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## **Written Testimony of Center for Judicial Accountability Director Elena Sassower for the NYS Legislature’s February 6, 2024 Budget Hearing on “Local Government Officials/General Government”**

After years of oral and written testimony at the Legislature’s budget hearings on “public protection” and “local government officials/general government”, furnishing facts and law establishing that the state budget is a “grand larceny of the public fisc”, flagrantly “OFF THE CONSTITUTIONAL RAILS”, and rife with constitutional, statutory, and legislative rule violations, I rest on all my prior testimony, as the situation there described is unchanged.

Spanning from 2013, the testimony<sup>1</sup> and the mountain of evidentiary proof substantiating it are accessible from CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), via the prominent center link entitled “**Legislative Sessions – Comparing NY’s Legislature BEFORE & AFTER its Fraudulent Pay Raises**” – sub-headed: “*No Change: The Legislators are the SAME Posturing Fraudsters, Perpetrating a Legislature that Does NOT Function at a Constitutional Level*”.

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<sup>1</sup> As stated at footnote 1 of [my written testimony for the Legislature’s February 7, 2023 “public protection” budget hearing](#):

“All this testimony has been before Senator Krueger, who, in 2013, was ranking member of the Senate Finance Committee until January 2019, when she became its chair, and/or before Assemblywoman Weinstein, who, in 2013, was chair of the Assembly Judiciary Committee until September 2017, when she became chair of the Assembly Ways and Means Committee.

My live testimony on [February 6, 2013](#) was before both Krueger and Weinstein. I was not permitted to give live testimony again until 2017, when I testified twice, on [January 30, 2017](#) and on [January 31, 2017](#), both times before Krueger. The following year, I testified on [January 30, 2018](#) before Krueger and Weinstein and on [February 5, 2018](#) before Weinstein. In 2019, I furnished them with [written testimony, dated February 19, 2019](#), and, in 2020, furnished them with my trilogy of letters to Governor Cuomo pertaining to the budget: [my February 18, 2020 letter](#), [my March 3, 2020 letter](#), and [my March 18, 2020 letter](#). In 2021 and 2022, I testified before both *via zoom*, on [February 10, 2021](#) and [January 25, 2022](#).”

This was inadvertently not complete with respect to [2020](#), as on February 11-12, 2020, I also furnished Krueger and Weinstein two sets of “Questions” pertaining to the judiciary and legislative budgets, culminating on February 19, 2020, [here](#).

This subheading reflects what comparison reveals, namely, that since 2013, the Legislature has uniformly ignored, without response, ALL my testimony about the obvious constitutional, statutory, and legislative rule violations of the state budget and about the “false instrument” commission/committee reports whose “force of law” salary increase recommendations the budget embeds, *to wit*,

- the “false instrument” [August 29, 2011 Report of the Commission on Judicial Compensation](#), raising judicial salaries – and district attorney salaries, which are linked to judicial salaries – particularized by [CJA’s October 27, 2011 Opposition Report](#) and [CJA’s March 30, 2012 verified complaint in its declaratory judgment action](#) based thereon and thereafter embodied in [CJA’s March 28, 2014 verified complaint in its first citizen-taxpayer action](#);
- the “false instrument” [December 24, 2015 Report of the \(1<sup>st</sup>\) Commission on Legislative, Judicial and Executive Compensation](#), raising judicial salaries – and district attorney salaries linked thereto – particularized by [CJA’s March 23, 2016 verified second supplemental complaint in its first citizen-taxpayer action](#), thereafter embodied in [CJA’s September 2, 2016 verified complaint in its second citizen-taxpayer action](#);
- the “false instrument” [December 10, 2018 Report of the Committee on Legislative and Executive Compensation](#), raising legislator salaries, the salaries of the Attorney General and Comptroller, and, indirectly, the Governor and Lieutenant Governor, as well as executive branch commissioners – particularized by [CJA’s July 15, 2019 Analysis](#) thereof.

To date, the cost of the salary raises resulting from these fraudulent “force of law” commission/committee reports is on the order of a billion dollars. This theft of taxpayer monies, however, has never motivated legislators to take remedial steps – and now you are embarked on replicating all your prior duty-violating and unconstitutional conduct to implement the “false instrument” [December 4, 2023 Report of the \(3<sup>rd</sup>\) Commission on Legislative, Judicial and Executive Compensation](#), whose fraud, statutory-violations, and unconstitutionality are particularized by [CJA’s January 18, 2024 Opposition Report](#).

[My written testimony for the Legislature’s January 25, 2024 “public protection” budget hearing](#), chronicles what took place at that hearing with respect to the larcenous \$34.6M appropriation for judicial salary raises at [pages 18-19 of Legislative/Judiciary Budget Bill #S.8301/A.8801](#)<sup>2</sup> resulting from the December 4, 2023 Report. To date, more than ten days after e-mailing my testimony to the chairs of the Senate Finance Committee and Assembly Ways and Means Committee, as required, I have yet to receive any inquiry or other response from them or anyone else. Likewise, I have yet to receive any inquiry or response from any of the scores of legislators, from leadership on down, to

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<sup>2</sup> Because of the statutory link between judicial salaries and D.A. salaries, this will raise D.A. salaries – a cost borne by the counties. This “unfunded mandate” is NOT addressed by [Aid to Localities Budget Bill #S.8303/A.8803](#), whose appropriation of \$4,212,000 “For grants to counties for district attorney salaries” (at p. 91) is an amount that has not changed for ten years – and, by 2016, was already vigorously protested by the counties as insufficient to cover D.A. salary increases resulting from the December 24, 2015 Report of the (1<sup>st</sup>) Commission on Legislative, Judicial and Executive Compensation.

whom, from January 18<sup>th</sup> to January 25<sup>th</sup>, I sent the [Opposition Report](#) on which my testimony rests. This further illustrates and reinforces what my years of testimony on the budget have chronicled about how the Legislature and legislators operate – itself replicating what I had chronicled about the Legislature and legislators for 20 years before that: a total disregard for facts, law, and evidence to cover up and perpetuate the systemic corruption of New York’s judiciary, at every level, adjudicative, administrative, supervisory, up to the Court of Appeals, and involving the Attorney General, the Commission on Judicial Conduct, the Appellate Division Attorney Grievance Committees, and the OCA Inspector General.

Finally, by way of update to [my written testimony for last year’s February 7, 2023 “public protection” budget hearing](#) – and as reflected by [CJA’s January 18, 2024 Opposition Report](#) – CJA perfected its appeal to the Appellate Division, Third Department in [CJA v. JCOPE, et al.](#), its monumental Article 78 proceeding/declaratory judgment action/citizen-taxpayer action, brought “on behalf of the People of the State of New York”, suing the Legislature, among others, for corruption of the budget involving New York’s sham “public protection” entities, funded through the budget. As [below](#), Attorney General James, a respondent representing the Legislature and the other respondents, has had no legitimate defense, and has sought to corrupt the judicial process by litigation fraud, for which, thus far, she has escaped all accountability.

Lastly, and identical to past years, the Legislature is not justifying or explaining its own FY2024-25 budget at any hearing and conceals the legislative budget, in whole or in part, from its “colorbook”/analyses of the state budget. I, therefore, close by furnishing a list of questions for Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie to answer about the [December 1, 2023 proposed legislative budget they signed](#) – and about the 39 pages of legislative reappropriations that were not part of it but which, nonetheless, popped into Governor Hochul’s combined [Legislative/Judiciary Budget Bill #S.8301/A.8801](#) in an out-of-sequence, mistitled section at the back (pp. 36-74). These questions largely replicate those I furnished for:

- [the Legislature’s February 15, 2023 “local government officials/general government” budget hearing](#);
- [the Legislature’s February 12, 2020 “public protection” budget hearing](#);<sup>3</sup>
- [the Legislature’s February 11, 2019 “local government officials/general government” budget hearing](#);
- [the Legislature’s February 5, 2018 “local government officials/general government” budget hearing](#);

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<sup>3</sup> These were also furnished directly to Temporary Senate President Stewart-Cousins and other senators with districts in Westchester County at their February 18, 2020 local forum on the state budget – and so reflected by this [February 19, 2020 e-mail](#).

- [the Legislature’s January 30, 2017 “local government officials/general government” budget hearing](#);
- [the Legislature’s February 4, 2016 “public protection” budget hearing](#).

Consequently, the answers should, by now, be easy to supply.

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**Questions for Temporary Senate President Stewart-Cousins & Assembly Speaker Heastie to Answer about their FY2024-25 Legislative Budget & about Governor Hochul’s Legislative/Judiciary Appropriation Bill #S.8301/A.8801 – and for Legislators & their “Appropriate Committees” to Ask Them**

- (1) [Article VII, §1 of the New York State Constitution](#) requires that “Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” be transmitted to the Governor before December 1<sup>st</sup> of each year, is that correct?
- (2) By a [one-sentence December 1, 2023 coverletter to Governor Hochul](#), on a letterhead of the “New York State Legislature” and bearing your printed names, titles, and signatures, you stated:

“Attached hereto is a copy of the Legislature’s Budget for the 2024-2025 fiscal year, pursuant to Article VII, Section 1 of the New York State Constitution.”

In so doing, you did not purport that your “[a]ttached...Legislature’s Budget” was “Itemized estimates of the financial needs of the legislature”, or that you were certifying it right?

- (3) Your attached budget consisted of 17 pages: a four-page budget narrative, with a fifth page of “Budget Highlights – Joint Entities”, plus a sixth page chart entitled “ALL FUNDS REQUIREMENTS FOR THE LEGISLATURE”, followed by 11 pages bearing no title, but which, prior to the FY2020-21 legislative budget, had been titled “Schedule of Appropriations”. Was that title inadvertently dropped from your FY2024-25 legislative budget – and from your prior four legislative budgets for [FY2023-24](#), [FY2022-23](#), [FY2021-22](#), and [FY2020-21](#)? Or was there some other reason?
- (4) Would you agree that the 17 pages of your FY2024-25 legislative budget do not include a certification, make no reference to “itemized estimates” of the Legislature’s “financial needs”, and do not refer to Article VII, §1?

- (5) Isn't the reason you did not certify the Legislature's budget to be "Itemized estimates of the financial needs of the legislature" is because it is not?
- (6) Where are the Legislature's FY2024-25 "general state charges", *to wit*, the "fringe benefits" that are pension contributions, social security, health, dental, vision and life insurance, etc. for legislators and legislative branch employees? How much are they – and did you certify them to be "itemized estimates" of the Legislature's "financial needs" with respect thereto?
- (7) Shouldn't the Legislature's "general state charges" be part of its budget – just as the Judiciary's "general state charges" are part of the [Judiciary's budget](#), "approved by the court of appeals and certified by the chief judge of the court of appeals", as Article VII, §1 requires.
- (8) The "Legislative Budget Highlights" (at p. 1) states that the General Fund "increase of \$5,674,691 from the amount appropriated in FY2023-24...is an increase of 2% for all entities", with similar assertions, in the narrative (at pp. 1-3), the "Budget Highlights – Joint Entities" (at p. 5), and the chart of "All Funds Requirements for the Legislature" (at p. 6). Can you explain how any cognizable "process" of ascertaining the Legislature's actual "financial needs" could have produced such uniform, across-the-board, 2% increases?
- (9) Can you explain why neither the [Senate](#) nor [Assembly](#) websites post the Legislature's budgets that you and your predecessors have transmitted to the Governor, pursuant to Article VII, §1 – unlike the Judiciary which has a [webpage](#) for the "approved...and certified" "itemized estimates of [its] financial needs" transmitted to the Governor pursuant to Article VII, §1?
- (10) Do you agree that Article VII, §1 does not vest you with the power to determine the "Itemized estimates of the financial needs of the legislature", but only to certify same?
- (11) Do you agree that the logical reason why Article VII, §1 requires that the Judiciary's "certified" "itemized estimates" of its "financial needs" be transmitted to "the appropriate committees of the legislature" – in addition to the Governor – but does not require that the Legislature's "certified" "itemized estimates" of its "financial needs" be transmitted to "the appropriate committees of the legislature" is because "the appropriate committees of the legislature are presumed to have formulated and/or approved the "itemized estimates" that the "presiding officer of each house" certify?
- (12) Do you agree that the Senate Committee on Investigations and Government Operations and Assembly Committee on Governmental Operations would be the "appropriate committees" of the Legislature to formulate or approve the Legislature's budget – or are there other "appropriate committees", as, for instance, the Senate Rules Committee; the Assembly Rules Committee, the Senate Committee on Ethics and Internal Governance, the Assembly Committee on Ethics and Guidance, the Assembly Committee on Oversight, Analysis, and Investigation?

- (13) Describe the “process”, if any, by which the Legislature’s budget for fiscal year 2024-2025 was compiled.
- (14) Wouldn’t the process of compiling “Itemized estimates of the financial needs of the legislature” require soliciting the Legislature’s 213 members – and its committees, commissions, and task forces through which your budget narrative (at p. 2) purports the Senate and Assembly operate, stating:
- “The Senate conducts its legislative business by operating 46 Standing Committees, Commissions, and Task Forces.”;
- “The Assembly conducts its legislative business through the operation of 37 standing committees.”
- (15) By the way, is 37 the correct number of Assembly standing committees? [Assembly Rule IV, §1\(a\)](#) lists 39, with 39 also reflected on the [Assembly webpage of “Committees & More”](#).
- (16) Were legislators and legislative committees, commissions, and task forces solicited as to their “itemized estimates” of their “financial needs”?
- (17) Can you explain why the Assembly Ways and Means Committee is the only legislative committee for which appropriations are included in the Legislature’s budget (at pp. 3, 6, 9-10). Why aren’t appropriations for the Senate Finance Committee comparably included – and are they the same amount: \$7,034,206? What about all the other Senate and Assembly committees? Don’t they require adequate funding and staffing to operate professionally, discharging their lawmaking and oversight functions?
- (18) Why does the Legislature’s budget include, as a “joint entity”, the [Commission on Long Island Power Authority](#) – codified in [Legislative Law Article 5-A, §83-n](#) – but not the 12 other commissions listed by [Legislative Law Article 5-A](#), whose memberships, likewise, consist exclusively of Senate and Assembly members who you appoint. And what about the single commission established by [Legislative Law Article 5-B: the administrative regulations review commission](#), whose membership, exclusively of Senate and Assembly members, is also appointed by you? What is your definition of “joint entities”?
- (19) Other “joint entities” that you have included in the Legislature’s budget are the [Legislative Task Force on Demographic Research and Reapportionment](#), codified by [Legislative Law Article 5-A, §83-m](#), and the [Legislative Ethics Commission](#), codified by [Legislative Law Article 5 \(§80\)](#). Both have memberships NOT exclusively of Senate and Assembly members, although all appointed by you, correct?

- (20) What is the reason you did not include, as a “joint entity” the [Law Revision Commission](#), codified by [Legislative Law Article 4-A](#)? Is it because, although the four chairs of the Senate and Assembly Judiciary and Codes Committees are *ex officio* members, five members are appointed by the Governor? If so, why does the Legislature’s budget not reflect a split in costs with the Governor, just as is done with the Office of Lieutenant Governor, so-identified by your budget narrative (at pp. 1, 2).
- (21) Can you explain why, considering the omission from the Legislature’s budget of most “joint entities”— indeed, of most of the components of the Legislature – you include the Legislative Health Service, the Legislative Library, and the Legislative Messenger Service, as if these and dues for the National Conference of State Legislatures, which you also include, are significant.
- (22) As for the Legislative Ethics Commission, included among your few listed “joint entities”, can you explain why your budget narrative (at p. 3) makes it appear that it is operating with “four legislators and five non-legislative members”, when, as you know, it has not been operating with [a non-legislative ninth member](#) since its inception.
- (23) Why, in the same budget narrative pertaining to the Legislative Ethics Commission (at p. 3), do you refer to the “Joint Commission on Public Ethics”, when you eliminated it, *via* the budget, in 2022, by your behind-closed-doors, “three people in the room” insertion of [Part QQ to Education, Labor, Housing and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022”](#) (at pp. 151-201), replacing it with the Commission on Ethics and Lobbying in Government. Is there nobody on your staff who “proofed” the Legislature’s budget for such inaccuracies?
- (24) Do you agree that more than half of the Legislature’s barely 17-page budget is devoted to the handful of “joint entities” it features as if they were all “joint entities” and whose cumulative appropriations, listed on the page 6 chart, is \$26,443,236 – in other words, less than 10% of the \$289,409,242 “GENERAL FUND TOTAL”, also listed on that chart.
- (25) Do you agree that most of the over 90% balance of legislative appropriations are under the headings “The Senate” and “The Assembly” – and that with the exception of “salaries” and “allowances” for Senate and Assembly members, they lack sufficient itemization for intelligent, meaningful review?
- (26) Can you explain why the second item of “Personal Service” for the Senate (at p. 7) reads:
- “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. . . . \$1,289,500”

and the second item of “Personal Service” for the Assembly (at p. 8) reads:

“For payment of allowances to members designated by the speaker pursuant to the provisions of section 5-a of the legislative law.....\$1,592,500”

when the [December 10, 2018 Report of the Committee on Legislative and Executive Compensation](#) superseded [Legislative Law §5-a](#) and eliminated all but 15 of the Legislative Law §5-a allowances.<sup>4</sup> Shouldn’t the listed figures have been \$185,000 for the Senate and \$239,500 for the Assembly?

- (27) The [legislative budget that your December 1, 2023 coverletter transmitted](#) to the Governor contained no legislative reappropriations, correct?
- (28) Do you agree that when Governor Hochul combined the Legislature’s budget with the Judiciary’s budget in her [January 16, 2024 Legislative/Judiciary Budget Bill #S.8301/A.8801](#), she was able to conceal 39 pages of legislative reappropriations (pp. 36-74) that were not part of your December 1, 2023 transmittal to her?
- (29) Do you agree that these 39 pages of legislative reappropriations are – as reflected by the [table of contents for Legislative/Judiciary Budget Bill #S.8301/A.8801 \(p. 75\)](#) – in an out-of-sequence section at the back of the bill? And shouldn’t the first page of these 39 pages (p. 36) be prominently marked “Reappropriations”, just as the first page of the Judiciary’s “Reappropriations” is (p. 25)?
- (30) Can you explain where the 39 pages of legislative reappropriations (pp. 36-74) came from?
  - (a) When and in what fashion were they transmitted to the Governor?;
  - (b) Did you certify the dollar amounts of these legislative reappropriations and, additionally, that they were suitable for designation as reappropriations?;
  - (c) Are the purported “reappropriations” in fact suitable for reappropriation considering the definition of “reappropriation” posted on the [Division of the Budget’s website](#): “a legislative enactment that continues all or part of the

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<sup>4</sup> These are the six allowances in the Senate, whose total cost is \$185,000: (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 Committee Chair (\$34,000); and (6) for the Finance Committee Ranking Member (\$20,500). And the nine allowances in the Assembly, whose total cost is \$239,500: (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).

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.”

- (d) What is the cumulative total of these 39 pages of legislative reappropriations?
  - (e) What is the tally of each section of legislative reappropriations – and why was this amount not deducted from the corresponding appropriations for each entity and/or why did the availability of reappropriations not obviate the need for any 2% increases from FY2023-24:
    - (i) Senate: pp. 36-39;
    - (ii) Assembly: pp. 39-41;
    - (iii) Ways & Means (pp. 41-43);
    - (iv) Senate & Assembly Joint Entities (pp. 43-72):
      - Legislative Ethics Commission (pp. 43-47);
      - Legislative Health Service (pp. 47-50);
      - Legislative Library (pp. 51-54);
      - Legislative Messenger Service (pp. 54-58);
      - Legislative Bill Drafting Commission (pp. 58-60);
      - Demographic Research/Reapportionment Task Force (pp. 60-71);
      - Independent Redistricting Commission (pp. 71-72);
      - Commission on LI Power Authority (p. 72).
    - (v) Special Revenue Funds-Other
      - Computer Services Fund (pp. 73-74);
      - Recyclable Materials; Info Services & Conference (p. 74).
- (31) Can you explain why [Legislative/Judiciary Budget Bill #S.8301/A.8801](#) has reappropriations for the Legislative Ethics Commission, but, by comparison, [State Operations Budget Bill #S.8300/A.8800](#) has NO reappropriations for
- (i) the Commission on Ethics and Lobbying in Government (at p. 205);
  - (ii) the State Inspector General (at pp. 458-460);
  - (iii) the Commission on Judicial Conduct (at p. 462);
  - (iv) the Commission on Prosecutorial Conduct (at p. 586)?
- (32) Governor Hochul’s [Legislative/Judiciary Budget Bill #S.8301/A.8801](#) contains no cumulative tally for its monetary allocations for the Legislature, is that correct? What is the dollar amount? Is it the addition of appropriations in its §1 (pp. 1-10) and reappropriations in its §4 (pp. 36-74)?

- (33) Is it concerning to you that none of the glaring deficiencies, inconsistencies, and inaccuracies of the Legislature’s FY2024-25 budget, such as hereinabove summarized, were made the subject of “recommendations” by Governor Hochul, pursuant to [Article VII, §1 of the New York State Constitution](#), requiring that the “Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” be included in the state budget “without revision but with such recommendations as the governor may deem appropriate”.
- (34) Can you explain why the Senate and Assembly “colorbook” analyses of the FY2024-25 budget either contain no inclusion, at all, of the Legislature’s budget, or no analysis thereof?<sup>5</sup>
- (35) Would you be willing to publicly give your answers to the above questions pertaining to your FY2024-25 legislative budget and [Legislative/Judiciary Budget Bill #S.8301/A.8801](#) at a legislative hearing on the Legislature’s own budget and, if not, why?
- (36) By the way, congratulations on updating the outdated figures in your budget narrative (at p. 2) from last year’s “Each Senator represents approximately 308,000 constituents.” and “Each Member of the Assembly represents approximately 129,000 constituents.” But what is the source of these new figures: “Each Senator represents approximately 312,000 constituents.”; Each Member of the Assembly represents approximately 131,000 constituents”. According to [Ballotpedia](#), the 2020 figure for the Senate are 320,885 and for the Assembly 134,772.

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<sup>5</sup> The [Senate Majority “Blue Book”](#), [Senate Minority “White Book”](#), and [Assembly Majority’s “Yellow Book”](#) do not appear to mention the Legislature’s budget, at all. The [Assembly Minority’s “Green Book”](#) is the only one to include the Legislature in its table of contents, combined with the Judiciary, with skeletal information furnished in a two-page section (pp. 173-174).