

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, March 8, 2019 3:35 PM

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Subject: **Agenda for the March 12, 2019 first meeting of the Senate Committee on Budget & Revenues: Feb. 19, 2019 written testimony & the Committee's responsibilities with respect to Legislative/Judiciary Budget Bill #S.1501/A.2001, Etc.**

Attachments: [3-6-19-foil-sen-budget-revenues-committee.pdf](#);
[2-19-18-written-testimony-with-questions-24pp-compressed.pdf](#)

TO: Senate Committee on Budget and Revenues
Chair..... Senator Brian Benjamin
Ranking Member..... Senator Robert Antonacci, ESQ.
Rank & File Members... Senator Todd Kaminsky, ESQ.
 Senator Liz Krueger
 Senator John Liu
 Senator Monica Martinez
 Senator Catharine Young

It is surprising that Temporary Senate President Stewart-Cousins – a member of the 2009 Temporary Senate Committee on Rules and Administration Reform, whose April 2009 report recognized that REDUCING the number of standing committees was essential to a properly functioning Senate: <http://www.judgewatch.org/library/nys/rules-reform/4-21-09-democratic-majority-rules-reform-report.pdf> – began her majority role by introducing Senate Rules whose Rule VII, §1 INCREASES the number of standing committees: <https://www.nysenate.gov/legislation/resolutions/2019/r3>.

What is the purpose of the newly-created seven-member Senate Committee on Budget and Revenues – which should reasonably be a subcommittee of the 23-member Senate Finance Committee. Indeed, four of the members of the Senate Committee on Budget and Revenues are Senate Finance Committee members: Senator Benjamin, Senator Antonacci, Senator Liu – and its chair, Senator Krueger, who participated in the work of the 2009 Temporary Senate Committee on Rules and Administration Reform and, for seven years prior thereto and to the present, purports to champion rules reform.

Attached is my March 6, 2019 FOIL/records request inquiring as to the purpose of the Senate Committee on Budget and Revenues – and its apparent non-functioning throughout the two months since the new Senate Rules were introduced and adopted on January 9, 2019.

As for the non-functioning of the Senate Finance Committee in any legitimate, constitutional fashion, it is chronicled by two citizen-taxpayer actions challenging the constitutionality and lawfulness of the state budget, to which the Senate and Assembly are both defendants – the second citizen-taxpayer action encompassing the first and now before the Court of Appeals, *Center for Judicial Accountability, Inc. v Cuomo, et al.* (Albany Co. #5122-16).

Perhaps “newbie” legislators – Senator Antonacci, Senator Liu, and Senator Martinez, each beginning a first term in the Legislature, and Senator Benjamin, who is beginning his first full term – are unaware of the ten causes of action of the still-live second citizen-taxpayer action:

<http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/menu-2nd-citizen-taxpayer-action.htm>. Two days ago, on March 6, 2019, I called their offices to find out – and to ascertain whether Senators Benjamin, Antonacci, and Liu had received from the Finance Committee my February 19, 2019 written testimony pertaining to its February 11, 2018 budget hearing on “local government officials/general government”, as I had been unable to obtain confirmation from Chair Krueger or anyone else that it had been distributed to Finance Committee members. I received no call-backs answering my messages and inquiries on the subject.

Below is my unresponded-to March 1, 2019 e-mail to Finance Committee Chair Krueger, requesting her confirmation of distribution to its members– and further requesting that my above-attached February 19, 2019 written testimony and the Governor’s Legislative/Judiciary Budget Bill #S.1501/A.2001 be placed on the agenda of the Finance Committee’s next meeting. That next meeting – only the Finance Committee’s second of the 2019 legislative session – was on March 5, 2019, at which Senators Benjamin, Antonacci and Liu were present. As established by the VIDEO: <https://www.nysenate.gov/calendar/meetings/finance/march-05-2019/finance-meeting>, neither Finance Chair Krueger nor Ranking Member James Seward made any mention of my March 1, 2019 e-mail or its content. Nor was there any indication from the rank-and-file members present that the March 1, 2019 e-mail and the February 19, 2019 written statement had been distributed to them or that they were knowledgeable of same.

In the wake of my March 6, 2019 FOIL /records request and phone calls to your offices, the first meeting of the Committee on Budget and Revenues has now been scheduled for March 12, 2019: <https://www.nysenate.gov/calendar/meetings/budget-and-revenues/march-12-2019/budget-and-revenues-meeting>. However, its paltry agenda, four bills plainly within the jurisdiction of other committees, including the Finance Committee, does not include a single budget bill, nor reflect any reason for the establishment of an additional committee. I, therefore, request that this e-mail be placed on the Committee’s agenda for its March 12, 2019 meeting – and that the Committee address the astonishing fact, evidenced by its first meeting agenda and by the agendas of the Finance Committee’s first two meetings, that neither of these two Senate committees – nor the Assembly Ways and Means Committee – have been “holding meetings for its members to discuss, amend, and vote on the Governor’s budget bills, consistent with Article VII, §§ 1-7 of the New York State Constitution”.

Surely the members of this Committee on Budget and Revenues have read Article VII, §§1-7 pertaining to the fashioning and enactment of the state budget. Do you not agree that clear from Article VII, §4 is that New York has a “rolling budget” in that each appropriation bill “when passed by both houses [shall] be a law immediately without further action by the governor” – excepting the Governor’s appropriation bill for the Legislature and Judiciary and the Legislature’s separately-stated additions to the Governor’s other appropriation bills.

What is plainly happening this year – as in past years – is that legislative staff, operating behind-closed-doors and in violation of Article III, §10, is “amending” the Governor’s budget bills, without discussion by legislators at any committee meeting and without a single legislator voting to amend – and doing so in ways flagrantly violating Article VI, §§4-7. These fraudulently “amended” budget bills will be released, in unison, next week and, together with unamended budget bills, will be loaded into one-house Senate and Assembly budget resolutions that become the pretext for sham legislative conference committees, fronting for more behind-closed-doors staff machinations, then dissolving to another round of behind-closed-doors “amending” of budget bills, now by the “three-men-in-a-room” – no less unconstitutional this year because one of the “men” is a woman – then sped to passage on “messages of necessity”.

As I stated last year, in testifying twice, at the fiscal committees’ budget hearings – and the year before, in testifying twice, at the fiscal committees’ budget hearings: <http://www.judgewatch.org/web-pages/searching-nys/2019-legislative/testimony-legislature-budget.htm>, “The budget is OFF THE CONSTITUTIONAL RAILS”. This includes by the stuffing of policy into the budget. Indeed, in view of this Committee’s charge, reflected by its name, “Budget and Revenues”, the Committee must place high on its agenda how the “revenues” aspect of the budget has become utterly perverted. Or does the Committee not agree that “the proposed legislation, if any” that Article VII, §3 empowers the Governor to submit to the Legislature is the SAME as defined by Article VII, §2: “proposed legislation, if any, which the governor may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures [of his budget]”. In other words, it is NOT the substantive policy legislation that fills the Governor’s “non-appropriation” so-called “Article VII bills”, completely overtaking the “number-crunching” that the Legislature should be doing with respect to his appropriation and revenue bills.

On that subject, I take this opportunity to draw to your attention to the Court of Appeals’ 2004 decision in the seminal budget case, *Pataki v. Silver*, 4 N.Y.75, 117-118, wherein then Chief Judge Judith Kaye, writing in dissent, stated:

“In 1927, after the dangers of legislative budgeting had been identified and debated, the Governor was for the first time given the power to propose legislation directly—but only in appropriation bills. To be sure, the Governor could *recommend* other legislation in his executive budget, but the power to actually introduce bills obliging action into both houses of the Legislature—a power he has in no other context than the budget—was limited to appropriation bills. Only in 1938 was the predecessor to section 3 amended to give the Governor the additional authority to introduce other ‘proposed legislation’ recommended in his executive budget. This amendment was adopted primarily to make the Governor responsible for submitting tax legislation, rather than merely recommending it. ‘Believing that the revenue side of the budget is of equal importance with the expenditure side, the committee feels that any bills to carry into effect legislation affecting the revenues of the State which the Governor may propose should have the same dignity and importance as his appropriation bills, and all should be submitted directly by the Governor and treated as budget bills’ (Report of Comm on State Finances and Revenues of New York State Constitutional Convention, State of New York Constitutional Convention 1938 Doc No. 3, at 3 [July 8, 1938]).” (italics in Judge Kaye’s dissent)

Pursuant to Senate Rule VI, §6, the Governor’s budget bills for fiscal year 2019-2020 have been referred to the Senate Finance Committee. However, the Senate Committee on Budget and Revenues, consistent with its name, surely has “secondary subject matter jurisdiction” over the bills. I, therefore, request that you take steps to have the Governor’s Legislative/Judiciary Budget Bill #S.1501/A.2001 – an appropriation bill – committed to you. The procedure for your doing so is laid out by Senate Rule VII, §6.a, which states:

“...Any standing committee having secondary subject matter jurisdiction over a bill may request the chair of the committee having primary subject matter jurisdiction over said bill (which is the committee to which the said bill has been referred by the Temporary President pursuant to Rule VI) to commit the bill to the committee with secondary subject matter jurisdiction either when the bill is still in the primary committee or after it has been reported to the calendar. If the chair of the primary committee refuses said request, then the committee having secondary jurisdiction, through its chair, may request the Temporary President consider such secondary referencing. If a secondary reference is so made, the secondary committee shall consider the bill forthwith and return said bill to the primary committee or the calendar, as the case may be, along with the secondary committee’s recommendations.”

Will the Committee request that its member, Finance Committee Chair Krueger, commit Legislative/Judiciary Budget Bill #S.1501/A.2001 to it – and, if she refuses, will the Committee request “through its chair” a “secondary referencing” from Temporary Senate President Stewart-Cousins? I ask that this be included on the agenda of the Committee’s March 12, 2019 meeting and/or that members raise the issue at the meeting – or take to the Senate floor – for discussion and vote as to the Senate’s obligations with respect to my February 19, 2019 written testimony and its appended two sets of QUESTIONS about Legislative/Judiciary Budget Bill #S.1501/A.2001, to which I have received no response from the Senate Finance Committee.

As to those appended QUESTIONS, are there any that members of this Committee believe do not require answers? And how many of the QUESTIONS can Committee members themselves answer? For example, can Committee members answer:

- (1) what is the cumulative dollar amount of the legislative portion of Budget Bill #S.1501/A.2001 (§§1 and 4)? – and where can that information be found in the bill?;
- (2) what is the cumulative dollar amount of the judiciary portion of Budget Bill #S.1501/A.2001, (§§2 and 3)? – and where can that information be found in the bill?;
- (3) why does §1 of Budget Bill #S.1501/A.2001 not include the Legislature’s “general state charges”, in contrast to §2 of the bill which includes the Judiciary’s “general state charges”? – and where can the Legislature’s “general state charges” be found, with their cumulative dollar amount?;

- (4) what is the cost of the commission-based judicial salary increases for fiscal year 2019-2020? – embedded in the judiciary portion of Budget Bill #S.1501/A.2001, without any line item. Are the appropriations for them embedded in its §2 or its §3?

As these QUESTIONS are so very basic, I ask that each Committee member take responsibility for furnishing them, without delay – or explain not doing so.

Finally, the Committee should consider having the Governor’s single revenue budget bill, his #S.1509/A.2009, also committed to it. Indeed, it is imperative to safeguard the revenue budget bill – as, in past years, it has become a vehicle for legislation having NOTHING to do with revenue. As illustrative, last year, the “three-men-in-a-room”, in their behind-closed-doors “amending” of budget bills, inserted Part HHH into Revenue Budget Bill #S.7509-C/A.9509-C, establishing a compensation committee, whose December 10, 2018 report, statutorily-violative and fraudulent, on its face, has secured a first phase of salary increases for legislators, among others. The cumulative dollar cost of those salary increases, including with respect to “general state charges”, is nowhere to be found in the fiscal year 2019-2020 budget, or elsewhere.

I am available to assist you, to the max, in discharging your constitutional, statutory, and legislative rule responsibilities to the People of the State of New York and its hard-working taxpayers. When would you like to interview me, under oath?

For the convenience of all, the direct link to CJA’s webpage for the Senate Committee on Budget and Revenues, on which this e-mail will be posted with the referred-to substantiating EVIDENCE, is here: <http://www.judgewatch.org/web-pages/searching-nys/2019-legislative/senate-budget-revenues.htm>. It is also accessible from CJA’s menu page for the “2019 Legislative Session”, whose link appears prominently on our homepage, www.judgewatch.org.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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Subject: AGENDA: Legislative/Judiciary Budget Bill #1501/A.2001 -- & the Questions to be Answered by Chief Administrative Judge Marks & by Temporary Senate Presidents Stewart-Cousins/Flanagan & Assembly Speaker Heastie

TO: Senate Finance Committee
Chair Liz Krueger
Ranking Member James Seward
Assembly Ways and Means Committee
Chair Helene Weinstein, ESQ.
Ranking Member William Barclay, ESQ.

At the Senate Finance Committee's first meeting of this 2019 Legislative Session – on February 26, 2019, called from “off the floor” – Chair Krueger announced “we don't have any bills before us today”, but, rather, “two nominees proposed by the Governor for consideration” – <https://www.nysenate.gov/calendar/meetings/finance/february-26-2019/finance-meeting>.

This was most surprising – as both the Senate Finance Committee and the Assembly Ways and Means Committee have had the Governor's budget bills since January 15, 2019, the day he introduced them. Why has neither Committee been holding meetings for its members to discuss, amend, and vote on the Governor's budget bills, consistent with Article VII, §§ 1-7 of the New York State Constitution?

This is to request that you place the Governor's Legislative/Judiciary Budget Bill #S.1501/A.2001 on the agendas of the Committees' next meetings – and, with it, the Center for Judicial Accountability's above attached February 19, 2019 written testimony pertaining thereto, submitted for the Committees' February 11, 2019 budget hearing on “local government officials/general government” – and appending two sets of “QUESTIONS”:

- (1) 41 “QUESTIONS FOR CHIEF ADMINISTRATIVE JUDGE LAWRENCE MARKS” pertaining to the Judiciary's proposed budget for fiscal year 2019-2020 and the Governor's Legislative/Judiciary Budget Bill #S.1501/A.2001;
- (2) 27 “QUESTIONS FOR FORMER TEMPORARY SENATE PRESIDENT JOHN FLANAGAN, & ASSEMBLY SPEAKER CARL HEASTIE, & FOR TEMPORARY SENATE PRESIDENT ANDREA STEWART-COUSINS” pertaining to the Legislature's proposed budget for fiscal year 2019-2020 and the Governor's Legislative/Judiciary Budget Bill #S.1501/A.2001.

Are there any of the 41 “QUESTIONS” that you believe Chief Administrative Judge Marks should not be answering? How about the 27 “QUESTIONS” for the Legislature's presiding officers? Will you, as the Committees' leaders, individually or collectively, send the “QUESTIONS” to them for answers – and, if not, will you allow the Committees' members to discuss and vote on whether, each Committee, by a majority, and on its letterhead, shall do so?

For your convenience, CJA's webpage on which the February 19, 2019 written testimony is posted, with links to the substantiating EVIDENTIARY PROOF, is here: <http://www.judgewatch.org/web-pages/searching-nys/2019-legislative/feb-19-2019-written-testimony.htm>.

I am ready to assist you, to the max, in discharging your constitutional responsibilities to protect the People of the State of New York from unconstitutionality, unlawfulness, and fraud in Legislative/Judiciary Budget Bill #S.1501/A.2001. I would happily appear before the Committees, under oath, to answer members' questions and make an EVIDENTIARY presentation.

Finally, as I have received no confirmation from your staff that CJA's February 19, 2019 written testimony was distributed to the Committees' members, as I understood it would be, please confirm that this was done, or that it will be immediately done – as otherwise I will forward it to them myself.

Thank you.

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