

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, April 14, 2020 3:49 PM
To: 'alan@wamc.org'
Cc: 'msetlow@theberkshireedge.com'; 'dscribner@theberkshireedge.com'; 'tcowgill@theberkshireedge.com'; 'editor@legislativegazette.com'; 'kdewitt@wxxi.org'; 'FMogul@wnyc.org'; 'David.lombardo@wcny.org'
Subject: Serious Error/Correction Required: "Cuomo's budget legerdemain" (Berkshire Edge/ April 14, 2020 -- Dr. Alan Chartock)
Attachments: 3-18-20-ltr-to-gov-revised-fn1.pdf; 3-21-20-email-to-legislative-correspondents-association-reporters.pdf

TO: ALAN CHARTOCK, PhD / Columnist -- THE BERKSHIRE EDGE

Your today's column "*Cuomo's budget legerdemain*" in The Berkshire Edge contains a serious error. You state: "In New York State, you will remember, the governor is allowed to put anything that ought to be done as separate statute into the budget."

You furnish NO basis for that statement, other than "you will remember"? Is this a cryptic reference to the New York Court of Appeals' 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75? When did you last read that decision – and have you ever studied it? On whom have you been relying to interpret it for you – and, through you, for the readers of your columns and your listening audience?

Attached is the Center for Judicial Accountability's March 18, 2020 letter to Governor Cuomo as to the UNCONSTITUTIONALITY of his stuffing non-fiscal policy into the executive budget. It is based on analysis of the *Pataki v. Assembly/Silver v. Pataki* decision-- seemingly the FIRST scholarship deconstructing its plurality, concurring, and dissenting opinions. CJA's webpage for the letter – from which its referred-to evidentiary proof is accessible – is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>.

What is your assessment of the March 18, 2020 letter? Is there anything with which you disagree? Do you believe it warranted response from Governor Cuomo – and from its other indicated recipients, New York's budget director and the 15 stipend-benefitting leaders of the New York State Legislature? I received NO response from any of them. Instead, Governor Cuomo, Temporary Senate President Stewart-Cousins, and Assembly Speaker Heastie went full-speed-ahead and – following their behind-closed-doors "three-men-in-a-room" budget deal-making – served up, on March 31st, April 1st, and April 2nd, "amended" budget bills, including an "amended" so-called "Transportation, Economic Development, and Environmental Conservation" "Article VII Bill", now containing the recommendations of the unconstitutional and rigged Public Campaign Financing and Election Commission. The brief description of this, appearing in your column, skipped over when and how those recommendations were inserted in the budget, stating:

"Take the Working Families Party, which had the nerve to primary Cuomo. He still hasn't forgotten that one. He and his fellow Democratic leaders tried to load the game so that it would be much, much harder for them to get on the ballot. Naturally, they set up a phooey commission to 'make the decision.' Well, the Working Families Party took them to court and won, so, just as naturally, the power people decided to put it in the budget."

This is the context for your sentence: "In New York State, you will remember, the governor is allowed to put anything that ought to be done as separate statute into the budget." Your column then cites other policy legislation the enacted budget included – or might have.

As you are publisher of The Legislative Gazette which purports to be “a nonprofit, nonpartisan news organization with a mission of keeping New Yorkers informed about the politics, policy, and people of New York State government”, below is the March 23, 2020 e-mail I sent it pertaining to CJA’s March 18, 2020 letter to the Governor, entitled: “NYS Budget: GOOD NEWS During the Coronavirus Emergency About Eliminating its Policy, Non-Budgetary Content”. I received NO response from The Legislative Gazette -- nor from the e-mail’s other recipients: the so-called “good-government” groups, Common Cause, League of Women Voters, NYPIRG, Citizens Union, and Reinvent Albany, and Gotham Gazette – which is part of Citizens Union and purports to be a “nonpartisan...public interest journalism platform that brings New Yorkers illuminating analyses and original investigative reporting on policy and politics, the actions of elected officials and long-form interviews with thought leaders”. This includes NO response from any of them to my e-mail’s request for confirmation that they would “be forwarding the letter to scholars of the New York State Constitution and of the New York State Court of Appeals for their evaluation”.

Can I count on you to forward the March 18, 2020 letter to “scholars of the New York State Constitution and of the New York Court of Appeals for their evaluation”? Please advise – and identify who you believe those scholars to be.

As The Berkshire Edge is “Guided by respected journalistic standards, the principle of fairness, the quest for truth...”, I have cc’d its Publisher, Marcie Setlow, its Editor-in-Chief, David Scribner, and its Managing Editor, Terry Cowgill, so that they can ensure appropriate correction, upon verification of the accuracy of the March 18, 2020 letter.

Finally, inasmuch as you are President and CEO of WAMC-Northeast Public Radio and host its Capitol Connection interviews -- the most recent (#2015) being with Working Families Party NYS Director Sochie Nnaemeka -- and, additionally, its Media Project – I take this opportunity to advise that “public media”/NPR/PBS reporters on whom WAMC relies were furnished the March 18, 2020 letter more than three weeks ago – sent to them by the above-attached March 21, 2020 e-mail because they are listed on the roster of the Albany Legislative Correspondents Association. In that regard, may I ask why you are not listed?

I am available to speak with you about any of the foregoing and to answer your questions. I would welcome your call.

Thank you.

Elena Sassower, Director
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From: elena@judgewatch.org <elena@judgewatch.org>
Sent: Monday, March 23, 2020 11:17 AM
To: 'slerner@commoncause.org' <slerner@commoncause.org>; 'laura@lwvny.org' <laura@lwvny.org>; 'bhorner@nypirg.org' <bhorner@nypirg.org>; 'rhaven@nypirg.org' <rhaven@nypirg.org>; 'rbloom@citizensunion.org' <rbloom@citizensunion.org>; 'eperingersameth@citizensunion.org' <eperingersameth@citizensunion.org>; 'jkaehny@reinventalbany.org' <jkaehny@reinventalbany.org>
Cc: 'editor@legislativegazette.com' <editor@legislativegazette.com>; 'bmax@gothamgazette.org' <bmax@gothamgazette.org>

Subject: NYS Budget: GOOD NEWS During the Coronavirus Emergency About Eliminating its Policy, Non-Budgetary Content

TO: Common Cause/New York State
League of Women Voters/New York State

New York Public Interest Research Group (NYPIRG)
Citizens Union
Reinvent Albany

A propos of your March 16, 2020 press release "Good Gov't Groups to NYS Lawmakers: 'Keep Policy Out of the Budget'" – reported by the Legislative Gazette on March 18, 2020 in a story entitled "Watchdog groups, Republican lawmakers make plea for a transparent and policy-free budget this year" – this is to reiterate what I have previously alerted you to: that the inclusion of policy and non-budgetary items in the state budget is UNCONSTITUTIONAL.

The details are set forth in the Center for Judicial Accountability's above-attached March 18, 2020 letter to Governor Cuomo, sent to him and Legislative Leaders by the below e-mails. Entitled "GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 'Article VII Bills' Because They are Unconstitutional. Here's why...", it analyzes the Governor's "Article VII Bills" for FY2020-21 and does so in the context of the Court of Appeals' seminal 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75, providing what appears to be the FIRST scholarship deconstructing its plurality, concurring, and dissenting opinions.

CJA's webpage for the March 18, 2020 letter – from which its referred-to substantiating evidentiary proof is accessible – is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>.

Please advise as to whether you agree or disagree with the analysis in CJA's March 18, 2020 letter – and confirm that you will be forwarding the letter to scholars of the New York State Constitution and of the New York State Court of Appeals for their evaluation, as well.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
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From: elena@judgewatch.org <elena@judgewatch.org>
Sent: Friday, March 20, 2020 4:00 PM
To: 'records.access@exec.ny.gov' <records.access@exec.ny.gov>
Cc: 'David.Poleto@budget.ny.gov' <David.Poleto@budget.ny.gov>; 'foil@budget.ny.gov' <foil@budget.ny.gov>; 'perez@lbdc.state.ny.us' <perez@lbdc.state.ny.us>; 'scousins@nysenate.gov' <scousins@nysenate.gov>; 'grelick@nysenate.gov' <grelick@nysenate.gov>; 'speaker@nyassembly.gov' <speaker@nyassembly.gov>; 'vargash@nyassembly.gov' <vargash@nyassembly.gov>; 'flanagan@nysenate.gov' <flanagan@nysenate.gov>; 'cmills@nysenate.gov' <cmills@nysenate.gov>; 'BarclaW@nyassembly.gov' <BarclaW@nyassembly.gov>; 'herricks@nyassembly.gov' <herricks@nyassembly.gov>; 'engelk@nyassembly.gov' <engelk@nyassembly.gov>; 'skypej@nyassembly.gov' <skypej@nyassembly.gov>; 'gianaris@nysenate.gov' <gianaris@nysenate.gov>; 'weintrau@nysenate.gov' <weintrau@nysenate.gov>; 'griffo@nysenate.gov' <griffo@nysenate.gov>; 'kinderma@nysenate.gov' <kinderma@nysenate.gov>; 'PeopleC@nyassembly.gov' <PeopleC@nyassembly.gov>; 'haltonl@nyassembly.gov' <haltonl@nyassembly.gov>; 'aubryJ@nyassembly.gov' <aubryJ@nyassembly.gov>; 'hernandezd@nyassembly.gov' <hernandezd@nyassembly.gov>; 'goodella@nyassembly.gov' <goodella@nyassembly.gov>; 'lkrueger@nysenate.gov' <lkrueger@nysenate.gov>; 'usher@nysenate.gov'

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Subject: Executive Budget ... CJA's March 18, 2020 letter to Gov. Cuomo: "GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 'Article VII Bills' Because They are Unconstitutional. Here's why..."

MORE GOOD NEWS DURING THE CORONAVIRUS EMERGENCY –

CJA's March 18, 2020 letter to Governor Cuomo "...GOOD NEWS DURING THE CORONAVIRUS EMERGENCY", sent to you by the below March 18, 2020 e-mail, is now posted on CJA's website – on a webpage now reflecting the March 18, 2020 date. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>. According to the U.S. priority mail delivery receipt (there posted), the letter was delivered to the Governor's office this morning.

The letter, with a revised footnote 1 updating the link for the webpage, is attached. Additionally attached is the letter's single enclosure – CJA's August 21, 2013 letter to the Governor on "Achieving...a Properly Functioning Legislature..."

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
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From: elena@judgewatch.org <elena@judgewatch.org>
Sent: Wednesday, March 18, 2020 11:52 AM
To: 'records.access@exec.ny.gov' <records.access@exec.ny.gov>
Cc: 'David.Poleto@budget.ny.gov' <David.Poleto@budget.ny.gov>; 'perez@lbdc.state.ny.us' <perez@lbdc.state.ny.us>; 'scousins@nysenate.gov' <scousins@nysenate.gov>; 'grelick@nysenate.gov' <grelick@nysenate.gov>; 'speaker@nyassembly.gov' <speaker@nyassembly.gov>; 'vargash@nyassembly.gov' <vargash@nyassembly.gov>; 'flanagan@nysenate.gov' <flanagan@nysenate.gov>; 'cmills@nysenate.gov' <cmills@nysenate.gov>; 'BarclaW@nyassembly.gov' <BarclaW@nyassembly.gov>; 'herricks@nyassembly.gov' <herricks@nyassembly.gov>; 'engelk@nyassembly.gov' <engelk@nyassembly.gov>; 'skypej@nyassembly.gov' <skypej@nyassembly.gov>; 'gianaris@nysenate.gov' <gianaris@nysenate.gov>; 'weintrau@nysenate.gov' <weintrau@nysenate.gov>; 'griffo@nysenate.gov' <griffo@nysenate.gov>; 'kinderma@nysenate.gov' <kinderma@nysenate.gov>; 'PeopleC@nyassembly.gov' <PeopleC@nyassembly.gov>; 'haltonl@nyassembly.gov' <haltonl@nyassembly.gov>; 'aubryJ@nyassembly.gov' <aubryJ@nyassembly.gov>; 'hernandezd@nyassembly.gov' <hernandezd@nyassembly.gov>; 'goodella@nyassembly.gov' <goodella@nyassembly.gov>; 'lkrueger@nysenate.gov' <lkrueger@nysenate.gov>; 'usher@nysenate.gov' <usher@nysenate.gov>; 'seward@nysenate.gov' <seward@nysenate.gov>; 'davie@nysenate.gov' <davie@nysenate.gov>; 'WeinstH@nyassembly.gov' <WeinstH@nyassembly.gov>; 'wamchair@nyassembly.gov' <wamchair@nyassembly.gov>; 'ancowitzr@nyassembly.gov' <ancowitzr@nyassembly.gov>; 'beavers@nyassembly.gov' <beavers@nyassembly.gov>

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Subject: ...Executive Budget...GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 "Article VII BILLS" Because They are Unconstitutional. Here's why....

TO: Governor Andrew Cuomo, Esq.
Budget Director Robert Mujica, Esq.
Legislative Bill Drafting Commission
15 Stipend-Benefitting Legislative Leaders

Senate Majority Leader Andrea Stewart-Cousins
Assembly Speaker Carl Heastie
Senate Minority Leader John Flanagan, Esq.
Assembly Minority Leader William Barclay, Esq.
Deputy Senate Majority Leader Michael Gianaris, Esq.
Deputy Senate Minority Leader Joseph Griffo
Assembly Majority Leader Crystal Peoples-Stokes
Assembly Speaker *Pro Tempore* Jeffrion Aubry
Assembly Minority Leader *Pro Tempore* Andrew Goodell, Esq.
Senate Finance Committee Chair Liz Krueger
Senate Finance Committee Ranking Member James Seward
Assembly Ways and Means Committee Chair Helene Weinstein, Esq.
Assembly Ways and Means Ranking Member Edward Ra, Esq.
Assembly Codes Committee Chair Joseph Lentol, Esq.
Assembly Codes Committee Ranking Member Angelo Morinello, Esq.

Attached is my above-entitled letter of today's date to Governor Cuomo, the original of which will be mailed to him. All others are indicated recipients, for the reasons stated in the last paragraph (at p. 13).

Due to a catastrophic computer breakdown, on this end, I am presently unable to post the letter on CJA's website, www.judgewatch.org and to update the site. The webpage for the letter – which had been prepared two days ago, before the breakdown – is here – reflecting the letter's then March 16, 2020 date: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-16-20-ltr-to-gov.htm>. From the webpage you can access the letter's referred to-documentary proof – and its sole enclosure: my August 21, 2013 letter to the Governor, entitled "Achieving BOTH a Properly Functioning Legislature & Your Public Trust Act (Program Bill #3) – the *Sine Qua Non* for 'Government Working' & 'Working for the People'", to which I received no response.

Thank you.

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