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The Lulu Stipend

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The Lulu Stipend: What Comes Next?

May 22, 2017

What is a Lulu?

A “lulu” is a stipend available to New York State legislators for their work in leadership roles, such as committee chairperson. The stipends are [in addition](#) to legislator’s \$79,500 base pay. [Stipends range in value](#), from \$9,000 for a ranking minority member of a committee, up to \$41,500 for the temporary president of the Senate. The head of each State legislative body, the Speaker of the Assembly, and the Temporary President of the Senate [direct the payment](#) of these stipends. [By law](#), no legislator may receive more than one stipend at a time. Because legislators routinely serve in more than one position that qualifies for a stipend, legislators typically take the higher stipend, leaving the other stipend seemingly unused.



What is the problem?

Earlier this year, under the direction of State Senate Majority Leader John Flanagan (pictured above), the New York State Comptroller authorized payments of otherwise unused stipends to at least six state senators for positions that they did not hold. Instead, these senators only held assistant or associate positions on the relevant committees, such as vice chairman, and the law does not provide any explicit basis for either giving a stipend to a vice chairman, or allowing a legislator to pass his/her stipend to another member. Further, the vice chair positions receiving the lulus have regularly gone to Flanagan’s political allies. Flanagan and David Lewis, counsel to the Senate, [have taken the position](#) that this practice is allowed pursuant to the statute’s authorization for payment of stipends to any “[member of the assembly serving in a special capacity](#).”

Beyond the practice of lulus going to legislators other than the ones serving in the delineated leadership roles, there has been criticism of the way in which Flanagan has represented the practice to the Comptroller. Because the lulu requests list certain senators as holding positions that they, in fact, do not hold, critics argue that Flanagan’s description in the paperwork constitutes a false claim. By contrast, [Lewis has taken the position](#) that the request to the Comptroller is mere “accounting papers,” and the title designations were used solely to ensure the correct payment amounts. The situation has prompted calls for a criminal investigation.

Who can investigate?

There are a number of state and federal agencies that may be able to investigate. First, the Senate maintains the [Ethics and Internal Governance Standing Committee](#). Though the Committee could, in theory, investigate the matter, the Committee [rarely meets](#), and two of its members, Andrew Lanza and Diane Savino, both have received questionable lulus themselves. The [New York State Joint Committee of Public Ethics](#) (JCOPE), could open an investigation that may result in a referral to the Legislative Ethics Commission, which can impose non-criminal penalties. The [New York State Comptroller](#) may also choose to review the procedures surrounding lulus.

In term of a criminal investigation, there are a few options. The New York State Attorney General can pursue an investigation [with a referral](#) from the Governor, the Comptroller, or other relevant agency. There are [also](#) the Albany District Attorney, and the United States Attorneys for the Northern, Southern, and Eastern Districts.

What comes next?

[As of now](#), it has been reported that both the New York State Attorney General and the U.S. Attorney for the Eastern District have requested documents concerning this matter from the New York State Comptroller. It remains to be seen if this probe will turn into a full investigation, whether the practice will be stopped, or whether any other consequences follow.