

CENTER *for* JUDICIAL ACCOUNTABILITY, INC. (CJA)

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Elena Ruth Sassower, Director

February 19, 2020

TO: FOIL/Records Access Officers
Governor/Executive Chamber
Division of the Budget
State Comptroller
Attorney General
State Senate
State Assembly
Office of Court Administration

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

RE: The “very simple” budget numbers on Governor Cuomo’s “Partners in Government” slide at his January 21, 2020 Executive Budget address

Enclosed is the Center for Judicial Accountability’s self-explanatory letter of yesterday’s date to Governor Cuomo.

Consistent with what is set forth at pages 2 and 12 – and pursuant to Public Officers Law Article VI, Senate Rule XIV, Assembly Rule VIII, and the Chief Administrator’s Rule §124 – the letter is sent to you as a FOIL/records request for records substantiating the budget numbers and percentages on the “Partners in Government” slide projected on a screen at the Governor’s January 21, 2020 Executive Budget address: VIDEO, at 55 mins. –
<https://www.youtube.com/watch?v=OXCIS2X2jJw>.

Thank you.



Enclosure

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February 18, 2020

TO: Governor Andrew Cuomo, Esq.

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

RE: Your January 21, 2020 address on the Executive Budget – Part I:
The “very simple” budget numbers of your Executive Budget, starting with those on your “Partners in Government” slide

On January 21, 2020, you delivered your Executive Budget address to a seated audience that included your appointed Director of the Division of the Budget, Robert Mujica, as well as Comptroller Tom DiNapoli, Attorney General Letitia James, Senate Majority Leader Andrea Stewart-Cousins, Assembly Speaker Carl Heastie, Senate Minority Leader John Flanagan, and Assembly Minority Leader William Barclay – introduced by Lieutenant Governor Kathy Hochul. Deeming the applause to have been insufficient, you then introduced your fellow constitutional officers again, prefaced by the adjective “great”, as to each.

Much of your nearly one-hour address pertained to policy and non-fiscal matters that you have unconstitutionally inserted into the Executive Budget. As for the budget, you stated it was “fiscally sound”, without “gimmicks”, and that “overall the budget numbers [are] very simple”. Among the slides projected on a screen as you spoke was a slide entitled “Partners in Government” (VIDEO, at 55 mins. <https://www.youtube.com/watch?v=OXCIS2X2jJw>). The “Partners” were the “Office of the State Comptroller”, “Office of the Attorney General”, “Office of Court Administration”, and “State Legislature”. Their FY2020/FY2021 budget figures were displayed in two columns, with a third showing the percentage increases – all 2%, except for the Comptroller, at 1.98%, about whom you remarked: “We owe the Comptroller .02, which we will make good next year. We thank him for that.”

By this letter, the Center for Judicial Accountability, Inc. (CJA) – which, since 2014, has been suing you and your “Partners” for unconstitutionality, unlawfulness, and collusion against the People with respect to the budget – calls upon you to back up the budget figures and percentages on your “Partners in Government” slide. As hereinafter demonstrated, in the order in which your slide presented them, they are false, contrived, and the product of fraud.¹

¹ For your convenience, CJA’s website, www.judgewatch.org, has a webpage for this letter, posting all the referred-to substantiating evidence. It is accessible from our homepage *via* the prominent center link “LEGISLATIVE SESSIONS: Comparing NY’s Legislature BEFORE & AFTER its Fraudulent Pay Raise”. Here’s the direct link to the webpage: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/2-18-20-ltr-to-gov.htm> – part of a series of webpages for the “2020 LEGISLATIVE SESSION”.

Inasmuch as you have ignored all our prior communications, without any responsiveness – most recently our July 15, 2019 NOTICE, calling upon you, the Lieutenant Governor, the Attorney General, and the Legislators to take steps to void the salary increases that each of you obtained *via* the statutorily-violative, fraudulent, and unconstitutional December 10, 2018 report of the Committee on Legislative and Executive Compensation, whose four members included the Comptroller, also obtaining a salary increase for himself– this letter is simultaneously being filed as a FOIL request with your FOIL officer and with the FOIL officer of the Division of the Budget, so that they can furnish the records substantiating the figures and percentages on your slide, if they exist.²

By separate letter, CJA will address your comments, during your January 21, 2020 Executive Budget address, about the recommendations of the Committee on Legislative and Executive Compensation, which, rather than referring to it, by name, you called “an independent commission”, also flashing a slide, and about the legislative pay raises you support because, allegedly, the Legislature has “performed” its constitutional duty of passing your budgets “on-time” (VIDEO, at 22 mins). Suffice to include in this letter what the performing Legislature has said in the weeks since January 21, 2020 in its “color book”/analyses of your Executive Budget pertaining to the budget numbers and percentages of your referred-to “Partners in Government”.

A third letter will address the unconstitutionality of your stuffing policy into the budget unrelated to fiscal matters and to any budget appropriations, which, insofar as changing the state seal, you flaunted in asserting there would be “no cost to this”, with a slide identifying “No Budget Impact” (VIDEO, at 22 mins).

For your convenience, a Table of Contents follows for the presentation herein about the budget numbers and percentages on your “Partners in Government” slide and in the “color books” of your legislative “Partners”.

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² This includes, with respect to the Department of Audit and Control and the Department of Law, a FOIL request for a copy of the “synopsis” of their requests, including... a schedule of appropriations requested as compared to the prior year” that Budget Director Mujica was required to submit to the chairs of the Senate Finance Committee and Assembly Ways and Means Committee pursuant to State Finance Law §22-a, entitled “Synopsis of requests for appropriations; submittal by budget director”.

For the “Office of the State Comptroller”, the figures on your slide were:

FY2020: \$192.2M FY2021: \$196M Change: 1.98%

These dollar figures conflict with your own Division of the Budget website. The first sentence of its “Budget Highlights” for the Department of Audit and Control³ reads:

“The Executive Budget recommends \$384.8 million in All Funds appropriation for OSC, an increase of \$18 million from the previous fiscal year. This increase reflects a two percent increase to State Operations.” (underlining added).

The Division of the Budget’s accompanying chart entitled “All Funds Appropriations (dollars)” gives this more precisely. The “Appropriations Recommended FY 2021” is \$384,787,000 – a \$18,059,000 change from an “Available FY 2020” figure of \$366,728,000. No percentage increase is furnished, but it is 4.92%.

The figures on your “Partners in Government” slide also do not align with your own FY2020-21 State Operations Budget Bill #S.7500/A.9500 (at pp. 33-38)⁴ and with enacted FY2019-20 State Operations Budget Bill #S1500-D/A.2000-D (at pp. 40-50).⁵ Their “All Funds” appropriations for the Department of Audit and Control are, respectively, \$342,662,000 and \$334,703,000. The percentage increase is 2.377%.

³ <https://www.budget.ny.gov/pubs/archive/fy21/exec/agencies/appropdata/AuditandControlDepartmentof.html>.

⁴ <https://www.budget.ny.gov/pubs/archive/fy21/exec/approps/stateopsbudget.pdf>

⁵ The Division of the Budget website, <https://www.budget.ny.gov/pubs/archive/fy20/enactfy20.html>, does not post the enacted “three-men-in-a-room” amended budget bills, presumably to better conceal their constitutional and statutory violations, none more facially glaring than of Article VII, §4 of the New York State Constitution:

“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 approval of the governor as provided in section 7 of article IV.”

The FY2019-20 enacted State Operations Budget Bill #S.1500-D/A.2000-D, via the Senate’s website, is here: <https://legislation.nysenate.gov/pdf/bills/2019/s1500d>.

Suffice to add that neither the Division of the Budget chart figures, nor your budget bill figures include state charges or reappropriations in their tallies – and these were obviously not included in the dramatically lower numbers on your slide.

As for the Legislature's "color book" analyses of your Executive Budget, their confusion and divergence as to relevant cumulative numbers and percentages are as follows, with respect to the Comptroller:

The Senate "Blue Book" of its Democratic Majority states:

"The SFY 2020-21 Executive Budget proposes \$384.8 million in All Funds support, which is an increase of \$18.06 million or 4.9 percent over SFY 2019-20 Enacted levels....

The SFY 2020-21 Executive Budget provides \$342.7 million in State Operation funding, which reflects an increase of \$7.96 million over the SFY 2019-20 Enacted Budget." (at p. 147).

A chart of "All Funds Appropriations" (at p. 145) identifies \$384,787,000 for the Comptroller – representing a dollar increase of \$18,059,000 and percentage increase of "4.9%"

The Senate "White Book" of its Republican Minority states:

"The FY 2021 Executive Budget recommends All Funds spending of \$201 million for the State Comptroller, an increase of \$5.8 million or three percent from FY 2020." (at p. 107).

A chart of "Proposed Disbursements – All Funds (Thousands of Dollars)", bearing an additional title of "General Government and Local Government Assistance" (at p. 113) identifies "201,068" – representing a dollar increase of "5,841" thousands and percentage increase of "2.99%".

The Assembly "Yellow Book" of its Democratic Majority states:

"The Executive proposes All Funds appropriations of \$384.8 million, an overall increase of \$18.1 million or 4.9 percent, from the SFY 2019-20 funding level....

The Executive would appropriate \$342.7 million for agency operations, an increase of \$8.0 million or 2.4 percent over SFY 2019-20...." (at p. 140).

It has two charts. The first (at p. 136) is of "Appropriations (\$ in Millions)", identifying, for the Comptroller, "384.79" – representing a dollar increase of "18.06" in millions of dollars and a percentage increase of "4.92". The second (at p. 137) is of "Disbursements (\$ in Millions)", identifying "201.03" – representing a dollar increase of "5.84" in millions of dollars and a percentage increase of "2.99".

The Assembly “Green Book” of its Republican Minority (at p. 67), whose presentation is intelligently organized by the budget bills in which appropriations for the Department of Audit and Control are made, has no cumulative numbers or percentages.

For the “Office of the Attorney General”, the figures on your slide were:

FY2020: \$202.8M

FY2021: \$206.9M

Change: 2%

These dollar figures also conflict with your Division of the Budget website. The first sentence of its “Budget Highlights” for the Department of Law⁶ reads:

“The FY2021 Executive Budget recommends \$272.4 million All Funds appropriation for the Department of Law, an All Funds increase of \$8.8 million, which reflects a two percent increase in State Operating funds.” (underlining added).

The Division of the Budget’s accompanying chart entitled “All Funds Appropriations (dollars)” gives this more precisely: The “Appropriations Recommended FY 2021” is \$272,446,000 – a \$8,819,000 change from an “Available FY 2020” figure of \$263,627,000. No percentage increase is furnished, but it is 3.34%.

Here, too, the figures on your slide do not align with your own FY2020-21 State Operations Budget Bill #S.7500/A.9500 (at pp. 456-467)⁷ and with enacted FY2019-20 State Operations Budget Bill #S1500-D/A.2000-D (at pp. 509-520).⁸ Their “All Funds” appropriations for the Department of Law are, respectively, \$266,446,00 and \$261,627,000. The percentage increase is 1.84%.

Again, neither the Division of the Budget chart figures, nor your budget bill figures include general state charges or reappropriations in their tallies – and these were obviously not included in the dramatically lower numbers on your slide.

As for the Legislature’s “color books”, their confusion and divergence as to relevant cumulative numbers and percentages are as follows, with respect to the Attorney General:

The Senate “Blue Book” of its Democratic Majority states:

“The Executive Budget recommends an All Funds appropriation of \$272.4 million, an increase of \$8.9 million or 3.3 percent compared to SFY 2019-20.” (at p. 86).

A chart of “All Funds Appropriations” (at p. 78) identifies \$272,446,000 – representing a dollar

⁶ <https://www.budget.ny.gov/pubs/archive/fy21/exec/agencies/appropdata/LawDepartmentof.html>.

⁷ <https://www.budget.ny.gov/pubs/archive/fy21/exec/approps/stateopsbudget.pdf>

⁸ <https://legislation.nysenate.gov/pdf/bills/2019/s1500d>.

increase of \$8,819,000 and percentage increase of “3.3%”.

The Senate “White Book” of its Republican Minority states:

“The FY 2021 Executive Budget recommends All Funds spending of \$259.2 million, an increase of \$10.0 million, or 4.0 percent, from FY 2020 levels.” (at p. 79).

A chart entitled “Proposed Disbursements – All Funds (Thousands of Dollars)” (at p. 80) identifies “259,232” – representing a dollar increase of “10,039” thousands and, in percentage, “4.03%”

The Assembly “Yellow Book” of its Democratic Majority states:

“The Executive proposes All Funds appropriations of \$272.45 million, an increase of \$8.82 million or 3.35 percent from the SFY 2019-20 level.” (at p. 121).

It has two charts (on pp. 114). The first “Appropriations (\$ in Millions)”, identifies “272.45” in millions of dollars, representing a dollar increase of “8.82” in millions and a percentage increase of “3.35”. The second “Disbursements (\$ in Millions)”, identifies “259.23” in millions of dollars – representing a dollar increase of “10.04” in millions and a percentage increase of “4.03”.

The Assembly “Green Book” of its Republican Minority (at p. 155), whose presentation is intelligently organized by the budget bills in which appropriations for the Department of Law are made, has no cumulative numbers or percentages.

For the “Office of Court Administration”, the figures on your slide were:

FY2020: \$2.311B FY2021: \$2.357B Change: 2%

These dollar figures are consistent with your Division of the Budget website⁹ only to the extent that its “Budget Highlights” for the Judiciary budget states:

“The Judiciary’s budget request seeks \$2.36 billion for the State Operations portion of the Judiciary budget, excluding fringe benefits, which represents an increase of \$45.9 million, or two percent, over current year cash funding.”

The Division of the Budget furnishes no chart of its own for the Judiciary budget, but instead links to a pdf of three tables that were part of the Judiciary’s proposed budget for FY2020-21 – the first being “All Funds Disbursement Requirements (Millions \$)” containing a line entitled “State Operating Funds Total with Suballocations”. It identifies a “2020-21 Required” figure of \$2,356.9M, represented as a “Change” of \$45.9M from a “2019-20 Adjusted” figure of \$2,311.0M.

⁹ <https://www.budget.ny.gov/pubs/archive/fy21/exec/agencies/appropdata/Judiciary.html>.

However, the \$2.357B figure – which your slide uses – is NOT what the Judiciary sought by its draft bill for FY2020-21, submitted with its proposed budget and embodied in your FY2020-21 Legislative/Judiciary Budget Bill #S.7501/A.9501, accessible from your Division of the Budget website.¹⁰ Its “All Funds” appropriation figure is \$2,417,118,472 (at p. 10), excluding reappropriations and general state charges. The corresponding figure in the enacted FY2019-20 Legislative/Judiciary Budget Bill #S.1501-A/A.2001-A is \$2,336,671,887 (at p. 10), excluding reappropriations and general state charges. There is a \$80,446,585 dollar difference between \$2,336,671,887 and \$2,417,118,472 – and a percentage increase of 3.44278%.

As for the Legislature’s “color books”, their confusion and divergence as to relevant cumulative numbers and percentages are as follows, with respect to the Office of Court Administration:

The Senate “Blue Book” of its Democratic Majority states:

“OCA’s SFY 2020-21 request includes a total appropriation of \$3.3 billion, an increase of \$97 million or 3.1 percent compared to SFY 2019-20. This request includes \$2.4 billion in All Funds appropriations and \$848 million in General State Charges (GSC). The total increase consists of \$53.8 million in All Funds appropriations and \$43.2 million in GSC.” (at p. 89).

A chart entitled “Judiciary All Funds Appropriation” (at p. 89) identifies the total appropriation as “\$3,265,177,075” for FY2020-21 – and that this is a dollar increase of “\$97,015,219”.

The Senate “White Book” of its Republican Minority states:

“The FY 2021 Executive Budget recommends All Funds spending of \$3.3 billion, an increase of \$171.3 million, or 5.5 percent.” (at p. 79).

A chart of “Proposed Disbursements – All Funds (Thousands of Dollars)” (at p. 80) furnishes the following: “3,300,993”, representing a dollar increase of “171,293” or “5.47%”.

The Assembly “Yellow Book” of its Democratic Majority states:

“The Judiciary’s proposed budget request recommends All Funds appropriations of \$3.27 billion, which is an increase of \$96.96 million or 3.06 percent from the SFY 2019-20 level.” (at p. 155).

Two charts furnish further particulars (at p. 155). The First, entitled “Appropriations”, show an “Executive Request” for 2020-21, in millions, as “3,265.16” representing a dollar change of \$96.96” millions, or “3.06”%. A second chart, entitled “Disbursements”, shows an “Executive Request”, in millions, of \$3,300,99”, which it represents as a dollar change of “171.29” millions, or “5.47”%.

¹⁰

<https://www.budget.ny.gov/pubs/archive/fy21/exec/approps/leg-judi.pdf>.

The Assembly “Green Book” of its Republican Minority states:

“2.36 billion, \$45.9 million more than last year. This represents 2% increase in spending.” (at p. 156).

For the “State Legislature”, the figures on your slide were:

FY2020: \$242M FY2021: \$247M Change: 2%

The Division of the Budget has no webpage for the Legislature’s FY2020-21 proposed budget – just as it had no webpage for the Legislature’s prior proposed budgets. Instead, its website for FY2020-21 links directly to a pdf of the Legislature’s proposed budget for FY2020-21,¹¹ whose figures conflict with those on your slide.

The Legislature’s FY2020-21 proposed budget states, by its “Legislative Budget Highlights” (at p. 1):

“The recommended General Fund appropriation of \$245,241,806 for FY 2020-21 for the Legislature represents an increase of 2% or \$4,808,663 from the amount appropriated in FY 2019-20.” (underlining added).

According to its table of “All Funds Requirements for the Legislature” (at p. 6), the FY2019-20 appropriation figure was \$240,433,143. However, even rounded up to \$241M, this is NOT the figure on your slide for FY2020, just as \$246M is NOT the rounded-up figure on your slide for FY2021.

More seriously, is that the \$240,433,143 figure is a \$6,988,029 increase over the Legislature’s request in its FY2019-20 proposed budget.¹² That request had been for \$233,445,104, as evidenced by the “Legislative Budget Highlights” and table of “All Funds Requirement for the Legislature” in its FY2019-20 proposed budget request.

The dollar difference between the Legislature’s requested \$233,445,104 appropriation for FY2019-20 and its requested \$245,241,806 appropriation for FY2020-21 is \$11,796,702. The percentage increase is 5.05%.

Tellingly, the Legislature’s “Schedule of Appropriations” section of its proposed budgets – which you embody as §1 of your Legislative/Judiciary budget bills – does not include any cumulative tally figure for the Legislature’s requests, either from the “General Fund” or any other. Nor do you supply the cumulative tally – as, for example, in your FY2019-20 Legislative/Judiciary Budget Bill #S.1501/A.2001, containing no cumulative tally for the §1 legislative appropriations. Likewise, in the “amended” Legislative/Judiciary Budget Bill #S.1501-A/A.2001-A, which emerged after your

¹¹ <https://www.budget.ny.gov/pubs/archive/fy21/exec/agencies/pdf/legislature.pdf>

¹² <https://www.budget.ny.gov/pubs/archive/fy20/exec/agencies/pdf/legislature.pdf>

behind-closed-doors “three-men-in-a-room” deal-making with Senate Majority Leader Stewart-Cousins and Assembly Speaker Heastie. It added \$6,988,039 in appropriations to §1, without revealing this change by any markings on the “amended” bill or by any accompanying memo. Indeed, as the change is also not reported in any legislative reports on the budget pursuant to Legislative Law §54 and State Finance Law §22-b, it requires comparing the “amended” and “unamended” FY2019-20 Legislative/Judiciary budget bills to discern it: an increase in Senate appropriations from \$98,485,059 to \$100,551,944 and in Assembly appropriations from \$109,622,148 to \$114,543,302 – with each increase wholly attributable to a single change in the Senate appropriations and a single change in the Assembly appropriations: “For payment of salaries to Members, 63, pursuant to section 5 of the legislative law”, which was increased from \$5,008,500 to \$7,075,385 – in other words, \$2,066,875 – and “Members, 150, payment of salaries pursuant to section 5 of the legislative law”, which was increased from \$11,925,000 to \$16,846,154, in other words, \$4,921,154.

In fact, even were Legislative Law §5 still the basis for legislator salaries – which it is not, having been superseded by Part HHH of Chapter 59 of the Laws of 2018 and the December 10, 2018 report of the Committee on Legislative and Executive Compensation resulting therefrom, partially upheld by the June 7, 2019 Supreme Court decision in *Delgado v. State of New York* (Albany Co. #907537-18) allowing an increase in legislative salary from \$79,500 to \$110,000 – the appropriations of \$7,075,385 and \$16,846,154 are larcenies:

- the maximum appropriation for the salaries of the 63 Senators is 63 x \$110,000, which is \$6,930,000. In other words, the \$7,075,385 “amended” appropriation for Senate salaries is a \$145,385 larceny;
- the maximum appropriation for the salaries of the 150 Assembly Members is 150 x \$110,000, which is \$16,500,000. In other words, the \$16,846,154 “amended” appropriation for Assembly Member salaries is a \$346,154 larceny.

Moreover, any “amending” of the appropriations for legislator salaries, based on Part HHH of Chapter 59 of the Laws of 2018 and the December 10, 2018 report, required an “amending” of the immediately following appropriations of \$1,289,500 and \$1,592,500 for Senate and Assembly allowances, respectively identified as: “For payment of allowances to members designated by the temporary president, pursuant to the schedule of such allowances set forth in section 5-a of the legislative law” and “For payment of allowances to members designated by the speaker pursuant to the provisions of section 5-a of the legislative law”.

Indeed, the December 10, 2018 report (at pp. 1, 12, 14, 18-20) eliminated all but 15 of 160 allowances set forth by Legislative Law §5-a:¹³

- preserving six allowances in the Senate: (1) for the Temporary Senate President (\$41,500); (2) for the Deputy Majority Leader (\$34,000); (3) for the Minority Leader (\$34,500); (4) for the Deputy Minority Leader (\$20,500); (5) for the Finance

¹³

This was also upheld by the June 7, 2019 Albany Supreme Court in *Delgado v. State of New York*.

Committee Chair (\$34,000); and (6) for the Finance Committee Ranking Member (\$20,500). This totals to \$185,000 – making the \$1,289,500 appropriation in the “unamended” bill – then continued in the “amended” bill – a \$1,104,500 larceny.

- preserving nine allowances in the Assembly: (1) for the Assembly Speaker (\$41,500); (2) for the Assembly Majority Leader (\$34,500); (3) for the Speaker *Pro Tempore* (\$25,000); (4) for the Minority Leader (\$34,500); (5) for the Minority Leader *Pro Tempore* (\$20,500); (6) for the Ways & Means Committee Chair (\$34,000); (7) for the Ways & Means Committee Ranking Member (\$20,500); (8) for the Codes Committee Chair (\$18,000); (9) for the Codes Committee Ranking Member (\$11,000). This totals to \$239,500 –making the \$1,592,500 requested appropriation in the “unamended” bill – then continued in the “amended” bill – a \$1,353,000 larceny.

The tally of these four larcenous increases for the Legislature in the enacted FY2019-20 Legislative/Judiciary budget bill is \$2,949,039. And they are repeated for FY2020-21 in §1 of your Legislative/Judiciary Budget Bill #S.7501/A.9501, including the same erroneous attributions to Legislative Law §5 and §5-a, excepting that the salary appropriation for the 150 Assembly Members is now reduced to \$16,500,000. At the same time, inexplicably, the salary appropriation for the 63 Senators – which was already a \$145,385 larceny – is increased from \$7,075,385 to now \$7,196,538, raising the larceny as to this item, in FY20-21, by \$121,153 to \$255,538. The collective larceny then, by your FY20-21 Legislative/Judiciary Budget Bill #S.7501/A.9501 is, as to its appropriations for allowances and Senate salaries, \$2,713,038.

On top of this, your FY2020 and FY2021 figures for the Legislature on your slide do not include the Legislature’s general state charges or reappropriations – neither of which the Legislature includes in its proposed budgets. Indeed, the legislative reappropriations, which you have popped into your Legislative/Judiciary budget bills, at the back, in an out-of-sequence §4, not properly titled, are plainly not suitable for reappropriation by the very definition of what a “reappropriation” is, posted in the “Citizen’s Guide” on your Division of the Budget’s website:

“A reappropriation is a legislative enactment that continues all or part of the undisbursed balance of an appropriation that would otherwise lapse (see lapsed appropriation). Reappropriations are commonly used in the case of federally funded programs and capital projects, where the funding amount is intended to support activities that may span several fiscal years.

For example, funds for capital projects are customarily recommended and appropriated in amounts sufficient to cover the total estimated cost of each phase of a specific project (such as land acquisition, design, construction and equipping). As contracts within each phase are established, portions of the capital construction appropriation are allocated. However, disbursements are made only to meet the actual costs incurred as each phase of the project progresses. In ensuing years, the balances not disbursed are reappropriated to cover the costs of subsequent construction phases in the project.”

<https://www.budget.ny.gov/citizen/financial/glossary-all.html#r>.

Exemplifying the scam and slush-fund that you perpetrate by insertion of legislative reappropriations into your Legislative/Judiciary budget bills are your reappropriations for Senate and Assembly legislative salaries and allowances. Thus, the unamended FY2019-20 Legislative/Judiciary Budget Bill #S.1501/A.2001 included in its 30 pages of §4 reappropriations (pp. 27-56) millions of dollars of incomprehensibly reappropriated unexpended salary and allowance monies from as far back as 1992 (at pp. 27-31). This was sufficient, many times over, to dispense with any need for new salary and allowance appropriations. It certainly made superfluous the need to “amend” your FY2019-20 Legislative/Judiciary Budget Bill #S.1501/A.2001 to increase the legislator salaries appropriated in §1. Yet that is what you, Senate Majority Leader Stewart-Cousins, and Assembly Speaker Heastie did by your “three-men-in-a-room”-“amended” Legislative/Judiciary Budget Bill #S.1501-A/A.2001-A, which, simultaneously, “amended” the §4 reappropriations, including by substantial eliminations and decreases to millions of dollars in legislator salary and allowance monies, not marked as “amended” from the original bill (at pp. 27-31).

Your FY2020-21 Legislative/Judiciary Budget Bill #S.7501/A.9501 ups the out-of-thin-air, plainly improper §4 legislative reappropriations (at pp. 27-58). They now span 32 pages, also with millions in incomprehensibly reappropriated unexpended legislative salary and allowance monies, from as far back as 1992 (at pp. 27-31) – all under a prefatory text reading this year, as in past years:

“The several amounts named herein, or so much thereof as shall be sufficient to accomplish the purpose designated, being the unexpended balances of prior year’s appropriations, are hereby reappropriated from the same funds and made available for the same purposes as the prior year’s appropriations, unless amended herein, for the state fiscal year beginning April 1, 2020.

...unless a change is clearly indicated by the use of brackets [] for deletions and italics for additions, the purposes, amounts, funding source and all other aspects pertinent to each item of appropriation shall be as last appropriated.”

As in past years, there are no brackets or italics in any of the FY2020-21 reappropriations.

As for the Legislature’s “color books”, their concealment of the inaccuracy of your slide figures with respect to the Legislature – and of the fraud and larceny of the Legislature’s proposed budget and of §§1 and 4 of your FY2020-21 Legislative/Judiciary Budget Bill #S.7501/A.9501 is evidenced by the following:

The Senate “Blue Book” of its Democratic Majority omits any mention of the Legislature’s proposed budget or of §§1 and 4 of your FY2020-21 Legislative/Judiciary Budget Bill #S.7501/A.9501.

The Senate “White Book” of its Republican Minority omits any mention of the Legislature’s proposed budget or of §§1 and 4 of your FY2020-21 Legislative/Judiciary Budget Bill #S.7501/A.9501.

The Assembly “Yellow Book” of its Democratic Majority omits any mention of the Legislature’s proposed budget or of §§1 and 4 of your FY2020-21 Legislative/Judiciary Budget Bill

#S.7501/A.9501.

The Assembly "Green Book" of its Republican Minority states:

"245.2 million for the Legislature, \$4.8 million more than last year. This represents a 2% increase in spending, resulting from an increase of personal service costs." (at p. 186)

The unidentified "increase of personal service costs" are the legislative salary increases resulting from the Committee on Legislative and Executive Compensation's December 10, 2018 report.

* * *

To enable your "Partners in Government" to substantiate the budget figures and numbers on your slide pertaining to them, or to otherwise respond, a copy of this letter will be sent to each – and to their FOIL officers, as well.

Thank you.

A handwritten signature in black ink, appearing to read "Steven A. Caputo", with a long horizontal line extending to the right.

cc: Lieutenant Governor Kathy Hochul, Esq.
Budget Director Robert Mujica
Comptroller Tom DiNapoli
Attorney General Letitia James, Esq.
Senate Majority Leader Stewart-Cousins
Senate Minority Leader John Flanagan, Esq.
Assembly Speaker Carl Heastie
Assembly Minority Leader William Barclay, Esq.
Chief Administrative Judge Lawrence Marks