

## Center for Judicial Accountability

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**From:** Center for Judicial Accountability <elena@judgewatch.org>  
**Sent:** Wednesday, February 03, 2016 11:57 AM  
**To:** cyoung@nysenate.gov; 'lkrueger@senate.state.ny.us'; 'farrelh@assembly.state.ny.us'; 'oaksR@assembly.state.ny.us'; Andrew J. Lanza (lanza@senate.state.ny.us); hoylman@nysenate.gov; 'peoplec@assembly.state.ny.us'; 'DupreyJ@assembly.state.ny.us'; usher@senate.state.ny.us; 'freemanc@assembly.state.ny.us'; salvind@assembly.state.ny.us; birzonj@assembly.state.ny.us  
**Cc:** 'flanagan@nysenate.gov'; 'speaker@assembly.state.ny.us'  
**Subject:** Feb. 4th "Public Protection" Budget Hearing: Questions for Temporary Senate Pres. Flanagan & Assembly Speaker Heastie  
**Attachments:** 2-3-16-questions-for-flanagan-heastie.pdf

As an aid to the Senate and Assembly Fiscal Committees – and to the Senate Committee on Investigations and Government Operations and the Assembly Committee on Governmental Operations, which are the “appropriate committees” with jurisdiction over, if not responsibility for, the Legislature’s budget -- attached are “Questions for Temporary Senate President John Flanagan and Assembly Speaker Carl Heastie”. It is also posted on CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the prominent homepage link: “NO PAY RAISES FOR NEW YORK’S CORRUPT PUBLIC OFFICERS: The Money Belongs to their Victims!”

Please forward to ALL members of the Senate and Assembly Fiscal Committees, and to ALL members of the Senate Committee on Investigations and Government Operations and the Assembly Committee on Governmental Operations, so that they can be informed as to the serious and substantial issues before them.

So that Temporary Senate President Flanagan and Assembly Speaker Heastie may be fully prepared to respond to these questions at the Legislature’s February 4<sup>th</sup> “public protection” budget hearing – at which I was told the Legislature’s budget would be considered – this e-mail is being simultaneously furnished to them.

Thank you.

Elena Sassower, Director  
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**QUESTIONS FOR TEMPORARY SENATE PRESIDENT JOHN FLANAGAN  
& ASSEMBLY SPEAKER CARL HEASTIE<sup>1</sup>  
at the Legislature’s February 4, 2016 “Public Protection” Budget Hearing**

**THE LEGISLATURE’S PROPOSED BUDGET FOR FISCAL YEAR 2016-2017**

Examination of the Legislature’s proposed budget for fiscal year 2016-2017 must begin with inquiry as to whether it is “certified” “itemized estimates of financial needs of the legislature”, as Article VII, §1 of the New York State Constitution requires. Where are the “General State Charges”? – and what about the tens of millions of dollars in untallied legislative reappropriations that are not part of the Legislature’s proposed budget, but which the Governor’s Legislative/Judiciary Budget Bill #S.6401/A.9001 includes in an out-of-sequence section at the back?

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**PROPOSED QUESTIONS**

- (1) Article VII, §1 of the New York State Constitution requires that “itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” be transmitted to the Governor before December 1<sup>st</sup> of each year, is that correct?
- (2) By a one-sentence coverletter to the Governor, dated December 1, 2015, on a letterhead of the “New York State Legislature” and bearing your printed names, titles, and signatures, you stated:

“Attached hereto is a copy of the Legislature’s Budget for the 2016-2017 fiscal year pursuant to Article VII, Section 1 of the New York State Constitution.”

In so doing, you did not purport that such attached budget represented “itemized estimates of the financial needs of the legislature”, right? Nor did you purport to have certified it, right?

- (3) Your attached budget consisted of a four-page budget narrative, with a fifth page of “Budget Highlights – Joint Entities”, plus a sixth page chart entitled “All Funds Requirements for the Legislature”, followed by a ten-page “Schedule of Appropriations”. These 16 pages neither included a certification, nor referred to “itemized estimates” of the Legislature’s “financial needs”, nor to Article VII, §1, right?

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<sup>1</sup> Prepared by Center for Judicial Accountability Director Elena Ruth Sassower – and posted, with substantiating documents, on CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the prominent homepage link: “NO PAY RAISES FOR NEW YORK’S CORRUPT PUBLIC OFFICERS: The Money Belongs to their Victims!”

- (4) Would you agree that you did not furnish the Governor with “itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” – and that you did not purport to be doing so?
- (5) Doesn’t the failure of your December 1, 2015 coverletter to even claim to be furnishing the Governor with “itemized estimates of the financial needs of the legislature” reflect your knowledge that your transmitted budget was not “itemized estimates of the financial needs of the legislature”. Isn’t that why you did not certify it?
- (6) The budget you transmitted to the Governor contained no “General State Charges” for the Legislature, *to wit*, the “fringe benefits” that are pension contributions, social security, health, dental, vision and life insurance, etc. for legislators and legislative branch employees, is that correct?
- (7) Where are the Legislature’s “General State Charges”? How much are they and did you certify them to be “itemized estimates” of the Legislature’s “financial needs” with respect to its “General State Charges”?
- (8) The figures in the chart of “All Funds Requirements for the Legislature” are identical to those in the charts of “All Funds Requirements for the Legislature” from the past five fiscal years – showing no change for six years – is that correct?
- (9) Can you explain how any cognizable “process” of ascertaining the Legislature’s actual “financial needs” could have produced six years of identical budgets?
- (10) Do you agree that Article VII, §1 of the New York State Constitution does not vest you with the power to determine the “itemized estimates of the financial needs of the legislature”, but only to certify same?
- (11) Do you agree that the logical reason why Article VII, §1 requires that the Judiciary’s “certified” “itemized estimates” of its “financial needs” be transmitted to “the appropriate committees of the legislature” – in addition to the Governor – but does not require that the Legislature’s “certified” “itemized estimates” of its “financial needs” be transmitted to “the appropriate committees of the legislature” is because “the appropriate committees of the legislature are presumed to have formulated the “itemized estimates” that the “presiding officer of each house” have “certified”?
- (12) Do you agree that the Senate Committee on Investigations and Government Operations and Assembly Committee on Governmental Operations would be the “appropriate committees” of the Legislature to formulate the Legislature’s budget?
- (13) Describe the “process”, if any, by which the Legislature’s budget for fiscal year 2016-2017 was compiled?

- (14) Wouldn't the process of compiling "itemized estimates of the legislature's financial needs" require soliciting the Legislature's 213 members and the 72 legislative committees as to their "financial needs"?
- (15) Were legislators and legislative committees solicited as to their "itemized estimates" of their "financial needs"?
- (16) Would you agree that more than half of the ten-page "Schedule of Appropriations" (pp. 11-16) is devoted to less than 10% of the budget?
- (17) Would you agree that most of the 90% balance of the "Schedule of Appropriations" for fiscal year 2016-2017 (pp. 7-10) relates to member offices, legislative committees, and central staff?
- (18) Would you agree that this 90% of the budget relating to member offices, legislative committees, and central staff (pp. 7-10) lacks itemization sufficient for intelligent and meaningful review?
  - (a) why are appropriations for member offices combined with appropriations for legislative committees? (pp. 7, 9) Doesn't this make it impossible to know total appropriations for member offices and total appropriations for legislative committees, let alone to evaluate appropriation levels of individual member offices and individual legislative committees?;
  - (b) why is the Assembly Ways and Means Committee the only legislative committee whose funding is identified (p. 10)? What about the funding of the Senate Finance Committee? How about the funding of the other 37 Assembly committees and the other 33 Senate committees?;
  - (c) what is the funding for the 213 legislators' offices, cumulatively and individually?;
  - (d) what is the funding for the 72 legislative committees, cumulatively and individually?;
  - (e) What do "senate operations" and "[assembly] administrative and program support operations" (pp. 8, 9) consist of?
- (19) The budget that your December 1, 2015 coverletter transmitted to the Governor contained no legislative reappropriations, correct?
- (20) Do you agree that when the Governor combined the Legislature's budget with the Judiciary's budget in his Budget Bill #S.6401/A.9001, he was able to conceal 24 pages of legislative reappropriations (pp. 25-48) that were not part of your December 1, 2015 transmittal to him?

- (21) Do you agree that these 24 pages of legislative reappropriations are – as reflected by the end-page Table of Contents for Legislative/Judiciary Budget Bill #S.6401/A.9001 (p. 49) – in an out-of-sequence section at the back of the bill? And shouldn't the first page of these 24 pages (p. 25) be prominently marked "Reappropriations", just as the first page of the Judiciary's "Reappropriations" is (p.22)?
- (22) Can you explain where the 24 pages of legislative reappropriations (pp. 25-48) came from?
- (a) When and in what fashion were they transmitted to the Governor?;
  - (b) Did you certify the dollar amounts of these legislative reappropriations and, additionally, that they were suitable for designation as reappropriations?;
  - (c) Are they?;
  - (d) What is the cumulative total of these 24 pages of legislative reappropriations?
- (23) In March 2015, an amended Legislative/Judiciary Budget Bill for fiscal year 2015-2016 (#S.2001-a/A.3001-a) altered approximately 80 legislative reappropriations – most of which were reduced, sometimes dramatically. Is that correct? What was the dollar difference in the cumulative totals of the legislative reappropriations, before amended and after?
- (24) In March 2014, an amended Legislative/Judiciary Budget Bill for fiscal year 2014-2015 (#S.6351-a/A.8551-a) altered approximately 70 reappropriations – increasing them, decreasing them, and in at least two instances, adding on. Is that correct? What was the dollar difference in the cumulative totals of the legislative reappropriations, before amended and after?
- (25) Why were the legislative reappropriations changed for these two fiscal years – and by what process were they determined? Were these changed reappropriations certified? And by whom?
- (26) Why is it that the changed legislative reappropriations in Budget Bills #S.2001-a/A.3001-a and #S.6351-a/A.8551-a were not flagged by the safeguarding device identified on the first page of each bill by its pre-printed "EXPLANATION – Matter in italics (underscored) is new; matter in brackets [ ] is old to be omitted"? And were such changes flagged in any amended introducer's memo, as required by Senate Rule VII, §4(b) and Assembly Rule III, §1(f) and §6?
- (27) Do you expect that the legislative reappropriations in Legislative/Judiciary Budget Bill #S.6401/A.9001 for fiscal year 2016-2017 will be changed? What will be the basis? By what process? Will these changed reappropriations be certified? By whom?

- (28) The Governor's Legislative/Judiciary Budget Bill #S.6401/A.9001 contains no cumulative tally for its monetary allocations for the Legislature, is that correct? What is the dollar amount? Is it the addition of appropriations in its §1 (pp. 1-9) and reappropriations in its §4 (pp. 25-48)?
- (29) As the Governor's Legislative/Judiciary Budget Bill #S.6401/A.9001 identifies no appropriations of "General State Charges" for the Legislature – in contrast to the appropriations it identifies for "General State Charges" for the Judiciary (pp. 20-21) – where can they be found?

*Stena R. W.*  
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