CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101 *Tel. (914)421-1200* *E-Mail: mail@judgewatch.org*
White Plains, New York 10602 *Website: www.judgewatch.org*

March 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 III:
GOOD NEWS DURING THIS CORONAVIRUS EMERGENCY – You Can Chuck Six of Your Seven "Article VII Bills" Because They are Unconstitutional. Here's why based on the Court of Appeals' 2004 plurality, concurring, and dissenting opinions in *Pataki v. Assembly/Silver v. Pataki*, 4 N.Y.3d 75.

This letter is the third of a trilogy of letters pertaining to your January 21, 2020 Executive Budget address. The first, dated February 18, 2020, demonstrated that the "very simple" budget numbers on your "Partners in Government" slide were "false, contrived, and the product of fraud". The second letter, dated March 3, 2020, demonstrated the same with respect to six additional slides, projected, in succession, as you spoke about the so-called "independent commission [that] proposed pay raises for New York's elected officials because we performed" and about trust in government, transparency and "nothing to hide". This letter pertains to the unconstitutionality of your misnomered "Article VII Bills" whose policy-filled, legislative content predominated your Executive Budget address, accompanied by a great many slides.[1]

Notwithstanding the manner in which the Executive Budget is to be fashioned and enacted is laid out by Article VII of the New York State Constitution, your only mention of the Constitution during your nearly one hour Executive Budget address was when you spoke of the Legislature having "constitutionally passed the budget on time" and its "constitutional responsibility of passing the budget on time" (at 22 mins.).[2] This is itself false. The pertinent constitutional provision pertaining

---

[1] For your convenience, CJA's website, www.judgewatch.org, has a webpage for this letter, posting all the referred-to substantiating evidence – beginning with the VIDEO of your Executive Budget address. 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: hhttp://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm – part of a series of webpages for the "2020 LEGISLATIVE SESSION".

[2] A single slide also referenced the Constitution (VIDEO, at 53 mins/11 secs). It read, "ERA – We will pass the Equal Rights Amendment to our State constitution" – as to which you stated: "Let's resolve the ERA today and let's not waste another year. Forget the politics. There is no budget that is complete unless we resolve the ERA issue. We can do it and we're going to do it by the budget, once and for all." There is no connection between passage of the ERA and the budget. Were it capable of being "embraced in any appropriation bill", it would be an unconstitutional rider, violative of Article VII, §6. In any event, it requires

to passage of the budget is Article VII, §4 – which reads, in full:

> "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." (underlining added).

There are no time parameters for the budget's adoption. Rather, as Article VII, §4 makes clear, New York has a rolling budget, with each of your appropriation bills, other than for the Legislature and Judiciary, becoming law, "immediately", as soon as the Senate and Assembly reconcile their separate amendments of each, limited to strike outs and reductions of items. No need for any "three-men-in-a-room", behind-closed-doors, amending of your budget bills with Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie, bundling them together as a package deal. Indeed, your doing so is unconstitutional for the reasons particularized by the verified pleadings of CJA's citizen-taxpayer actions, suing you and your "Partners in Government" for unconstitutionality, unlawfulness, and fraud with respect to the budget.[3]

Tellingly, during your Executive Budget address, you made no reference to the bills comprising your Executive budget. Your Division of the Budget, which posted your budget bills on its website, https://www.budget.ny.gov/pubs/archive/fy21/exec/fy21bills.html, in tandem with your address, posted five "Appropriations Bills", with an additional seven bills posted beneath a heading: "Article VII Bills" – two of these further denominated as "Freestanding Article VII Legislation".

Common to your five "Appropriations Bills" was that you had introduced each in the Legislature, that day, January 21, 2020, obtaining the below sequential Senate and Assembly bill numbers:

State Operations (#S.7500/A.9500)
Legislature and Judiciary (#S.7501/A.9501)
State Dept Service (#S.7502/A.9502)

---

a constitutional amendment to implement.

[3] CJA's first citizen-taxpayer action, *CJA v. Cuomo, et al*: sixteenth cause of action of the March 23, 2016 verified second supplemental complaint (¶¶458-470 [R.214-219]);

CJA's second citizen-taxpayer action, *CJA v. Cuomo…DiFiore*: ninth cause of action of the September 2, 2016 verified complaint (¶¶81-84 [R-115]).

Aid to Localities (#S.7503/A.9503)
Capital Projects (#S.7504/A.9504).

Each bill was also identically prefaced:

> "IN SENATE – A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution – read twice and ordered printed, and when printed to be committed to the Committee on Finance
>
> IN ASSEMBLY – A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution – read once and referred to the Committee on Ways and Means".

Not so your five posted "Article VII Bills" –

Education, Labor and Family Assistance (LBD12672-01-0)
Health and Mental Hygiene (LBD12671-01-0)
Public Protection and General Government (LBD12670-01-0)
Transportation, Ec. Development and Envir. Conservation (LBD12673-01-0)
Revenue (LBD12674-04-0).

They were posted by your Division of the Budget website only as proposed bills for introduction by Senate and Assembly members – each offered with a tailored form of the Legislative Bill Drafting Commission[4] for that purpose, requiring a pair of legislators, one from the Senate and one from the Assembly, to be introducers of each bill, to so-signify by their signatures, and to circle the printed names of other Senate and Assembly members wishing to be sponsors or multi-sponsors with them. And accompanying each draft bill was a posted "Memorandum in Support".

Likewise your posted "Freestanding Article VII Legislation":

Equal Rights Amendment Concurrent Resolution (LBD89158-01-0)
Court Restructuring Concurrent Resolution (89159-01-0).

These were posted by your Division of the Budget website only as two proposed resolutions for

---

[4] The Legislative Bill Drafting Commission's first three duties, pursuant to Legislative Law §25, are:

> "1. Draft or aid in drafting or examine legislative bills and resolutions and amendments thereto, upon request of a member or committee of either house of the legislature
> 2. Advise as to the constitutionality, consistency or effect of proposed legislation upon request of a member or committee of either house of the legislature;
> 3. Make researches and examinations as to any subject of proposed legislation upon request of either house or of a committee of either house of the legislature".

introduction by Senate and Assembly members – offered with tailored forms of the Legislative Bill Drafting Commission, requiring a pair of Senate and Assembly legislators to be introducers of each resolution, to so-signify by their signatures, and to circle the printed names of other Senate and Assembly members wishing to be sponsors or multi-sponsors with them. Here, too, each was accompanied by a posted "Memorandum in Support".

Clearly, had you and your "Partners" in the Legislature believed your so-called "Article VII Bills" and "Freestanding Article VII Legislation" to actually be "pursuant to article seven of the Constitution", your Division of the Budget would have posted them in the same already introduced bill format as your five "Appropriations Bills" and not as unintroduced bills bearing the sponsorship requirements deemed necessary by the Legislative Bill Drafting Commission.

As of this date, nearly two months since your January 21, 2020 Executive Budget address, your "Freestanding Article VII Legislation" has yet to be introduced into the Legislature. By contrast, your five "Article VII Bills" were introduced into the Legislature on January 22, 2020 – the day following your Executive Budget address, as if they were "Appropriations Bills": without Senate and Assembly sponsors, with Senate and Assembly bill numbers, #S.7505/A.9505- #S.7509/A.9509, continuing the sequence of your five "Appropriations Bills", and with their identical prefatory language:

> "IN SENATE – A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution – read twice and ordered printed, and when printed to be committed to the Committee on Finance
>
> IN ASSEMBLY – A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution – read once and referred to the Committee on Ways and Means".

How did that happen? The answer is not on your Division of the Budget website, which, to conceal the issue, does not post your purported "Article VII Bills" in their introduced format. Nor can the answer be found on the Senate and Assembly websites, also concealing what has occurred by not indicating that you had presented these bills in a draft format requiring Senate and Assembly sponsors. The inference from such concealment on all three websites is that you and the Legislature cannot explain or defend it.

As Senate and Assembly Rules reflect, your authority to introduce bills is limited to Article VII[5] – and absent that you need a Senate and Assembly sponsor.[6] This is consistent with what the Court of

---

[5] Senate Rule VI, §§1, 6 and Assembly Rule III, §2(d), §2(e), §2(g).

[6] Senate Rule VI, §7:

Appeals said in its December 16, 2004 decision in the consolidated *Pataki v. Assembly* and *Silver v. Pataki* cases, 4 N.Y.3d 75, 83. The plurality-majority opinion by then Associate Judge Robert Smith stated as follows with respect to your power to introduce legislation:

> "Article VII, §§1-7 now govern the budget process. Several of these provisions vest certain legislative powers in the Governor, creating a limited exception to the rule stated in article III, §1 of the Constitution: 'The legislative power of this state shall be vested in the senate and assembly.' Thus, the classic 'separation of powers' between the executive and legislative branches is modified to some degree by our Constitution…".

More specific, however, was the dissenting opinion of then Chief Judge Judith Kaye (at 117-118):

> "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 the original, underlining added).

> "Program, departmental and agency bills. Every bill proposed by the Governor, the Attorney General, the Comptroller or by state departments and agencies shall be submitted to the Temporary President and shall be forwarded for introduction purposes to the appropriate standing committee in accordance with section one of this Rule. Any such bill which is not so forwarded within three weeks after receipt by the Temporary President shall be offered to the Minority Leader who may in accordance with section one of this Rule, forward such bills to any member for introduction purposes."

Assembly Rule III, §2(g):

> "…Bills submitted by the Governor, other than those submitted pursuant to Article VII of the Constitution, shall carry the designation 'Introduced at the request of the Governor.'"

In other words, the only bills that Article VII allows you to introduce for your budget are appropriation bills and bills consisting of tax and revenue legislation. And evidencing that the "proposed legislation, if any" of Article VII, §3 is not a *carte blanche* for you to introduce policy-changing, substantive legislation is the elaboration of the phrase in 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 the budget]".[7]

One does not have to be a lawyer with a long history in government, including as a former New York Attorney General, as you are, to know what every lawyer is presumed to know: that the starting point for the interpretation of statutes – and constitutions – is their texts – and that identical words and phrases, especially in proximity to each other, are deemed to have the same meaning.[8]

---

[7] Article VII, §2 states:

> "Annually, on or before the first day of February in each year following the year fixed by the constitution for the election of governor and lieutenant governor, and on or before the second Tuesday following the first day of the annual meeting of the legislature, in all other years, the governor shall submit to the legislature a budget containing a complete plan of expenditures proposed to be made before the close of the ensuing fiscal year and all moneys and revenues estimated to be available therefor, together with an explanation of the basis of such estimates and recommendations as to proposed legislation, if any, which the governor may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures. It shall also contain such other recommendations and information as the governor may deem proper and such additional information as may be required by law." (underlining added).

Article VII, §3 states:

> "At the time of submitting the budget to the legislature the governor shall submit a bill or bills containing all the proposed appropriations and reappropriations included in the budget and the proposed legislation, if any, recommended therein.
>
> The governor may at any time within thirty days thereafter and, with the consent of the legislature, at any time before the adjournment thereof, amend or supplement the budget and submit amendments to any bills submitted by him or her or submit supplemental bills.
>
> The governor and the heads of departments shall have the right, and it shall be the duty of the heads of departments when requested by either house of the legislature or an appropriate committee thereof, to appear and be heard in respect to the budget during the consideration thereof, and to answer inquiries relevant thereto. The procedure for such appearances and inquiries shall be provided by law." (underlining added).

[8] *King v. Cuomo*, 81 N.Y.2d 247, 253 (1993): "If the guiding principle of statutory interpretation is to give effect to the plain language…McKinney's Cons Laws of New York, Book 1, Statutes §94), '[e]specially should this be so in the interpretation of a written Constitution, an instrument framed deliberately and with care, and adopted by the people as the organic law of the State' (*Settle v Van Evrea*, 49 NY [280], at 281 [1872])". *People v. Carroll*, 3 N.Y.2d 686, 689 (1958): "The most compelling criterion in the interpretation of an instrument is, of course, the language itself. Particularly is this so in the case of a constitutional

Obvious, too, is that the concluding sentence of Article VII, §2: "It shall also contain such other recommendations and information as the governor may deem proper and such additional information as may be required by law" is not only in a separate sentence from "proposed legislation, if any…", but has no abbreviated parallel in §3.

How surprising then that Chief Judge Kaye's dissenting opinion did not compare Article VII, §2 and §3 so as to reinforce the legislative history she quoted. As for Judge Smith's plurality opinion – and Associate Judge Albert Rosenblatt's concurring opinion which made it a majority – neither compared Article VII, §2 and §3[9] – nor referenced the legislative history pertinent thereto that was in the record before them, quoted by Chief Judge Kaye's dissent. This replicated what occurred below in the separate cases of *Silver v. Pataki* and *Pataki v. Assembly*, where none of the Supreme Court or Appellate Division decisions had compared §2 and §3 – or cited to legislative history from which those provisions might be further understood. This, notwithstanding the first merits decision in those cases – the January 17, 2002 decision of Albany Supreme Court in *Pataki v. Assembly*, 190 Misc.2d 716, 733 – had expressly stated:

> "…the two issues critical to the determination of this case are first, what proposals may properly be included by the Governor in an appropriation bill and, second, may the Legislature strike out what it finds to be extraneous, nonappropriation measures from the Governor's proposed budget. Determination of the first issue requires interpretation of sections 2 and 3 of article VII of the NY Constitution. In interpreting article VII the guiding factors are the language of the sections under review and 'the intent of the framers'…"

Examining your five "Article VII Bills" reveals, dramatically, the results of this judicial cover-up. Apart from your Revenue "Article VII Bill" #S.7509/A.9509, your other four "Article VII Bills" do NOT furnish tax and revenue legislation necessary for your budget.[10] And establishing this further

---

provision…where the writing is the deliberate product of a group of men specially selected for and peculiarly suited to the task of its authorship. It is obvious good sense, under such circumstances, to attribute to the provision's authors the meaning manifest in the language they used.". *Anderson v. Regan*, 53 N.Y.2d 356, 362 (1981). Moreover, it is axiomatic that every word in a constitutional or statutory text must be given effect.

[9] *See*, Judge Smith's plurality/majority opinion (at p. 83), which, though citing §2, did not quote it as he did §3. Judge Kaye's dissenting opinion (at pp. 109-110, 111) materially quoted both, but without comparison – and without any analysis derived from them as to the content of "non-appropriation bills" (at p. 111).

[10] Nor do any of these bills purport, by their §1, to be furnishing taxes and revenues for the budget. Rather, they either generically state that they "[e]nact[] into law major components of legislation which are necessary to implement the state fiscal plan for the 2020-2021 state fiscal year – which is what your Revenue Bill, your Public Protection and General Government Bill, and your Transportation, Economic Development and Environmental Conservation Bill do – or, as with the other two bills, that they "[e]nact[] into law major components of legislation necessary to implement" "the state education, labor, housing and family assistance

are your "Memorandum in Support" of each bill, identifying the "Budget Implications" for the legislation presented by their great many parts. Over and over again, they make plain that such legislation is NOT revenue producing.

As illustrative, below are the "Budget Implications" for some of the legislation you singled out during your Executive Budget address, as quoted from your "Memorandum in Support" of each bill:

Your Public Protection and General Government "Article VII Bill" #S.7505/A.9505:

Part C: "Close Rape Intoxication Loophole"

> "Budget Implications: Enactment of this bill is necessary to implement the FY 2021 Executive Budget."

Part K: "Preventing the Manufacture and Dissemination of Ghost Guns"

> "Budget Implications: Enactment of this bill is necessary to implement the FY2021 Executive Budget because it would reduce the number of untraceable guns in New York State."

Part R: "Pass the New York Hate Crime Anti-Terrorism Act"

> "Budget Implications: Enactment of this bill is necessary to implement the FY2021 Executive Budget to ensure that all who commit heinous crimes fueled by hate are prosecuted to the fullest extent of the law."

Part TT: "Nothing to Hide Act – Disclosure of Tax Returns"

> "Budget Implications: Enactment of this bill is necessary to implement the FY2020 Executive Budget."

Your Education, Labor & Family Assistance "Article VII Bill" #S.7506/A.9506

Part E: "Expand Free College Tuition for More Middle-Class Families"

> "Budget Implications: Enactment of this bill is necessary to implement the FY 2021 Executive Budget."

---

budget for the 2020-2021 state fiscal year" or "the state health and mental hygiene budget for the 2020-2021 state fiscal year."

Part L: "Legalizing Gestational Surrogacy"

"Budget Implications: Enactment of this bill is necessary to implement the FY2021 Executive Budget."

Your Health and Mental Hygiene "Article VII Bill" #S.7507/A.9507:

Part G: "Prescription Drug Pricing and Accountability Board"

"Budget Implications: Enactment of this bill is necessary to implement the 2020 State of the State Initiative and carries no Budgetary Impact for the FY 2021 Executive Budget."

Part M: "Combatting Opioid Addiction by Banning Fentanyl Analogs"

"Budget Implications: Enactment of this bill is necessary to implement the FY 2021 Executive Budget and will not result in a fiscal impact in FY 2021 or FY 2022 as any costs will be supported within existing resources."

Part Q: "Implementing Various Tobacco Control Policies"

"Budget Implications: Enactment of this bill is necessary to implement the FY2021 Executive Budget and results in a reduction in vapor tax revenue of $25 million in Fiscal Year 2021 and $33 million in Fiscal Year 2022."

Your Transportation, Economic Development and Environmental Conservation "Article VII Bill" #S.7508/A.9508:

Part P: "Sex Subway Offender Ban"

"Budget Implications: Enactment of this bill is necessary to implement the FY 2021 Executive Budget because it will protect subway riders and employees as they use the MTA system."

Part U: "Add 'E Pluribus Unim' to the Arms of the State"

"Budget Implications: Enactment of this bill is necessary to implement the FY2021 Executive Budget as it provides for the implementation of changes to the Arms of the State."

Part WW: "Amending the Environmental Conservation Law Relating to Ban Fracking"

> "Budget Implications: Enactment of this bill is necessary to implement the FY21 Executive Budget as it aligns with the Governor's environmental priorities."

Part EEE: "Make Permanent the New York Buy America Act"

> "Budget Implications: Enactment of this bill is necessary to implement the FY 2021 Executive Budget because it ensures that certain surface roads and bridges are constructed with American made iron and steel."

Your attempt to distinguish these bills from your "Appropriations Bills by calling them "Article VII Bills" is a fraud as to constitutionality. The only bills that Article VII authorizes, apart from "appropriation bills", are those for raising taxes and revenues, which six of your seven "Article VII Bills" are plainly not and do not purport to be.

More accurately, the name for these bills, whose multitude of parts seek to amend and enact general law, is "non-appropriation bills" – and the unconstitutionality of such bills was the Court of Appeals' duty to have declared by its 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, based on its own unequivocal caselaw identifying that practices not authorized by the Constitution and unbalancing it are unconstitutional – including caselaw from the tenure of Chief Judge Kaye, *King v. Cuomo*, 81 N.Y.2d 247 (1993) and *Campaign for Fiscal Equity, Inc. v. Marino*, 87 N.Y.2d 235 (1995). Indeed, the Court's knowledge that such declaration of unconstitutionality was its duty is the ONLY explanation for what its 2004 decision did instead: conceal what the first footnote of its 2001 decision in *Silver v. Pataki* had identified in its first sentence: "The term 'non-appropriation' bill is not found in the Constitution", 96 N.Y.2d 532, 535[11] – a footnote which itself concealed the

---

[11] In fact, the first footnote of Chief Judge Kaye's dissent (at p. 103) went beyond concealment to misrepresentation. Quoting the first footnote of the Court's 2001 *Silver v. Pataki* decision for its description of the content of a "non-appropriation bill", she sheared off its prefatory sentence "The term 'non-appropriation' bill is not found in the Constitution". In its place, she substituted the assertion that a "nonappropriation bill…may also be part of the Governor's budget submission to the Legislature", impliedly accepting constitutionality of what she knew, from *King v. Cuomo*, and *Campaign for Fiscal Equity*, *supra*, to be unconstitutional. Her dissenting opinion, whose section III was entitled "Distortion of the Constitutional Scheme" (at pp. 113-120), went on to refer to "nonappropriation bills" at least 16 times.

By contrast, Judge Smith's plurality opinion virtually hid the term "non-appropriation bill", referring to it, by that name, only once (at p. 85), offering up no definition for it, and utilizing such other terms as "other legislation" (at pp. 85, 91, 98), "other budget legislation" (at pp. 87, 91, 97 98, 99), "certain of the other bills" (at p. 87), "other proposed legislation" (at p. 87), or even more obliquely as "a bill" "subsequent enactment", "subsequent actions", "legislation" (at p. 86), "subsequent legislation" (at p. 89); "separate legislation" (at p. 94).

Judge Rosenblatt's concurrence made no reference to "non-appropriation bills", referring only to "appropriation bills".

constitution-violating purpose of non-appropriation bills, identified by the 2000 Appellate Division decision in *Silver v. Pataki* that was before it:

> "According to the Speaker, the present dispute arises from the Legislature's response to *New York State Bankers Assn. v. Wetzler*, [81 N.Y.2d 98 (1993)], whereby, to preserve the legislators' desire to enact amendments to the Governor's budget bill [restricted by Article VII, §4], an 'appropriations' budget bill and a complementary 'programmatic' budget bill have been enacted in recent years as part of the annual budget process. …there is no apparent legal warrant for such budget bifurcation… (*Silver v. Pataki*, 274 A.D.2d 57, 59, underlining added).

By concealing the patent unconstitutionality of non-appropriation bills, by failing to give competent textual analysis to Article VII, §§2, 3, and by ignoring the parties' brazen violation of the rolling-budget provision of §4 and their substitution of "three-men-in-a-room" global deal-making on the entire budget[12] involving the very "log-rolling" and "pork barrel" practices the 1927 executive budget constitutional amendment was intended to prevent,[13] the Court upheld the constitutionality of Governor Pataki's FY2001-2002 appropriation bills, challenged in *Pataki v. Assembly*.[14] As such, the 2004 decision is NO authority upon which you can rely to sustain the constitutionality of your non-revenue "Article VII Bills". Indeed, had those bills been "Appropriations Bills", which by virtue of their content they could not be, each would have to be struck down as unconstitutional. As stated by Judge Smith:

> "Today we do not reject, but we also do not endorse, the Governor's argument that no judicial remedy is available (where the anti-rider clause does not apply) for gubernatorial misuse of appropriation bills…
>
> When a case comes to us in which it appears that a Governor has attempted to use appropriation bills for essentially nonbudgetary purposes, we may have to decide whether to enforce limits on the Governor's power in designing 'appropriation

---

[12] *See, inter alia, Silver v. Pataki*, 179 Misc.2d 315,316 (NY Supreme Court, Jan. 1999): "When the Governor and legislative leaders failed to come to an agreement on an over-all budget…", *also, Pataki v. Assembly*,190 Misc. 2d 716, 728 (Albany Supreme Court, Jan. 2002).

[13] *See*, Judge Smith's plurality opinion (at pp. 81-82), citing "Report of Comm on State Finances, Revenues and Expenditures, Relative to a Budget System for the State, State of New York in Convention Doc No. 32, at 8 [Aug. 4, 1915]"; *also*, Chief Judge Kaye's dissenting opinion (at p. 106).

[14] It appears that when you became governor – and beginning with your first budget for FY2011-2012 – you reorganized and renamed budget bills. Your changes decreased comprehensibility of the budget – and obscured that your non-appropriation bills were increasingly making policy changes untethered to appropriations. Your instant non-appropriation bills manifest this – and, so much so that their content bears little resemblance to the supposed content of non-appropriation bills recited in footnote 1 of the Court's 2001 decision in *Silver v. Pataki*, thereafter quoted in footnote 1 of Chief Judge Kaye's 2004 dissent in *Pataki v. Assembly/Silver v. Pataki*.

> bills'… We conclude however, that we confront no such problem here, for there is nothing in the appropriation bills before us that is essentially nonbudgetary. All of the appropriation bills that the Legislature challenges are, on their face, true fiscal measures, designed to allocate the State's resources in the way the Governor thinks most productive and efficient; none of them appears to be a device for achieving collateral ends under the guise of budgeting.
>
> … We therefore leave for another day the question of what judicially enforceable limits, if any, beyond the anti-rider clause of article VII, §6 the Constitution imposes on the content of appropriations bills." (underlining added).

Indeed, exhibited by your misnomered, non-revenue "Article VII Bills" are all the features of unconstitutionality that Judge Rosenblatt's concurring opinion delineated to guide future governors, like yourself, and the Legislature. His guidance was as follows (at pp. 100-103):

> "To begin with, anything that is more than incidentally legislative should not appear in an appropriation bill, as it impermissibly trenches on the Legislature's role. The factors we consider in deciding whether an appropriation is impermissibly legislative include the effect on substantive law, the durational impact of the provision, and the history and custom of the budgetary process.
>
> In determining whether a budget item is or is not essentially an appropriation, one must look first to its effects on substantive law. The more an appropriation actively alters or impairs the State's statutes and decisional law, the more it is outside the Governor's budgetary domain. A particular 'red flag' would be non-pecuniary conditions attached to appropriations.
>
> History and custom also count in evaluating whether a Governor's budget bill exceeds the scope of executive budgeting. The farther a Governor departs from the pattern set by prior executives, the resulting budget actions become increasingly suspect. I agree that customary usage does not establish an immutable model of appropriation (*see* plurality op at 98). At the same time, it would be wrong to ignore more than 70 years of executive budgets that basically consist of line items.
>
> The more an executive budget strays from the familiar line-item format, the more likely it is to be unauthorized, nonbudgetary legislation. As an item exceeds a simple identification of a sum of money along with a brief statement of purpose and a recipient, it takes on a more legislative character. Although the degree of specificity the Governor uses in describing an appropriation is within executive discretion (*see People v Tremaine*, 281 N.Y. 1, 21 N.E.2d 891 [1939]), when the specifics transform an appropriation into proposals for programs, they poach on powers reserved for the Legislature.
>
> In addition, the more a provision affects the structure or organization of government, the more it intrudes on the Legislature's realm. The executive budget amendment contemplates funding – but not organizing or reorganizing – state programs, agencies and departments through the Governor's appropriation bills.

> The durational consequences of a provision should also be taken into account. As budget provisions begin to cast shadows beyond the two-year budget cycle, they look more like nonbudget legislation. The longer a budget item's potential lifespan, the more legislative is its nature. Similarly, the more a provision's effects tend to survive the budget cycle, the more it usurps the legislative function."

And, of course, it is an absolute no-brainer that the many parts of your "Article VII Bills" that are unconnected to any specific appropriations in your "Appropriations Bills" are unconstitutional riders, violative of Article VII, §6[15]. This includes, for example, adding "E Pluribus Unim" to the state seal, which you stated would be "at no cost to the state", because it would be added to subsequent printings of stationary and the like. Your accompanying slide featured, in capital letters, "NO BUDGET IMPACT". (VIDEO, at 22 mins). Certainly, it is not without significance that your "Memorand[a] in Support" of your "Article VII Bills" do not cross-reference the relevant appropriations of your "Appropriations Bills".

Needless to say, you could have constitutionally presented the Legislature with all the nonfiscal policy measures of your misnomered "Article VII Bills", but to do so, you needed Senate and Assembly members to introduce them, on your behalf. I have already explained to you "How a Bill Becomes a Law" by an August 21, 2013 letter, which I hand-delivered to your second floor office at the Capitol. A copy of that significant letter, 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 from you, is annexed.

By copy of this letter to Budget Director Robert Mujica, Esq., to the Legislative Bill Drafting Commission, and to the 15 Senate and Assembly Members filling leadership positions, whose stipends were preserved by the December 10, 2018 report of the Committee on Legislative and Executive Compensation, I call on them, as I do you, to respond to the foregoing, and to take remedial steps consistent with your respective constitutional, statutory, and ethical duties. This includes securing long-overdue scholarship of the Court of Appeals' 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, as the foregoing analysis, deconstructing it, appears to be FIRST to date. More on that to follow.

Thank you.

Enclosure
cc: see next page

---

[15] In pertinent part, Article VII, §6 states:

> "…No provision shall be embraced in any appropriation bill submitted by the governor or in such supplemental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation."

cc: 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.

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

Post Office Box 8101
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

BY HAND

August 21, 2013

TO: Governor Andrew M. Cuomo

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

RE: Achieving BOTH a Properly Functioning Legislature & Your Public Trust Act
(Program Bill #3) – the *Sine Qua Non* for "Government Working"
& "Working for the People"

We applaud your establishment of the Commission to Investigate Public Corruption. However, the purposes you've conferred upon the Commission are actually duties of a properly-functioning legislature, discharging its oversight and law-making functions.

Indeed, those purposes:

> "a. Investigate the management and affairs of the State Board of Elections…
>
> b. Investigate weaknesses in existing laws, regulations and procedures relating to the regulation of lobbying…and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures; and
>
> c. Investigate weaknesses in existing laws, regulations and procedures relating to addressing public corruption, conflicts of interest, and ethics in State Government…and make recommendations to reform any weaknesses uncovered in existing State laws, regulations and procedures." (July 2, 2013 Executive Order #106, Sec. II)

are oversight responsibilities of a large number of committees of the New York Legislature. For example:

- the Senate Committee on Elections
- the Assembly Elections Law Committee
- the Senate Committee on Investigations and Government Operations
- the Assembly Committee on Oversight, Analysis and Investigation

- the Assembly Committee on Government Operations
- the Senate Committee on Codes
- the Assembly Committee on Codes
- the Senate Committee on Civil Service and Pensions
- the Senate Ethics Committee
- the Assembly Committee on Ethics and Guidance
- the Administrative Regulations Review Commission
- the Legislative Commission on Government Administration.

To that end, the Legislative Law gives legislative committees subpoena power and the ability to appoint subcommittees and commissions for the taking of testimony. And one of the functions of the Assembly Committee on Oversight, Analysis and Investigation is acting "as a resource to other Assembly standing committees, lawmakers and staff" by furnishing "technical assistance and guidance" for oversight. According to its 2012 Annual Report, it provides "each lawmaker" with "*A Guide to Legislative Oversight*". In the event you are unfamiliar with this extraordinary 24-page guide, detailing the importance of oversight as an essential component to proper law-making, a copy is enclosed.[1]

Consequently, would you not agree that high on the agenda of the Commission to Investigate Public Corruption should be the question as to what, for example, the Assembly Election Law Committee and the Senate Committee on Elections have been doing all these years in overseeing the Board of Elections and in revising and enacting pertinent laws, especially as Senate and Assembly rules explicitly require committees to engage in "oversight", "studies", "investigations", and "analysis"[2]

---

[1] The "*Guide to Legislative Oversight*" and all other documentary substantiation identified herein are posted on a webpage for this letter on our website, www.judgewatch.org. The webpage is accessible from our "Latest News" top panel, *via* the hyperlink "THE PEOPLE LEAD: Securing Introduction & Passage of the Public Trust Act & a Constitutionally Functioning Legislature" Here's the direct link:. http://www.judgewatch.org/web-pages/people-lead/aug-21-2013-ltr-to-gov.htm.

[2] See, Current Senate Rule VIII "Standing Committees":

> Sec. 4: "c. Committee oversight function. Each standing committee is required to conduct oversight of the administration of laws and programs by agencies within its jurisdiction.
>
> d. Each standing committee is required to file with the secretary of the senate an annual report, detailing its legislative and oversight activities. Such report shall be posted to the Senate web site." (underlining added).

See, Current Assembly Rule IV "Committees":

> Sec. 1: "d. …Each standing committee shall propose legislative action and conduct such studies and investigations as may relate to matter within their jurisdiction. Each standing committee shall, furthermore, devote substantial efforts to the oversight and analysis of the activities, including but not limited to the implementation and

The Commission will not have far to look for the answer. It was furnished, nearly a decade ago, by the Brennan Center for Justice in its landmark 2004 report "*The New York State Legislative Process: An Evaluation and Blueprint for Reform*". Surely you are familiar with the report as its lead author was Jeremy Creelan, who you appointed as your "Special Counsel for Public Integrity and Ethics Reform" even before you were sworn in as Governor in January 2011. The report opened with an Executive Summary whose first words were "New York's legislative process is broken". It then identified "Problem #1" as "DYSFUNCTIONAL LEGISLATIVE COMMITTEES", stating:

> "In most modern legislatures, committees 'are the locus of most legislative activity.'[fn]. Committees have two principle functions: first, to enable legislators to develop, examine, solicit public and expert feedback upon, and improve bills in a specific area of expertise and to convey the results of their work to the full chamber; and second, to oversee certain administrative agencies to ensure that they fulfill their statutory mandates. New York's committee system generally does not serve either of these functions."

The report chronicled that New York's Legislature was the most dysfunctional of any state legislature and Congress – and sparked a fledgling reform movement among legislators and some legislative rules changes. Among these, a 2005 revision of Assembly Rules to require all standing committees to conduct annual oversight hearings of the performance of agencies and programs within their jurisdictions. This spurred the Assembly Committee on Oversight, Analysis and Investigation to update its "*Guide to Legislative Oversight*".

Yet, ultimately, little substantively changed – and this was the subject of two subsequent Brennan Center reports bearing titles reflecting that reality:

- "*Unfinished Business: New York State Legislative Reform*" (2006); and
- "*Still Broken: New York State Legislative Reform*" (2008)[3].

> administration of programs, of departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within its jurisdiction."
>
> Sec. 4: "b. Consistent with the provisions of subdivision d of section one of Rule IV hereof, the chairperson of each standing committee shall call at least one public hearing after the adoption of the state budget regarding the implementation and administration of programs of departments, agencies, divisions, authorities, boards, commissions, public benefit corporations and other entities within the jurisdiction of such committee. The purpose of such public hearing shall include, but not be limited to, the impact, if any, of the state budget on the implementation and administration of the programs within such entities' jurisdiction." (underlining added).

[3] According to the Brennan Center's 2008 report, "In 2006 and 2007, most standing committees met infrequently or not at all. Almost no oversight hearings or hearings on major legislation occurred." (at p. 1).

The report noted that even with the 2005 Assembly rule requiring oversight, Assembly committees had made "no real effort to fulfill that responsibility". It identified that "the Assembly Oversight and Analysis

All three reports detailed that the reason for the dysfunction and brokenness of the Legislature was its partisan rules, vesting domineering powers in the Senate Majority Leader and Assembly Speaker, rendering the committee system moribund and eviscerating a legitimate legislative process. Yet, the solution was *readily at hand.* Amendment of Senate and Assembly rules, which Senators and Assembly members could do at any time. And every two years, there was a ready-made opportunity, as the first order of business of every newly-elected Senate and Assembly was to vote on rules.

Ironically, just as the criminal charges against Senator Malcolm Smith, announced by U.S. Attorney Preet Bharara on April 2, 2013, started the chain of events that led to your establishing the Commission to Investigate Public Corruption, so it was Senator Smith's election as Senate Majority Leader by his Senate colleagues, in January 2009, on a pledge to advance Senate rules reform, that led to the beginnings of a functioning Legislature.[4] The fulfillment of that potential lay in the Temporary Senate Committee on Rules and Administration Reform, established by Senator Smith on his first day as Majority Leader by a resolution he introduced and the Senate approved. His words at that time deserve to be recalled:

Committee, with a very specific mandate, ha[d] not held a meeting of its members in years"; had "recently held its first hearing in 18 months", but, even still, its chairs had collected annual stipends of $12,500. (at p. 6).

On the Senate side, it noted that "over the past three years, the *only* oversight pursued by the Senate Committee on Investigations and Government Operations – wh[ich] has overlapping jurisdiction in the Senate – was the so-called 'Troopergate' scandal." (italics in original, at p. 7).

It also furnished a case study entitled "Oversight Nowhere in Sight" involving the Board of Elections and New York's non-compliance with the federal "Help America Vote Act of 2002" (HAVA), where what was at stake was $230 million in funding and violations so egregious as to result in a Justice Department lawsuit against the state. As to the absence of legislative oversight, it stated:

> "At least four committees in the state legislature have jurisdiction over election issues, most directly the Election Law Committee in the Assembly and the Elections Committee in the Senate, in addition to the oversight committees in both houses. These four committees have been silent on the state's failure to comply with federal election law. None of these committees have held a single hearing devoted to State Board of Elections oversight or HAVA compliance since the Department of Justice lawsuit, failing to assist in formulating a plan to move forward or to investigate compliance delays.
>
> By contrast, the New York City Council has held a number of hearings related to the State Board's failure to comply with HAVA..." (at p. 8).

[4] Under his leadership, the Senate Judiciary Committee, chaired by Senator John Sampson, held oversight hearings on the Commission on Judicial Conduct, for the first time in 22 years, combining these with hearings on the court-controlled attorney disciplinary system, which, upon information and belief, had never been the subject of public hearings since its inception 29 years earlier. Chairman Sampson also held oversight hearings on the 31-year old "merit selection" process to the New York Court of Appeals, as to which, upon information and belief, there also had never been oversight hearings. Nevertheless, and in the face of testimonial and documentary evidence presented and proffered at these 2009 oversight hearings of systemic corruption, no investigation was ever undertaken, no findings of fact and conclusions of law were ever made, and no committee reports ever rendered.

> "We have said that one of our first orders of business is to reform the Rules of the Senate to give members meaningful deliberation of legislation and to foster bi-partisan agreement on matters of public interest. Today, we are making good on that promise.
>
> This morning we created a new committee on rules and administration – a bi-partisan commission – to review the full Senate Rules and adopt a process for greater transparency that allows greater public input into our legislative process, as well as provides for greater authority for individual members....
>
> Imagine a fully functioning legislature where Senate committees function like real committees, where members debate and even amend bills in the committee, where members of the Majority and Minority introduce bills onto the floor for a vote, and those votes are recorded. And, where budget conference committees and individual members are able to negotiate final bills with their Assembly counterparts." (underlining added).

The extraordinary potential of the Temporary Senate Committee on Rules and Administration Reform was crushed in the aftermath of the June 8, 2009 Senate coup, which encompassed a struggle over rules reform. In its brief life, however, the Temporary Committee held four public hearings, in Syracuse, Albany, Manhattan, and Long Island, at which it took testimony from 51 witnesses – including three Brennan Center witnesses, Mr. Creelan among them. The testimony was as shocking as the Brennan Center reports. Former Senators Nancy Larraine Hoffman, Franz Leichter, and Seymour Lachman spoke candidly and scathingly – the latter two at the February 26, 2009 hearing in Manhattan at which Mr. Creeland testified. In pertinent part, former Senator Leichter said:

> "The rules changes required for a properly functioning process are not unknown, complex or difficult to implement. They have been identified in reports, recommendations and the proposals of a few legislators. I want to focus on what my experience has shown is a major problem – the AUTOCRATIC power invested in the leader of each House.
>
> The power of the Speaker and the Majority Leader is so vast that they control all aspects of how the Legislature functions. They appoint committee chairs, members' committee assignments, determine what bills are brought to the floor for a vote, decide who gets additional pay – lulus –, award staff allowances, make office assignments and equipment, authorize use of facilities, allocate member items – that is earmarks –, authorize mailings, and so on. They also control the Legislative Budget, which is not itemized as are the Executive and Judicial Budgets, and its opaqueness allows the shifting of monies at the leaders' whim. In addition, the State's porous campaign finance laws allow them to raise millions in contributions which they can fairly easily transfer to legislators who are in competitive election districts – but only if they have followed the Leaders' dictates. The leaders' domination over the process is absolute.

> The remaining 210 legislators are basically reduced to supernumeraries. They are like the spear carriers in Aida. They fill the stage but their voices are not heard. I once proposed – only partly in jest – that the State might save money by having just one Assembly member and one Senator. I may be drawing the picture very starkly but essentially I am correct. The 'three men in a room', the end of session avalanche of bills, the failure to address pressing economic and social issues, the refusal to bring to the floor bills most members support, the marginalization of the minority in each House all flow from the leaders' outsized power." (pp. 1-2 of written testimony, read at the hearing, capitalization in original, underlining added).

This abomination was then summed up by former Senator Seymour Lachman, in a single sentence:

> "...To say that the only vote that matters, the only one that counts, is the vote for leader is only a slight exaggeration." (p. 1 of written testimony, read at the hearing).

These four public hearings were followed by four public meetings at which the nine-member Commission – its co-chairs Senators David Valesky and John Bonacic and its members, Senators Joseph Griffo, Jeffrey Klein, Kevin Parker, Jose Serrano, Andrea Stewart-Cousins, Daniel Squadron, and former Senator George Winner, Jr. – discussed and deliberated over rule changes to empower Senators and committees so that bills introduced would go through a robust legislative process of committee deliberations, public hearings, mark-ups for amendments, votes – all reflected in substantive committee reports – followed by Senate and Assembly floor debate, amendments, and votes, with conference committees to reconcile divergent versions of the bills passed by each house.

How surprising it then was that upon your becoming Governor, on a platform that pledged to "clean up Albany" and end the "dysfunction" and "mess", and hiring Mr. Creelan to give you an assist, you did not seek to break the stranglehold of domination wielded by the Senate Majority Leader and Assembly Speaker or to use your "bully pulpit" to champion Senate and Assembly rules reform. Instead, you reverted to behind-closed-doors "three men-in-a-room" deal-making governance, which this year was expanded to four men by the inclusion of Senator Klein, itself shocking when one considers his participation as a member of the Temporary Senate Committee on Rules and Administration Reform.

Underscoring your own shocking disregard of legitimate legislative process in favor of brokered deals with legislative leaders, then sped through the Legislature for rubber-stamp approval, was what you said at a press conference on April 16, 2013. Having announced the Public Trust Act five days earlier with great particularity as to its provisions, you answered press inquiries about your talks with leaders by saying they were going "swimmingly" (at 10:20 mins.) and that your failure to "release" bill language was because:

> "Normally when we release bill language before an agreement, it means the probability of that bill passing is very, very low." (at 10:55 mins.) [5]

You then tried to back away from this, the next day, on The Capitol Pressroom:

> "You have a little fun and then they take it seriously. Some bills are for press releases, and some are good faith proposals, and some are just posturing. And that was the point I was trying to make".[6]

It was more than a week later that you finally released the Public Trust Act, your Program Bill #3, delivering it to the Senate and Assembly. Was it a "good faith proposal" or "just posturing"? What did you think would happen to it at that point? Were you unaware that Assembly Speaker Silver and Majority Coalition Leaders Skelos and Klein, with whom you were then and thereafter negotiating behind-closed-doors, were not themselves sponsoring the Public Trust Act nor furnishing it to rank-and-file legislators for sponsorship, with the consequence that it was never introduced because it had no sponsors?

And when you publicly berated the Legislature for failing to act – explaining that this was the reason you were creating the Commission to Investigate Public Corruption – did you not know that Assembly Speaker Silver and Majority Coalition Leaders Skelos and Klein were also withholding from rank-and-file legislators your Program Bills #4, #5, and #12, which you had rhetorically joined with Program Bill #3 as your corruption-fighting package, such that all four program bills had no sponsors and were never introduced?

To read the Public Trust Act – not to mention its accompanying memorandum and the June 11, 2013 letter of all 62 of this state's district attorneys, Republican and Democratic, urging its passage – and to watch your April 9, 2013 and June 11, 2013 press conferences on the subject – is to know:

- that if any legislation could halt public corruption, it was this;
- that had it been introduced, no legislator, including Assembly Speaker Silver and Majority Coalition Leaders Skelos and Klein could have opposed it, and certainly not publicly; and
- that, if accorded legitimate legislative process, it would have passed overwhelmingly, if not unanimously.

---

[5] April 16, 2013 press conference, video clip in "*Cuomo won't give AG election enforcement powers*", Capitol Confidential, Jimmy Vielkind).

[6] April 17, 2013, Capitol Pressroom, Susan Arbetter; *Also*, April 25, 2013, "*Where's the bills?*", Capitol Report, Curtis Schick.

As you publicly encourage citizens to actively participate in their government, because that is how government and democracy work best[7], you will be pleased to know that we have taken steps, *on your behalf*, to have the Public Trust Act introduced by our Senator, Senator George Latimer, and by our Assembly member, Assemblyman David Buchwald, consistent with the Senate and Assembly informational guides, "*How a Bill Becomes a Law*" and "*The Legislative Process and YOU*", which instruct that if you have an idea for legislation, all you have to do is contact your legislator.

Our idea was to have Senator Latimer and Assemblyman Buchwald introduce the Public Trust Act and to takes steps to ensure that it has the kind of legitimate legislative process that is reflected by those guides and detailed by the Brennan Center reports, with discussion in committee, public hearings, amendments, votes – all embodied in substantive committee reports – followed by Senate and Assembly floor debate, amendments, votes – and a reconciliation of different bills through a conference committee. A copy of our August 13, 2013 letter to Senator Latimer and Assemblyman Buchwald, setting this forth, is enclosed.

As therein stated, we call upon you to actively endorse our efforts to achieve passage of the Public Trust Act in this fashion. Will you do this? And will you ask your Senator and your Assemblyman to sponsor the Public Trust Act, consistent with "*How a Bill Becomes a Law*" and "*The Legislative Process and YOU*"?

You will be pleased to know that Assemblyman Buchwald is not just our Assemblyman, but yours – and that he is ready to sponsor the Public Trust Act. However, he would like your go-ahead. Will you give it to him?

As for your Senator, he is Senator Greg Ball. Enclosed is a copy of the "*How a Bill Becomes a Law*" guide that Senator Ball furnishes to constituents, like you. Will you request him to join with our Senator Latimer as a co-sponsor of the Public Trust Act, as our August 13, 2013 letter proposes?

You have the state's biggest "bully pulpit". You can easily achieve enactment of the Public Trust – and do it in a way that models what is necessary if we are to truly get "government working" and "working for the People": a properly functioning Legislature, such as we do not have.

We look forward to your speedy, affirmative response.

Thank you.

Elena Ruth Sassower

---

[7] Your website, CitizenConnects: http://www.governor.ny.gov/citizenconnects/:

"Governor Cuomo believes that government works when the voice of the people rings strong and true. Democracy works best when people are most engaged. It's your government: own it! ...Governor Cuomo encourages you to make your voice heard!"

Enclosures: (1) "*A Guide to Legislative Oversight*"
(2) CJA's August 13, 2013 letter to Senator Latimer & Assemblyman Buchwald with its enclosures "*How a Bill Becomes a Law*"; "*The Legislative Process & YOU*"; and "*There Ought To Be A Law*"
(3) Senator Ball's imprinted guide "*How a Bill Becomes a Law*"

cc: Senator George Latimer
Assemblyman David Buchwald
Senator Greg Ball
The Public & The Press