

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

April 8, 2020

TO: Senate Records Access Officer/Secretary of the Senate Alejandra Paulino, Esq.

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

RE: FOIL/Records Request: March 18, 2020 Senate Passage of Governor Cuomo's Debt Service Appropriations Bill #S.7502

At the March 18, 2020 Senate session: <https://www.nysenate.gov/calendar/sessions/march-18-2020/session-3-18-2020>, the following exchange took place between Deputy Majority Leader Gianaris and Senior Assistant Majority Leader Benjamin, serving as Acting President:

(Tr. 1284-5)

Gianaris: As an initial matter, Mr. President, I just want to point out, so everyone can understand, the procedures of the house today. After discussions with our colleagues, by unanimous consent I move to authorize any member that has checked into the session today to be able to cast votes through the process outlined in Senate Rule 9.

Benjamin: Without objection, so ordered.

Gianaris: And with that, there will be an immediate meeting of the Finance Committee in Room 332.

Benjamin: There will be an immediate meeting of the Finance Committee in Room 332.

Gianaris: The Senate will stand at ease.

Benjamin: The Senate will stand at ease.

At the meeting of the Senate Finance Committee, thereupon held: <https://www.nysenate.gov/calendar/meetings/finance/march-18-2020/finance-meeting>, the following took place:

Krueger: The Committee on Finance, with one bill to decide today. I'm sorry, I'm Senator Liz Krueger. And functioning as the ranker for the Republicans today, Senator Andrew Lanza. Allison.

Clerk: Senate 7502. It's a budget bill. An act making appropriations for the legal requirements of the state debt service and lease purchase payments and other special contractual obligations.

Krueger: Just for the record, we have arranged to have everybody do their ballots without coming into this room today. So, we have plenty of votes on both sides. But we're all trying to be socially distancing ourselves from each other. Senator Lanza, do you have any issues you'd like to bring up.

Lanza: I do not madam chair, thank you.

Krueger: All those in favor (*aye – voices of Krueger and Lanza*). Any opposed? (*silence*). Any without rec? (*silence*). The bill moves to the floor. Thank you very much.

Lanza: Thank you.

Krueger: Committee meeting over.

Lanza: Thank you, all.

The proceedings then continued, on the Senate floor, as follows:

(Tr. 1286)

Gianaris: Mr. President, I believe there's a report of the Finance Committee at the desk. If we could please return to reports of standing committees.

Benjamin: There is a report of the Finance Committee at the desk. The Secretary will read.

Secretary: Senator Krueger, from the Committee on Finance, reports the following bill: Senate Print 7502, Senate Budget Bill, an act making appropriations for the legal requirements of the state debt service and lease purchase payments and other special contractual obligations.

Gianaris: Move to accept the report of the Finance Committee.

Benjamin: All those in favor of accepting the report of the Finance Committee signify by saying aye.

[Aye response – seemingly from Senator Gianaris, only]

Benjamin: Opposed, nay.

[silence]

Benjamin: The report is accepted.

...

(Tr. 1288-89)

Gianaris: Mr. President, can we now take up the supplemental calendar, please.

Benjamin: The Secretary will read. (Pause.) The Secretary will read.

Secretary: Calendar Number 617, Senate Print 7502, Senate Budget Bill, an act making appropriations for the legal requirements of the state debt service and lease purchase payments and other special contractual obligations.

Benjamin: Read the last section.

Secretary: Section 2. This act shall take effect immediately.

Benjamin: Call the roll.

Secretary: Addabbo, Funke, Gianaris, Krueger, Stewart-Cousins, Thomas.

Benjamin: Announce the results.

Secretary: Ayes, 55.¹

Benjamin: The bill is passed.

...

(Tr. 1304)

Gianaris: Let me just, for my part, thank all my colleagues for their understanding and cooperation and indulgence today. We're doing the best we can

¹ The stenographic transcript includes the following: "Nays, 1. Senator Jacobs recorded in the negative."

to keep this body moving forward in a very challenging time. Particularly Senator Griffo, my counterpart, who has worked very closely with us to figure out the protocols and logistics of how we're going to be operating in this new world.”

Pursuant to Senate Rule XIV “Freedom on Information”, this is to request:

- (1) records pertaining to the “discussions with our colleagues”, the “unanimous consent”, and “the protocols and logistics” to which Senator Gianaris referred at the March 18, 2020 Senate session;
- (2) records establishing that Senators could, by “unanimous consent”, lawfully “authorize any member that has checked into the Senate today to be able to cast votes through the process outlined in Senate Rule 9” – notwithstanding the unequivocal language of Senate Rule XI, §1:

“Resolution to amend or suspend the Senate Rules. No amendment to or suspension of the Senate Rules shall be considered by the Senate unless a resolution for such amendment or suspension, together with a memorandum specifying the purpose of the proposed amendment, suspension, or rescission, shall be introduced to the Committee on Rules and reported therefrom to the Senate floor. Passing of any such rules change shall require an affirmative vote of three-fifths of all Senators elected.”
- (3) records establishing the number and names of Senators who “checked into the session” of March 18, 2020;
- (4) records pertaining to the single negative vote, of Senator Chris Jacobs, identified by the stenographic transcript of the March 18, 2020 Senate session (at p. 1289), but not reflected by the VIDEO (at 5 mins/25 secs);
- (5) records pertaining to the “arrange[ments]” made “to have everybody do their ballots without coming into this room today”, to which Senator Krueger referred at the March 18, 2020 Senate Finance Committee meeting, such as: (a) when the “arrange[ments]” were made; and (b) the specifics of those “arrange[ments]”;
- (6) records establishing why Senate Finance Committee Chair Krueger and Senate Finance Committee Ranking Member James Seward had not placed the Governor’s Debt Service Appropriations Bill #S.7502 on the calendar of any of the Committee’s regularly-scheduled meetings, for deliberation and vote by the members, as, for instance, its March 3, 2020 meeting: <https://www.nysenate.gov/calendar/meetings/finance/march-03-2020/finance-meeting>.

To enable responses – apart from records – from the above Senators, a copy of this FOIL request is being simultaneously sent to them for that purpose. This includes Senator Jacobs, ranking member of the Senate Committee on Investigations and Government Operations, running to be elected to the U.S. House of Representatives from New York's 27th congressional district, in the June 2020 special election and simultaneous Republican primary for the November 2020 general election.

Thank you.

cc: Senate Senior Assistant Majority Leader Brian Benjamin
Senate Deputy Majority Leader Michael Gianaris, Esq.
Senate Finance Committee Chair Liz Krueger
Senate Finance Committee Ranking Member James Seward
Senate Majority Leader Andrea Stewart-Cousins
Senate Minority Leader John Flanagan, Esq.
Senate Deputy Minority Leader Joseph Griffo
Senator Andrew Lanza, Esq.
Senator Chris Jacobs, Esq.