov' <grafa@nyassembly.gov>; 'marchione@nysenate.gov' <marchione@nysenate.gov>; 'kaminsky@nysenate.gov' <kaminsky@nysenate.gov>; 'MagnarW@nyassembly.gov' <MagnarW@nyassembly.gov>;

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'farrellh@nyassembly.gov' <farrellh@nyassembly.gov>; 'OaksR@nyassembly.gov' <OaksR@nyassembly.gov>;
'abinantit@nyassembly.gov' <abinantit@nyassembly.gov>; 'RyanS@nyassembly.gov' <RyanS@nyassembly.gov>;
'kavanaughb@nyassembly.gov' <kavanaughb@nyassembly.gov>; 'jacobs@nysenate.gov' <jacobs@nysenate.gov>;
'simotasa@nyassembly.gov' <simotasa@nyassembly.gov>; 'PretloJ@nyassembly.gov' <PretloJ@nyassembly.gov>;
'OtisS@nyassembly.gov' <OtisS@nyassembly.gov>; 'GalefS@nyassembly.gov' <GalefS@nyassembly.gov>;
'BuchwaldD@nyassembly.gov' <BuchwaldD@nyassembly.gov>

Subject: Letter to Leadership: (1) Legislative Law Article 5-A Commissions on Gov't Administration & State-Local Relations; (2) requested meetings to prevent repeat of constitutional, statutory, & legislative rule violations re: fiscal year 2017-18 budget

Attached is the Center for Judicial Accountability's letter of today's date, addressed to you – or indicating you as a recipient.

It is already posted on CJA's website, www.judgewatch.org, accessible via the prominent homepage link "2017 Legislative Session". Here is that webpage, directly: <http://www.judgewatch.org/web-pages/searching-nys/2017-legislature/new-year.htm> -- on which is also posted the VIDEOS of my January 30th and January 31st testimony at the Legislature's budget hearings on "Local Government Officials/General Government" and "Public Protection".

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200
www.judgewatch.org

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, December 5, 2018 5:31 PM
To: 'Compensation Committee'
Subject: Assembly Speaker Heastie's fraudulent, deceitful presentation in support of legislative pay raises -- as established by EVIDENCE

TO: The New York State Compensation Committee

Thank you for posting, yesterday night, Assembly Speaker Heastie's written "remarks", which he read at the November 30, 2018 hearing. However, you have not posted the two letters he submitted to the Committee, which his "remarks" identify that he was summarizing. These are his "2016 letter in support of a salary adjustment as well as a new updated letter". Kindly post them, as well.

I believe I have the 2016 letter – if that is Assembly Speaker Heastie's October 5, 2016 letter to the Commission on Legislative, Judicial and Executive Compensation, posted on that Commission's website, here: <http://nyscommissiononcompensation.org/Submissions-legislative.shtml>. However, I don't have his "new updated letter". Please furnish it to me, as immediately as possible.

Meanwhile, in further substantiation of my assertions at the hearing that Assembly Speaker Heastie had "testified without evidence" – and that his "self-serving-claims" about "how hard-working, how responsive the Senate and the Assembly are, is fraud, is deceit", rebutted" by CJA's second citizen-taxpayer action, to which he is a named defendant, as well as by the other evidence I handed up -- below is my FOIL/Records request to the Assembly, of today's date, pertaining to the "13 joint legislative commissions" to which he referred in testifying. The evidence about these legislative commissions, reflected by the links on the Assembly's own website, substantiates ¶¶28-33 of CJA's September 2, 2016 verified complaint in the second citizen-taxpayer action [R.100-102]. For your convenience, these paragraphs read:

“28. ...the Legislature's proposed budget, *on its face*, is not 'itemized estimates of the financial needs of the legislature'... its section entitled Senate and Assembly Joint Entities' (...) omits most of the joint commissions that the Legislature is required to establish and fund pursuant to Legislative Law, Article 5-A (§§82, 83). Among these, the Legislative Commission on State-Local Relations and the Legislative Commission on Government Administration. Additionally, the Administrative Regulations Review Commission, required to be established and funded pursuant to Legislative Law, Article 5-B (§§86-88) is omitted.

29. Upon information and belief, the Legislature's joint entities, mandated by Legislative Law Articles 5-A and 5-B, to the extent they exist, have only appointed chairs, collecting stipends. They have no funding, or virtually none – a fact concealed by the legislative budget's violation of the Article VII, §1 requirement of 'itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house'.

30. The consequence of the Legislature's facial violation of Article VII, §1 by its budget is the unconstitutionality of that budget, *as applied*. Without funding, the joint legislative commissions are not functioning – and cannot function – as Legislative Law Article 5-A and 5-B intended them to^{fn2}. They are sham, just as the Legislature's standing committees, which, excepting the Senate Finance Committee and Assembly Ways and Means Committee, have no appreciable funding.

31. As illustrative, neither the Legislative Commission on State-Local Relations, nor the Legislative Commission on Government Administration, nor any of the Legislature's standing committees, such as the Senate Committee on Local Government, the Assembly Committee on Local Governments, the Senate Judiciary Committee, or the Assembly Judiciary Committee have engaged in any oversight of the statutory link between judicial salaries and district attorney salaries, established more than 40 years ago by Judiciary Law §183-a, or of the related provisions of County Law §§700.10 and 700.11 pertaining to district attorney salaries and state aid to the counties for those salaries, or of the outpouring of state dollars to the counties, *via* the budget, for district attorney salary reimbursement that violates these express statutory provisions.

32. Nor are these legislative committees and commissions – or the Senate Finance Committee and Assembly Ways and Means Committee – remotely responsive and responsible, upon being given notice of their duty to protect the counties and the state from the costs of district attorney salary increases having absolutely no basis other than Judiciary Law §183-a and whose consequence is to compound the theft of taxpayer monies resulting from the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report. The legislative defendants are perfectly willing to countenance and continue a run-away 'gravy train' of district attorney salary increases that are the by-product of the statutorily-violative, fraudulent, and unconstitutional December 24, 2015 report.

33. As stated by ¶94 of the verified complaint (Exhibit B) – and reiterated by ¶315 of the verified second supplemental complaint (Exhibit C):

'In every respect, defendants SENATE and ASSEMBLY have fallen beneath a constitutionally acceptable threshold of functioning – and it appears the reason is not limited to Senate and Assembly rules that vest in the Temporary Senate President and Speaker strangulating powers, the subject of the Brennan Center's 2004, 2006, and 2008 reports on the Legislature. Rather, it is because – without warrant of the Constitution, statute, or Senate and Assembly rules, as here demonstrated, the Temporary Senate President and Speaker have seized control of the Legislature's own budget, throwing asunder the constitutional command: 'itemized estimate of the financial needs of the legislature, certified by the presiding officer of each house.'" (italics, underlining and capitalization in the original).

More to follow.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
www.judgewatch.org

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, December 5, 2018 3:53 PM
To: 'Robin Marilla' <marillar@nyassembly.gov>

Subject: FOIL/Records Access -- The 13 "Legislative Commissions" Enumerated by the Assembly's Website

TO: Assembly Records Access Officer Robin Marilla

Pursuant to Assembly Rule VIII "Public Access to Records", request is made for records reflecting the membership of the 13 "Legislative Commissions", enumerated on the Assembly's webpage of "Committees, Commissions & Task Forces": <https://nyassembly.gov/comm/>. In the order in which they appear, they are:

- (1) Legislative Commission on Administrative Regulations Review, whose homepage: <https://nyassembly.gov/comm/?id=44>, reflects no members other than its chair, Assemblyman Dan Quart – and no activity since a Dec. 2015 hearing;
- (2) Legislative Commission on Council on Health Care Financing, whose homepage: <https://nyassembly.gov/comm/?id=45> reflects no members, including no chair – and no activity whatever;
- (3) Legislative Commission on Critical Transportation Choices, whose homepage: <https://nyassembly.gov/comm/?id=46> reflects no members other than its chair, Assemblyman David Gantt – and no activity whatever;
- (4) Legislative Commission on Governmental Administration, whose homepage: <https://nyassembly.gov/comm/?id=49> reflects no members other than its chair, Assemblyman Thomas Abinanti – and no activity for more than five years (May 2013);
- (5) Legislative Commission on Legislative Ethics, whose homepage: <https://nyassembly.gov/comm/?id=48> reflects no members other than its chair, Assemblywoman Avarella Simotas – and no activity whatever;
- (6) Legislative Commission on Rural Resources, whose homepage: <https://nyassembly.gov/comm/?id=47> reflects that its chair is Assemblyman Angelo Santabarbara and two members, Assemblywomen Barbara Lifton and Carrie Woerner – and no activity for more than eight years (summer 2012);
- (7) Legislative Commission on Science and Technology, whose homepage: <https://nyassembly.gov/comm/?id=51>, reflects no members other than its chair, Assemblyman Sean Ryan – and no activity for more than four years (April 2014);
- (8) Legislative Commission on Skills Development and Career Education, whose homepage: <https://nyassembly.gov/comm/?id=52> reflects no members other than its chair, Assemblyman Harry Bronson – and no activity since an October 2017 posting of a legislative report;
- (9) Legislative Commission on Solid Waste Management, whose homepage: <https://nyassembly.gov/comm/?id=53> reflects no members, including no chair – and no activity since a Feb. 2016 hearing;
- (10) Legislative Commission on State-Local Relations, whose homepage: <https://nyassembly.gov/comm/?id=54&sec=hearings>, reflects no members other than its chair, Assemblyman Victor Pichardo – and no activity since a Nov. 2016 posting of a notice of roundtable;

- (11) Legislative Commission on Tax Study, whose homepage: <https://nyassembly.gov/comm/?id=55> reflects no members, including no chair – and no activity whatever;
- (12) Legislative Commission on Toxic Substances and Hazardous Wastes, whose homepage: <https://nyassembly.gov/comm/?id=56> reflects no members other than its chair, Assemblywoman Christine Pellegrino – and no activity since a Jan. 2018 posted notice of hearing;
- (13) Legislative Commission on Water Resource Needs of New York State, whose homepage: <https://nyassembly.gov/comm/?id=57> reflects no members, including no chair – and no activity for more than five years (Oct. 2013).

Thank you.

Elena Sassower, Director
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^{fn2} Likewise not functioning, for lack of funding, is another commission established by the Legislative Law: the Law Revision Commission, established by Legislative Law Article 4-A.”

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BY E-MAIL

November 30, 2018

TO: New York State Senate
Francis W. Patience, Secretary of the Senate

New York State Assembly
Robin Marilla, Records Access Officer

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: The Legislature's Certified Itemized Estimates of its Financial Needs for
Fiscal Year 2019-2020, as Required by Article VII, §1 of the New York State
Constitution

Please advise where on the Senate and Assembly websites are – or will be – posted the “Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” for fiscal year 2019-2020, which Article VII, §1 of the New York State Constitution requires the Senate and Assembly to transmit to the Governor by December 1st.

Please note I am looking to examine a copy of the actual documents, with their certifications – comparable to what the Judiciary has already posted on its website for the “itemized estimates” it either has or will be transmitting to the Governor pursuant to Article VII, §1 of the New York State Constitution. For your convenience, here's the direct link to those judiciary budget documents from the Unified Court System's website: <http://ww2.nycourts.gov/admin/financialops/Budgets.shtml>, whose transmitting memos bear the date December 1, 2018.

In the event the Legislature is not intending to post its certified itemized estimates of its financial needs for fiscal year 2019-2020 on its Senate and Assembly websites, please advise why – and furnish a copy to me pursuant to Senate Rule XV (“Freedom of Information”) and Assembly VIII (“Public Access to Information”).

Thank you.

