

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SENATOR JAY COSTA, SENATOR
ANTHONY H. WILLIAMS, SENATOR
VINCENT J. HUGHES, SENATOR
STEVEN J. SANTARSIERO and SENATE
DEMOCRATIC CAUCUS,

Petitioners,

v.

SENATOR JACOB CORMAN III, SENATE
PRESIDENT PRO TEMPORE, SENATOR
CRIS DUSH and SENATE SECRETARY-
PARLIAMENTARIAN MEGAN MARTIN,

Respondents.

No. ____ MD 2021

NOTICE TO PLEAD

TO: SENATOR JACOB CORMAN III, SENATOR CRIS DUSH, AND SENATE
SECRETARY-PARLIAMENTARIAN MEGAN MARTIN

You are hereby notified to file a written response to the enclosed petition for review within thirty (30) days from service hereof, in accordance with Pa. R.A.P. 1516(b), or a judgment may be entered against you.

/s/ Clifford B. Levine

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Attorneys for Petitioners

Dated: September 17, 2021

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this complaint and notice are served, in accordance with Pa. R.A.P. 1516(b), by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES

THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A
REDUCED FEE OR NO FEE.

MidPenn Legal Services
213-A North Front Street
Harrisburg, PA 17101
(717) 232-0581

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

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Respondents.

No. ____ MD 2021

**PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Introduction

On September 15, 2021, Respondent Senator Cris Dush, as Majority Chair of the State Senate Intergovernmental Operations Committee (“Committee”), held a Committee meeting for the sole purpose of issuing to the Acting Secretary of the Commonwealth a subpoena duces tecum that would compel the Secretary to produce several categories of election-related materials from the Pennsylvania Department of State (“DOS”). The materials demanded under subpoena include names, dates of birth, driver’s license numbers, portions of social security numbers

and addresses of **all** registered voters in the Commonwealth. The subpoena followed several weeks of public statements from Respondents Senators Jake Corman and Cris Dush which made clear that the Respondents plan to use the Committee to seek access to voting records, ballots and electronic voting systems from DOS and the counties. The unprecedented act of issuing the September 15, 2021 subpoena, ostensibly for “legislative” purposes, contravenes the Judiciary’s exclusive authority over the trial and determination of contested elections under state statutory and constitutional law. Further, the issuance of the subpoena constitutes an unauthorized audit of election matters, in contravention of state statutory and constitutional law and with serious consequences to the privacy rights and expectations of Pennsylvania voters. For these reasons, this Court should declare that the Committee’s issuance of the subpoena is unenforceable and that its efforts to undertake an election-related audit are not permissible.

The Petitioners bring this Petition for Review to protect the institution of the Senate of Pennsylvania from misuse and to protect the Petitioners’ obligation to vote pursuant to the Senate Rules. The Petitioners ask this Court to prevent violation of the Pennsylvania Election Code and the Pennsylvania Constitution through the Respondents’ untimely election contest and to protect the rights of the approximately 6.9 million Pennsylvanians who cast votes in the 2020 General

Election, including protection from the unlawful disclosure of their private information in the Statewide Uniform Registry of Electors (“SURE”) system.

Any action on the part of the Respondents to advance the Committee subpoenas and to conduct a legally impermissible election contest or election-related audit in contravention of Pennsylvania law within the Committee framework would induce Petitioners to violate their oaths as Members of the Senate to obey and to defend the Pennsylvania Constitution. Although Petitioners exercised their prerogatives to vote against authorizing the issuance of the subpoena duces tecum on September 15, 2021, the Committee is proceeding with its unlawful investigation. On behalf of the Committee but without the consent of Petitioners who are members of the Committee, Respondent Majority Chair Cris Dush continues to pursue the proposed election investigation by attempting to collect private voter information, despite the protections from disclosure that must be afforded to this confidential material under law, and by vetting and seeking to grant access to a third-party vendor to investigate any and all allegations of fraud, with no existing evidence that the allegations are even warranted. These actions constitute an ongoing assault on Petitioners’ oaths to obey the law in executing their legislative duties.

Petitioners Senators Jay Costa, Anthony H. Williams, Vincent J. Hughes and Steve Santarsiero also each hold unique positions on legislative committees that

determine the future of election legislation in the Senate which do not include the Senate Intergovernmental Operations Committee. These other committees are already authorized to examine issues related to election law and the electoral processes in the Commonwealth, and to control appropriations to the General Assembly that are ultimately used for legislative committee operations.

Finally, Petitioners bring this Petition for Review to protect their own privacy interests, as registered voters in the Commonwealth who participated in the 2020 General Election and 2021 Primary Election, and whose sensitive information the Senate Intergovernmental Operations Committee would funnel to an unidentified third-party vendor with unknown standards, qualifications or experience that it intends to select to conduct its proposed election contest and audit. The disclosure of this sensitive information, including Petitioners' driver's license numbers and last four digits of their social security numbers, is prohibited by law.

For these reasons and the reasons set forth below, Petitioners Senator Jay Costa, Senator Anthony H. Williams, Senator Vincent J. Hughes, Senator Steven Santarsiero and the Senate Democratic Caucus do hereby bring this Petition for Review in the Nature of a Complaint for Declaratory and Injunctive Relief against Respondents, and in support thereof, aver as follows:

Jurisdiction & Venue

1. Because this Petition is being brought against Commonwealth officers and elected officials acting in their official capacities, 42 Pa.C.S. § 761(a) vests the Court with original jurisdiction over Petitioners' claims.

2. This Court has venue of this action under 42 Pa.C.S. § 8523(a).

Parties

3. Petitioner Jay Costa is a duly elected Pennsylvania Senator serving the 43rd Senatorial District since 1996 and is the Leader of the Senate Democratic Caucus. He is also a member of the Senate Intergovernmental Operations Committee and voted against the Committee's issuance of a subpoena. Senator Costa is bringing this Petition in his official and individual capacities. As a member of the Senate Intergovernmental Operations Committee, Senate Rule 16(1) compels the Petitioner to *attend all committee meetings*, unless excused or necessarily prevented under Senate Rules, *and to vote on every question before the committee* unless the Majority Chair rules Petitioner has a conflict-of-interest under Senate Rule 20(c). Rule 16 of the Rules of the S. of Pa. (2021-2022), S.R. 3, 205th Gen. Assemb., Reg. Sess. (Pa. 2021). Rules of the Senate of Pennsylvania are attached as Exhibit A. As a statutory member of the Pennsylvania Election Law Advisory Board ("Advisory Board"), on which Petitioner appointed Petitioner Senator Christine Tartaglione to serve as his designee, Petitioner Senator Costa

also has the authority to study and make recommendations for changes to the Pennsylvania Election Code as well as study other election-related issues for the purpose of voting on and issuing an annual report with recommendations to the General Assembly and Governor's Office. 25 P.S. § 3150.22(b)(3) and (c).

4. Petitioner Anthony H. Williams is a duly elected Pennsylvania Senator representing the 8th Senatorial District and is the Whip of the Senate Democratic Caucus. He is the Minority Chair of the Senate Intergovernmental Operations Committee and voted against the Committee's issuance of a subpoena. Senator Williams brings this Petition in his official and individual capacities. As a member of the Senate Intergovernmental Operations Committee, Senate Rule 16(1) compels the Petitioner to *attend all committee meetings*, unless excused or necessarily prevented under Senate Rules, *and to vote on every question before the committee* unless the Majority Chair rules Petitioner has a conflict-of-interest under Senate Rule 20(c). Petitioner also serves as a voting member of the Senate State Government Committee, which is the standing committee designated to review regulatory issues and legislation related to DOS and election law. Specifically, for purposes of the Senate State Government Committee's work under the Regulatory Review Act, 71 P.S. §§ 745.1 *et seq.*, the Respondent Senate President Pro Tempore Jacob Corman prescribed the jurisdiction of the Committee to oversee issues related to DOS, while the Senate Intergovernmental Operations

Committee was assigned as the standing committee for oversight of issues related to the Independent Regulatory Review Commission. 51 Pa.B. 775 (publication of the Senate President Pro Tempore's designation of standing committees over state agencies); *See* 71 P.S. § 745.3 (defines "committee" as "[a] standing committee of the Senate . . . designated by the President pro tempore . . . The designation shall prescribe the jurisdiction of each standing committee over the various State agencies for purposes of this act.").

5. Petitioner Vincent J. Hughes is a duly elected member of the Senate of Pennsylvania representing the 7th Senate District and serves as the Minority Chair of the Senate Appropriations Committee. He is also a member of the Senate Intergovernmental Operations Committee and voted against the Committee's issuance of a subpoena. Senator Hughes brings this Petition in his official and individual capacities. As a member of the Senate Intergovernmental Operations Committee, Senate Rule 16(1) compels the Petitioner to *attend all committee meetings*, unless excused or necessarily prevented under Senate Rules, *and to vote on every question before the committee* unless the Majority Chair rules Petitioner has a conflict-of-interest under Senate Rule 20(c). As Minority Chair of the Senate Appropriations Committee, Petitioner sets the appropriations priorities for the Senate Democratic Caucus and collaborates with the Majority Chair of the Appropriations Committee to determine and vote on the allocation of funding to

various programs during the state budget process, including appropriations to the General Assembly ultimately used for such operations as the Senate Intergovernmental Operations Committee's proposed election investigation and the costs of any third-party investigators and counsel.

6. Petitioner Steven J. Santarsiero is a duly elected member of the Senate of Pennsylvania representing the 10th Senatorial District and serves as the Minority Chair of the Senate Judiciary Committee. He is also a member of the Senate Intergovernmental Operations Committee and voted against the Committee's issuance of a subpoena. Senator Santarsiero brings this Petition in his official and individual capacities. As a member of the Senate Intergovernmental Operations Committee, Senate Rule 16(1) compels the Petitioner to *attend all committee meetings*, unless excused or necessarily prevented under Senate Rules, *and to vote on every question before the committee* unless the Majority Chair rules Petitioner has a conflict-of-interest under Senate Rule 20(c). In addition, Petitioner was appointed a member of the Senate's Special Committee on Election Integrity and Reform. The Special Committee was created by a motion of the Senate and charged with examining all aspects of the 2020 General Election. Petitioner's and the committee's work culminated in a report to the General Assembly with recommendations for various changes to state election law in order to improve the electoral processes in the Commonwealth.

7. Petitioner Senate Democratic Caucus is one of two subparts that together comprise the Pennsylvania Senate and is an integral constituent of the Senate. *See Precision Mktg., Inc. v. Com., Republican Caucus of the Sen. of PA / AKA Sen. of PA Republican Caucus*, 78 A.3d 667, 675 (Pa. Cmwlth. 2013). All remaining Members of the Senate Democratic Caucus are listed in Attachment 1.

8. Respondent Jacob Corman, III is a duly elected Pennsylvania Senator serving the 34th Senatorial District and Senate President Pro Tempore. He is an ex-officio member of the Senate Intergovernmental Operations Committee. As President Pro Tempore, Senator Corman is responsible for appointing the Chair and members of the Senate's standing committees in addition to having direction over the duties of the Secretary-Parliamentarian, pursuant to Senate Rules 5(a)(1) and 6(b).

9. Respondent Cris Dush ("Majority Chair Dush") is a duly elected Pennsylvania Senator serving the 25th Senatorial District. He was recently appointed to replace Senator Doug Mastriano as the Majority Chair of the Senate Intergovernmental Operations Committee by Respondent Jacob Corman pursuant to his authority as Senate President Pro Tempore. Respondent Senator Corman's Memorandum of August 23, 2021 is attached as Exhibit B. Senate Rule 15(d) provides the Majority Chair with the power to sign subpoenas issued by the committee.

10. Respondent Megan Martin is the Senate-elected Secretary-Parliamentarian of the Senate. Among the many duties provided in the Senate Rules, the Secretary-Parliamentarian is responsible for “subject to the direction of the President Pro Tempore ... Attest[ing] all writs, warrants and *subpoenas* issued by order of the Senate ...” and for supervising the Chief Sergeant-at-Arms of the Senate. Rules 6(c)(5) and (7) of the Rules of the Senate of Pennsylvania (2021-2022) (emphasis added).

General Statement of Material Facts

11. Respondent Majority Chair Dush presides over a committee of eleven voting members of the Senate Intergovernmental Operations Committee. These eleven members consist of seven members from the Senate Republican Caucus (i.e., the Senate’s Majority Party), including Respondent Corman as an ex-officio voting member of the Committee, and four members from the Senate Democratic Caucus (i.e., the Senate’s Minority Party). Rule 14(a)(1) and (b)(1) of the Rules of the Senate of Pennsylvania (2021-2022).

Audits of the 2021 Primary and 2020 General Election

12. The Commonwealth and counties conducted two audits following the 2020 General Election that confirmed the results – a statistical sample audit conducted pursuant to the Pennsylvania Election Code and a “risk-limiting audit,” which was conducted pursuant to a 2018 court-approved settlement.

13. For every election, the Election Code requires a statistical recount of a random sample of ballots in each county including at least 2% of the votes cast or 2,000 votes, whichever is less. 25 P.S. § 3031.17. The county boards conduct the statistical recount, which must be done as a part of the canvassing and before the boards certify the vote totals. The candidates and their appointed poll watchers or attorneys may be present for the statistical recount and all races must be included in the statistical recount. 25 P.S. §§ 2650 and 3031.17; Pa. Dep't of State, Directive Concerning the Use, Implementation and Operation of Electronic Voting Systems by the County Boards of Elections (June 9, 2011), <https://www.dos.pa.gov/VotingElections/Documents/Elections%20Division/Administration/directive%20concerning%20the%20use.pdf>; Pa. Dep't of State, Post-Election General Reconciliation Checklist (November 2016), https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/DOS%20Post-election%20Reconciliation_November%202016.pdf.

14. Pursuant to a settlement agreement in 2018, the Commonwealth established a 2019 work group to recommend robust pre-certification-of-election audit methods. As part of the settlement, the work group agreed to begin statewide pilot auditing in 2021 and to fully implement audits by the 2022 General Election. Settlement Agreement at 3, *Stein v. Cortes*, Civ. No. 16-6287 (E.D. Pa. Nov. 28, 2018).

15. The work group concluded that Commonwealth audits should include “risk-limiting audits,” which are “scientifically designed procedure[s] using statistical methods to provide a high level of confidence and statistical verification that the outcome of an election is accurate and detect possible interference.” Pa. Dep’t of State, Pennsylvania Post-Election Audit Workgroup Initial Report (December 31, 2019), at 2-3, https://www.votespa.com/About-Elections/Documents/PADOS_RLA%20WG_Initial%20Report_12.30.2019.pdf.

16. In accordance with the *Stein* settlement, the Commonwealth conducted a statewide risk-limiting audit after the 2020 General Election, which involved 63 participating counties. This risk-limiting audit found “strong evidence of the accuracy of the count of votes.” Press Release, Pa. Dep’t of State, Risk-Limiting Audit Pilot of November 2020 Presidential Election Finds Strong Evidence of Accurate Count (February 5, 2021), <https://www.media.pa.gov/pages/state-details.aspx?newsid=453>. The Commonwealth reported that “[t]he results of the sample mirrored the reported presidential election results across the participating counties within a fraction of a percentage point, providing confirmation of the accuracy of the vote count.” *Id.*

Post-Election Legislative Actions following the 2020 General and 2021 Primary

17. This year, the 2020 General Election was the subject of at least three separate legislative or legislatively-created committee investigations for purposes

of reviewing issues relating to the conduct of the election. At the hearings that these committees or commissions conducted, numerous local, state and national election officials testified about ballots, voting, times provided for canvassing ballots, polling places and communication between the various levels of election officials.

18. On January 5, 2021, the Pennsylvania Senate created the Special Committee on Election Integrity and Reform (“Senate Special Committee”). The Senate Special Committee conducted three public hearings; accepted written testimony; and collected a total of 20,251 responses to an online survey that asked for voter experiences in the 2020 General Election.

19. On June 14, 2021, the Senate Special Committee released its report, which included findings from the online survey and recommendations for legislative changes to the Pennsylvania Election Code.¹

¹ Pa. S. Special Select Comm. on Election Integrity and Reform, 205th Gen. Assemb., Reg. Sess., Report on the Special Committee’s Findings and Recommendations to the Senate and the Senate State Government Commission (Pa. June 14, 2021), <https://pasenelectioncommittee.com/wp-content/uploads/sites/106/2021/06/election-integrity-report-final.pdf>. The Committee’s “primary purpose was to focus on the review of all aspects of the 2020 General Election, including: the security of the vote before, during and after Election Day; the accuracy and security of the election process, particularly during the pre-canvassing and canvassing stages; the uniformity of the election processes across the Commonwealth; the impact and role of our judiciary on the election process; the impact and role of the former Secretary of the Commonwealth of Pennsylvania in issuing interpretations, guidance and instructions regarding the election process and the conduct of the election as a whole; and other election-related issues.” *Id.* at 2.

20. The Pennsylvania House of Representatives State Government

Committee conducted 10 public hearings, with 52 testifiers and over 280 responses to an online survey requesting voters to provide feedback on their experiences with the 2020 General Election. On May 10, 2021, the House State Government Committee released its report, which also included various recommendations to the General Assembly for changes to Pennsylvania election law.²

21. With the enactment of Act 12 of 2020, the General Assembly also created the Advisory Board as a permanent body within the Joint State Government Commission. The stated purposes of the Advisory Board are to study election law; to collaborate with state agencies and political subdivisions; and to make annual recommendations to the General Assembly as to election law amendments, regulations and best practices that ensure integrity and efficiency in Commonwealth elections. 25 P.S. § 3150.22(c). The Advisory Board consists of members of Senate and House leadership. Act 12 requires the Advisory Board to

² H.R. State Gov't Comm., 205th Gen. Assemb., Reg. Sess., A Comprehensive Review of Pennsylvania's Election Laws: How Pennsylvania Can Guarantee Rights and Integrity in Our Election System (Pa. May 10, 2021),

https://www.legis.state.pa.us/WU01/LI/TR/Reports/2021_0002R.pdf.

The purpose of the Committee's hearings and solicitation for public input was "to review the election law in its entirety and assess how our elections are administered with a base law from 1937, newly adopted updates to that law, election policy set by the Pennsylvania Supreme Court, election guidance issued by the Department of State, and elections operated by 67 counties across the Commonwealth." *Id.* at 2.

submit a report on its findings to the General Assembly and Office of the Governor by the end of each fiscal year. *Id.*

22. In June 2021, the Advisory Board issued its first annual report including recommendations for Pennsylvania election law amendments. Jt. State Gov't Comm., Report of the Election Law Advisory Board for the Fiscal Year 2020-2021 (Pa. June 2021),

[http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2021-06-23%20\(Act%2012\)%20ELAB%20web%206.23.2021.pdf](http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2021-06-23%20(Act%2012)%20ELAB%20web%206.23.2021.pdf)

23. On June 25, 2021, after both the 2020 General Election and the 2021 Primary Election, the Senate passed H.B. 1300, Printer's Number 1869, 205th Gen. Assemb., Reg. Sess. (Pa. 2021) (vetoed by Governor Wolf June 30, 2021), which, among other things, made several changes to the voter registration system and the maintenance of the voter rolls. The legislation created a Bureau of Election Audits, housed under the Auditor General, and required an audit of the SURE system, including an audit of the accuracy of the list of registered electors every five years. (*Id.*, Section 108). It also required county boards of elections to seek death records and compare these records with the voter file on a monthly basis. Any voters found to be deceased would be subject to immediate removal from the SURE system. (*Id.*, Section 302(z.3)). The legislation also required the Secretary to publish a record of registered voters and their participation prior to announcing

any election results (*Id.*, Section 201(w)). Governor Wolf vetoed the legislation on June 30, 2021.

24. By adopting this legislation, including the provisions that added audits of the voter rolls, the rapid removal of deceased voters, and publication of voter participation, the Legislature demonstrated that it does not need the partial social security numbers and driver's license numbers of 6.9 million Pennsylvanians to develop policy on these issues. It has already attempted to do so without invading the privacy of the Commonwealth's citizens.

Former Committee Chair's Requests for Information from the Counties

25. On July 7, 2021, Senator Doug Mastriano ("Former Majority Chair Mastriano"), acting in his capacity as (now former) Majority Chair of the Senate Intergovernmental Operations Committee, issued letters to the Boards of Elections for Philadelphia, Tioga and York Counties with the subject line, "Request for Information Pertaining to the 2020 General Election and 2021 Primary Election." ("Mastriano Request"). Letter from Senator Doug Mastriano to Phila. City Commissioner Lisa Deeley (Jul. 7, 2021). This letter is attached as Exhibit C.

26. With the Mastriano Request, Former Majority Chair Mastriano attempted to launch a "forensic investigation" of the elections in Philadelphia, Tioga and York Counties.

27. The Mastriano Request, as directed to the Philadelphia County Election Board, sought access to the City of Philadelphia's election materials and electronic voting systems, including voter rolls and voter identification information, requests for absentee and mail-in ballots, all ballots cast in the two elections, tabulation equipment, records, software and security keys, and images of servers, tabulators, ballot marking devices, signature matching and ballot sorting equipment and network equipment.

28. Former Majority Chair Mastriano also asked the City Commissioner's Office to allow the Intergovernmental Operations Committee or its designees to inspect, test and sample the requested items and instruct its office "to cooperate and, if requested, participate, *under the direction of the Intergovernmental Operations Committee, or its designees*, in the inspection, testing or sampling of the items." Exhibit C at 3 (emphasis added).

29. The Mastriano Request instructed the county boards of elections to participate in the Committee's inspection, testing or sampling of the election materials under the direction of the Committee's potential third-party "designee," without identifying any particular designee, describing the qualifications or experience of a designee, or providing any assurance that the Committee would require a designee to comply with state and federal law. Exhibit C at 3.

30. The Mastriano Request gave the three counties until July 31, 2021 to indicate whether they would comply with the request and threatened that, if they did not present the Intergovernmental Operations Committee with a plan to comply, Former Majority Chair Mastriano “may” issue subpoenas. Exhibit C at 3.

31. On July 30, 2021, the Philadelphia City Commissioners’ Office issued a letter to Former Majority Chair Mastriano, which stated that the Office would not participate in the Former Majority Chair Mastriano’s request for access to its voting system because the Mastriano Request failed to include any claim that Philadelphia voting system was compromised and because of the potential that response to the request would violate the voters’ state constitutional right to secrecy in voting pursuant to Article VII, Section 4 of the Pennsylvania Constitution. The July 30 letter also described the very real risk that DOS would be forced to decertify Philadelphia’s voting system, which would cost taxpayers more than \$35 million to replace in just over three months prior to the next election. *See* Letter from City Commissioner Lisa Deeley, Chairwoman of the Office of City Commissioners of Phila. to Senator Doug Mastriano (July 30, 2021). This letter is attached as Exhibit D.

32. Tioga and York Counties also declined to participate the Mastriano Requests prior to the July 30 deadline.

33. The fact that Tioga and York Counties declined to participate in Former Majority Chair Mastriano's purported "forensic investigation is reflected in these news articles: . Marc Levy, *County Declines Election Audit Without New Voting Machines*, Associated Press (Jul. 29, 2021), <https://apnews.com/article/elections-election-2020-7a25158f823edd6a849e6926c920fc09>; Marc Levy and Mark Scolforo, *Another County Raises Objection to Lawmaker's Election Audit*, Associated Press (Jul. 15, 2021), <https://apnews.com/article/government-and-politics-elections-election-2020-1e2d89f33256d66c727a486e85235d4b>.

The Secretary's Directive and U.S. Department of Justice's Guidance

34. While the Mastriano Requests were pending with the counties, the Secretary of State issued a directive on July 8, 2021 to all county boards of elections, which instructed the boards not to "provide physical, electronic, or internal access to third parties seeking to copy and/or conduct an examination of state-certified electronic voting systems, or any components of such systems..." Pa. Dep't of State, Directive Concerning Access to Electronic Voting Systems, Including But Not Limited to the Imaging of Software and Memory Files, Access to Related Internal Components, and the Consequences to County Boards of Allowing Such Access, Directive 1 of 2021 (July 8, 2021) ("DOS Directive Concerning Access"). DOS Directive Concerning Access is attached as Exhibit E.

35. The DOS Directive Concerning Access further warned county boards that DOS would withdraw certification or authority to use the pieces of those electronic voting systems for which access to third parties was granted and that the Commonwealth would not reimburse the counties for the cost of replacing such voting equipment. Exhibit E at 2.

36. On July 20, 2021, DOS decertified voting equipment in Fulton County after County officials made the electronic voting system components accessible to a third-party company for a so-called “audit.” Letter from Veronica W. Degraffenreid, Acting Secretary of the Commonwealth to James M. Stein (July 20, 2021). This letter is attached as Exhibit F. Fulton County estimated the costs of replacing the equipment to be approximately \$25,000. Jeremy Duda, *Group Led by ‘Kraken’ Lawyer Sidney Powell Hired the Firm Recounting AZ’s Election to Probe Election in Fulton Co.* (May 24, 2021), <https://www.penncapital-star.com/government-politics/group-led-by-kraken-lawyer-sidney-powell-hired-the-firm-recounting-azs-election-to-probe-a-pa-election/>. Article attached as Exhibit G.

37. Following decertification of the voting machines in Fulton County, on July 28, 2021, the U.S. Department of Justice (“U.S. DOJ”) published guidance reminding state election officers that the Civil Rights Act of 1960, 52 U.S.C. §§ 20701-20706, requires state and local election officials to “retain and preserve”

election records for twenty-two months following Presidential elections and that the duty to “retain and preserve” devolves upon any third party that the state election officer designates to take custody of election records within that time frame. U.S. Dep’t of Justice, Federal Law Constraints on Post-Election “Audits” (July 28, 2021) (“U.S. DOJ Guidance”). U.S. DOJ Guidance is attached as Exhibit H.

38. The U.S. DOJ Guidance instructs that the duty of a custodian of election records to “retain and preserve” includes requiring administrative procedures to be put in place to maintain election officers’ management authority over retention and security of the records. Failure to comply with the duty to “retain and preserve” election records, including the loss, destruction or alteration of election records, subjects the custodian to federal criminal penalties. Exhibit H at 4.

Committee Chairmanship and the Vote to Issue A Subpoena for Voter Records

39. On August 23, 2021, Respondent Senate President Pro Tempore Jacob Corman appointed Respondent Cris Dush to replace Former Majority Chair Mastriano as Majority Chair of the Senate Intergovernmental Operations Committee.

40. In an interview on August 23, 2021, Respondent Corman stated his intent to allow Respondent Majority Chair Dush and the Committee to move

forward with Former Majority Chair Mastriano’s “forensic investigation” of the 2020 General Election for the purpose of investigating baseless allegations of fraud and seeking voted ballots. Specifically, he stated, “We need to get the voter rolls, we need to get the ballots – things of that nature – so we can match them up to see: who voted, where were they living, were they alive?” Andrew Seidman, *Top Pa. GOP Lawmaker Says Hearings Will Begin This Week to Start ‘Forensic Investigation’ of 2020 Election*, The Philadelphia Inquirer (Aug. 24, 2021), <https://www.inquirer.com/politics/pennsylvania/jake-corman-pennsylvania-election-audit-hearings-20210823.html>.

41. If any doubt remained as to the purpose of the Committee’s investigation under Respondent Majority Chair Dush’s direction, his recent public statements confirm that the Committee’s purpose is to, as Former Majority Chair Mastriano proposed, put the 2020 General Election results on trial before the Committee:

What I will say about the election results because the election was done unlawfully because they did not follow the letter of Title 25, nobody in the Commonwealth of Pennsylvania can tell you who the winner was in any of these races from November 2020 ... We will be reviewing ballots, and that will be done in a way that is transparent, so that everybody can see.

Jan Murphy, *Pa. Sen. Cris Dush Talks About Election Review, His Doubts of the Vote Count and How Donald Trump ‘Is Watching’*, PennLive (Aug. 27, 2021), <https://www.pennlive.com/news/2021/08/pa-sen-cris-dush-talks-about-election-review-his-doubts-of-the-vote-count-and-how-donald-trump-is-watching.html>.

42. On September 2, Respondent Majority Chair Dush established a website and invited the public to submit stories of alleged “voter irregularities or other election improprieties” that they “witnessed.” Pa. S. Intergovernmental Operations Comm., *Election Investigation Sworn Testimony*, <https://intergovernmental.pasenategop.com/electioninvestigation/> (last visited Sept. 16, 2021).

43. Respondent Majority Chair Dush scheduled the first public hearing of the Committee on September 9, 2021, for the purpose of beginning the Committee’s investigation of the 2020 General Election results. The public notice of the hearing stated the Committee would examine “the Pennsylvania Department of State’s last minute guidance to counties regarding the 2020 general election.” Committee meeting notice is attached as Exhibit I.

44. At the September 9, 2021 Committee hearing, Stewart Ulsh, Chairman of the Fulton County Board of Commissioners and Board of Elections, provided oral testimony as to his interpretation of the DOS Guidance related to the 2020 General Election; Fulton County’s decision to allow a third-party vendor, Wake Technology Services Inc., to access its electronic voting system to “audit” the County’s election results; and responses to the Petitioners’ questions concerning Ulsh’s reported communications with Committee members leading up to the third party audit. Video Recording: Pa. S. Intergovernmental Operations

Comm. Public Hearing on the Investigation of the 2020 General Election and the 2021 Primary Election, Sept. 9, 2021, at:

<https://intergovernmental.pasenategop.com/intergovernmental-090821/>.

The September 15, 2021 Subpoena Duces Tecum

45. On September 15, 2021, the Senate Intergovernmental Operations Committee met to consider a motion to authorize the issuance of a subpoena duces tecum to the Acting Secretary of the Commonwealth for 17 categories of election-related materials at DOS.

46. The categories of information sought in the subpoena include the names, dates of birth, driver's license numbers, last four digits of social security numbers and addresses of all registered voters within the Commonwealth as of November 1, 2020 and May 1, 2021. The subpoena also seeks information as to how each voter voted in the 2020 General and 2021 Primary Elections (i.e., in-person, mail-in, absentee or provisional).

47. The subpoena further seeks to compel production of the certified results for all races in the two identified elections; a copy of all reports of audits and reviews of the SURE system since 2018; all communications from DOS to any county election director or elections board between May 1, 2020 and May 31, 2021; copies of all versions of DOS directives, guidance, policies or procedures in effect between August 1, 2020 and June 30, 2021 relating to elections, mail-in

ballot applications, ballots, voting, polling places and poll watchers; and 2021 voter registration reports issued by the registration commissions to DOS. The September 15, 2021 subpoena is attached as Exhibit J.

48. At the September 15, 2021 Committee meeting, Petitioners Senators Costa, A. Williams, Hughes and Santarsiero opposed the issuance of the subpoena.

49. Petitioners explained that no authorization exists under law for the expansive audit and limitless investigation that Respondent Majority Chair Dush has proposed.

50. In the course of the meeting, Majority Chair Dush occasionally asserted that the Committee would consider whether future election law changes are needed. Yet, Majority Chair Dush more consistently made clear that the Committee intends to verify voter identities and to investigate allegations related to the 2020 General Election – including allegations of fraud – and to search for an unidentified third-party vendor with unknown standards, qualifications or experience which may or may not have affiliations with a political candidate or political organization.

51. When questioned on the need for obtaining the personal identifying information of all registered voters, Majority Chair Dush revealed that the intent of requesting personal identifying information is to investigate “allegations” into the 2020 General Election, including allegations of fraud:

Senator Santarsiero: Can you explain why it is the proposed subpoena would be requesting social security and driver's license numbers?

Majority Chair Dush: Those documents are part of any audit that the Auditory General would conduct or anybody who is looking to verify the identity – the identity of individuals and their place of residence and their eligibility to vote.

Senator Santarsiero: Okay, well why are we trying to verify the identity of these individuals? There are ov- almost 7 million people, for example, who voted in the November 2020 election both in-person and by mail-in and absentee ballot. Why are we trying to verify their identities?

Majority Chair Dush: *Because there have been questions regarding the validity of – people who have been – who have voted, whether or not they exist. Again, we are not responding to proven allegations. We are investigating the allegations to determine whether or not they are factual.*

Senator Santarsiero: Toward what end? Toward what end would you?

Majority Chair Dush: If we have the- some errors within the voter registration system which allow for such activity, then we have a responsibility as a legislature to create legislation which will prevent that from happening in future elections.

Senator Santarsiero: Well we have legislation right now that requires certain threshold requirements for someone to able to vote. Why specifically would we need this information for the nearly 7 million people who voted. We've heard through our Special Committee earlier this year, from a number of county elections officials from across Pennsylvania, and we heard as recently as last week from a county election official in Fulton County that there were no issues. Why do we need this information?

Video Recording: Pa. S. Intergovernmental Operations Comm. Voting Meeting –

Consideration of Motion to Authorize the Issuance of Subpoenas, Sept. 15, 2021,

at: <https://intergovernmental.pasenategop.com/intergovernmental-091521/> (Senator

Santarsiero's questioning begins at 18:03 in video).

52. Majority Chair Dush repeatedly evaded questions regarding the identity, qualifications or experience of the third-party vendors that he and “his team” are currently “vetting” for purposes of taking over the proposed Committee investigation of election allegations and the examination of Pennsylvanians’ private voter information.

53. The only clear answer Majority Chair Dush provided during this exchange was to confirm that the third-party vendor would be located within the United States and would have experience in reviewing *election results*.

Senator Santarsiero: If this information- if the subpoenas are voted out today and the information is provided is gonna [sic] have access to the information?

Majority Chair Dush: We are still working on getting the contracts finalized. We’re on a vendor on who is capable of conducting such an investigation.

Senator Santarsiero: Who is “we” in that sentence, if I could?

Majority Chair Dush: Myself and my team.

Senator Santarsiero: And-and who is your team?

Majority Chair Dush: My staff as well as the legal counsel who-who will be assisting.

....

Senator Santarsiero: And who is- do we have a- do you have a list of vendors right now that you’re considering that you can share with the committee?

Majority Chair Dush: I don’t have anybody that I’m willing to share at this point.

Senator Santarsiero: That you’re willing to share at this point. And why w- why’s that? Why would you not be willing to share that information right now?

Majority Chair Dush: Because I have not completed vetting those candidates.

....

At this point, we're off the topic of the subpoenas in particular and as to an understanding-

Senator Santarsiero: Mr. Chairman-

Majority Chair Dush: I would ask the member if you have questions regarding the subpoenas and we will proceed from there.

Senator Santarsiero: Mr.-Mr. Chairman I-I strongly with all due respect disagree with that. You are proposing that this committee vote on the issuance of subpoenas that would potentially result in the production of a voluminous amount of information about individual Pennsylvania citizens. The questions about what happens to that information when it comes in, who has access to that information, who are those people, and how are they chosen, I think are dire- those are questions that are directly relevant to the question before this committee, which is whether or not we should issue these subpoenas. How can we vote on whether we should issue the subpoenas if we don't know ultimately what's gonna [sic] happen to this information and who's gonna [sic] have access to it. So I would – I respectfully disagree. Now my question is whoever-

Majority Chair Dush: To answer your question, the Senate Secretary is going to prepare the subpoena directing the Secretary of State to produce the documents and these will come to the Senate and they will be held in the legal counsel's office until such time as we have a finalized agreement and a contract for the investigator. And again, I g- I go back to we need to be pursuing questions on this- the substance of this subpoena...

Senator Santarsiero: So to- so to understand your answer, the- the scope of access that the vendor will be decided by you and your legal team?

Majority Chair Dush: That is correct.

Senator Santarsiero: Okay, and in going through this vetting process, are you- *is one of the factors you're discussing what kind of experience these vendors have with reviewing election results?*

Majority Chair Dush: *Absolutely.* And as well- any similar investigative capabilities that may or may not be required.

Id. (Remarks on third party vendors begins at 23:23 in video).

54. Despite the many legal concerns that the Petitioners communicated to Majority Chair Dush and Respondent Senator Corman throughout the meeting about the proposed investigation into fraud allegations and contracting with unidentified vendors, the Committee voted in favor of authorizing the issuance of the subpoena duces tecum by a vote of 7 to 4.

55. Following the September 15, 2021 meeting, Respondents Majority Chair Dush and Secretary Martin both signed and authorized the subpoena duces tecum, directing the Acting Secretary of the Commonwealth to produce the requested election materials and voter records by October 1, 2021 at 4:00 p.m. The Affidavit of Service is attached as Exhibit K.

56. Majority Chair Dush's own statements during the September 15, 2021 Committee meeting demonstrate that Respondents' intent is to seek a third-party vendor without any prescribed experience or qualifications to conduct an investigation on behalf of the General Assembly into "allegations" related to the 2020 General Election, including voter fraud.

57. The Senate Intergovernmental Operations Committee does not have the legal authority to conduct an audit or open-ended investigation of the 2020 General Election or 2021 Primary Election. The investigation that the Committee seeks to undertake would be tantamount to an election contest and falls outside the

authority of the General Assembly to regulate the holding of elections through enactment of legislation.

58. Receipt of information contained in the subpoena and the retention of a third-party to review that material constitutes an impermissible audit of election-related matters, in contravention of Pennsylvania statutory and constitutional authority.

59. For the reasons stated below, any attempt by Respondents to enforce the subpoena duces tecum issued to the Acting Secretary or to direct, sign, attest and issue further subpoenas to DOS or the counties would constitute a violation of several provisions of the Pennsylvania Election Code and Pennsylvania Constitution and would do irreparable harm to the constitutional rights of the Petitioners and the millions of electors who cast their ballots in the 2020 General Election and 2021 Primary.

COUNT I

Declaratory Judgment and Injunctive Relief
(Legislative Exercise of Judiciary's Exclusive Power Over the Trial and Determination of Contested Elections in Violation of Pennsylvania Constitutional and Statutory Law and the Separation of Powers Doctrine)

60. The Paragraphs of this Petition are incorporated by reference as if set forth in full herein.

The Judiciary's Exclusive Authority Over Election Contests

61. The Pennsylvania Constitution and statutes provide the exclusive means for investigating and determining a contested election. *See* Pa. Const. art. VII, § 13 (giving the courts of the Commonwealth the power over the trial and determination of elections).

62. In seeking to “investigate” allegations of “wrongdoing,” Respondent Majority Chair Dush is attempting to circumvent the exclusive means for contesting an election through a standing committee of the General Assembly.

63. For purposes of all election results contested in Pennsylvania, Article VII, Section 13 of the Pennsylvania Constitution provides:

The trial and determination of contested elections of electors of President and Vice-President . . . at any election shall be by the courts of law, or by one or more of the law judges thereof. The General Assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto

Pa. Const. art. VII, § 13 (emphasis added).

64. This Court has interpreted the term “election contest” as having a particular meaning under the Election Code. The term includes allegations of fraud or wrongdoing, as well as whether the election results of a particular election accurately reflected the votes of the qualified electors. In examining the meaning of “election contest” under Section 1756 of the Election Code, 25 P.S. § 3456 (requiring election contests of classes II through V to be filed by petition twenty days following the election), this Court stated:

In examining this provision, courts of common pleas have consistently held that election contests can only be brought under Section 1756 of the Election Code regarding “matters pertaining to the election process itself, such as the conduct of balloting according to law, the tabulation of the results, and the return thereof . . . the bare mechanics of accurately and honestly ascertaining and recording the will of the electorate.” *As such, election contests are limited to questions of “whether or not the will of the qualified electors was correctly shown by the returns made.”* Echoing that interpretation, the Court has also held that to be maintainable, *election contests must allege fraud or wrongdoing on the part of election officials or others in the casting, computation and return of votes concerning the election being challenged.*

In re Petition to Contest Primary Election of May 19, 1998, 721 A.2d 1156, 1159 (Pa.Cmwlth. 1998) (internal citations omitted) (emphasis added) (affirming the trial court’s dismissal of a purported election contest).

65. The General Assembly confirmed the Judiciary’s exclusive authority over election contests under Article VII, Section 13 by setting forth the general authority of the courts to receive them, creating the several classes of contests, and regulating the manner of their trial, such as the production of documents and opening of the ballot box, in the Election Code. *See, e.g.*, 25 P.S. § 3291 (creating classes of election contests including “class II” for the election of electors of President and Vice President of the U.S.); 25 P.S. § 3351 (directing “class II” election contests to be tried and determined by the courts of common pleas upon petition of at least one hundred electors); 25 P.S. § 3464 (providing courts required to try election contests with plenary power to make, issue and enforce orders and

rules necessary for a “full and proper understanding and final determination and enforcement” of the courts’ decisions); 25 P.S. § 3256 (providing “class II” elections be commenced by petition within twenty days after the day of the primary or election); 25 P.S. § 3352 (giving courts the power to decide which of the candidates in “class II” elections received the most votes and is entitled to office); 25 P.S. § 3465 (outlines power of the court to compel production of documents for purposes of investigating the election contest, including ballots); *see also In re Ellwood City Borough’s Contested Election*, 133 A. 379, 380 (Pa. 1926) (“Whether or not the ballot box will be opened is within the sound discretion of the court.”) (citing *Pfaff v. Bacon*, 95 A. 71 (Pa. 1915)).

66. Pennsylvania constitutional and statutory law thus designates the Judiciary, and not the General Assembly, as the exclusive authority for the trial and determination of election contests, which includes investigations into allegations of wrongdoing or fraud during an election or a reexamination of election results.

Investigation of Elections Is Not A Legislative Function

67. The regulation of the manner of elections is a proper legislative function for purposes of legal legislative investigations. However, the trial and determination of election results or the investigation of allegations of fraud or wrongdoing in a particular election is most certainly not a legislative function. It is a judicial one.

68. Article VII, Section 13 of the Pennsylvania Constitution provides that the “trial and determination” of an election must be delegated to the courts. Pa. Const. art. VII, § 13.

69. By comparison, legitimate legislative functions regarding elections are described in Article VII, Sections 4, 6 and 13 of the Pennsylvania Constitution, which provide for the General Assembly’s authority to regulate the manner of selecting the electors for the election of President; the method of voting; the manner of holding elections and voter registration; and the manner of trial of election contests in the courts. The 2020 General Election has been the subject of at least three legislative or legislatively-created committee investigations for the purposes of reviewing issues relating to the conduct of the election and making recommendations to the General Assembly for changes to election law.

70. Furthermore, a true investigation of a legislative committee is only proper if it is in furtherance of a legitimate “legislative purpose.” *Carcaci v. Brandamore*, 327 A.2d 1, 3 (Pa. 1974).

71. Pennsylvania courts have identified several limitations on what constitutes a legitimate legislative purpose sufficient to justify a General Assembly investigation. These include the government’s encroachments on the individual’s constitutional rights and encroachment on judicial functions related to investigating misconduct of particular accused individuals.

72. The courts have repeatedly and expressly prohibited the General Assembly from conducting, on the pretext of “investigation,” a “fishing expedition” that includes a request for broad swaths of records to search for evidence of alleged wrongdoing. *See Carcaci*, 327 A.2d 1, 5 (Pa. 1974) (In a due process challenge, the court found that a House of Representatives special committee on law enforcement and the administration of justice was a legitimate purpose but that is subject to limits on the government’s encroachment on individual freedom and privacy under Article I of the Pennsylvania Constitution); *American Car & Foundry Co. v. American Water Co.*, 70 A. 867, 869 (Pa. 1908) (Pennsylvania Supreme Court held that a subpoena duces tecum could not properly be issued to bring a “mass of books and papers in order that [the issuer] may search them through to gather evidence.”); *Commonwealth v. Costello*, 21 Pa. D. 232, 235 (Court of Quarter Sessions of the Peace of Pa., Phila. County, 1912) (court found that a Senate investigating committee’s intention was to create a tribunal for the trial of judicial and other officers when charged with immorality, dishonesty or violation of their oaths of office, which had nothing to do with the work of legislation); *McGinley v. Scott*, 164 A.2d 424, 430-31 (Pa. 1960) (Court decided the part of a resolution establishing a legislative committee to investigate the conduct of the District Attorney in Philadelphia was a judicial function and not a legislative one); *Lunderstadt v. Pennsylvania House of Representatives Select*

Committee, 519 A.2d 408, 412 (Pa. 1986) (“Broad as it is, however, the legislature’s investigative role, like any other governmental activity, is subject to the limitations placed by the Constitution on governmental encroachments on individual freedom and privacy.”) (internal citation omitted).

73. Respondent Majority Chair Dush’s proposed investigation into allegations of wrongdoing or fraud in prior elections would include the subpoena for and examination of large swaths of voter records and election results and lacks any legitimate legislative purpose.

74. The “investigation” that Majority Chair Dush intends is a *de facto* election contest of the 2020 General Election and 2021 Primary. It is, very plainly, an effort to conduct a “fishing expedition” by searching through voluminous records of private voter information for “evidence” that supports – in Majority Chair Dush’s own words – unproven allegations related to the 2020 General Election and imaginary fraudulent votes. *See Carcaci*, 327 A.2d at 5; *American Car & Foundry Co. v. American Water Co.*, 70 A. 867 at 869.

75. Respondents made the illegitimate legislative purpose of the Committee investigation obvious even before the September 15, 2021 Committee meeting. Majority Chair Dush and Former Majority Chair Mastriano made repeated statements to the media as to their “doubts” about the accuracy of the

results of the 2020 General Election and Mastriano's prior requests for access to all ballots cast in Philadelphia, Tioga and York Counties and their voting systems.

76. Respondent Corman made the same purpose clear when he recently declared that the intent of a subpoena was "to get the ballots" cast in the 2020 General Election and to "match them up" to investigate "fraud." Respondent Majority Chair Dush's statements on September 15 that the Committee would subpoena private voter information from the SURE system only to verify individual voters and investigate allegations of fraud about prior elections only confirmed the Respondents' prior public statements.

77. A legitimate legislative investigation into the election processes, even if specific to concerns of certain prior elections, requires an examination of information that is already available to the Committee, including publicly available DOS Guidance, relevant Election Code provisions, information related to the two completed audits of the 2020 General Election, and testimony from county election officials.

78. Any legitimate legislative investigation would not require a subpoena for election materials and large swaths of private voters' identifying information from the SURE system or the counties. In fact, the General Assembly sought similar information in a legitimate manner following the 2020 General Primary with its enactment of Act 35 of 2020, 71 P.S. § 279.6, with the notable exception

of voters' names, addresses, driver's license numbers and the last four digits of their social security numbers. Act 35 required DOS to issue a report to the Senate and House State Government Committees 60 days following the 2020 General Primary Election on several categories of aggregated voting data separated by county and types of ballots (i.e., in-person, mail-in, absentee and provisional ballot) for each county and information related to incidents or issues with the voting systems and absentee or mail-in ballots. Without objection, DOS submitted the report on August 1, 2020. Pa. Department of State, Pennsylvania 2020 Primary Election, Act 35 of 2020 Report (Aug. 1, 2020),

<https://www.dos.pa.gov/VotingElections/Documents/2020-08-01-Act35Report.pdf>.

There is no reason the General Assembly cannot pass legislation requesting the same information for the 2020 General and 2021 Primary Elections now.

79. What Majority Chair Dush attempts to characterize as a “legislative investigation” is an untimely election contest, launched through a standing committee of the General Assembly, well after the twenty-day post-election deadline in Section 1756 of the Election Code, exceeding the Legislature's authority and well beyond the provisions Pennsylvania Constitution.

80. The constitutional law is clear: The Judiciary has the exclusive authority to investigate and determine the results of a contested Presidential election, including the 2020 General Election.

81. Respondent Majority Chair Dush's attempted forensic investigation of election results is a *de facto* untimely election contest, disguised as a legislative investigation, in a venue without jurisdiction, which Respondent Dush conveniently controls as Chair of the Senate Intergovernmental Operations Committee. This is a clear violation of law and the separation of powers doctrine. *Sweeney v. Tucker*, 375 A.2d 698, 709 (Pa. 1977) (discussing the crucial role of courts in enforcing constitutional limitations on the legislative power, particularly in cases where the interests or entitlements of individual citizens are at risk).

WHEREFORE, Petitioners respectfully request that the Court:

(a) Declare that it is unconstitutional and contrary to law to convene a legislative standing committee to issue subpoenas for multiple election records, including private voter information consisting of dates of birth, addresses, driver's license numbers and social security numbers from the SURE system, related to the 2020 General Election and 2021 Primary to investigate the allegations of wrongdoing or to confirm election results.

(b) Declare that the Judiciary has the exclusive power over the trial and determination of contested elections and audits under the Pennsylvania Constitution and Election Code and that a legislative effort to investigate the allegations of wrongdoing or to confirm election results violates the separation of powers doctrine and is contrary to law.

(c) Enjoin the Respondents from taking further action to enforce or issue legislative subpoenas as intended for the purpose of investigating allegations of wrongdoing or to confirm election results.

(d) Grant such other relief that is just and appropriate.

COUNT II

Declaratory Judgment and Injunctive Relief
(Violation of Pennsylvania Law Regarding Authority to Conduct Election-Related Audits)

82. Each of this Petition's Paragraphs are incorporated in this Count by reference.

83. Pursuant to Pennsylvania statutory law, audits are a function designated to the executive branch and the several counties of the Commonwealth, not the General Assembly.

84. Pennsylvania law recognizes that audits are a function of the executive branch and empower the Auditor General to conduct audits for the Commonwealth. *See* 72 P.S. § 401 *et seq.*; *see also Casey v. Pennsylvania State University*, 345 A.2d 695, 697 (Pa. 1975) ("The fiscal code enumerates the auditing powers and duties of the Auditor General."); *Dept. of Aud. Gen. v. State Employees' Retirement Sys.*, 836 A.2d 1053, 1067 (Pa. Cmwlth. 2003) ("In Section 402 of The Fiscal Code, the legislature authorized the Auditor General to conduct special audits of the affairs of all departments, boards, commissions or officers when they may appear necessary to the Auditor General and provided that unless

the Auditor General fails or refuses to conduct annual, quarterly or special audits it shall be unlawful for any department, board, commission or officer to expend legislative appropriations to conduct an audit of its own affairs.”).

85. The Auditor General is the Commonwealth’s chief watchdog, with the responsibility of ensuring that state government spends state finances properly and that governmental programs meet their stated goals and objectives. <https://www.paauditor.gov/about-the-department>. The Auditor General’s authority has extended into the election domain. In 2019, the Auditor General conducted an audit of Pennsylvania voting systems. *See* Performance Audit Report, Pa. Department of State, Statewide Uniform Registry of Electors (December 2019),

https://www.paauditor.gov/Media/Default/Reports/Department%20of%20State_SURE%20Audit%20Report%2012-19-19.pdf.

86. The Auditor General is the default executive actor who is tasked with performing audits for the Commonwealth. The Legislature, through legislation, could require a different executive actor to conduct a particular executive function, so long as the designation does not conflict with the Commonwealth’s constitution. *See Casey*, 345 A.2d at 697 (holding that the Auditor General did not have the authority to initiate suit to collect debts owed to the Commonwealth

because a Pennsylvania statute reassigned that authority to the Pennsylvania Attorney General.).

87. The General Assembly could thus enact legislation that allocates executive audit responsibilities to another *executive* actor, which it has already done. Pennsylvania legislation already requires county boards of elections, which the DOS oversees, to audit results post-election by reviewing either two percent of ballots or 2,000 ballots (whichever is less) in their respective counties to ensure the integrity of the vote. 25 P.S. § 3031.17. Thus, the General Assembly may legislate that a particular executive department audit election results, but it may not execute the audit itself.

88. Recent activity of both the legislative and judicial branches showcases widespread recognition that the execution of an audit is an executive function and not a legislative function. The General Assembly and the Judiciary have explicitly authorized two separate and distinct post-election audits of Pennsylvania's elections – a statistical sample audit conducted in every county in accordance with the Election Code, 25 P.S. § 3031.17, and a court-authorized risk-limiting audit that the DOS conducted as a result of the *Stein* settlement. Neither authorization permits Respondent Majority Chair Dush's purported investigation. Republican members of the General Assembly sought, unsuccessfully, to allocate \$3.1 million to the Auditor General's budget for the purpose of election auditing, another

acknowledgment that the *execution* of an audit is a function reserved for the *executive*, not the legislative branch of Pennsylvania's government. Jonathan Lai, *Governor Tom Wolf Vetoed Funding that Republicans Had Pushed for a New Pa. Election Audit Bureau*, The Philadelphia Inquirer (updated June 30, 2021), <https://www.inquirer.com/politics/election/pennsylvania-election-audit-bureau-tom-wolf-veto-20210630.html>. Finally, a Republican Senator recently introduced legislation that would require the Auditor General to conduct a post-election audit of the 2020 Presidential election. *See* S.B. 528, Printer's Number 602, 205th Gen. Assemb., Reg. Sess. (Pa. 2021). As a result, disagreement may exist as to which executive actor should conduct election audits, but both executive and legislative actors have traditionally understood that the execution of an audit is an executive rather than a legislative function.

89. Respondents are seeking to conduct an audit of these elections. At the September 15, 2021 Committee meeting, Majority Chair Dush attempted to limit his use of the word "audit" to describe his proposed investigation, despite his many public statements using that word. However, he stated on the record at the September 15 meeting that he seeks these records from DOS to verify voters' identities and "[b]ecause there have been questions regarding the validity of – people who have been – who have voted, whether or not they exist . . . We are investigating the allegations to determine whether or not they are factual." He

further admitted that he is seeking a third-party investigator with experience in auditing election results.

Senator Santarsiero: Okay, and in going through this vetting process, are you- *is one of the factors you're discussing what kind of experience these vendors have with reviewing election results?*

Majority Chair Dush: *Absolutely.* And as well- any similar investigative capabilities that may or may not be required.

90. Video Recording: Pa. S. Intergovernmental Operations Comm. Voting Meeting – Consideration of Motion to Authorize the Issuance of Subpoenas, Sept. 15, 2021, at: <https://intergovernmental.pasenategop.com/intergovernmental-091521/> (Remarks on third-party vendors begin at 23:23 in video). This is an audit, regardless of how Respondents referred to it during the Committee meetings. After the September 15, 2021 hearing, Committee Republicans launched a website: <http://paelectioninvestigation.com>. This site refers to the process as an “audit.” (See, e.g., under “Frequently Asked Questions:” “Who will conduct the audit?” and “Will you do the same type of audit as Arizona?”).

91. To determine whether the General Assembly is, in effect, conducting an audit, courts must interpret legislative action by the action’s practical consequence rather than by its purported function. See, e.g., *N.F.I.B. v. Sebelius*, 567 U.S. 519, 564-65 (2012) (classifying the Affordable Care Act’s individual mandate as a tax rather than a penalty because of the mandate’s function in practice, despite Congress labeling the mandate as a “penalty”).

92. This Court has applied the Generally Accepted Government Auditing Standards (GAGAS), first promulgated by the United States Comptroller General, to Pennsylvania government audits. *See Dept. of Aud. Gen. v. State Employees' Retirement Sys.*, 860 A.2d 206, 210 (Pa. Cmwlth. 2004) (holding that the Auditor General had the authority to conduct special performance audits of state retirement systems). GAGAS defines a performance audit as “an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action.” *See id.* Black’s Law Dictionary defines an “audit” as “[a] formal examination of an individual’s or organization’s accounting records, financial situation, or compliance with some other set of standards.”

93. During the September 15, 2021 Committee meeting, Respondents communicated that their objective of the investigation is to gather large swaths of private voter information to investigate allegations of wrongdoing and fraud during these elections, i.e., to perform “a systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization.” This is an audit.

94. The General Assembly has acknowledged and the courts have held that election-related audits are an executive function. Nothing in existing law provides any authority to a legislative standing committee to compel DOS or the counties to disclose private voter information from the SURE system or seek other election related materials for purposes of auditing the results of a prior election. It simply does not exist.

WHEREFORE, Petitioners respectfully request that the Court:

(a) Declare that convening the Senate Intergovernmental Operations Committee to issue subpoenas for multiple election records, including private voter information such as dates of birth, addresses, driver's license numbers and social security numbers from the SURE system, related to the 2020 General Election and 2021 Primary to investigate the allegations of wrongdoing or to confirm election results is a violation of the audit provisions of the Pennsylvania Election Code.

(b) Enjoin Respondents from taking any further action to enforce or issue legislative subpoenas for such information, including for the performance of an audit.

(c) Grant such other relief that is just and appropriate.

COUNT III

Declaratory Judgment and Injunctive Relief
(Committee Subpoena Requests Information Protected from Disclosure by the Pennsylvania Election Code and Regulations of the Department of State)

95. Each of this Petition's Paragraphs are incorporated in this Count by reference.

96. The Senate Intergovernmental Operations Committee's subpoena duces tecum issued to the Acting Secretary of the Commonwealth requests, in part, the following items:

- a. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, address, and date of last voting activity of all registered voters within the Commonwealth of Pennsylvania as of May 1, 2021, by County.
- b. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, address, and date of last voting activity of all registered voters within the Commonwealth of Pennsylvania as of November 1, 2020, by County.
- c. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted in person in the November 2020 General Election, by County.
- d. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by mail-in ballot in the November 2020 General Election, by County.
- e. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by absentee ballot in the November 2020 General Election, by County.
- f. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by

provisional in the November 2020 General Election, by
County.

97. The process for registering to vote in the Commonwealth of Pennsylvania is governed by Title 25 of the Pennsylvania Consolidated Statutes and details the procedures that county and state officials must use.

98. Pursuant to these statutes, the Secretary of the Commonwealth is granted the authority to promulgate regulations necessary to establish, implement and administer the SURE system. 25 Pa.C.S. § 1222(f).

99. Voter registration is available to a citizen who will be 18 years of age on the date of the next election for which the person is registering to vote, has resided in the election district for at least 30 days prior to the next election and has not been confined for conviction of a felony within the last five years. 25 Pa.C.S. § 1301.

100. Voter registration may be completed by one of four prescribed methods provided by statute: in-person registration; registration with a driver's license application; registration by mail; or registration in conjunction with an application for public benefits through a government agency. 25 Pa.C.S. § 1321.

101. As provided by statute and DOS regulations, the applications are submitted to county commissions for the purposes of reviewing the applications, verifying the application and information of the applicant, and approving the registration or hearing challenges to the registration application.

102. If the application is approved, the county commission notifies the voter, assign a voter identification number, and add the registrations to the list of voters for the election district. This information is also forwarded to DOS to be included in the statewide database of voters.

103. Regulations promulgated pursuant to the Secretary's statutory authority provide that the Voter Registration Mail Application Form details the information to be provided by the applicant, which includes name, address, date of birth, driver's license number and last four digits of the applicant's social security number. 4 Pa. Code § 183.1.

104. Pursuant to Title 25, only a very limited number of officials review and retain the information that an applicant provides to register to vote. The authorized officials include the election commission officials in each county, the Secretary of the Commonwealth, and the employees or agents that the Secretary assigns for the administration of the SURE system, with only very limited, statutorily-prescribed exceptions.

105. The security and confidentiality of this system is so important that the General Assembly included a criminal provision for the unauthorized access to the SURE system without lawful authority or with the intent to unlawfully misuse the equipment or information contained in the system. 25 Pa.C.S. § 1707.

106. On request, a county registration commission may provide a list containing individual registered voters in the county to the requester. However, the list may not contain a digitized or electronic signature or the SURE registration number of the voter. 25 Pa.C.S. § 1404(a).

107. Further, pursuant to regulation promulgated by the Secretary of the Commonwealth at 4 Pa. Code § 183.14, DOS may also provide public information lists on request. These lists may only include the following information:

Name of registrant.

The address of the registrant.

The date of birth of the registrant.

The voting history of the registrant.

108. Public disclosure of certain information provided by the applicant and included in the SURE system, and the information concerning certain listed individuals, is prohibited. The protected information includes the registrant's unique identifier, a registrant's or applicant's driver's license number, and the last four digits of the registrant's or applicant's social security number. 4 Pa. Code § 183.14(c)(3). The same regulation also prohibits disclosure of information regarding peace officers, corrections employees, judicial officials, and individuals who are protected by Protection from Abuse Orders.

109. The statutory framework that created the SURE system and established the process for applying to vote in the Commonwealth includes substantial and important privacy protections from the unauthorized disclosure of information provided in the application and subsequent registration. That framework provides that a limited number of specified officials have access to the information that applicants and registered voters provide, and includes criminal penalties for the unauthorized access or use of information included in the SURE system.

110. Because the Committee has stated its intention to funnel the requested information directly to a private third-party contractor, the Committee's subpoena requests are contrary to the authorized disclosure and privacy provisions contained in Title 25 of the Pennsylvania Consolidated Statutes, Part IV, and the regulations promulgated by the Acting Secretary of the Commonwealth pursuant to her statutory authority in administering and implementing that Part.

WHEREFORE, Petitioners respectfully request that the Court:

(a) Declare that the voter information that the Senate Intergovernmental Operations Committee's subpoena requests is protected from disclosure under the Pennsylvania Election Code and DOS regulations and enjoin Respondents from taking any further action to enforce or issue such legislative subpoenas.

(b) Grant such other relief that is just and appropriate.

Prayer for Relief

WHEREFORE, Petitioners respectfully request that the Court:

(a) Declare that it is unconstitutional and contrary to law to convene a legislative standing committee to issue subpoenas for multiple election records, including private voter information consisting of dates of birth, addresses, driver's license numbers and social security numbers from the SURE system, related to the 2020 General Election and 2021 Primary to investigate the allegations of wrongdoing or to confirm election results.

(b) Declare that the Judiciary has the exclusive power over the trial and determination of contested elections and audits under the Pennsylvania Constitution and Election Code and that a legislative effort to investigate the allegations of wrongdoing or to confirm election results violates the separation of powers doctrine and is contrary to law.

(c) Enjoin the Respondents from taking further action to enforce or issue legislative subpoenas as intended for the purpose of investigating allegations of wrongdoing or to confirm election results.

(d) Declare that convening the Senate Intergovernmental Operations Committee to issue subpoenas for multiple election records, including private voter

information such as dates of birth, addresses, driver's license numbers and social security numbers from the SURE system, related to the 2020 General Election and 2021 Primary to investigate the allegations of wrongdoing or to confirm election results is a violation of the audit provisions of the Pennsylvania Election Code.

(e) Enjoin Respondents from taking any further action to enforce or issue legislative subpoenas for such information, including for the performance of an audit.

(f) Declare that the voter information that the Senate Intergovernmental Operations Committee's subpoena requests is protected from disclosure under the Pennsylvania Election Code and DOS regulations and enjoin Respondents from taking any further action to enforce or issue such legislative subpoenas.

(g) Grant such other relief that is just and appropriate.

Respectfully submitted,

/s/ Clifford B. Levine

Clifford B. Levine (PA ID # 33507)

Emma Shoucair (PA ID # 325848)

Matthew R. Barnes (PA ID # 328771)

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/s/ Shannon A. Sollenberger

Claude J. Hafner, II (PA ID # 45977)

Ronald N. Jumper (PA ID # 64346)

Shannon A. Sollenberger (PA ID # 308878)

Democratic Caucus

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Eml: shannon.sollenberger@pasenate.com

Attorneys for Petitioners

Dated: September 17, 2021

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CERTIFICATION OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Clifford B. Levine

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Attorneys for Petitioners

Dated: September 17, 2021

VERIFICATION

I hereby verify that the statements made in the foregoing Petition for Review are true and corrected based upon my personal knowledge or information and belief. I understand that false statements therein are subject to penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink that reads "Jay Costa". The signature is written in a cursive style with a large, looped initial "J".

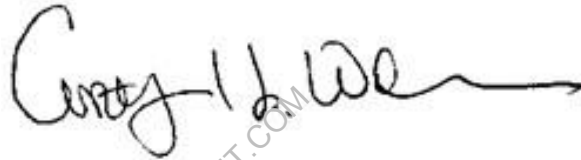
Senator Jay Costa

Dated: September 17, 2021

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VERIFICATION

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A handwritten signature in black ink, appearing to read "Anthony H. Williams", written over a horizontal line.

Senator Anthony H. Williams

Dated: September 17, 2021

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VERIFICATION

I hereby verify that the statements made in the foregoing Petition for Review are true and corrected based upon my personal knowledge or information and belief. I understand that false statements therein are subject to penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Vincent J. Hughes", with a long horizontal flourish extending to the right.

Senator Vincent J. Hughes

Dated: September 17, 2021

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VERIFICATION

I hereby verify that the statements made in the foregoing Petition for Review are true and corrected based upon my personal knowledge or information and belief. I understand that false statements therein are subject to penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Sen. Santarsiero", written over a horizontal line.

Senator Steven J. Santarsiero

Dated: September 17, 2021

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CERTIFICATION OF SERVICE

I, Shannon A. Sollenberger, hereby certify that I have this day served a true and correct copy of the foregoing *Petition for Review in the Nature of a Complaint for Declaratory and Injunctive Relief* upon the following persons by Certified Mail, which service satisfies the requirements of Pa. R.A.P. 121 and Pa. R.A.P. 1514:

Senator Jacob Corman III, PA 34th Senatorial District
350 Main Capitol
Harrisburg, PA 17120
Respondent

Senator Cris Dush, PA 25th Senatorial District
16 East Wing, Main Capitol
Harrisburg, PA 17120
Respondent

Megan Martin, Senate Secretary-Parliamentarian
462 Main Capitol
Harrisburg, PA 17120
Respondent

The Honorable Josh Shapiro, PA Attorney General
Office of the Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

/s/ Shannon A. Sollenberger
(Signature of the Person Serving)

Shannon A. Sollenberger (PA ID # 308878)
Democratic Caucus
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Harrisburg, PA 17120
(717) 787-3736
Eml: shannon.sollenberger@pasenate.com

Dated: September 17, 2021

Attorney for Petitioners

Attachment 1

Additional Senate Democratic Caucus Members

State Senator Lisa M. Boscola
State Senator James R. Brewster
State Senator Amanda M. Cappelletti
State Senator Maria Collett
State Senator Carolyn T. Comitta
State Senator Marty Flynn
State Senator Wayne D. Fontana
State Senator Art Haywood
State Senator John I. Kane
State Senator Timothy P. Kearney
State Senator Katie J. Muth
State Senator John P. Sabatina
State Senator Nikil Saval
State Senator Judith L. Schwank
State Senator Sharif Street
State Senator Christine M. Tartaglione
State Senator Lindsey M. Williams

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EXHIBIT A

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 3

Session of
2021

INTRODUCED BY K. WARD, JANUARY 5, 2021

INTRODUCED AND ADOPTED, JANUARY 5, 2021

A RESOLUTION

1 Adopting the Rules of the Senate for the 205th and 206th Regular
2 Session.

3 RESOLVED, That the following be adopted as the Rules of the
4 Senate for the governing of the 205th and 206th Regular Session.
5 2021-2022

6 RULES OF THE SENATE OF PENNSYLVANIA

7 Rule 1. Sessions.

8 (a) Regular and special.--The General Assembly shall be a
9 continuing body during the term for which its Representatives
10 are elected. It shall meet at twelve o'clock noon on the first
11 Tuesday of January each year. Special sessions shall be called
12 by the Governor on petition of a majority of the Members elected
13 to each House or may be called by the Governor whenever in his
14 opinion the public interest requires. (Const. Art. II, Sec. 4)

15 (b) Weekly.--The Senate shall convene its weekly sessions on
16 Monday, unless the Senate shall otherwise direct.

17 Rule 2. President.

18 The Lieutenant Governor shall be President of the Senate.

1 (Const. Art. IV, Sec. 4)

2 Rule 3. Duties of the President.

3 The President shall:

4 (1) Take the chair on every legislative day at the hour
5 to which the Senate stands recessed, immediately call the
6 Senators to order, and proceed with the Order of Business of
7 the Senate.

8 (2) While in session have general direction of the
9 Senate Chamber. It shall be the President's duty to preserve
10 order and decorum, including ensuring all members and staff
11 with privilege of the floor are properly attired pursuant to
12 Senate Rule 10, and, in case of disturbance or disorderly
13 conduct in the Chamber or galleries, may cause the same to be
14 cleared. When in the President's opinion there arises a case
15 of extreme disturbance or emergency the President shall, with
16 the concurrence of the President Pro Tempore, the Majority
17 Leader and the Minority Leader, recess the Senate. Such
18 recess shall not extend beyond the limitation imposed by
19 Article II, section 14 of the Constitution.

20 (3) During debate, prevent personal references or
21 questions as to motive, and confine Senators, in debate, to
22 the question.

23 (4) Decide, when two or more Senators arise, who shall
24 be first to speak.

25 (5) In the presence of the Senate, within one
26 legislative day after receipt or adoption, sign all bills and
27 joint resolutions which have passed both Houses after their
28 titles have been read.

29 (6) Sign resolutions, orders, writs, warrants and
30 subpoenas issued by order of the Senate. The signature shall

1 be attested by the Secretary-Parliamentarian of the Senate,
2 or, if absent, by the Chief Clerk of the Senate; and the fact
3 of signing shall be entered in the Journal on the next
4 available session day.

5 (7) Decide all points of order, subject to appeal,
6 giving, however, any Member called to order the right to
7 extenuate or justify. Debate shall not be permitted unless
8 there be an appeal from a decision of the President in which
9 event the President shall submit the question to the whole
10 Senate for decision. The President shall submit points of
11 order involving the constitutionality of any matter to the
12 Senate for decision. Questions of order submitted to the
13 Senate may be debated.

14 Rule 4. President Pro Tempore.

15 (a) Election.--The Senate shall, at the beginning and close
16 of each regular session and at such other times as may be
17 necessary, elect one of its Members President Pro Tempore, who
18 shall perform the duties of the Lieutenant Governor in any case
19 of absence or disability of that officer, and whenever the
20 office of Lieutenant Governor shall be vacant. (Const. Art. II,
21 Sec. 9)

22 (b) Voting.--The vote of a majority of the Members voting
23 shall be required to elect a President Pro Tempore. Except at
24 the beginning and close of each regular session, the Senate
25 shall only elect a President Pro Tempore when the office has
26 become vacant and the vote of the majority of the Members
27 elected shall be required to vacate the office of a seated
28 President Pro Tempore.

29 Rule 5. Duties of President Pro Tempore.

30 (a) Mandatory.--The President Pro Tempore shall:

1 (1) Appoint the Chair, Vice Chair and members of the
2 Standing Committees of the Senate as soon after the election
3 of the President Pro Tempore as possible. Upon the
4 resignation of the Chair of a standing committee, the
5 President Pro Tempore may designate an acting Chair.

6 (2) Appoint members to special committees whenever
7 authorized.

8 (3) Fill all vacancies occurring in standing and special
9 committees.

10 (4) Refer to the appropriate standing committee every
11 bill and joint resolution which may be introduced in the
12 Senate or received from the House of Representatives.

13 (5) Appoint and have under the President Pro Tempore's
14 direction such Senate employees as are authorized by law.

15 (6) Vote last on all questions when occupying the Chair.

16 (b) Discretionary.--The President Pro Tempore may name any
17 Senator to preside in the absence of the President, or if both
18 the President and President Pro Tempore are absent the Majority
19 Leader, or the Majority Leader's designee, shall preside. The
20 Majority Leader, during such time, shall be vested with all
21 powers of the President. This authority shall not extend beyond
22 a day's recess.

23 Rule 6. Duties of the Secretary-Parliamentarian.

24 (a) Election.--At the beginning of each regular session
25 convening in an odd-numbered year and at other times as may be
26 necessary, the Senate shall elect a Secretary-Parliamentarian of
27 the Senate.

28 (b) General duties.--The Secretary-Parliamentarian of the
29 Senate shall:

30 (1) Assist the presiding officer in conducting the

1 business of the session.

2 (2) Act in the capacity of Parliamentarian.

3 (c) Specific duties.--The Secretary-Parliamentarian of the
4 Senate shall, subject to the direction of the President Pro
5 Tempore:

6 (1) Direct the following functions:

7 (i) Amending bills in the Senate.

8 (ii) Preparing and publishing the Senate Calendar.

9 (iii) Publication of the Senate History.

10 (iv) Numbering Senate bills as they are introduced
11 and causing them to be distributed to the chair of the
12 committee to which they are referred and receiving a
13 receipt for the same.

14 (v) Printing of bills.

15 (vi) Maintain and update, as needed, the Legislative
16 Data Processing Senate Virtual Session Desk application
17 for use by members and staff.

18 (2) Keep a record of the Senate action on a bill on a
19 special record sheet attached to the bill after it has been
20 reported from committee.

21 (3) Keep a record of all leaves granted by the Senate by
22 compiling the leave requests submitted by a member and
23 transmitted to the Secretary-Parliamentarian by the
24 respective Floor Leaders. These records shall be retained
25 only for the duration of the two-year legislative session.
26 Further, these records shall be available for public
27 inspection upon request.

28 (4) Transmit all bills, joint resolutions, concurrent
29 resolutions and other communications to the House of
30 Representatives within one legislative day of final passage

1 or adoption, and each shall be accompanied by a message
2 stating the title to the measure being transmitted and
3 requesting concurrence of the House, as required.

4 (5) Attest all writs, warrants and subpoenas issued by
5 order of the Senate; certify as to the passage of Senate
6 Bills and the approval of executive nominations.

7 (6) Supervise the Senate Library, assist Senators by
8 making reference material available to them and perform any
9 duties assigned to the Senate Librarian by any statute.

10 (7) Supervise the Chief Sergeant-at-Arms, the Senate
11 Bill Room, the Senate Print Shop, the Official Reporter's
12 Office and the Senate Page Service.

13 (8) Post each roll call vote taken in the Senate on the
14 Internet website maintained by the Senate immediately, but in
15 no case later than 24 hours after the vote. Each roll call
16 vote shall be posted in a manner which clearly identifies the
17 bill, resolution or other subject of the vote.

18 (9) Post the Legislative Journal of the Senate on the
19 Internet website maintained by the Senate upon approval of
20 the Journal or within 90 calendar days of each session day,
21 whichever is earlier. The journal shall be the official
22 record of the Senate upon Senate approval or posting of the
23 Journal on the Internet website by the Secretary-
24 Parliamentarian.

25 (10) Provide for the publication and dissemination of
26 educational or informational literature pertaining to the
27 Senate, the Commonwealth of Pennsylvania or the Government of
28 the United States.

29 Rule 7. Duties of the Chief Clerk of the Senate.

30 (a) Election.--At the beginning of each regular session

1 convening in an odd-numbered year and, whenever necessary, the
2 Senate shall elect a Chief Clerk of the Senate.

3 (b) Duties.--The Chief Clerk shall be the chief fiscal
4 officer of the Senate and shall perform those powers and duties
5 prescribed by law, the Rules of the Senate and at the direction
6 of the President Pro Tempore. In the absence of the Secretary-
7 Parliamentarian, the Chief Clerk shall, subject to the direction
8 of the President Pro Tempore, attest all writs, warrants and
9 subpoenas issued by order of the Senate and shall certify as to
10 the passage of Senate Bills and the approval of executive
11 nominations.

12 Rule 8. Duties of the Chief Sergeant-at-Arms

13 There shall be a Chief Sergeant-at-Arms who shall:

14 (1) Be constantly in attendance during the sessions of
15 the Senate except when absent in discharging other duties.

16 (2) Appoint, have charge of and direct the work of the
17 assistant sergeants-at-arms.

18 (3) Serve all subpoenas and warrants issued by the
19 Senate or any duly authorized officer or committee.

20 (4) Maintain order, at the direction of the presiding
21 officer, in the Senate Chamber and adjoining rooms.

22 (5) See that no person, except those authorized to do
23 so, disturbs or interferes with the desk, or its contents, of
24 any Senator or officer.

25 (6) Exclude from the Floor all persons not entitled to
26 the privilege of the same.

27 (7) Have charge of all entrances to the Chamber during
28 the sessions of the Senate and shall see that the doors are
29 properly attended.

30 (8) Announce, upon recognition by the presiding officer,

all important communications and committees.

(9) Escort the Senate to all Joint meetings with the mace.

(10) Escort the Senate to attend funeral services of members, former members of the Senate or other dignitaries with the mace.

Rule 9. Order of Business.

(a) General rule.--The Order of Business to be observed in taking up business shall be as follows:

First Call to Order.

Second Prayer by the Chaplain and Pledge of Allegiance.

Third Reading of Communications.

Fourth Receiving reports of committees.

Fifth Asking of leaves of absence. No Senator shall absent himself without leave of the Senate, first obtained, unless prevented from attendance by sickness, or other sufficient cause.

Sixth Approval of Journals of preceding session days.

Seventh Offering of original resolutions.

Eighth Introduction of Guests.

Ninth Consideration of the Calendar.

Any bill or resolution on the Calendar not finally acted upon within 10 legislative days shall be removed from the Calendar and

1 laid on the table, unless the
2 Senate shall otherwise direct.
3 Tenth Consideration of Executive
4 Nominations.
5 Eleventh Unfinished Business. Reports of
6 Committees.
7
8 Twelfth First consideration of bills
9 reported from committee, which,
10 at this time, shall not be
11 subject to amendment, debate or
12 a vote thereon.
13 Thirteenth Announcements by the Secretary-
14 Parliamentarian.
15 Fourteenth Introduction of Petitions and
16 Remonstrances.
17 Fifteenth Recess.

18 (b) Special order of business.--Any subject may, by a vote
19 of a majority of the Members present, be made a special order;
20 and when the time so fixed for its consideration arrives, the
21 presiding officer shall lay it before the Senate.

22 Rule 10. Order and decorum.

23 (a) Recognition.--Any Senator who desires to speak or
24 deliver any matter to the Senate shall rise and respectfully
25 address the presiding officer as "Mr. President" or "Madam
26 President," and on being recognized, may address the Senate at a
27 microphone located on the Floor of the Chamber.

28 (b) Avoiding personal references.--Any Senator addressing
29 the Senate shall confine remarks to the question under debate,
30 avoiding personal references or questions as to motive.

1 (c) Speaking out of order.--If any Senator transgresses the
2 Rules of the Senate, in speaking or otherwise, the presiding
3 officer may, or any Senator may through the presiding officer,
4 call that Senator to order.

5 (d) Speaking more than twice.--No Senator shall speak more
6 than twice on one question without leave of the Senate.

7 (e) Decorum.--When a Senator is speaking, no other person
8 shall pass between the Senator and the presiding officer.

9 (f) Order and privilege.--No Senator speaking shall be
10 interrupted except by a call to order, a question of privilege,
11 a question of order or a call for the previous question, without
12 the consent of the Senator speaking, and no Senator shall speak
13 on a question after it is put to a vote.

14 (g) Questions of order.--The presiding officer shall decide
15 all questions of order, subject to appeal by any member. No
16 debate shall be allowed on questions of order, unless there is
17 an appeal. A second point of order on the same general subject,
18 but not the same point, is not in order while an appeal is
19 pending, but when the first appeal is decided, laid on the table
20 or otherwise disposed of, the second point of order is in order
21 and is subject to appeal. While an appeal is pending, no other
22 business is in order. It is within the discretion of the
23 presiding officer as to whether to vacate the chair on an
24 appeal.

25 (h) Question when interrupted.--A question regularly before
26 the Senate can be interrupted only by a call for the previous
27 question, for amendment, postponement, to lay on the table,
28 commitment, recess or adjournment sine die.

29 (i) Use of tobacco products.--No tobacco products, including
30 cigarettes, cigars, pipes and chewing tobacco, shall be used in

1 the Senate Chamber or in Senate Committee Rooms.

2 (j) Cell phones.--In the Senate Chamber, cell phones and
3 similar portable communication devices shall be set to silent
4 mode and use of voice or video recording and broadcasting
5 capabilities is prohibited.

6 (k) Proper attire.--Members and staff with privilege of the
7 floor during Senate sessions shall not dress in a manner
8 offensive to the decorum of the Senate but shall be dressed in
9 professional attire, including a coat, tie and trousers or
10 slacks for men, and appropriate dignified dress for women.

11 Rule 11. Motions.

12 (a) Putting a motion.--When a motion is made, it shall,
13 before debate, be stated by the presiding officer. Every motion
14 made to the Senate and entertained by the presiding officer
15 shall be entered in the Journal with the name of the Senator
16 making it. A motion may be withdrawn by the Senator making it
17 before amendment, postponement, an order to lay on the table or
18 decision.

19 (b) Precedence of motions.--Motions shall take precedence in
20 the following order,

21 (1) Adjourn sine die.

22 (2) Recess.

23 (3) Previous question.

24 (4) Recess temporarily within the same session day.

25 (5) Questions of privilege of the Senate.

26 (6) Orders of the day.

27 (7) Lay on the table.

28 (8) Limit, close or extend limit on debate.

29 (9) Postpone.

30 (10) Commit or recommit.

1 (11) Amend.

2 (12) Main motion.

3 (c) Non-debatable motions.--Non-debatable motions are:

4 (1) Adjourn sine die.

5 (2) Recess.

6 (3) Recess temporarily within the same session day.

7 (4) Previous question.

8 (5) Lay on the table.

9 (6) Orders of the day.

10 (7) Limit, close or extend limit on debate.

11 (d) Motions which permit limited debate.--

12 (1) On the motion to postpone, the question of
13 postponement is open to debate, but the main question is not.

14 (2) The motion to commit or recommit to committee is
15 debatable as to the propriety of the reference, but the main
16 question is not open to debate.

17 (3) The motion to amend is debatable on the amendments
18 only and does not open the main question to debate.

19 (e) Seconding motions.--All motions, except for the previous
20 question, which shall be seconded by not less than four
21 Senators, may be made without a second.

22 (f) Recessing and convening.--

23 (1) A motion to recess shall always be in order, except,
24 when on the call for the previous question, the main question
25 shall have been ordered to be now put, or when a Member has
26 the Floor, and shall be decided without debate.

27 (2) On a motion to recess, adopted and not having a
28 reconvening time, the Senate will meet the following day at
29 10:00 a.m.

30 (3) The Senate shall not convene earlier than 8:00 a.m.

1 unless the Senate adopts a motion that sets forth the need to
2 convene earlier than 8:00 a.m.

3 (4) The Senate shall not recess later than 11:00 p.m.
4 each session day unless the Senate adopts a motion that sets
5 forth the need to recess later than 11:00 p.m.

6 (g) Motion for previous question.--Pending the consideration
7 of any question before the Senate, a Senator may call for the
8 previous question, and if seconded by four Senators, the
9 President shall submit the question: "Shall the main question
10 now be put?" If a majority vote is in favor of it, the main
11 question shall be ordered, the effect of which shall cut off all
12 further amendments and debate, and bring the Senate to a direct
13 vote first upon the pending amendments and motions, if there be
14 any, then upon the main proposition. The previous question may
15 be ordered on any pending amendment or motion before the Senate.

16 (h) Motion to lay on table.--The motion to lay on the table
17 is not debatable, and the effect of the adoption of this motion
18 is to place on the table the pending question and everything
19 adhering to it. Questions laid on the table remain there for the
20 entire session unless taken up before the session closes.

21 (i) Motion to take from table.--A motion to take from the
22 table, a bill or other subject, is in order under the same order
23 of business in which the matter was tabled. It shall be decided
24 without debate or amendment.

25 (j) Reconsideration.--

26 (1) When a question has once been made and carried in
27 the affirmative or negative, it shall be in order to move the
28 reconsideration thereof. When the Senate has been equally
29 divided on a question, or a bill shall have failed to pass by
30 reason of not having received the number of votes required by

1 the Constitution, it shall be in order to move the
2 reconsideration thereof.

3 (2) Provided, however, that no motion for the
4 reconsideration of any vote shall be in order after a bill,
5 resolution, report, amendment or motion upon which the vote
6 was taken shall have gone out of the possession of the
7 Senate.

8 (3) Provided, further, that no motion for
9 reconsideration shall be in order unless made on the same day
10 on which the vote was taken, or within the next five days of
11 voting session of the Senate thereafter.

12 (4) A motion to reconsider the same question a third
13 time is not in order.

14 (5) When a bill, resolution, report, amendment, order,
15 or communication, upon which a vote has been taken, shall
16 have gone out of the possession of the Senate and been sent
17 to the House of Representatives or to the Governor, the
18 motion to reconsider shall not be in order until a resolution
19 has been passed to request the House or Governor to return
20 the same and the same shall have been returned to the
21 possession of the Senate.

22 Rule 12. Bills.

23 (a) Passage of bills.--

24 (1) No law shall be passed except by bill, and no bill
25 shall be so altered or amended, on its passage through either
26 House, as to change its original purpose. (Const. Art. III,
27 Sec. 1)

28 (2) No alteration or amendment shall be considered which
29 is not appropriate and closely allied to the original purpose
30 of the bill. If a bill has been amended after being reported

1 by the Appropriations Committee and if the amendment may
2 require the expenditure of Commonwealth funds or funds of a
3 political subdivision or cause a loss of revenue to the
4 Commonwealth or a political subdivision, the Appropriations
5 Committee shall make a fiscal note reflecting the impact of
6 the amendment available to the Senators.

7 (b) Reference and printing.--No bill shall be considered
8 unless referred to a committee, printed for the use of the
9 members and returned therefrom. (Const. Art. III, Sec. 2)

10 (c) Form of bills.--No bill shall be passed containing more
11 than one subject, which shall be clearly expressed in its title,
12 except a general appropriation bill or a bill codifying or
13 compiling the law or a part thereof. (Const. Art. III, Sec. 3)

14 (d) Consideration of bills.--Every bill shall be considered
15 on three different days in each House. All amendments made
16 thereto shall be available pursuant to Rule 13(a)(2) for the use
17 of the members before the final vote is taken on the bill. Upon
18 written request addressed to the presiding officer of the Senate
19 by at least 25% of the Members elected to the Senate, any bill
20 shall be read at length in that House. No bill shall become a
21 law, unless on its final passage the vote is taken by yeas and
22 nays, the names of the persons voting for and against it are
23 entered on the Journal, and a majority of the Members elected to
24 each House is recorded thereon as voting in its favor. (Const.
25 Art. III, Sec. 4)

26 (e) Local and special bills.--No local or special bill shall
27 be passed unless notice of the intention to apply therefor shall
28 have been published in the locality where the matter or the
29 thing to be effected may be situated, which notice shall be at
30 least 30 days prior to the introduction into the General

1 Assembly of such bill and in the manner to be provided by law;
2 the evidence of such notice having been published shall be
3 exhibited in the General Assembly before such act shall be
4 passed. (Const. Art. III, Sec. 7)

5 (f) Revenue bills.--All bills for raising revenue shall
6 originate in the House of Representatives, but the Senate may
7 propose amendments as in other bills. (Const. Art. III, Sec. 10)

8 (g) Appropriation bills.--

9 (1) The general appropriation bill shall embrace nothing
10 but appropriations for the executive, legislative and
11 judicial departments of the Commonwealth, for the public debt
12 and for public schools. All other appropriations shall be
13 made by separate bills, each embracing but one subject.
14 (Const. Art. III, Sec. 11)

15 (2) No appropriation shall be made for charitable,
16 educational or benevolent purposes to any person or community
17 nor to any denomination and sectarian institution,
18 corporation or association: Provided, That appropriations may
19 be made for pensions or gratuities for military service and
20 to blind persons 21 years of age and upwards and for
21 assistance to mothers having dependent children and to aged
22 persons without adequate means of support and in the form of
23 scholarship grants or loans for higher educational purposes
24 to residents of the Commonwealth enrolled in institutions of
25 higher learning, except that no scholarship, grants or loans
26 for higher educational purposes shall be given to persons
27 enrolled in a theological seminary or school of theology.

28 (Const. Art. III, Sec. 29)

29 (h) Charitable and educational appropriations.--No
30 appropriation shall be made to any charitable or educational

1 institution not under the absolute control of the Commonwealth,
2 other than normal schools established by law for the
3 professional training of teachers for the public schools of the
4 State, except by a vote of two-thirds of all the members elected
5 to each House. (Const. Art. III, Sec. 30)

6 (i) Land transfer legislation.--

7 (1) No bills granting or conveying Commonwealth land or
8 taking title thereto shall be reported by any committee of
9 the Senate unless there has been filed with the Secretary-
10 Parliamentarian and the Chair of the Reporting Committee, a
11 memorandum from the Department of General Services indicating
12 the use to which the property is presently employed, the full
13 consideration for the transfer, if any, a departmental
14 appraisal of the property, including its valuation and a list
15 of recorded liens and encumbrances, if any, the use to which
16 the property will be employed upon its transfer, the date by
17 which the land is needed for its new use and the senatorial
18 district or districts in which the land is located. The
19 memorandum shall be filed within 60 days after a request is
20 made for same and contain a statement by a responsible person
21 in the Department of General Services indicating whether or
22 not the departments involved favor the transfer which is the
23 subject of the bill under consideration. The sponsor of the
24 bill or the Chair of the Reporting Committee may request the
25 memorandum from the Department of General Services.

26 (2) No amendment granting or conveying Commonwealth land
27 or taking title thereto shall be considered by the Senate
28 unless there has been filed with the Secretary-
29 Parliamentarian and the Chair of the committee reporting the
30 bill a memorandum from the Department of General Services

1 indicating the use to which the property is presently
2 employed, the full consideration for the transfer, if any, a
3 departmental appraisal of the property, including its
4 valuation and a list of recorded liens and encumbrances, if
5 any, the use to which the property will be employed upon its
6 transfer, the date by which the land is needed for its new
7 use, the senatorial district or districts in which the land
8 is located and a statement by a responsible person in the
9 Department of General Services indicating whether or not the
10 departments involved favor the transfer which is the subject
11 of the amendment under consideration. The memorandum shall be
12 filed within 60 days after a request is made. The sponsor of
13 the amendment or the Chair of the Reporting Committee may
14 request the memorandum from the Department of General
15 Services.

16 (3) If a memorandum is not filed within 60 days after a
17 request is made to the Department of General Services, the
18 Senate or any committees of the Senate may consider bills or
19 amendments granting or conveying Commonwealth land or taking
20 title thereto, notwithstanding paragraphs (1) and (2).

21 (j) Consideration during second regular session.--All bills,
22 joint resolutions, resolutions, concurrent resolutions or other
23 matters pending before the Senate upon the recess of a first
24 regular session convening in an odd-numbered year shall maintain
25 their status and be pending before a second regular session
26 convening in an even-numbered year but not beyond adjournment
27 sine die or November 30th of such year, whichever first occurs.

28 (k) Introduction.--All bills shall be introduced in
29 quadruplicate or filed electronically with the Secretary-
30 Parliamentarian's Office through a process determined by the

1 Secretary-Parliamentarian. A sponsor may be added after a bill
2 has been printed but the addition of sponsors shall not require
3 that the bill be reprinted. All bills shall be examined by the
4 Legislative Reference Bureau for correctness as to form and
5 shall be imprinted with the stamp of the Bureau before being
6 filed with the Secretary-Parliamentarian for introduction.

7 (l) Character of bills to be introduced.--No Member shall
8 introduce, nor shall any committee report any bill for the
9 action of the Senate, proposing to legislate upon any of the
10 subjects prohibited by Article III, section 32 of the
11 Constitution.

12 (m) Printing of amended bills.--

13 (1) All bills reported or re-reported from committee, if
14 amended by the committee, and all bills on the Calendar, if
15 amended by the Senate, shall be reprinted and a new printer's
16 number assigned thereto before any action is taken thereon.

17 (2) No bill or joint resolution re-reported from
18 committee as amended shall be voted upon on final passage
19 until at least six hours have elapsed from the time of the
20 committee report.

21 (n) First consideration.--Bills on first consideration shall
22 not be subject to amendment, debate or a vote thereon.

23 (o) Second consideration.--Bills on second consideration may
24 be subject to amendment, debate and a vote thereon.

25 (p) Third consideration and final passage.--

26 (1) The following apply:

27 (i) Bills on third consideration may be amended and
28 are subject to debate. Bills on final passage may not be
29 amended but are open to debate. The vote on final passage
30 shall be taken by a roll call. The names of the Senators

1 voting for and against shall be recorded, entered in the
2 Journal and posted on the Internet website maintained by
3 the Senate. No bill shall be declared passed unless a
4 majority of all Senators elected to the Senate shall be
5 recorded as voting for the same.

6 (ii) No bill which may require an expenditure of
7 Commonwealth funds or funds of any political subdivision
8 or cause a loss of revenue to the Commonwealth or any
9 political subdivision shall be given third consideration
10 on the Calendar until it has been referred to the
11 Appropriations Committee and a fiscal note attached
12 thereto.

13 (iii) In obtaining the information required by these
14 Rules, the Appropriations Committee may utilize the
15 services of the Budget Office and any other State agency
16 as may be necessary.

17 (iv) No bills appropriating money for charitable or
18 benevolent purposes shall be considered finally until
19 after the general appropriation bill shall have been
20 reported from committee.

21 (2) The following apply:

22 (i) It shall not be in order, by suspension of this
23 Rule or otherwise, to consider a bill on final passage
24 unless it is printed, together with amendments, if any,
25 and made available to the Senators.

26 (ii) No bill or joint resolution amended on third
27 consideration shall be voted on final passage until at
28 least six hours have elapsed from the time of adoption of
29 the amendment.

30 (q) Prefiling of bills, joint resolutions and resolutions.--

1 Any Senator or Senator-elect may file, via paper or electronic
2 format, bills, joint resolutions and resolutions with the
3 Secretary-Parliamentarian of the Senate commencing on December
4 15 of each even-numbered year. The Secretary-Parliamentarian of
5 the Senate shall number the bills, joint resolutions and
6 resolutions and shall have them available for distribution. Upon
7 the naming of the committees of the Senate at the convening of a
8 First Regular Session, the President Pro Tempore shall refer all
9 prefiled measures to the proper committee within 14 calendar
10 days.

11 (r) Normal filing of bills, joint resolutions and
12 resolutions.--Senators may introduce bills, joint resolutions
13 and resolutions by filing the same, via paper or electronic
14 format, with the Secretary-Parliamentarian of the Senate. The
15 Secretary-Parliamentarian of the Senate shall number the bills,
16 joint resolutions and resolutions and shall notify the President
17 Pro Tempore of the fact of such filing.

18 (s) Referral to committee by President Pro Tempore.--Every
19 bill, joint resolution and resolution introduced by a Senator or
20 received from the House of Representatives shall be referred by
21 the President Pro Tempore to the appropriate committee within 14
22 calendar days. Upon referral, the Secretary-Parliamentarian of
23 the Senate shall deliver the bills, joint resolutions and
24 resolutions, via paper or electronic format, to the committees
25 to which they have been referred. The Secretary-Parliamentarian
26 of the Senate shall have the bills, joint resolutions and
27 resolutions available for distribution.

28 Rule 13. Amendments.

29 (a) When in order.--

30 (1) Amendments shall be in order when a bill is reported

1 or re-reported from committee, on second consideration and on
2 third consideration. No amendments shall be received by the
3 presiding officer or considered by the Senate which destroys
4 the general sense of the original bill or is not appropriate
5 and closely allied to the original purpose of the bill. Any
6 Member, upon request, must be furnished a copy of a proposed
7 amendment, this includes being available on the Senate
8 Virtual Session Desk application or its successor
9 applications, and be given a reasonable opportunity to
10 consider same before being required to vote thereon.

11 (2) Amendments offered on the Floor shall be read by the
12 Reading Clerk and stated by the presiding officer to the
13 Senate before being acted upon. Amendments shall be presented
14 with at least four typewritten copies obtained electronically
15 through the Legislative Reference Bureau, which shall have
16 the Sponsor identified. No amendment may be considered by the
17 Senate until the Secretary-Parliamentarian of the Senate has
18 posted the amendment on the Internet website maintained by
19 the Senate.

20 (3) Amendments to bills or other main motions or
21 questions before the Senate may be tabled. When an amendment
22 proposed to any bill or other main motion or question before
23 the Senate is laid on the table, it shall not carry with it
24 or prejudice the bill, main motion or question. A motion to
25 take an amendment from the table shall only be in order if
26 the bill or other main motion or question remains before the
27 Senate for decision. The motion to take an amendment from the
28 table is not debatable and shall have the same precedence as
29 the motion to amend.

30 (b) Amendments reconsidering; revert to prior print.--

1 Amendments adopted or defeated may not be again considered
2 without reconsidering the vote by which the amendments were
3 adopted or defeated, unless a majority vote of the Senators
4 present shall decide to revert to a prior printer's number. If
5 such a motion is made to a bill on third consideration and
6 carried it shall not be in order to vote on the final passage of
7 the bill until a copy of the reverted printer's number is made
8 available to the Senators, this includes being available on the
9 Senate Virtual Session Desk application or its successor
10 applications.

11 (c) Concurrence in House amendments.--

12 (1) The following apply:

13 (i) No amendments to bills by the House shall be
14 concurred in by the Senate, except by the vote of a
15 majority of the Members elected to the Senate taken by
16 yeas and nays. (Const. Art. III, Sec. 5)

17 (ii) If a bill on concurrence contains an amendment
18 which may require the expenditure of Commonwealth funds
19 or funds of a political subdivision or cause a loss of
20 revenue to the Commonwealth or a political subdivision,
21 the bill may not be voted finally until a fiscal note
22 reflecting the impact of the amendment is made available
23 to the Senators.

24 (2) The following apply:

25 (i) Any bill or resolution containing House
26 amendments which is returned to the Senate shall be
27 referred to the Committee on Rules and Executive
28 Nominations immediately upon the reading of the
29 communication by the Reading Clerk. The consideration of
30 any bill or resolution containing House amendments may

1 include the amendment of House amendments only by the
2 Committee on Rules and Executive Nominations. The vote on
3 concurring in amendments by the House to bills or
4 resolutions amended by the House shall not be taken until
5 the bills or resolutions have been favorably reported, as
6 committed or as amended, by the Committee on Rules and
7 Executive Nominations and have been placed on the desks
8 of the Senators, this includes being available on the
9 Senate Virtual Session Desk application or its successor
10 applications, and particularly referred to on their
11 calendars.

12 (ii) Unless the Majority Leader and the Minority
13 Leader shall agree otherwise, the offering of an
14 amendment to House amendments in the Committee on Rules
15 and Executive Nominations shall not be in order until at
16 least one hour after the filing of a copy of the
17 amendment as prepared by the Legislative Reference Bureau
18 with the office of the Secretary-Parliamentarian. Upon
19 the filing of such an amendment, the Secretary-
20 Parliamentarian shall immediately time stamp the
21 amendment and forward a time-stamped copy of the
22 amendment to the offices of the Majority Leader and the
23 Minority Leader. Except as provided in this subsection,
24 it shall not be in order to suspend or otherwise waive
25 the requirements of this subsection.

26 Rule 14. Committees.

27 (a) Standing committees.--

28 (1) There shall be the following permanent standing
29 committees, the Chair, the Vice Chair and members thereof to
30 be appointed by the President Pro Tempore as soon as possible

1 after the election of the President Pro Tempore in sessions
2 convening in odd-numbered years or such other times as may be
3 necessary. The composition of each standing committee shall
4 reasonably reflect the caucus composition of the Senate
5 membership.

6 Aging and Youth - 10 members

7 Agriculture and Rural Affairs - 10 members

8 Appropriations - 21 members

9 Banking and Insurance - 13 members

10 Communications and Technology - 10 members

11 Community, Economic and Recreational Development - 13

12 members

13 Consumer Protection and Professional Licensure - 13

14 members

15 Education - 10 members

16 Environmental Resources and Energy -- 10 members

17 Finance -- 10 members

18 Game and Fisheries -- 10 members

19 Health and Human Services -- 10 members

20 Intergovernmental Operations -- 10 members

21 Judiciary - 13 members

22 Labor and Industry -- 10 members

23 Law and Justice -- 10 members

24 Local Government -- 10 members

25 Rules and Executive Nominations - 16 members

26 State Government -- 10 members

27 Transportation - 13 members

28 Urban Affairs and Housing -- 10 members

29 Veterans' Affairs and Emergency Preparedness -- 10

30 members

1 (2) Subcommittees. Each standing committee or the chair
2 thereof may appoint, from time to time, a subcommittee to
3 study or investigate a matter falling within the jurisdiction
4 of the standing committee or to consider a bill or resolution
5 referred to it. A subcommittee may hold public hearings only
6 with the prior permission of its standing committee.

7 Subcommittees shall be regulated by the Senate Rules of
8 Procedure and shall be in existence for only that time
9 necessary to complete their assignments and report to their
10 standing committees.

11 (b) Members-ex-officio.--

12 (1) The President Pro Tempore shall be an ex-officio
13 voting member of all standing committees and any
14 subcommittees that may be established and shall not be
15 included in the number of committee members herein provided.
16 However, the President Pro Tempore shall not be an ex-officio
17 Member of the Committee on Ethics and Official Conduct.

18 (2) The Majority Leader and the Minority Leader shall
19 each be an ex-officio member of the Committee on
20 Appropriations and shall not be included in the number of
21 members of the committee provided herein.

22 (3) The Majority Leader shall serve as Chair of the
23 Committee on Rules and Executive Nominations and the Minority
24 Leader shall serve as the Minority Chair.

25 (c) Committees' function between sessions.--Standing
26 committees shall exist and function both during and between
27 sessions. Such power shall not extend beyond November 30th of
28 any even-numbered year.

29 (d) Powers and responsibilities.--Standing committees are
30 authorized:

1 (1) To maintain a continuous review of the work of the
2 Commonwealth agencies concerned with their subject areas and
3 the performance of the functions of government within each
4 such subject area, and for this purpose to request reports
5 from time to time, in such form as the standing committee
6 shall designate, concerning the operation of any Commonwealth
7 agency and presenting any proposal or recommendation such
8 agency may have with regard to existing laws or proposed
9 legislation in its subject area. The standing committee is
10 authorized to require public officials and employees and
11 private individuals to appear before the standing committee
12 for the purpose of submitting information to it.

13 (2) In order to carry out its duties, each standing
14 committee is empowered with the right and authority to
15 inspect and investigate the books, records, papers,
16 documents, data, operation and physical plant of any public
17 agency in this Commonwealth.

18 (3) In order to carry out its duties, each standing
19 committee or special committee appointed under Rule 5(a)(2)
20 may issue subpoenas, subpoenas duces tecum and other
21 necessary process to compel the attendance of witnesses and
22 the production of any books, letters or other documentary
23 evidence desired by the committee. The chair may administer
24 oaths and affirmations in the manner prescribed by law to
25 witnesses who shall appear before the committee to testify.

26 (e) Notice of meetings.--

27 (1) The following apply:

28 (i) The Chair of a committee or, in the absence of
29 the Chair, the Vice Chair, with the approval of the
30 Chair, shall provide each member of the committee with

1 written notice of committee meetings, which shall include
2 the date, time and location of the meeting and the number
3 of each bill, resolution or other matter which may be
4 considered. During session, notice of meetings of
5 standing committees shall be published daily. Notice
6 shall be delivered by the Chair to the Secretary-
7 Parliamentarian's office on a form prescribed by the
8 Secretary-Parliamentarian of the Senate by the end of the
9 session on the day preceding its intended publication.

10 (ii) Whenever the Chair of any standing committee
11 shall refuse to call a regular meeting, then a majority
12 plus one of the members of the standing committee may
13 vote to call a meeting by giving two days' written notice
14 to the Secretary-Parliamentarian of the Senate, setting
15 the time and place for such meeting. Such notice shall be
16 read in the Senate and the same posted by the Secretary-
17 Parliamentarian in the Senate. Thereafter, the meeting
18 shall be held at the time and place specified in the
19 notice. In addition, any such meeting shall comply with
20 all provisions of 65 Pa.C.S. Ch. 7 (relating to open
21 meetings) relative to notice of meetings.

22 (iii) When the majority plus one of the members of a
23 standing committee believe that a certain bill or
24 resolution in the possession of the standing committee
25 should be considered and acted upon by such committee,
26 they may request the Chair to include the same as part of
27 the business of a committee meeting. Should the Chair
28 refuse such request, the membership may require that such
29 bill be considered by written motion made and approved by
30 a majority plus one vote of the entire membership to

1 which the committee is entitled.

2 (2) A committee meeting, or hearing for which notice has
3 not been published as provided in paragraph (1), may be held
4 during a session only if approval is granted by the Majority
5 Leader and the Minority Leader and if notice of the bills to
6 be considered is given during session.

7 (f) Bills recommitted.--Any bill or resolution reported by
8 any standing committee without prior notice having been given as
9 required by these Rules shall be recommitted to the committee
10 reporting the same.

11 (g) Public meetings or hearings.--

12 (1) The following apply:

13 (i) The Chair of a standing committee may hold
14 hearings open to the public and in doing so shall make a
15 public announcement in writing prior to the date of the
16 hearing of the date, time, location and subject matter of
17 the hearing.

18 (ii) The Chair of a standing committee shall have
19 the power to designate whether or not a meeting of the
20 committee for the purpose of transacting committee
21 business shall be open to the public or shall be held in
22 executive session and therefore closed to the public, but
23 no matters may be considered in executive session for
24 which an open meeting is required under 65 Pa.C.S. Ch. 7
25 (relating to open meetings).

26 (2) All standing committees may have their hearings
27 reported and transcribed if payment for such service is being
28 made from committee funds. If payment is expected to be made
29 from a source other than committee funds, approval must be
30 first obtained from the President Pro Tempore.

1 (3) The meetings of the Senate standing and special
2 committees may be livestreamed as determined by the committee
3 chair, if held in a hearing room equipped for that purpose,
4 and posted on the official Senate Internet website. The
5 official Senate livestream and recordings of the livestream,
6 video or audio, may be broadcasted and posted on the
7 respective Senate caucus websites and social media platforms.
8 The restrictions on video and audio feeds under Rule 23 apply
9 to livestreamed and video recordings of standing and special
10 committee meetings.

11 (h) Quorum of committee.--A committee is actually assembled
12 only when a quorum constituting a majority of the members of
13 that committee is present in person. A majority of the quorum of
14 the whole committee shall be required to report any bill,
15 resolution or other matter to the Floor for action by the whole
16 Senate.

17 (i) Quorum of subcommittee.--A subcommittee is actually
18 assembled only when a quorum constituting a majority of the
19 members of that subcommittee is present in person. A majority of
20 the quorum of the whole subcommittee shall be required to report
21 any bill, resolution or other matter to the committee.

22 (j) Discharging committees.--

23 (1) No standing committee shall be discharged from
24 consideration of any bill, resolution or other matter within
25 10 legislative days of its reference to committee without the
26 unanimous consent of the Senate or after such 10-day period
27 except by majority vote of all members elected to the Senate.

28 (2) Such discharge shall be by resolution which shall
29 lie over one day for consideration upon introduction and
30 which may be considered under the Order of Business of

1 Resolutions on the Calendar.

2 Rule 15. Committee officers.

3 (a) Chair-ex-officio.--The Chair and Minority Chair of each
4 standing committee shall be ex-officio members of each
5 subcommittee that may be established as part of the standing
6 committee, with the right to attend meetings of the subcommittee
7 and vote on any matter before the subcommittee.

8 (b) Calling committee to order.--The Chair or, if authorized
9 by the Chair, the Vice Chair, shall call the committee to order
10 at the hour provided by these Rules. Upon the appearance of a
11 quorum, the committee shall proceed with the order of business.
12 Any member of the committee may question the existence of a
13 quorum.

14 (c) Chair control of the committee room.--The Chair or, if
15 authorized by the Chair, the Vice Chair, shall preserve order
16 and decorum and shall have general control of the committee
17 room. In case of a disturbance or disorderly conduct in the
18 committee room, the Chair or, if authorized by the Chair, the
19 Vice Chair, may cause the same to be cleared. The use of cell
20 phones and similar portable communication devices within any
21 Senate committee room by other than members of the Senate or
22 their staffs is strictly prohibited.

23 (d) Chair's authority to sign documents and decide questions
24 of order.--The Chair shall sign all notices, vouchers, subpoenas
25 or reports required or permitted by these Rules. The Chair shall
26 decide all questions of order relative to parliamentary
27 procedure, subject to an appeal by any member of the committee.

28 (e) Vote of Chair, Vice Chair.--The Chair and Vice Chair
29 shall vote on all matters before such committee; Provided, That
30 the name of the Chair shall be called last.

1 (f) Performance of duties by Vice Chair.--Upon the death of
2 the Chair, the Vice Chair shall perform the duties of the office
3 until and unless the President Pro Tempore shall appoint a
4 successor or designate an acting Chair. Upon and during
5 disability, or incapacity of the Chair, the Vice Chair shall
6 perform the Chair's duties.

7 (g) Chair's duty to report.--The Chair shall report any bill
8 to the Floor of the Senate not later than the next occurring
9 legislative day after the committee's vote to report it.

10 (h) Amendments.--Upon reporting the bill from committee, the
11 Chair shall submit all amendments adopted in committee to the
12 Secretary-Parliamentarian of the Senate for posting on the
13 Internet website maintained by the Senate.

14 Rule 16. Committee members.

15 Members, attendance and voting shall be as follows:

16 (1) Every member of a committee shall be in attendance
17 during each of its meetings, unless excused or necessarily
18 prevented, and shall vote on each question, except that a
19 member desiring to be excused from voting in committee due to
20 a direct, personal, private or pecuniary interest shall seek
21 a ruling from the Chair pursuant to Rule 20(c).

22 (2) The Chair may excuse any Senator for just cause from
23 attendance during the meetings of the committee for any
24 stated period.

25 (3) Any member of a committee who is otherwise engaged
26 in legislative duties may have the member's vote recorded on
27 bills, resolutions or other matters pending before the
28 committee by communicating in writing to the Chair the
29 inability to attend and the manner in which the member
30 desires to be voted on bills, resolutions or other matters

1 pending before the committee.

2 Rule 17. Committee voting.

3 Taking the vote shall be as follows:

4 (1) The Chair shall announce the results of all votes to
5 report a bill or resolution or a vote regarding an executive
6 nomination. All votes shall be open to the public and shall
7 be posted on the Internet website maintained by the Senate
8 within 24 hours.

9 (2) In all cases where the committee vote shall be
10 equally divided, the question falls.

11 Rule 18. Motions in committees.

12 All motions made in committee shall be governed and take the
13 same precedence as those set forth in these Rules.

14 Rule 19. Conference Committees.

15 (a) Composition.--The President Pro Tempore shall appoint
16 three Senators to comprise a Committee of Conference. Two shall
17 be from the Majority Party and one from the Minority Party.

18 (b) Deliberations.--The deliberations of the committee shall
19 be confined to the subject of difference between the two Houses,
20 unless both Houses shall direct a free conference.

21 (c) Report of Conference Committee.--

22 (1) The report of a Committee of Conference shall be
23 prepared in triplicate by the Legislative Reference Bureau
24 and shall be signed by the members or a majority of the
25 members of each committee comprising the Committee of
26 Conference. Every report of a Committee of Conference shall
27 be printed together with the bill as amended by the
28 committee, shall be made available to the Senators, including
29 being available on the Senate Virtual Session Desk
30 application or its successor applications, and shall be

1 particularly referred to on their calendars before action
2 shall be taken on such report. No report of a Committee of
3 Conference may be adopted by the Senate until at least six
4 hours have elapsed from the time of adoption of the report by
5 the Committee of Conference.

6 (2) A report of a Committee of Conference which requires
7 the expenditure of Commonwealth funds or funds of a political
8 subdivision or causes a loss of revenue to the Commonwealth
9 or a political subdivision shall have a fiscal note attached
10 before the report is finally adopted by the Senate.

11 (d) Adoption of Conference Committee report.--Reports of
12 committees of conference shall be adopted only by the vote of a
13 majority of the members elected to the Senate, taken by yeas and
14 nays. (Const. Art. III, Sec. 5)

15 Rule 20. Voting.

16 (a) Senators must be present.--Every Senator shall be
17 present within the Senate Chamber during the sessions of the
18 Senate and shall be recorded as voting on each question stated
19 from the Chair which requires a roll call vote unless the
20 Senator is on leave, is duly excused or is unavoidably prevented
21 from attending session. The refusal of any Senator to vote as
22 provided by this Rule shall be deemed a contempt of the Senate.

23 (b) Voting required.--Except as may be otherwise provided by
24 this Rule, no Senator shall be permitted to vote on any question
25 unless the Senator is present in the Senate Chamber at the time
26 the roll is being called, or prior to the announcement of the
27 vote, unless the following applies:

28 (1) Capitol leave.--A Senator who is performing a
29 legislative duty in the Harrisburg area, which is defined in
30 the Financial Operating Rules of the Senate as within Dauphin

1 County or otherwise within a 10 mile radius of the Capitol,
2 may, upon request during session, be granted a Capitol Leave
3 by the Senate and may be voted by the Senator's respective
4 Floor Leader. A specific reason for the Capitol Leave must be
5 given in writing by the Senator. The Capitol Leave request
6 shall be communicated to the Senator's respective Whip for
7 transmission to the respective Floor Leader prior to the
8 beginning of a roll call vote. All written Capitol Leave
9 requests shall be transmitted by the respective Floor Leaders
10 to the Secretary-Parliamentarian of the Senate for retention
11 in accordance with Rule 6(c)(3) within 24 hours of the
12 conclusion of the legislative day in which leave was
13 requested.

14 (2) Legislative leave.--A Senator who is performing a
15 legislative duty outside of the Harrisburg area may, upon
16 request during session, be granted a Legislative Leave by the
17 Senate and may be voted by the Senator's respective Floor
18 Leader. A specific reason for the Legislative Leave must be
19 given in writing by the Senator. The Legislative Leave
20 request shall be communicated to the Senator's respective
21 Whip for transmission to the respective Floor Leader prior to
22 the beginning of a roll call vote. All written Legislative
23 Leave requests shall be transmitted by the respective Floor
24 Leaders to the Secretary-Parliamentarian of the Senate for
25 retention in accordance with Rule 6(c)(3) within 24 hours of
26 the conclusion of the legislative day in which leave was
27 requested.

28 (3) Military leave.--A Senator who is on active duty or
29 in training with a reserve component of the armed forces of
30 the United States or the Pennsylvania National Guard or Air

1 National Guard may be granted a military leave. A Senator
2 requesting military leave shall submit a leave request to the
3 Senator's respective Floor Leader who shall transmit the
4 request to the Secretary-Parliamentarian of the Senate on
5 behalf of the Senator requesting leave within 24 hours of the
6 conclusion of the legislative day in which leave was
7 requested.

8 (4) Personal leave.--A Senator who is absent for any
9 purpose other than those set forth in these Rules may be
10 granted a personal leave. A Senator on personal leave shall
11 not be voted on any question before the Senate or on any
12 question before any committee of the Senate. A Senator
13 requesting personal leave shall submit a leave request to the
14 Senator's respective Floor Leader who shall transmit the
15 request to the Secretary-Parliamentarian of the Senate on
16 behalf of the Senator requesting leave within 24 hours of the
17 conclusion of the legislative day in which leave was
18 requested.

19 (c) Excused from voting.--

20 (1) A Senator desiring to be excused from voting due to
21 a direct, personal, private or pecuniary interest in any
22 question or bill proposed or pending before the Senate shall
23 seek a ruling from the presiding officer.

24 (2) Senators who seek a ruling on whether they have a
25 direct, personal, private or pecuniary interest in any
26 question or bill proposed or pending before the Senate shall,
27 after the Senator is recognized by the presiding officer,
28 make a brief statement of the reasons for making the request
29 and ask the presiding officer to decide whether or not the
30 Senator must vote. The question shall be decided by the

1 presiding officer without debate.

2 (d) Changing vote.--No Senator may vote or change a vote
3 after the result is announced by the Chair. Before the
4 announcement of the final result, however, a Senator may change
5 a vote, or may vote, if previously absent from the Chamber.
6 Should a Senator be erroneously recorded on any vote, the
7 Senator may at any time, with the permission of the Senate, make
8 a statement to that effect which shall be entered in the
9 Journal. Similarly, should the Senator be absent when a vote is
10 taken on any question, the Senator may later, with the
11 permission of the Senate, make a statement for entry upon the
12 Journal, indicating how the Senator would have voted had the
13 Senator been present when the roll was taken and the reasons
14 therefor shall be submitted in writing or delivered orally not
15 to exceed five minutes.

16 (e) Persons allowed at desk during roll call.--No Senator or
17 other person, except the Majority or Minority Leader or other
18 persons designated by them, shall be permitted at the Reading
19 Clerk's desk during the recording, counting or verification of a
20 roll call vote.

21 (f) Two-thirds vote.--When bills or other matters which
22 require a two-thirds vote are under consideration, the
23 concurrence of two-thirds of all the Senators elected shall not
24 be requisite to decide any question or amendment short of the
25 final question and, on any question short of the final one, a
26 majority of Senators voting shall be sufficient to pass the
27 same.

28 (g) Majority vote defined.--A majority of the Senators
29 elected shall mean a majority of the Senators elected, living,
30 sworn and seated.

1 (h) Majority vote.--When bills or other matters which
2 require a vote of the majority of Senators elected are under
3 consideration, the concurrence of a majority of all the Senators
4 elected shall not be requisite to decide any question or
5 amendment short of the final question; and, on any question
6 short of a final one, a majority of Senators voting shall be
7 sufficient to pass the same.

8 (i) Announcement of vote.--Upon completion of a roll call
9 vote or a voice vote, the result shall be announced immediately
10 unless the Majority or Minority Leader requests a delay.

11 (j) Explanation of vote.--Any Senator may, with the consent
12 of the Senate, make an explanation of a vote on any question and
13 have the explanation printed in the Journal.

14 (k) Tie vote.--In the case of a tie vote, the President of
15 the Senate may cast a vote to break the tie as long as, by doing
16 so, it does not violate any provisions of the Constitution of
17 Pennsylvania. In the event that there is a tie vote on a
18 question requiring a constitutional majority, the question
19 falls.

20 (l) Verifying vote.--Any Senator may demand a verification
21 of a vote immediately upon the completion of a roll call or
22 after the announcement of the vote by the presiding officer. In
23 verifying a vote, the Clerk shall first read the affirmative
24 roll at which time any additions or corrections shall be made.
25 Upon the completion and verification of the affirmative roll
26 call, the Clerk shall proceed with the reading of the negative
27 roll at which time any additions or corrections shall be made.
28 Upon the completion and verification of the negative roll call,
29 the roll call shall be declared verified. It shall not be in
30 order for a Senator to change a vote after the verified roll

1 call is announced. A demand for a verification shall not be in
2 order when all Senators vote one way. The demand for a
3 verification of a vote is not debatable.

4 (m) Voice vote.--Unless otherwise ordered, demanded or
5 required, a voice vote may be taken. Any Senator who doubts the
6 accuracy of a voice vote may demand a roll call vote. Such
7 request must be made immediately upon the announcement of the
8 vote by the presiding officer and shall not be in order after
9 other business has intervened. The demand for a verification of
10 a voice vote shall not be in order.

11 Rule 21. Correspondents.

12 (a) Admission to Senate Press Gallery.--Admission to the
13 Senate Press Gallery shall be limited to members in good
14 standing of the Pennsylvania Legislative Correspondents'
15 Association and to other members of the press as determined by
16 the President Pro Tempore. Seating shall be available on a
17 first-come basis.

18 (b) Photographs in Senate Chamber.--

19 (1) Photographers may be authorized by the President Pro
20 Tempore to take still photographs in the Senate.

21 (2) No still photographs shall be taken in the Senate
22 during sessions without prior notice to the Senators. When
23 possible, such notice shall be given at the beginning of the
24 session during which the still photographs are scheduled to
25 be taken.

26 (c) Order and decorum of press.--

27 (1) Persons seated in the Senate Press Gallery shall be
28 dressed appropriately and shall, at all times, refrain from
29 loud talking or causing any disturbance which tends to
30 interrupt the proceedings of the Senate.

1 (2) Persons seated in the Senate Press Gallery shall not
2 walk onto the Floor of the Senate nor approach the rostrum or
3 the Reading Clerk's desk during session or while being at
4 ease.

5 Rule 22. Radio and television.

6 (a) Filming, videotaping, televising and broadcasting.--
7 Filming, videotaping, televising or broadcasting of Senate
8 sessions shall be permitted as provided in these Rules.

9 (b) Broadcasting session.--Nothing in this Rule shall be
10 construed to prohibit any licensed radio station or television
11 station from broadcasting a session from the Senate or any part
12 thereof; Provided, That the signal originates from the Senate-
13 operated audio-visual system which transmits Senate session
14 activity to the offices in the Main Capitol and environs.

15 Rule 23. Video feed and audio feed.

16 (a) Responsibilities of the Chief Clerk of the Senate.--

17 (1) The Chief Clerk, in consultation with the Secretary-
18 Parliamentarian of the Senate, shall provide a video feed and
19 audio feed of Senate Floor activity.

20 (2) The Chief Clerk shall be responsible for the
21 acquisition, installation and maintenance of equipment
22 required to provide the video feed and audio feed, and for
23 the continued development and operation of the feeds,
24 including the hiring of the necessary personnel.

25 (3) All equipment required to produce the video feed and
26 audio feed shall be operated by Senate personnel. Nothing in
27 any contract entered into by the Office of the Chief Clerk
28 regarding installation or maintenance of equipment shall
29 permit any control over the video cameras and microphones in
30 the Senate Chamber to be exercised by anyone but the

1 appropriate Senate officers and employees.

2 (b) Sessions provided free of charge.--

3 (1) Continuous broadcast of Senate sessions shall be
4 provided free of charge to any licensed television station,
5 radio station or cable television outlet and shall further be
6 available through the Senate's Internet website.

7 (2) The Senate Committee on Management Operations may
8 authorize providing the video feed and audio feed free of
9 charge to other entities.

10 (c) Funding.--Funding for the implementation and operation
11 of the broadcasting system shall be provided through Senate
12 appropriations.

13 (d) Scope of video and audio feeds.--

14 (1) The video feed and audio feed shall provide a
15 complete, unedited record of what is said on the Floor of the
16 Senate and shall be free from commentary.

17 (2) To the extent possible, only the presiding officer
18 and the persons actually speaking shall be covered by the
19 video cameras and microphones.

20 (3) During roll call votes and other votes, the video
21 cameras shall be focused on the presiding officer or the
22 appropriate clerks until the announcement of the vote
23 tabulation by the presiding officer.

24 (4) During recesses of the Senate or when the Senate is
25 at ease, the video feed and audio feed shall be turned off.

26 (5) During guest introductions, video feed of guests
27 seated in the Senate Gallery or on the floor of the Senate is
28 permissible.

29 (e) Restrictions on video and audio feeds.--

30 (1) The video feed and audio feed, and any television or

1 radio coverage thereof, shall not be made available or used
2 for political or campaign purposes, whether in paid political
3 advertisements or otherwise. Use of the video feed and audio
4 feed shall be subject to all Federal and State laws relating
5 to elections and campaign practices.

6 (2) The video feed and audio feed, and any television or
7 radio coverage thereof, shall not be used in any commercial
8 advertisement.

9 (3) Any live coverage of the Senate shall be without and
10 presented without any commercial sponsorship, except when it
11 is part of a bona fide news program or public affairs
12 program.

13 (4) The President Pro Tempore or any other presiding
14 officer shall be prohibited from ordering, without consent of
15 the Senate, that any segment of a Floor session not be
16 broadcast or recorded.

17 (5) Except as provided in this Rule, the President Pro
18 Tempore, any other presiding officer and any Senator, officer
19 or employee of the Senate shall be prohibited from editing
20 any portion of the video feed and audio feed described in
21 this Rule.

22 (6) Official Senate video feed of Senate session shall
23 be broadcast on the official Senate Internet website by the
24 Legislative Data Processing Committee. All caucuses may
25 broadcast and post unedited session videos on their
26 respective Senate caucus websites and social media platforms
27 using the official Senate feed.

28 (7) A Senator may post an unedited video clip or audio
29 clip of Senate session on his or her Senate social media
30 platforms or provide an unedited video clip or audio clip of

1 Senate session for any television broadcast as long as the
2 video clip or audio clip exclusively features the Senator who
3 is posting or providing the video clip or audio clip.

4 (f) Other recording prohibited.--

5 (1) Except as provided in this Rule, any recording,
6 filming, videotaping, broadcasting or distribution of any
7 session of the Senate, or any part thereof, in any form
8 whatsoever is prohibited.

9 (2) Nothing in this Rule shall be construed to prohibit
10 any licensed radio or television station or other licensed
11 entity from broadcasting a session from the Senate or any
12 part thereof; Provided, That the signal originates from the
13 Senate-operated sound and video system which transmits Senate
14 session activity to the offices in the Main Capitol and
15 environs.

16 (g) Violations.--Any violation of this Rule shall be dealt
17 with as directed by the Committee on Rules and Executive
18 Nominations.

19 (h) Official record.--The video feed and audio feed provided
20 by the Senate shall not constitute an official record of Senate
21 actions. The official record of Senate actions shall be
22 contained in the Journals prepared by the Secretary-
23 Parliamentarian of the Senate and approved by the Senate or
24 posted on the Senate Internet website pursuant to Rule 6(c)(9).
25 Rule 24. Who privileged to the Floor of the Senate.

26 (a) Admission during session.--With the exception of the
27 Senate Gallery and Senate Press Gallery, no person shall be
28 admitted within the Senate Chamber during Senate sessions,
29 unless invited by the President Pro Tempore or the Majority
30 Leader or Minority Leader. Prior to the start of each Senate

1 session day, the Majority Leader and the Minority Leader shall
2 provide notice to the President Pro Tempore listing the guests
3 they have invited to the Floor of the Senate. During session,
4 authorized staff with access to the Senate Chamber shall be
5 limited and shall be restricted to the area immediately adjacent
6 to the Majority Leader's and Minority Leader's desks. Advice to
7 Senators during debate shall be allowed only when the Senator is
8 using the microphones at the Majority Leader's and Minority
9 Leader's desks.

10 (b) Rear entrance closed during session.--No person shall,
11 during a session, be permitted to enter through the front or
12 rear door of the Senate Chamber nor be present in the rooms
13 immediately to the rear of the Senate Chamber except for
14 Senators, officers and employees expressly authorized.

15 (c) Telephone facilities.--No person other than Senators,
16 Senate Officers or their staff shall, at any time, be permitted
17 to use the telephone facilities in or adjacent to the Senate
18 Chamber.

19 Rule 25. Rules.

20 (a) Force and effect.--These Rules shall be in full force
21 and effect until altered, changed, amended or repealed as
22 provided in subsection (d).

23 (b) Dispensing with Rules.--The consent of a majority of the
24 Senators elected shall be necessary to suspend any Rule.

25 (c) Voting for altering, changing or amending Rules.--The
26 consent of a majority of the Senators elected shall be necessary
27 to alter, change or amend these Rules.

28 (d) Alteration, change or amendment of Rules by
29 resolution.--All alterations, changes or amendments to Senate
30 Rules shall be by resolution which shall not be considered

1 unless first referred to and reported from the Rules and
2 Executive Nominations Committee.
3 Rule 26. Mason's Manual of Legislative Procedure to govern
4 Senate.

5 The Rules of Parliamentary Practice comprised in Mason's
6 Manual of Legislative Procedure shall govern the Senate in all
7 cases to which they are applicable, and in which they are not
8 inconsistent with the Standing Rules, Prior Decisions and Orders
9 of the Senate.

10 Rule 27. Quorum.

11 (a) Majority constitutes a quorum.--A majority of Senators
12 elected shall constitute a quorum, but a smaller number may
13 adjourn from day to day and compel the attendance of absent
14 members. (Const. Art. II, Sec. 10)

15 (b) When less than a quorum is present.--When, upon a call,
16 which may be demanded by not less than four Senators, it is
17 found that less than a quorum is present, it shall be the duty
18 of the presiding officer to order the doors of the Senate to be
19 closed, and to direct the Reading Clerk to call the roll of the
20 Senate and note the absentees after which the names of the
21 absentees shall be again called. A Senator whose absence is not
22 excused, or for whom an insufficient excuse is made, may by
23 order of a majority of the Senators present be sent for and
24 taken into custody by the Chief Sergeant-at-Arms, or assistant
25 sergeants-at-arms appointed for the purpose. Any unexcused
26 Senator shall be brought before the bar of the Senate, where the
27 Senator, unless excused by a majority of the Senators present,
28 shall be publicly reprimanded by the presiding officer for
29 neglect of duty.

30 (c) When less than a quorum vote but are present.--When less

1 than a quorum vote upon any subject under the consideration of
2 the Senate, not less than four Senators may demand a call of the
3 Senate, when it shall be the duty of the presiding officer to
4 order the doors of the Senate to be closed and the roll of the
5 Senators to be called. If it is ascertained that a quorum is
6 present, either by answering to their names, or by their
7 presence in the Senate, the presiding officer shall again order
8 the yeas and nays; and, if any Senator present refuses to vote,
9 the name or names of such Senator shall be entered on the
10 Journal as "Present but not voting." Such refusal to vote shall
11 be deemed a contempt; and, unless purged, the presiding officer
12 shall direct the Chief Sergeant-at-Arms to bring the Senator
13 before the bar of the Senate, where the Senator shall be
14 publicly reprimanded by the presiding officer.

15 Rule 28. Executive nominations.

16 (a) Presentation and reference.--

17 (1) All nominations by the Governor or the Attorney
18 General shall be submitted to the Secretary-Parliamentarian
19 of the Senate. All nominees shall file the financial
20 statements required pursuant to 65 Pa.C.S. Ch. 11 (relating
21 to ethics standards and financial disclosure) with the
22 Secretary-Parliamentarian of the Senate. Copies of the
23 nominations and financial statements shall be furnished by
24 the Secretary-Parliamentarian of the Senate to the Majority
25 Caucus Secretary and Minority Caucus Secretary or their
26 designees.

27 (2) Nominations shall, after being read, without a
28 motion, be referred by the presiding officer to the Committee
29 on Rules and Executive Nominations. After having been
30 reported by the committee, the final question on every

1 nomination shall be: "Will the Senate advise and consent to
2 this nomination?"

3 (3) The Chair of the Committee on Rules and Executive
4 Nominations shall designate an appropriate standing committee
5 of the Senate to conduct a public hearing for nominees that
6 have Statewide jurisdiction and to which salaries are
7 attached. The Committee on Rules and Executive Nominations
8 shall refer those nominees to the designated committee for
9 the purpose of holding a public hearing to scrutinize the
10 qualifications of nominees and to report its recommendations.
11 Public hearings may be held for nominees for any other
12 office.

13 (b) Information concerning nominations.--All information,
14 communication or remarks made by a Senator when acting upon
15 nominations in committee, concerning the character or
16 qualifications of the person nominated, may be kept
17 confidential. If, however, charges shall be made against a
18 person nominated, the committee may, in its discretion, notify
19 the nominee, but the name of the person making such charges
20 shall not be disclosed.

21 (c) Consideration.--When the consideration of executive
22 nominations is reached in the order of business, a Senator may
23 make a motion to go into executive session for the purpose of
24 confirming the nominations which have been reported from
25 committee; and on the motion being agreed to, the nomination or
26 nominations shall be considered until finally disposed of,
27 unless the same shall be postponed by a majority of the Senate.

28 (d) Executive session.--When in executive session, no
29 communication shall be received from the Governor, unless it be
30 relative to the nomination under consideration, nor from the

1 House of Representatives, nor shall any other business be
2 considered.

3 (e) Reconsideration.--When a nomination is confirmed or
4 rejected by the Senate, any Senator may move for a
5 reconsideration on the same day on which the vote was taken, or
6 on either of the next two days of voting session of the Senate;
7 but if a notification of the confirmation or rejection of a
8 nomination shall have been sent to the Governor before the
9 expiration of the time within which a motion to reconsider may
10 be made, the motion to reconsider shall be accompanied by a
11 motion to request the Governor to return such notification to
12 the Senate. A motion to reconsider the vote on a nomination may
13 be laid on the table without prejudice to the nomination.

14 Rule 29. Resolutions.

15 (a) Introduction.--All resolutions, Senate and concurrent,
16 shall be introduced by presenting five copies of the Resolution,
17 with the sponsor identified, to the presiding officer.

18 (b) Consideration.--The following resolutions, after being
19 read, shall be referred to an appropriate committee without
20 debate unless by unanimous consent the Senate shall otherwise
21 direct and, if favorably reported by the committee, shall lie
22 over one day for consideration, after which the resolutions may
23 be called up under the appropriate order of business:

24 (1) All Senate concurrent resolutions and House
25 concurrent resolutions, excepting resolutions in reference to
26 adjournment sine die, recesses and resolutions recalling
27 bills from the Governor, which shall be regarded as
28 privileged.

29 (2) Resolutions containing calls for information from
30 the heads of departments or to alter the Rules.

1 (3) Resolutions giving rise to debate, except those that
2 relate to the disposition of matters immediately before the
3 Senate, those that relate to the business of the day on which
4 they were offered, and those that relate to adjournment sine
5 die or a recess.

6 (c) Printing in Senate History.--

7 (1) (Reserved).

8 (2) All resolutions shall be adopted by a majority vote
9 of the Senators present except as specifically provided for
10 in these Rules.

11 (d) Joint Resolutions.--

12 (1) Joint resolutions shall be limited to constitutional
13 amendments and shall be adopted by a vote of a majority of
14 the Senators elected to the Senate.

15 (2) A Joint resolution when passed by both Houses shall
16 not be transmitted to the Governor for approval or
17 disapproval but shall be filed in the Office of the Secretary
18 of the Commonwealth in accordance with Article XI, section 1
19 of the Constitution of Pennsylvania.

20 Rule 29.1. Citations.

21 (a) Preparation.--A member making a request that a Senate
22 Citation be issued to a particular person or on a specified
23 occasion shall provide the Legislative Reference Bureau with the
24 facts necessary for the preparation of the citation on a
25 suitable form.

26 (b) Filing.--The citation request shall be filed with the
27 Secretary-Parliamentarian of the Senate and automatically
28 referred to the President Pro Tempore, who may approve and sign
29 the citation on behalf of the Senate.

30 (c) Issuance.--One original citation shall be issued by the

1 Secretary-Parliamentarian of the Senate.

2 Rule 30. General access to the Senate Floor prohibited.

3 The Secretary-Parliamentarian of the Senate shall cause the
4 doors to the Senate Floor to be closed to all persons except
5 those who are entitled to access pursuant to the Rules of the
6 Senate. On days when the Senate is not in session, access to the
7 Senate Floor by any person not connected with the Senate is
8 prohibited. Other than the Senator, no person shall be permitted
9 to occupy the seat of a Senator at any time.

10 Rule 31. Veto.

11 (a) Passing over veto.--When any bill is not approved by the
12 Governor, he shall return it with his objection to the House in
13 which such bill originated. Thereupon such House shall enter the
14 objections upon their Journal and proceed to reconsider it. If,
15 after such reconsideration, two-thirds of all the Members
16 elected to that House shall agree to pass the bill, it shall be
17 sent with the objections to the other House by which likewise it
18 shall be reconsidered and, if approved by two-thirds of all the
19 members elected to that House, it shall become a law. (Const.
20 Art. IV, Sec. 15)

21 (b) Consideration during second regular session.--A bill
22 vetoed in a first regular session and not finally acted upon may
23 be brought up for consideration in a second regular session.

24 Rule 32. Division of a question.

25 Any Senator may call for a division of a question by the
26 Senate if the question includes points so distinct and separate
27 that, one of them being taken away, the other will stand as a
28 complete proposition. The motion to strike out and insert is
29 indivisible.

30 Rule 33. Coordination with other Senate Rules.

Any use of Senate resources or time shall be governed by the Financial Operating Rules and the Ethical Conduct Rules of the Senate.

Rule 34. Committee on Ethics.

(a) Composition.--In addition to the committees created by Rule 14, there shall be a Senate Committee on Ethics which shall be composed of six members appointed by the President Pro Tempore. Three members shall be of the Majority Party and three members shall be of the Minority Party. The Minority Party members will be appointed on the recommendation of the Minority Leader.

(b) Organization.--The Senate Committee on Ethics shall be organized as follows:

(1) The President Pro Tempore shall appoint one of the Majority Party members as Chair and, on the recommendation of the Minority Leader, one of the Minority Party members as Vice Chair. A quorum for this committee shall be four members, and the committee shall have such duties, powers, procedure and jurisdiction as are prescribed and authorized in this Rule.

(2) The chair shall notify all members of the committee at least 24 hours in advance of the date, time and place of a meeting. Whenever the chair shall refuse to call a meeting, a majority of the committee may call a meeting by giving two days' written notice to the Majority Leader and the Minority Leader of the Senate setting forth the time and place for such meeting. A meeting commenced in this manner shall be held at the time and place specified in the notice.

(3) Except as provided in subsection (j), all meetings of the committee shall be open to the public and notice of

1 such meetings shall be given as generally provided in these
2 Rules for the convening of committees.

3 (4) The committee may adopt rules of procedure for the
4 orderly conduct of its affairs, investigations, hearings and
5 meetings, which rules are not inconsistent with this Rule.

6 (c) Receipt of complaint.--The committee shall receive
7 complaints against any Senator alleging unethical conduct in
8 violation of a Senate Rule, statute or constitutional provision
9 governing the ethical conduct of a Senator. Any complaint filed
10 with the committee shall:

11 (1) be submitted in writing;

12 (2) be sworn or affirmed by the person filing the
13 complaint; and

14 (3) detail the alleged unethical conduct in question and
15 specify the Rule, statute or constitutional provision
16 allegedly violated.

17 (d) Review of complaint.--Upon receipt of a complaint that
18 conforms with all the requirements of this Rule, the Senate
19 Committee on Ethics shall review the complaint and determine
20 whether or not a preliminary investigation is warranted within
21 30 days of receiving the complaint. For good cause, a majority
22 of the members of the committee may vote to grant an additional
23 30 days to complete the committee's review. A frivolous or de
24 minimis complaint may be dismissed by a majority of the members
25 of the committee, with prejudice. The chair shall notify the
26 complainant and the subject Senator of the disposition of a
27 dismissed complaint.

28 (e) Disposition of complaints.--If it is determined by a
29 majority of the members of the Senate Committee on Ethics that
30 an ethical conduct violation may have occurred, the Senator

1 against whom the complaint has been brought shall be notified in
2 writing and given a copy of the complaint. Within 15 days after
3 receipt of the complaint, the Senator may file a written answer
4 to the complaint with the committee. If no answer is filed, the
5 complaint shall be deemed denied by the subject Senator. The
6 lack of an answer shall not be deemed to be an admission or
7 create an inference or presumption that the complaint is true.
8 The lack of an answer shall not prohibit a majority of the
9 members of the committee from either proceeding with a formal
10 investigation or dismissing the complaint.

11 (f) Preliminary investigation.--The committee shall have 30
12 days from the date that receipt of the answer to the complaint
13 is to be provided to complete its preliminary investigation. For
14 good cause, a majority of the members of the committee may vote
15 to grant an additional 30 days to complete the committee's
16 review. The committee may employ an independent counsel to
17 conduct a preliminary investigation. Upon conclusion of the
18 preliminary investigation, by vote of a majority of the members
19 of the committee, the committee shall determine whether to
20 proceed with a formal investigation, which may include hearings.
21 In the event that the committee vote is equally divided, the
22 question falls. If the committee does not decide to proceed to a
23 formal investigation, the Chair shall notify the complainant and
24 the subject Senator of the disposition of the complaint and
25 shall summarize the committee's rationale for its conclusion.

26 (g) Confidentiality.--Prior to the commencement of a formal
27 investigation, the fact that a preliminary investigation is
28 being conducted or is to be conducted shall be confidential
29 information. If, however, the filing of a complaint or a
30 preliminary investigation is made public by the complainant, the

1 committee may publicly confirm the receipt of a complaint.

2 (h) Indictment.--When an indictment is returned against a
3 member of the Senate, and the gravamen of the indictment is
4 directly related to the ethical conduct of a Senator in
5 violation of a Senate Rule, statute or constitutional provision
6 governing the ethical conduct of a Senator, the Senate Committee
7 on Ethics shall not initiate any new investigation and shall
8 suspend any ongoing investigation initiated pursuant to this
9 Rule until the subject matter of the indictment that relates to
10 the Senator's alleged unethical conduct is resolved.

11 (i) Alternative procedure.--In addition to action on formal
12 complaints as provided in subsection (c), a majority of the
13 members of the Senate Committee on Ethics may initiate a
14 preliminary investigation of suspected unethical conduct in
15 violation of a Senate Rule, statute or constitutional provision
16 governing the ethical conduct of a Senator. If it is determined
17 by a majority of the members of the committee that a violation
18 may have occurred, the Senator in question shall be notified in
19 writing of the alleged unethical conduct in question and the
20 Rule, statute or constitutional provision allegedly violated.
21 Within 15 days of the receipt of this information, the Senator
22 may file a written answer with the committee. The lack of an
23 answer shall not be deemed to be an admission or create an
24 inference or presumption that the complaint is true. The lack of
25 an answer shall not prohibit a majority of the members of the
26 committee from either proceeding with a formal investigation or
27 dismissing the complaint. The committee shall have 30 days from
28 the date that receipt of the answer to the complaint is to be
29 provided to complete its preliminary investigation. For good
30 cause, a majority of the members of the committee may vote to

1 grant an additional 30 days to complete the committee's review.
2 Upon conclusion of the preliminary investigation, by vote of a
3 majority of the members of the committee, the committee shall
4 determine whether to proceed with a formal investigation, which
5 may include hearings. In the event that the committee vote is
6 equally divided, the question falls.

7 (j) Closed session.--The committee shall conduct its
8 preliminary investigations, hearings and meetings related to a
9 specific investigation or a specific Senator in closed session
10 unless the Senator subject to investigation advises the
11 committee in writing that the Senator wants such meetings or
12 hearings to be held publicly. In the event that the Senator in
13 question makes such a request, the committee shall furnish the
14 Senator with a public meeting or hearing.

15 (k) Formal investigation.--In the event that the Senate
16 Committee on Ethics shall elect to proceed with a formal
17 investigation of alleged unethical conduct by a Senator, the
18 committee may employ an independent counsel to conduct a formal
19 investigation. The committee and any independent counsel
20 employed by the committee shall comply with the following
21 procedural requirements at all stages of the investigation:

22 (1) The Chair of the Senate Committee on Ethics may
23 continue any hearing for reasonable cause. Upon the vote of a
24 majority of the members of the committee, or upon the request
25 of the Senator subject to investigation, the Chair shall
26 issue subpoenas for the attendance and testimony of witnesses
27 and the production of documentary evidence relating to any
28 matter under formal investigation by the committee. The Chair
29 of the committee may administer oaths or affirmations,
30 examine and receive evidence, or rule on any objections

1 raised during the course of a hearing.

2 (2) All testimony, documents, records, data, statements
3 or information received by the committee in the course of any
4 preliminary or formal investigation shall be private and
5 confidential except in the case of public meetings or
6 hearings or in a report to the Senate.

7 (3) All constitutional rights of any Senator under
8 investigation shall be preserved, and the Senator shall be
9 entitled to present evidence, cross-examine witnesses, face
10 the accuser and be represented by counsel.

11 (4) An oath or affirmation shall be executed in writing
12 before any member of the committee, any independent counsel
13 employed by the committee to conduct a preliminary or formal
14 investigation, or any employee of the Senate related to the
15 investigation may have access to information that is
16 confidential pursuant to the rules of the committee as
17 follows:

18 "I do solemnly swear or affirm that I will not disclose,
19 to any person or entity outside of the Senate Committee
20 on Ethics, any information received in the course of my
21 service with the committee, except as authorized by the
22 committee or in accordance with the Rules of the Senate."

23 Copies of the executed oath or affirmation shall be provided
24 to the Secretary-Parliamentarian of the Senate as part of the
25 records of the Senate. Any Senator or other person who
26 violates the confidentiality requirements of this subsection
27 shall be removed immediately from the committee and replaced
28 by another Senator, counsel or employee of the Senate
29 appointed in like manner as the person's original appointment
30 or selection.

1 (1) Report.--No report regarding unethical conduct by a
2 Senator shall be made to the Senate unless a majority of the
3 members of the Senate Committee on Ethics determines that a
4 finding of unethical conduct in violation of a Senate Rule,
5 statute or constitutional provision governing the ethical
6 conduct of a Senator has occurred. No finding of unethical
7 conduct by a Senator in violation of a Senate Rule, statute or
8 constitutional provision governing the ethical conduct of a
9 Senator adopted by the Senate Committee on Ethics shall be valid
10 unless signed by at least a majority of the members of the
11 committee. Any such report may include a minority report. A
12 report adopted by the committee that contains findings of
13 unethical conduct by a Senator in violation of a Senate Rule,
14 statute or constitutional provision governing the ethical
15 conduct of a Senator shall not be filed with the Secretary-
16 Parliamentarian of the Senate or released to the public until at
17 least seven days after a copy of the report is sent by certified
18 mail to the Senator under investigation.

19 (m) Distribution of report.--After the expiration of the
20 seven-day notice requirement contained in subsection (1), the
21 Senate Committee on Ethics shall file its report with the
22 Secretary-Parliamentarian of the Senate, who shall cause a copy
23 of the report of the committee to be distributed to the members
24 of the Senate. The report of the Senate Committee on Ethics
25 shall be placed on the Senate Calendar and shall be acted upon
26 by the Senate within 10 legislative days of the adoption of a
27 temporary rule setting forth rules of procedure for the orderly
28 disposition of the report by the full Senate. A vote by a
29 majority of the members elected to the Senate shall be necessary
30 to adopt each finding set forth in the Ethics Committee Report.

(n) Sanction.--Should the full Senate vote to adopt an unethical conduct finding against a Senator as set forth in the Ethics Committee Report, that Senator may be subject to sanction by the full Senate. A sanction may include any of the following depending on the circumstances of the violation:

- (1) a warning;
- (2) a written reprimand;
- (3) restitution for damages; or
- (4) any other sanction provided for pursuant to the Rules of the Senate or the Constitution of Pennsylvania.

(o) Advisory opinion.--The Senate Committee on Ethics, at the request of a Senator or officer who has an ethical question or concern regarding the Senate Rules individually or in conjunction with others, may issue an advisory opinion seeking to clarify the ethical requirements of the Senate Rules. These advisory opinions, with such deletions and changes as shall be necessary to protect the identity of the persons involved or seeking the advisory opinions, may be published and shall be distributed to all members, officers and employees of the Senate. No action regarding unethical conduct may be taken against a Senator, officer or employee who has relied on a written advisory opinion, whether directly addressed to that person or not, which is reasonably construed as being applicable to the conduct in question.

(p) Committee member under investigation.--In the event that a member of the Senate Committee on Ethics shall be under investigation, that Senator shall be temporarily replaced on the committee in a like manner to the Senator's original appointment.

(q) Costs and expenses.--Whenever the committee shall employ

1 independent counsel to conduct a preliminary or formal
2 investigation or shall incur other expenses pursuant to its
3 duties pursuant to this Rule, payment of costs of such
4 independent counsel or other expenses incurred by the committee
5 pursuant to this Rule shall be paid by the Chief Clerk of the
6 Senate upon submission of vouchers and necessary documentation.
7 The vouchers shall be signed by both the Chair and Vice Chair of
8 the committee. Included in such allowable expense items shall be
9 travel and per diem for the members of the committee. The Chief
10 Clerk shall pay such expenses out of funds appropriated to the
11 Chief Clerk for incidental expenses.

12 Rule 35. Status of members indicted or convicted of a crime.

13 (a) Status generally.--When an indictment is returned
14 against a member of the Senate, and the gravamen of the
15 indictment is directly related to the Senator's conduct as a
16 committee chair, ranking minority committee member or in a
17 position of leadership, the Senator shall be relieved of such
18 committee chairmanship, ranking minority committee member
19 status, or leadership position until the indictment is disposed
20 of, but the member shall otherwise continue to function as a
21 Senator, including voting, and shall continue to be paid.

22 (b) Restoration.--If, during the same legislative session,
23 the indictment is quashed, or the court finds that the Senator
24 is not guilty of the offense alleged, the Senator shall
25 immediately be restored to the committee chairmanship, ranking
26 minority committee member status, or leadership position
27 retroactively from which that Senator was suspended.

28 (c) Resolution of expulsion.--Upon a finding or verdict of
29 guilt by a judge or jury, a plea or admission of guilt or plea
30 of nolo contendere of a crime by a member of the Senate, the

1 gravamen of which relates to the member's conduct as a Senator,
2 and upon imposition of sentence, the Secretary-Parliamentarian
3 of the Senate shall prepare a resolution of expulsion under
4 session, which shall appear on the Calendar on the next
5 legislative session day following an imposition of sentence
6 based upon a determination or admission of guilt or a plea of
7 nolo contendere.

8 Rule 36. Status of officers or employees indicted or convicted
9 of a crime.

10 (a) Suspension.--Whenever any officer or employee of the
11 Senate is indicted or otherwise charged before a court of record
12 with the commission of a felony or a misdemeanor, the gravamen
13 of which relates to the officer's or employee's conduct or
14 status as an officer or employee of the Commonwealth or the
15 disposition of public funds, the officer or employee shall be
16 suspended immediately without pay and benefits by the Chief
17 Clerk of the Senate. After a finding or a verdict of guilt by a
18 judge or jury, plea or admission of guilt, or plea of nolo
19 contendere, and upon imposition of sentence, the employment
20 shall be terminated.

21 (b) Termination of suspension.--If the indictment is
22 quashed, or the court finds that the officer or employee is not
23 guilty of the offense alleged, the suspension without pay shall
24 be terminated, and the officer or employee shall receive
25 compensation for the period of time during which the officer or
26 employee was suspended, which compensation shall be reduced by
27 the amount of any compensation the officer or employee earned
28 from other employment during the period of suspension.

29 (c) Appeal.--If the officer or employee or the supervising
30 Senator of such employee disagrees with the decision of the

1 Chief Clerk of the Senate as to whether an indictment for
2 particular conduct shall be a crime requiring suspension or
3 dismissal, the officer or employee in question or the
4 supervising Senator of the employee may appeal the suspension to
5 the Senate Committee on Ethics, which shall determine whether
6 the conduct charged is an offense requiring suspension. Whenever
7 an appeal of a suspension shall be taken to the committee, the
8 suspension shall remain effective pending a decision by the
9 committee.

10 Rule 37. Affiliation with nonprofit entities.

11 (a) Requirements.--In order for a Senator or Senate
12 employee, including a family member of the Senator or Senate
13 employee, to be affiliated with a nonprofit entity, the
14 nonprofit entity must meet all of the following:

15 (1) Be a legal entity formed under the laws of this
16 Commonwealth or another state that is qualified for nonprofit
17 status.

18 (2) Have a formally established board of directors with
19 at least four members that is fully accountable for the
20 nonprofit entity's overall operation.

21 (3) Have a written set of bylaws or rules, approved by
22 its board of directors, that establishes its composition and
23 governance process.

24 (4) Require official action of the board of directors to
25 be approved and executed in a manner consistent with its
26 bylaws or rules.

27 (5) Not receive grant funding directly from the
28 Commonwealth that comprises its sole source of operational
29 funding.

30 (b) Prohibitions.--A Senator or Senate employee, including a

1 family member of that Senator or Senate employee, who is
2 affiliated with a nonprofit entity may not do any of the
3 following with regard to a nonprofit entity with which that
4 Senator or Senate employee, including a family member of that
5 Senator or Senate employee, is affiliated:

6 (1) Exercise sole and unilateral control of a final
7 action of the nonprofit entity regarding allocation or
8 disbursement of grant funding that the nonprofit entity
9 receives directly from the Commonwealth.

10 (2) Direct a Senate employee to staff or provide
11 services to the nonprofit entity as a condition of
12 employment.

13 (3) Direct the personnel or other resources of the
14 nonprofit entity for the benefit of a Senator's campaign.

15 (4) Commingle funds from any Senate expense account with
16 the funds of the nonprofit entity with the knowledge and
17 intent that those funds are to be used for the direct
18 reimbursement of expenses incurred by that nonprofit entity.

19 (5) Maintain a Senate district office within or
20 contiguous to the same office as the nonprofit entity.

21 (c) Applicability.--A Senator or Senate employee, including
22 a family member of that Senator or Senate employee, shall not be
23 subject to the requirements of this Rule if the affiliated
24 nonprofit entity receives no grant funding directly from the
25 Commonwealth.

26 (d) Training.--To assure compliance with this Rule by
27 Senators and Senate employees, appropriate training measures
28 shall be implemented by the Senate. Training shall be provided
29 annually for all Senators and Senate employees.

30 (e) Definitions.--As used in this Rule, the following words

1 and phrases shall have the meanings given to them in this
2 subsection unless the context clearly indicates otherwise:

3 "Affiliated." Serving:

- 4 (1) as an officer of a nonprofit entity;
- 5 (2) on the board of directors of a nonprofit entity;
- 6 (3) as a paid employee of a nonprofit entity; or
- 7 (4) as a contractor of a nonprofit entity.

8 "Family member." A spouse or child.

9 "Nonprofit entity." An entity that is qualified by the
10 Internal Revenue Service as meeting the requirements of section
11 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514,
12 26 U.S.C. § 501(c)).

13 Rule 38. Temporary emergency Rules of the Senate.

14 (a) continuity of legislative operations.--In order to
15 maintain the continuity of the legislative operations of the
16 Senate and protect the health, safety and welfare of the
17 residents of the Commonwealth, based on the declaration of
18 disaster emergency issued by the Governor on March 6, 2020, the
19 effect of which makes the convening of some or all of the
20 members of the Senate as a body in the Senate chamber of the
21 Capitol Building or at a single location imprudent, inexpedient
22 or impossible, the following apply:

23 (1) Notwithstanding Rules 6 and 7 the following apply:

24 (i) In the absence of the Secretary-Parliamentarian
25 and the Chief Clerk and subject to the direction of the
26 President Pro Tempore, the Assistant Secretary shall
27 attest all writs, warrants and subpoenas issued by order
28 of the Senate and shall certify as to the passage of
29 Senate bills and the approval of executive nominations.

30 (ii) In the absence of both officers and the

1 Assistant Secretary, the President Pro Tempore shall
2 designate a signatory.

3 (2) Notwithstanding Rule 9, there shall be no guest
4 introductions.

5 (3) Notwithstanding Rule 14(h), members may remotely
6 participate in committee meetings as follows:

7 (i) A quorum shall be established through a roll
8 call.

9 (ii) Technology employed for remote committee
10 meetings must safeguard the integrity of the legislative
11 process and maintain the deliberative character of the
12 meeting by providing for simultaneous aural and verbal
13 communication among all participants.

14 (4) Notwithstanding Rule 14, the following apply:

15 (i) The President Pro Tempore may appoint a Senator
16 to serve in a temporary capacity as a member of a
17 committee, serving only for the duration of a single
18 session day for a particular committee meeting.

19 (ii) The President Pro Tempore shall transmit this
20 designation to the Secretary-Parliamentarian for
21 retention during the two-year legislative session, and
22 this record shall be available for public inspection upon
23 request.

24 (iii) The communication shall be read across the
25 desk and printed in the Senate Journal on the next
26 legislative day of the Senate.

27 (5) In addition to the provisions of Rule 14, the
28 following apply:

29 (i) Regulations shall be deposited with the
30 Legislative Reference Bureau.

1 (ii) The bureau shall transmit the regulations to
2 the appropriate committee for consideration within 24
3 hours.

4 (iii) The bureau shall transmit notice of the
5 transmission of the regulations to the Secretary-
6 Parliamentarian.

7 (iv) The time for consideration shall begin on the
8 date the committee receives the regulations from the
9 bureau.

10 (6) In addition to the provisions of Rule 17, the
11 following apply:

12 (i) Members participating remotely may cast votes
13 for all measures considered and brought to a vote by the
14 committee, as if the members were physically present at
15 the committee meeting.

16 (ii) The identity of the voting member must be
17 verified by the Chair.

18 (iii) A member may also vote on matters before the
19 committee pursuant to Rule 16(3).

20 (7) Notwithstanding Rule 20, members may remotely
21 participate in the session of the Senate as follows:

22 (i) Members participating remotely may cast votes
23 for all measures considered and brought to a vote during
24 session, as if the members were physically present at the
25 session of the Senate.

26 (ii) The identity of the voting member must be
27 verified by the presiding officer.

28 (iii) Technology employed for remote participation
29 in Senate session must safeguard the integrity of the
30 legislative process and maintain the deliberative

1 character of the session by providing for simultaneous
2 aural and verbal communication among all participants.

3 (iv) A member may also vote as provided in Rule
4 20(b)(1) and (2).

5 (8) Notwithstanding Rule 23, the Chief Clerk may provide
6 for remote participation technology that enables members to
7 participate in committee meetings and Senate session.

8 (9) Notwithstanding Rule 27, the following apply:

9 (i) Senators participating remotely in the session
10 of the Senate shall be counted for the purpose of
11 determining a quorum.

12 (ii) A quorum shall be established through a roll
13 call if the identity of the voting member is identified
14 by the presiding officer.

15 (10) This rule shall expire March 31, 2021, or 10 days
16 following the expiration of the emergency declaration,
17 whichever is earlier, unless otherwise further extended in
18 accordance with the Rules of the Senate.

19 (b) Definitions.--As used in this Rule, the following words
20 and phrases shall have the meanings given to them in this
21 subsection unless the context clearly indicates otherwise:

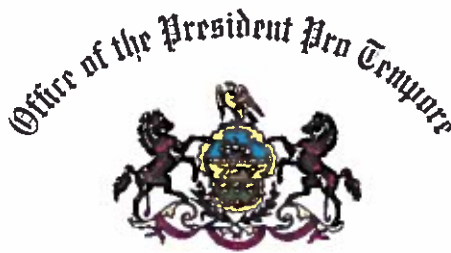
22 "Remote participation." Simultaneous, interactive
23 participation in a committee meeting by committee members not
24 physically present at the location of the meeting, through means
25 of communication technologies designed to accommodate and
26 facilitate such simultaneous, interactive participation.

EXHIBIT B

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34TH DISTRICT
SENATOR JAKE CORMAN

SENATE BOX 203034
THE STATE CAPITOL
HARRISBURG, PA 17120-3034
(717) 787-1377
FAX: (717) 772-3146



Senate of Pennsylvania

DISTRICT OFFICES

BELLEVILLE OFFICE

238 MATCH FACTORY PLACE
BELLEVILLE, PA 19822
(610) 355-0477
FAX (610) 355-6046

LEWISTOWN OFFICE

31 WEST THIRD STREET
LEWISTOWN, PA 17044
(717) 242-2410
FAX (717) 242-4775

TOLL FREE: 1-800-828-7300
WEBSITE: jakecorman.com

August 23, 2021

MEMO TO: The Honorable Megan Martin
Secretary of the Senate

FROM: Senator Jake Corman
President Pro Tempore

SUBJECT: Standing Committee Changes 2021-2022

Pursuant to Rule 5 of the Rules of the Senate, I hereby remove Senator Doug Mastriano as Chair of the Intergovernmental Operations committee. Senator Doug Mastriano shall remain as a member of the Intergovernmental Operations Committee. I appoint Senator Cris Dush to serve as Chair of the Intergovernmental Operations Committee.

cc: Senator Kim Ward
Senator Jay Costa
Donetta D'Innocenzo, Chief Clerk

EXHIBIT C

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Senate Committee on Intergovernmental Operations

Senator Doug Mastriano

Chair

Senate Box 203033 • Harrisburg, PA 17120-3033 • (717) 787-4651 • www.senatormastriano.com

TO: City Commissioner Lisa Deeley
Philadelphia County Board of Elections
1400 John F Kennedy Blvd, Room 130
Philadelphia, PA 19107

CC: Al Schmidt, Vice Chair, Philadelphia City Commissioners
Veronica Degraffenreid, Acting Secretary, Department of State

FROM: Senator Doug Mastriano

DATE: July 7, 2021

SUBJECT: Request for Information Pertaining to the 2020 General Election and 2021 Primary Election

Chairwoman Deeley,

A combination of legislative updates to the election code, the COVID-19 pandemic, actions by our Secretary of State in October and November, and late decisions by the Supreme Court of Pennsylvania presented unprecedented challenges and substantive changes to our Commonwealth's election process in 2020. These factors combined to cause a great burden on counties and county officials during the general election cycle.

Additionally, this was the first election in Pennsylvania with "mass" mail-in voting. In 2020, there were 2.7 million ballots cast by mail and absentee compared to about 263,000 absentee ballots cast in 2016. Many of these ballots were counted at offsite locations with limited outside observation or oversight. Furthermore, mail ballots without signature verification were permitted to be counted across the Commonwealth.

The damage to the integrity and confidence in our election process will not be undone with the passing of time. I believe the only way to restore confidence in our Commonwealth's election process is to undertake a forensic investigation of the election results. By doing this, faith in our election system will be restored.

The case for a forensic investigation of election results is well-defined.

In the weeks leading up to the election, the Pennsylvania Department of State repeatedly altered the manner in which Pennsylvania's election was conducted. The constantly changing guidance delivered to counties contradicted Election Code language that the department is obligated to uphold. Those who voted in person were held to a higher standard than those who mailed in their ballots. Signatures required for mail-in ballots were rendered meaningless as the PA Supreme Court ruled that ballots could not be rejected based on an analysis of the voter's signature.

On September 17th, the PA Supreme Court ruled that counties had to count ballots received up to three days after Election Day.

A week before the election, the Department of State told the U.S. Supreme Court that ballots received after 8 p.m. on November 3rd would be segregated. But the department changed the rules two days before the election and directed counties to canvass those ballots as soon as possible upon receipt. The U.S. Supreme Court had to eventually step in and order the counties to segregate the ballots.

Just hours before the polls opened on November 3, the department changed the rules again by providing last-second guidance on how to help voters whose mail-in or absentee ballots were incorrectly completed. The late release of this "guidance" resulted in inconsistent application across the Commonwealth. Some counties contacted voters as directed and while others did not. There was no basis for that guidance in current or case law.

The fundamental changes to the manner and conduct of the election undermined the faith of our citizens. A January poll from Muhlenberg University showed that 40% of Pennsylvania voters are not confident that the final results of the 2020 Election accurately reflected how Pennsylvanians voted. It is critical to the health of our Republic for people to trust in the election system.

Election process problems were not limited to 2020. During the May Primary, multiple poll locations ran out of their supply of ballots. This occurred even though counties are required to print at least 10% more ballots than the highest number of votes cast in any of the previous three municipal primary elections. In some precincts, voting machines improperly labeled the headers of Republican ballots as Democrat while the GOP races still appeared. In one county, a "printing issue" caused both Democratic and Republican ballots to be rejected. These errors occurred in a lower-turnout election, where mistakes should be least likely to occur.

The Intergovernmental Operations Committee is a standing committee of the Pennsylvania State Senate with oversight and investigatory responsibilities regarding activities relating to or conducted between two or more governments or levels of government, including the administration of elections across the Commonwealth.

As set forth in Pennsylvania Senate Rule 14 (d), each standing committee is empowered with the authority to inspect and investigate the books, records, papers, documents, data, operation, and physical plant of any public agency in this Commonwealth, including county boards of elections.

As the Chair of the Intergovernmental Operations Committee and in accordance with the Pennsylvania Constitution and the rules of the Senate of Pennsylvania, I request the items outlined in "Exhibit A" as part of the Committee's investigative authority.

The items requested by this committee are sufficiently specific and the items sought are reasonably relevant to its investigation of the 2020 General Election and 2021 Primary.

The Supreme Court of Pennsylvania has consistently recognized that the legislative branch's "power to investigate is an essential corollary of the power to legislate. The scope of this power of inquiry extends to every proper subject of legislative action." (Carcaci v. Brandamore)

Further, as stated in McGinley v. Scott, "The right to investigate in order to acquire factual knowledge concerning particular subjects which will, or may, aid the legislators in their efforts to determine if, or in what manner, they should exercise their powers, is an inherent right of a legislative body."

A thorough investigation is necessary for the General Assembly to adequately consider future legislation to reform and amend Pennsylvania's Election Code. This includes, but is not limited to; in-person voting, mail

ballot voting, absentee ballot voting, voter registration, voter identification, ballot collection facilities, inspection rights during the canvassing of ballots, election machine security, mail and absentee ballot security, information technologies, infrastructure and controls, and election integrity.

I request that you provide, and permit inspection, testing, or sampling of the items identified in the attached "Exhibit A" to the Intergovernmental Operations Committee.

In addition, please instruct all employees of the Commissioner's Office to cooperate and, if requested, participate, under the direction of the Intergovernmental Operations Committee, or its designees, in the inspection, testing, or sampling of the items.

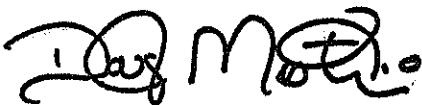
Please respond declaring that the Commissioner's Office will plan to comply with the Senate Intergovernmental Operations Committee's request by **July 31, 2021** with a proposed timeline regarding inspection, testing, or sampling of items.

A subpoena may be issued if a plan to comply with the requests of this letter and Exhibit A is not presented to the Intergovernmental Operations Committee within the stated period of time. The Intergovernmental Operations Committee is open to considering any requests that you may have to facilitate transport and maintain the security of responsive materials.

A forensic investigation of election results and processes for the 2020 General Election and 2021 Primary will go a long way toward restoring trust and support in our system. Voting is the bedrock of American virtue and the most fundamental right of all citizens. We should continually look for ways to improve the voting process to ensure our elections are secure and accurate.

I look forward to your response and full cooperation in assisting the Intergovernmental Operations Committee to review and improve Pennsylvania's election process.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Mastriano".

Doug Mastriano
State Senator, 33rd District
Chair, Intergovernmental Operations

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Exhibit A

Pertaining to the November 2020 General Election and May 2021 Primary, the Intergovernmental Operations Committee requests access to the following books, letters, or other documentary evidence from your county for the purpose of forensic analysis:

1. All ballot production, processing, and tabulation equipment from satellite election offices and any other location used to count votes.
2. The software and bootable media, hardware tokens (security keys) for the equipment described in item #1, and the election management system that was used.
3. Forensic images of all election equipment:
 - Servers – Election management server, file servers, network servers, dial-up servers, or any other server utilized for the processing or storage of election results or data required to run an election.
 - Tabulators – high speed and normal speed
 - Ballot marking devices – including accessibility, or for normal voting
 - Desktops & laptops – Utilized within the Election Management System for any purpose including but not limited to: EMS Client, adjudication, registration, creation of ballots or designs, processing results, uploading results or anything similar
 - Signature matching and ballot sorting equipment
 - Switches, routers or other network equipment – This includes normal networking equipment as well as any specialized systems such as Intrusion Detection Systems, Firewalls, Intrusion Prevention Systems or similar
4. Forensic images of all removable media (including, but not limited to USB thumb drives, external hard drives, backup tape cassettes, memory cards, PCMCIA cards, Compact Flash, CD/DVD or similar) used as part of the election process or to load software, configuration, or programming.
5. Forensics images of the firmware of any device associated with the election that does not have a hard drive; including any tooling required to extract that firmware, if applicable.
6. Forensic images of all SIM cards used for wireless 3G/4G LTE/5G communications.
7. Forensics on all machines utilized for absentee ballot processing to include:
 - All logs from the system
 - Backups of the system
 - Offsite cloud storage associated with the system
 - Media used to transfer data (USB drives, compact flash, external hard drives)
8. Logs from all routers, switches, firewalls, IDS, IPS or similar devices. This includes, but is not limited to:
 - Netflows (or equivalent)
 - DHCP logs
 - Access logs
 - VPN logs
 - PPP logs
 - RDP logs
 - Splunk logs

- Any remote administration tool logs

9. Logs from all computer systems, servers, desktops, laptops, or similar including but not limited that was used in the design, management, and running of the election:

- Windows Event logs
- Access logs
- Firewall logs
- IDS / IPS / Malware / Virus Scan Logs
- Database logs
- All logs generated from applications associated in any way with the election

10. Logs from all EMS Server(s), EMS Clients, tabulators, ballot marking devices, ballot on demand printers, scanners, voting systems, or other election equipment including, but not limited to:

- Error logs
- Access logs
- Debug output
- Audit logs
- Administrator logs

11. Election Log Files XML, EML, JSON, DVD and XSLT other election files and logs for:

- Tabulators
- Result pair resolution
- Result files
- Provisional votes
- RTM logs
- SQL database files and logs
- Signature checking & sorting machine

12. List of all IP addresses utilized at any location where election equipment was utilized during the entire election period. This includes the time from when the election equipment was ready to receive a cast ballot to when the certified results were officially published. This shall include, but is not limited to:

- IP addresses of any cellular modems utilized by voting equipment
- IP addresses of any routers utilized at any location where votes were cast, counted, tallied, or reported
- IP addresses of any dial-up connections utilized
- IP addresses of any computers utilized to process, send or upload election results

13. Access or control of ALL routers, tabulators or combinations thereof (some routers are inside the tabulator case) in order to gain access to all the system logs.

14. Election Settings:

- Ranked profiles and entire change history of audit trail logs
- Ranked contests and entire change history audit trail logs
- Rejected ballots report by reason code
- All configuration files utilized to control the election

15. Accounts and Tokens:

- Username & Passwords (Applications, Operation Systems, Routers, Switches, Firewalls, etc)
- File and/or Hardrive Encryption Passwords or keys (Bitlocker, Veracrypt, Etc)
- Security Tokens (iButton, Yubikey, SmartCard, Etc)

16. ES&S Express VoteXL Specific:

- All Paper Vote Summary Cards
- All USB Flash Drives

17. Voter Rolls:

- Database of voter rolls
- Forensic Image of computer/device used to work with voter rolls
- Copy of media device used to transfer voter rolls

18. Records required from the voting system- Daily and cumulative voter records for those who voted with sufficient definition to determine:

- Voter's name and Registered Voting address
- Address for correspondence (mailing address)
- D.O.B.
- Voter ID number
- How Voted (mail, in-person early, in person Election Day)
- Where Voted (if applicable)
- Date voted (if applicable)
- Party affiliation (if recorded)
- Ballot by mail Request Date
- Ballot by mail sent date
- Ballot by mail voted date (if applicable)
- Ballot cancelled date (if applicable)
- RAW, HTML, XHTML and SVG files (Ballot Images)

19. Access needed to physically and forensically examine all date and time-stamped paper ballots as required:

- Voter Tally Paper Rolls, Test Ballots, Ballot Test Matrix

20. Paper samples from all ballot paper utilized during the 2020 election cycle.

21. All ballots cast or attempted to cast during the 2020 General Election. This includes, but is not limited to:

- Mail in and absentee ballots
- Provisional Ballots
- Early Voting Ballots
- Accessibility Ballots
- Spoiled Ballots
- UOCAVA ballots
- Election Day Ballots

22. All request forms for mail ballots and absentee ballots.

23. All envelopes for mail in and absentee ballots.

24. All reports detailing all ballots that were rejected prior to election day and the process to contact the voter to cure the ballot.

25. All cartridges from all voting machines and scanners.

26. All affidavits for assistance.

27. All envelopes of requested ballots that were returned as undeliverable.

28. All training materials used to train County Employees including temporary employees, Judges of Election, Inspectors, Clerks, and all persons who staffed the satellite voting offices.
29. All duplicated ballots and all logs that would allow the duplicate to be compared to the original.
30. Chain of custody records and procedures for all ballots from the start of the election through the current date.
31. All pollbooks from all precincts, wards, and divisions.
32. All supplemental pollbooks from all precincts, wards and divisions.
33. A list of all voters who cast an absentee or mail ballot and voted on the machines at the polls on Election Day.
34. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of Innovation and Technology.
35. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Managing Director.
36. All contracts and agreements between the Philadelphia Commissioners Office and the City of Philadelphia Office of the Mayor including all Departments under the direction of the Mayor.
37. All contracts and agreements between any vendor or contractor that supplies voting equipment of any type, software utilized in the election process, ballot paper, election design support, election equipment support, or election support. This includes, but is not limited to contracts dealing with:
 - Ballot Marking Devices, Tabulators, Election Management Systems, or similar
 - Election Design Software, Tabulation Software, Voting Registration Software, Duplication Software, Adjudication Software, Signature Verification Software, or anything similar related to the election
 - Ballot Paper, Printing Services, Mailing Services, Scanning Services, Address Validation Services
 - Election Design Services, Election Equipment Repair, Election Equipment Service, Election Processing, or other Election support services
 - Internet service provider, cellular service provider
38. Timeline (1 month prior to the election to 1 month after the election) for each location that utilized a piece of election equipment that includes:
 - Who accessed the equipment (the organization they represent and their position in the organization), on what date, for what purpose, what electronic media was used, and what records were kept
 - Any tests that were performed during the access of the equipment (voters on election day are not to be included)
39. A complete end-to-end election setup for use in a laboratory:
 - This would include all the equipment necessary to simulate an election and recreate the precise scenarios of election day in 2020
 - Central Server, tabulators (high speed and normal), poll pads, etc.
 - This specifically includes all of the passwords, security tokens, physical keys, key fobs, etc., needed to use each piece of equipment
 - Instruction manuals on how to use the end-to-end setup
 - Duplicate copy of election tabulator bootable media for multiple selected locations
 - Ballots used in the locations selected

40. All precincts return sheets with the paper tapes:
 - Any return sheets that were unusable, needed to be recreated, or fixed in somehow should also be included with their notes (front and back)
41. Dates/times of the technicians/people of LAT testing that had access to election equipment.
42. Dates/times of software updates on election computers and servers.
43. Dates/times of certification of the equipment (servers, election computers, election hardware devices).
44. Details of all CTCL related activities, included but not limited to:
 - Equipment purchased by CTCL
 - Number and locations of drop boxes installed
 - List of resources CTCL had access to, including voter rolls or other data
45. Details and data surrounding the SURE system including:
 - A full copy of the database holding all records and change records in the SURE system
 - A copy of all logs showing all changes to the voter rolls as well as the username, name, IP address, or other details of the individual making the change
 - A list of individuals and organizations with access to the SURE system and any of its Application Programming Interfaces
 - Manuals and programmer documentation for interfacing with the SURE system
46. List of where the clerk stores all election equipment and data along with list of individuals that have access to these areas.
47. Information related to voting system design, architecture, and configuration.
48. Information pertaining to cybersecurity protocols and settings put into place.

EXHIBIT D

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CITY OF PHILADELPHIA

LISA M. DEELEY
CHAIRWOMAN

CITY COMMISSIONERS
PHILADELPHIA, PA 19107
(215) 686-3460

July 30, 2021

Senator Doug Mastriano
Senate Box 203033
Room: 187 Main Capitol
Harrisburg, PA 17120-3033

Dear Senator Mastriano,

I am in receipt of your July 7, 2021 Request for Information pertaining to the 2020 General Election and 2021 Primary Election and have shared your letter with Vice Chair, Commissioner Al Schmidt, and Secretary, Commissioner Omar Sabir, who together with myself comprise the Philadelphia County Board of Elections. It is our understanding that you, in your capacity as Chairman of the Senate Intergovernmental Operations Committee, would like Philadelphia County to provide the Intergovernmental Operations Committee with access to a broad range of the county's election management system, voting equipment, and records, including among other things electronic security keys, for inspection, testing, or sampling as part of a "forensic investigation" of the results and processes for the 2020 General Election and 2021 Primary Election.

I, on behalf of the Philadelphia Board of Election, assure you that Philadelphia County's election systems and processes are fair and secure. The equipment has been certified by both the Federal EAC and the Pennsylvania Department of State which has already ensured that the equipment went through security and penetration testing. Independent tests were done to ensure that election results, media used, reports, and audit logs were protected from attempts to decrypt, manipulate, or corrupt election data. Every state election official and state or federal judge who has considered the propriety of Philadelphia County's 2020 General and 2021 Primary Elections has confirmed that there has been no evidence of any election malfeasance.

Philadelphia County has already completed all required audits, reviews, and certifications for the 2020 General Election and the 2021 Primary including both the statutory "two percent" audit as required by 25 P.S. § 3031.17 and the Commonwealth's risk-limiting audit ("RLA"). As you know, the RLA is a statistically designed audit to determine if votes were tabulated accurately and to detect possible election interference or counting errors. The results of both these audits confirmed the outcomes of these elections.

Further, Philadelphia County participated in the bipartisan effort before the Senate's Special Committee on Election Integrity and Reform, which was established pursuant to Senate Rule 5(a)(2), to review all aspects of the 2020 General Election, including, among other things, "the security of the vote before, during and after Election Day [and] the accuracy and security of the election process[.]" Indeed, my fellow commissioners and I testified before the committee during a public hearing specifically focused on the administration of elections in Philadelphia and Allegheny Counties. The report by the Special Committee on Election Integrity and Reform does not contain any suggestion that Philadelphia County experienced any issues or identified any anomalies with its voting systems or processes.

Philadelphia County's participation in your proposed analysis would be duplicative of extensive efforts already undertaken by the Philadelphia County Board of Elections, the Pennsylvania Department of State, state and federal courts, and your colleagues in the Pennsylvania State Senate. Participation could also impair our ability to operate fair and secure elections in Philadelphia. Among other things, the analysis you are seeking to undertake would result in the unnecessary decertification of Philadelphia County's voting equipment. This is not a hypothetical concern, as the Department of State recently decertified equipment from Fulton County that were made available by that county for a purported audit.¹ Based on current estimates, replacing the voting system and equipment alone would cost over \$35,000,000, further costs would arise from staff overtime, shipping, and storage. In addition to being costly, replacing the voting system and equipment would likely take over a year when one accounts for obtaining the inventory necessary for the sixth largest city in America as well as the time and effort required for the Philadelphia Board of Elections to test and implement the replacement equipment in order that it could be used by Philadelphians to vote on an election day. This would render it impossible for Philadelphia to conduct the November 2021 General Election as well as the May 2022 Primary Election.

The board cannot agree to the undertaking of your proposed review of the county's election equipment. Among other things, there is no claim that Philadelphia County's election systems or processes were compromised nor is there any basis to jeopardize the constitutionally mandated secrecy of the votes cast by City of Philadelphia residents, to expose the taxpayers of the city to tens of millions of dollars in additional and unanticipated expenses, or to risk the very ability of Philadelphians to cast ballots in future elections if Philadelphia's system was decertified. Philadelphia's dedicated election staff ensured that the 2020 General Election and the 2021 Primary Election were secure, fair, and free from interference. While we welcome the opportunity to continue to engage with the Pennsylvania Legislature and appreciate your concern for the challenges faced by dedicated election officials across the Commonwealth, Philadelphia County will not participate in your proposed analysis.

¹ See Letter from Veronica W. Degraffenreid, Acting Secretary of the Commonwealth to James M. Stein, July 20, 2021 (www.dos.pa.gov/about-us/Documents/statements/2021-07-20-Letter-to-Fulton-County-Officials.pdf).

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa Deeley", with a stylized flourish at the end.

Lisa Deeley
City Commissioner, Chairwoman
Office of the City Commissioners

Cc: The Honorable Al Schmidt, Philadelphia City Commissioner
The Honorable Omar Sabir, Philadelphia City Commissioner
Jonathan M. Marks, Deputy Secretary for Elections & Commissions
Veronica W. Degraffenreid, Acting Secretary of the Commonwealth
Senator Anthony H. Williams, Minority Chair Senate Intergovernmental Operations Committee
Senator Scott E. Hutchinson, Vice Chair Senate Intergovernmental Operations Committee
Senator Jake Corman, President pro-tempore, State Senate
Senator David G. Argall, Senate Intergovernmental Operations Committee Member
Senator Chris Dush, Senate Intergovernmental Operations Committee Member
Senator Chris Gebhard, Senate Intergovernmental Operations Committee Member
Senator Judy Ward, Senate Majority Leader
Senator Jay Costa, Senate Minority Leader
Senator Steven J. Santarsiero, Senate Intergovernmental Operations Committee Member
Benjamin H. Field, Divisional Deputy City Solicitor

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EXHIBIT E

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**DIRECTIVE CONCERNING ACCESS TO ELECTRONIC VOTING SYSTEMS,
INCLUDING BUT NOT LIMITED TO THE IMAGING OF SOFTWARE AND
MEMORY FILES, ACCESS TO RELATED INTERNAL COMPONENTS, AND THE
CONSEQUENCES TO COUNTY BOARDS OF ALLOWING SUCH ACCESS**

July 8, 2021

Directive 1 of 2021

The following Directive is issued July 8, 2021, by the Secretary of the Commonwealth pursuant to authority contained at Section 1105-A(a) of the Pennsylvania Election Code, 25 P.S. 3031.5(a).

1. Background. The Secretary of the Commonwealth (“Secretary”) has duties pursuant to Article XI-A of the Pennsylvania Election Code, Sections 1101-A through 1122-A, to examine, evaluate and certify electronic voting systems. These reviews include verifying that the voting system conforms to federal and state law and any regulations or standards regarding confidentiality, security, accuracy, safety, reliability, usability, accessibility, durability, resiliency, and auditability. This is in addition to the Federal testing and certification undertaken by the U.S. Election Assistance Commission.

The U.S. Federal Government has played a leading role in efforts to ensure that security and resiliency of infrastructure fulfilling unique and crucial aspects in our society are identified and protected. Executive Order 13636, issued February 12, 2013, focuses on measures required for infrastructure security. In January 2017, the U.S. Department of Homeland Security designated election infrastructure as critical infrastructure under the “Government Facilities” sector, one of the 16 critical infrastructure sectors in the United States. The Pennsylvania Department of State recognized the significance of this designation while it was developing the security standards for certification of voting systems to be used in Pennsylvania elections. As a result, during the Department’s examination, each voting system successfully completed penetration testing, access control testing and testing to ensure that every access point and all software and firmware are protected from tampering prior to certification by the Secretary.

2. Third-Party Access to Electronic Voting Systems. Demands have been made to allow third-party entities not directly involved with the conduct of elections to have access to electronic voting systems, specifically to review and copy the internal electronic, software, mechanical, logic, and related components of such systems. These demands have included the desire to image electronic memory spaces, to download operating systems and software, and to copy information that is internal and proprietary. Such access by third parties undermines chain of custody requirements and strict access limitations necessary to prevent both intentional and inadvertent tampering with electronic voting systems. It also jeopardizes the security and integrity of those systems and will negate the ability of electronic voting system vendors to affirmatively state that such systems continue to meet Commonwealth security standards, are validated as not posing security risks, and

are able to be certified to perform as designed by the electronic voting system vendor and as certified by both the U.S. Election Assistance Commission and the Department of State.

3. *Limits on Third-Party Access to Electronic Voting Systems.* The following directive is effective immediately:

a. County Boards of Elections shall not provide physical, electronic, or internal access to third parties seeking to copy and/or conduct an examination of state-certified electronic voting systems, or any components of such systems, including but not limited to: election management software and systems, tabulators, scanners, counters, automatic tabulating equipment, voting devices, servers, ballot marking devices, paper ballot or ballot card printers, portable memory media devices (thumb drives, flash drives and the like), and any other hardware, software or devices being used as part of the election management system.

b. If access described in Paragraph 3.a. occurs, those pieces of voting equipment will be considered no longer secure or reliable to use in subsequent elections. As a result, the Department of State will withdraw the certification or use authority for those pieces of the county voting system. This directive is specific to the impacted pieces of the county electronic voting system and does not impact the certification of the underlying voting system nor does it impact other pieces of a county's voting system that has not been accessed/copied by a third-party.

c. The Commonwealth of Pennsylvania will not reimburse any cost of replacement voting equipment for which certification or use authority has been withdrawn pursuant to this directive.

4. *Notice.* County Boards of Elections shall notify the Secretary immediately upon receipt of any written or verbal request for third-party access to an electronic voting system, or any component thereof. In addition, County Boards of Elections and voting system vendors have an affirmative duty to notify the Secretary immediately of any breach or attempted breach in the chain of custody of its voting system components.

5. *Other Obligations of County Boards of Elections Regarding Third-Party Requests for Access to Election-Related Material.* County Boards of Elections are advised to:

a. Review all contracts, lease agreements, or other documents evidencing agreements between vendors and the county to determine the contractual impacts of providing any such requested access.

b. Comply with federal law regarding the retention and preservation of records.

c. Protect the privacy of voters as required by the Constitution and state law.

6. *Future Actions.* This Directive shall remain in force until cancelled or rescinded by the Secretary of the Commonwealth, by a subsequent Directive, or by another issuance.

###

EXHIBIT F

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

July 20, 2021

Mr. James M. Stein
Dick, Stein, Schemel, Wine & Frey
119 North Second Street
McConnellsburg, PA 17233

Dear Mr. Stein,

We are in receipt of your letter of June 29, 2021, written on behalf of Patti Hess and the Fulton County Board of Elections. Based on our discussions and correspondence with Fulton County officials, it appears that the contents of ballot boxes, including the voted ballots, and the components of the Dominion Democracy Suite 5.5A that were used during the 2020 November election were subjected to a post-election review by a third-party in violation of Pennsylvania's Election Code.

Pennsylvania's Election Code vests in each bipartisan county board of elections the authority and duty to maintain proper chain of custody of official ballots, balloting materials and voting systems before, during, and after each election. These requirements ensure that any official tabulation, recount, or election contest is conducted transparently in a manner that does not put at risk this critical election infrastructure.

The Department of State takes steps prior to the certification of a voting system to verify that the system successfully completes penetration testing, access control testing and vulnerability testing to ensure that every access point and all software and firmware is protected from tampering. Once a system is certified, the voting system vendor is then permitted to supply the voting system and counties are permitted to procure that system for use in Commonwealth elections, subject to the conditions of the Secretary of the Commonwealth's certification report.

Following delivery of a certified and procured system, the county is supposed to independently perform acceptance testing on the system. Thereafter, the equipment and software are expected to remain under the full control of the county.

As you have confirmed through our correspondence, Fulton County officials allowed Wake TSI, a company with no knowledge or expertise in election technology access to certain key components of its certified system. Fulton County officials permitted Wake TSI employees to access their "election database, results files, and Windows system logs." Further, the county allowed this third-party entity to use some type of "system imaging tool to take complete hard drive images of these computers" and "complete images of two USB thumb drives" used to transfer results files from their voting system computers to the computers used to upload results to the

July 20, 2021

Page 2

state's voter registration and election results reporting system. These actions were taken in a manner that was not transparent or bipartisan.

As a result of the access granted to Wake TSI, Fulton County's certified system has been compromised and neither Fulton County; the vendor, Dominion Voting Systems; nor the Department of State can verify that the impacted components of Fulton County's leased voting system are safe to use in future elections.

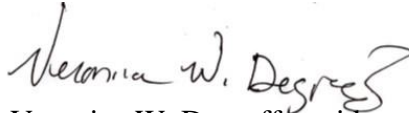
Due to these actions and after careful consideration, under the authority granted to the Secretary of Commonwealth under Sections 1101-A through 1122-A of the Pennsylvania Election Code, I have no other choice but to decertify the use of Fulton County's leased Dominion Democracy Suite 5.5A voting system last used in the November 2020 election.

Please know that I did not arrive at this decision lightly. I have a statutory obligation to examine, evaluate and certify electronic voting systems. These reviews include verifying that the voting system conforms to federal and state law and any regulations or standards regarding confidentiality, security, accuracy, safety, reliability, usability, accessibility, durability, resiliency, and auditability. I am also mindful of my federal obligations under Executive Order 13636, which focuses on measures required for infrastructure security and the action taken by the United States Department of Homeland Security to designate elections as critical infrastructure under the "Government Facilities" sector.

Please know that Department stands ready to support you in any appropriate manner.

If you have any questions, do not hesitate to reach out to my office directly.

Sincerely,



Veronica W. Degraffenreid
Acting Secretary of the Commonwealth

Cc: Fulton County Board of Elections

EXHIBIT G

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GOVERNMENT & POLITICS

Group led by 'kraken' lawyer Sidney Powell hired the firm recounting AZ's election to probe election in Fulton Co.

BY: SPECIAL TO THE CAPITAL-STAR - MAY 24, 2021 4:05 PM



📷 Maricopa County ballots from the 2020 general election are examined and recounted by contractors hired by the Arizona Senate in an audit at the Veterans Memorial Coliseum in Phoenix on May 11, 2021.

By Jeremy Duda

A nonprofit organization run by former Trump campaign attorney Sidney Powell, who filed a series of lawsuits last year attempting to overturn presidential election results in Arizona and

other states, contracted the company that's now counting 2.1 million ballots from Maricopa County to conduct an election audit in a rural Pennsylvania county, [according to records obtained by the](#) Arizona Mirror, a sibling site of the Pennsylvania Capital-Star.

Wake Technology Services, Inc., co-founder Gene Kern and Fulton County's elections director, IT director and one member of the three-person election board signed a [document](#) on Dec. 31 stating that Kern was requesting to check the county's voting machines and mail-in ballots from the general election.

At the bottom of the typed document are handwritten notes stating that Pennsylvania state Sen. Doug Mastriano set up the audit and that Wake TSI is contracted with Defending the Republic, Powell's 501(c)(4) nonprofit organization. County clerk Lisa Mellott-McConahy identified the handwriting as belonging to Kern.

Defending the Republic "was established to defend and protect the integrity of elections in the United States," according to the group's website. The group was involved in a series of lawsuits that Powell filed in Arizona, Georgia, Michigan and Wisconsin seeking to reverse those states' votes for Biden.

Powell claimed her lawsuits would show that Biden won those states, and therefore the presidency, through massive electoral fraud, vowing to "release the kraken," a reference to a line about a mythical sea monster in the 1981 movie "The Clash of the Titans."

But rather than genuine evidence of fraud or malfeasance, the lawsuits relied on outlandish conspiracy theories, claiming that an anonymous source had evidence that Venezuela's socialist dictatorship was involved in rigging the U.S. election, and touting the expertise of an alleged military cybersecurity expert identified only as "Spyder." (That source was [later revealed](#) to be an Army mechanic who never worked in military intelligence.)

Powell's so-called "kraken" lawsuits all failed. In Arizona, U.S. District Court Judge Diane Humetewa dismissed Powell's suit in December, writing that it was "sorely wanting of relevant or reliable evidence" and that the "allegations they put forth to support their claims of fraud fail in their particularity and plausibility."

Wake TSI is one of three subcontractors currently working under a Florida cybersecurity company called Cyber Ninjas to conduct a recount and audit of the 2020 general election in Maricopa County, and is specifically tasked with recounting votes for president and U.S. Senate on all 2.1 million ballots cast in the county.

The audit, ordered by Senate President Karen Fann, is also examining hundreds of ballot tabulation machines and other equipment used in the election.

Auditors have also investigated several far-fetched conspiracy theories, [examining ballots for bamboo fibers](#) due to baseless claims that counterfeit ballots from Asia were inserted into the count; using ultraviolet lights to search for nonexistent watermarks on the ballots due to a QAnon conspiracy theory that Trump [secretly watermarked some ballots](#) as a fraud detection

measure; and using technology purportedly [invented by a self-styled treasure hunter](#) that he claims can [detect counterfeit ballots](#) by examining folds in the paper.

When Fann, a Republican from Prescott, announced the members of her audit team in late March, she and Cyber Ninjas touted Wake TSI as an experienced company that had conducted “hand-count audits” in Fulton County, Penn., and in New Mexico as part of the 2020 election cycle, and that team members had worked with the FBI as part of a voter fraud investigation in 1994.

But election officials and Republican Party officials in New Mexico say they were unaware of Wake TSI having any involvement in any recounts or election-related litigation in the state. Wake, Cyber Ninjas and Fann have refused to provide any details of the company’s alleged work in New Mexico or the 1994 FBI investigation.

Fulton County [allowed Wake TSI to audit its election at the request of Mastriano](#), a Republican who represents the state’s 33rd Senate district in southern Pennsylvania, near Fulton County. Mastriano has been an avid supporter of the “Stop the Steal” movement that promotes baseless claims that the 2020 election was rigged against Trump, helping to organize a November [hearing in Gettysburg](#) to air conspiracy theories about the election and even [renting buses to ferry people to the U.S. Capitol](#) for the Jan. 6 rally that preceded the attack on the Congress.

Wake TSI’s [report](#) detailing the findings of its Fulton County audit does not mention Defending the Republic. It states that Mastriano and state Sen. Judy Ward, who represents the county and conveyed Mastriano’s request for the audit to county officials, “were aware of our efforts,” but doesn’t reveal the critical role the two GOP lawmakers played in convincing the county commission to allow the audit.

The report alleged that the audit found errors in scanning ballots; that Dominion Voting Systems, which provides the county’s voting machines, did not meet Pennsylvania certification requirements; that non-certified database tools were installed in the county’s voting system; that changes were made to the election management system three weeks before the election; and that the machines had not been subjected to required logic-and-accuracy testing.

It is unclear why Powell and Defending the Republic specifically wanted an audit in Fulton County, which has a population of less than 15,000 and where about 85 percent of voters favored Trump over Joe Biden, who ultimately won Pennsylvania by about 80,000 votes. It’s also unclear why Defending the Republic contracted with Wake TSI, which is based in West Chester, just west of the Philadelphia area, to conduct the audit.

Dominion said Fulton County violated its lease agreement by allowing an unaccredited and non-certified company to examine the machines, and refused to allow the county to use the machines for a May 18 municipal election. The county had to pay \$25,000 to lease new machines for the election.

Maricopa County will have to obtain new machines as well. Arizona Secretary of State Katie Hobbs said she would [consider decertifying Maricopa County's machines](#) that Cyber Ninjas took possession of, and the county said it will not use those machines again.

Powell and Mastriano did not respond to requests for comment, nor did the three members of the Fulton County commission.

[Gene Kern Fulton County Document](#) by [jmicek](#) on Scribd

Voting Machine Check

Fulton County, PA December 31, 2020. Earl Eugene Kern is requesting to check our voting machines and running mail-in ballots for our General Election on November 3, 2020.

Gene Kern is with WAKE TSI and will not disturb or manipulate any equipment.

PDZL 12/31/20
Signature Date

[Signature]
Director of Elections

[Signature]
Election Board Member

[Signature]

SENATOR MASTRIANO SET THIS REVIEW OF FULTON COUNTIES VOTER SYSTEM AND MAIL-IN BALLOTS. WAKE TSI IS CONTRACTED TO DEFENDING THE REPUBLICAN SOLUTION.

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Shadowy funding for Arizona audit makes Powell's involvement unknown

It is also unclear whether Powell and her group have any involvement in the Maricopa County audit. The contract Fann signed with Cyber Ninjas was for \$150,000, but the cost of the work is far higher, which the Senate president acknowledges knowing when she signed the contract.

Outside groups that are part of the Stop the Steal movement have been [raising money to make up the difference](#). Those funding sources include on-air personalities at the pro-Trump One America News Network, which Fann has provided special access to the audit at Veterans Memorial Coliseum, and The America Project, a nonprofit run by former Overstock CEO Patrick Byrne, whose fundraising website claims to have raised more than \$1.7 million of its \$2.8 million goal.

The money does not pass through the Senate's hands, so there is no public record showing who is paying for the audit. Fann told the *Mirror* earlier this month, "We knew there would be a lot of grassroots people who wanted to help and some organizations who would have grant monies available to help," but she did not require Cyber Ninjas to disclose its funding sources as part of their contract. Fann and audit spokesman Ken Bennett have said they will ask Cyber Ninjas to disclose who else is paying them.

Because of the lack of transparency about the funding for the audit, it is unknown whether Defending the Republic and Powell are among the anonymous funders. Wake TSI, Cyber Ninjas, Fann and audit officials would not tell the *Mirror* whether Powell or her group are involved or are helping to pay for the audit. They also didn't respond to questions asking what Wake TSI's ties are to Powell and whether the Senate president was aware of them.

At least one outside group that is helping to fund the audit has a decision-making role in the proceedings.

[The Arizona Republic reported](#) on Saturday that an email sent to Republican officials shows that Byrne's organization is handling background checks, non-disclosure agreements and official agreements with prospective audit observers and ballot counters. Byrne is an ardent Trump supporter who has repeatedly promoted baseless accusations that the election was rigged.

Byrne was also present at an hour-long meeting at the White House during the final days of Donald Trump's presidency in which he, Powell and disgraced retired Gen. Michael Flynn urged the president to [overturn the election](#).

3 of 4 auditing firms tied now to #StopTheSteal

Wake TSI's ties to Mastriano mean that three of the four contractors listed in the Cyber Ninjas statement of work have documented ties to the Stop the Steal movement that sought to overturn the 2020 election and culminated in a violent insurrection at the U.S. Capitol aimed at preventing Trump's loss from being certified.

Cyber Ninjas CEO Doug Logan not only [promoted debunked and outrageous election conspiracy theories](#) on his since-deleted Twitter account, but [also drafted an "election fraud facts" memo](#) that contained dubious and false claims for U.S. senators who were planning to challenge certification of the Electoral College on Jan. 6.

Powell later posted that document on her website. Logan provided a statement saying he was unaware that Powell posted the document on her website, and speculated that it was sent to her by an acquaintance to whom Logan had given a copy of the memo.

Logan also [worked with pro-Trump lawyer and conspiracy theorist Lin Wood](#) to investigate fraud claims after the election.

Benjamin Cotton, the founder of CyFIR, a digital forensics company that is part of the Arizona audit team, served as an expert witness in a lawsuit challenging the election results in Antrim County, Michigan, alleging that the ballot tabulation machines from Dominion Voting Systems produced fraudulent results. Logan was also an expert witness in the case, which a [judge dismissed last week](#).

Cyber Ninjas organized the audit team and had already selected its members when it made its pitch to Fann. The Senate president told The Associated Press that she [can't recall how she discovered the firm](#).

Dominion Voting Systems has [sued Powell](#), among other individuals and organizations, for defamation due to her allegations that the company rigged the election for Biden. Dominion has also accused Powell of [using money donated to Defending the Republic](#) for her legal defense.

According to Wake TSI, Gene Kern is not related to Anthony Kern, a former Republican member of Arizona's House of Representatives who attended the Jan. 6 rally at the Capitol and worked for a time as a ballot counter for the audit.

Jeremy Duda is a reporter for the Arizona Mirror, a sibling site of the Pennsylvania Capital-Star, [where this story first appeared](#).

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EXHIBIT H

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U.S. Department of Justice

Federal Law Constraints on Post-Election “Audits”

Published July 28, 2021

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U.S. Department of Justice

The U.S. Department of Justice is committed to ensuring full compliance with all federal laws regarding elections. This includes those provisions of federal law that govern the retention and preservation of election records or that prohibit intimidation of, or interference with, any person's right to vote or to serve as an election official.

The Department is also committed to ensuring that American elections are secure and reflect the choices made on the ballots cast by eligible citizens. "The November 3rd election was the most secure in American history," according to a [Joint Statement](#) issued by federal and state officials and released by the federal Cybersecurity & Infrastructure Security Agency. In many jurisdictions, there were automatic recounts or canvasses pursuant to state law due to the closeness of the election results. None of those state law recounts produced evidence of either wrongdoing or mistakes that casts any doubt on the outcome of the national election results.

In recent months, in a number of jurisdictions around the United States, an unusual second round of examinations have been conducted or proposed. These examinations would look at certain ballots, election records, and election systems used to conduct elections in 2020. These examinations, sometimes referred to as "audits," are governed, in the first instance, by state law. In some circumstances, the proposed examinations may comply with state law; in others, they will not. But regardless of the relevant state law, federal law imposes additional constraints with which every jurisdiction must comply. This document provides information about those federal constraints, which are enforced by the Department of Justice.



Constraints Imposed by the Civil Rights Act of 1960

The Civil Rights Act of 1960, now codified at 52 U.S.C. §§ 20701-20706, governs certain “[f]ederal election records.” Section 301 of the Act requires state and local election officials to “retain and preserve” all records relating to any “act requisite to voting” for twenty-two months after the conduct of “any general, special, or primary election” at which citizens vote for “President, Vice President, presidential elector, Member of the Senate, [or] Member of the House of Representatives,” 52 U.S.C. § 20701. The materials covered by Section 301 extend beyond “papers” to include other “records.” Jurisdictions must therefore also retain and preserve records created in digital or electronic form.

The ultimate purpose of the Civil Rights Act’s preservation and retention requirements for federal elections records is to “secure a more effective protection of the right to vote.” *State of Ala. ex rel. Gallion v. Rogers*, 187 F. Supp. 848, 853 (M.D. Ala. 1960) (citing H.R. Rep. 956, 86th Cong., 1st Sess. 7 (1959)), *aff’d sub nom. Dinkens v. Attorney General*, 285 F.2d 430 (5th Cir. 1961) (*per curiam*). The Act protects the right to vote by ensuring that federal elections records remain available in a form that allows for the Department to investigate and prosecute both civil and criminal elections matters under federal law. The Federal Prosecution of Election Offenses, Eighth Edition 2017 explains that “[t]he detection, investigation, and proof of election crimes – and in many instances Voting Rights Act violations – often depend[s] on documentation generated during the voter registration, voting, tabulation, and election certification processes.” *Id.* at 75. It provides that “all documents and records that may be relevant to the detection or prosecution of federal civil rights or election crimes must be maintained if the documents or records were generated in connection with an election that included one or more federal candidates.” *Id.* at 78.

The Department interprets the Civil Rights Act to require that covered elections records “be retained either physically by election officials themselves, or under their direct administrative supervision.” *Federal Prosecution of Elections Offenses* at 79. “This is because the document retention requirements of this federal law place the retention and safekeeping duties squarely on the shoulders



U.S. Department of Justice

of election officers.” *Id.* If a state or local election authority designates some other individual or organization to take custody of the election records covered by Section 301, then the Civil Rights Act provides that the “duty to retain and preserve any record or paper so deposited shall devolve upon such custodian.” 52 U.S.C. § 20701.

Therefore, if the original election official who has custody of records covered by the Act hands over those election records to other officials (for example, to legislators or other officeholders) or the official turns over the records to private parties (such as companies that offer to conduct “forensic examinations”), the Department interprets the Act to require that “administrative procedures be in place giving election officers ultimate management authority over the retention and security of those election records, including the right to physically access” such records. *Id.* In other words, the obligation to retain and preserve election records remains intact regardless of who has physical possession of those records. Jurisdictions must ensure that if they conduct post-election ballot examinations, they also continue to comply with the retention and preservation requirements of Section 301.

There are federal criminal penalties attached to willful failures to comply with the retention and preservation requirements of the Civil Rights Act. First, Section 301 itself makes it a federal crime for “[a]ny officer of election” or “custodian” of election records to willfully fail to comply with the retention and preservation requirements. 52 U.S.C. § 20701. Second, Section 302 provides that any “person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper” covered by Section 301’s retention and preservation requirement is subject to federal criminal penalties. *Id.* § 20702. Violators of either section can face fines of up to \$1000 and imprisonment of up to one year for each violation.

Election audits are exceedingly rare. But the Department is concerned that some jurisdictions conducting them may be using, or proposing to use, procedures that risk violating the Civil Rights Act. The duty to retain and preserve election records necessarily requires that elections officials maintain the security and integrity of those records and their attendant chain of custody, so that a complete and



U.S. Department of Justice

uncompromised record of federal elections can be reliably accessed and used in federal law enforcement matters. Where election records leave the control of elections officials, the systems for maintaining the security, integrity and chain of custody of those records can easily be broken. Moreover, where elections records are no longer under the control of elections officials, this can lead to a significant risk of the records being lost, stolen, altered, compromised, or destroyed. This risk is exacerbated if the election records are given to private actors who have neither experience nor expertise in handling such records and who are unfamiliar with the obligations imposed by federal law.

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Constraints Imposed by the Federal Laws Prohibiting Intimidation

Federal law prohibits intimidating voters or those attempting to vote. For example, Section 11(b) of the Voting Rights Act of 1965 provides that “No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote...” 52 U.S.C. § 10307(b). Similarly, Section 12 of the National Voter Registration Act of 1993 makes it illegal for any person, “including an election official,” to “knowingly and willfully intimidate[], threaten[], or coerce[], or attempt to intimidate, threaten, or coerce, any person for . . . registering to vote, or voting, or attempting to register or vote” in any election for federal office. *Id.* § 20511(1)(A). Likewise, Section 131 of the Civil Rights Act of 1957 provides that “[n]o person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate” for federal office. 52 U.S.C. § 10101(b).

The Attorney General is authorized to file a civil action seeking preventative relief, including a temporary or permanent injunction, against any person who engages in actions that violate these statutes. See 52 U.S.C. §§ 10308(d); 20510(a). And there are criminal penalties as well. See, e.g., *id.* § 10308(a); 18 U.S.C. §§ 241, 242, 594; see generally *Federal Prosecution of Election Offenses*, at 33-38, 49-54, 56-58.

Judicial decisions have established that voter intimidation need not involve physical threats. In certain contexts, suggesting to individuals that they will face adverse social or legal consequences from voting can constitute an impermissible threat. Here are a few examples of the types of acts that may constitute intimidation:



U.S. Department of Justice

- Sending a letter to foreign-born Latino registered voters warning them that “if they voted in the upcoming election their personal information would be collected ... and ... could be provided to organizations who are ‘against immigration’” was potentially intimidating. See *United States v. Nguyen*, 673 F.3d 1259 (9th Cir. 2012).
- Having police officers take down the license plate numbers of individuals attending voter registration meetings contributed to intimidating prospective voters. See *United States v. McLeod*, 385 F.2d 734 (5th Cir. 1967).
- Sending robocalls telling individuals that if they voted by mail, their personal information would become part of a public database that could be used by police departments to track down old warrants and credit card companies to collect outstanding debts could constitute intimidation. See *Nat’l Coal. on Black Civic Participation v. Wohl*, 498 F. Supp. 3d 457 (S.D.N.Y. 2020).
- Linking individual voters to alleged illegalities in a way that might trigger harassment could constitute intimidation. See *League of United Latin Am. Citizens-Richmond Region Council 4614 v. Pub. Int. Legal Found.*, 2018 WL 3843404, at *4 (E.D. Va. Aug. 13, 2018).
- Conducting a “ballot security” program in which defendants stand near Native American voters discussing Native Americans who had been prosecuted for illegally voting, follow voters out of the polling places, and record their license plate numbers might constitute intimidation. See *Daschle v. Thune*, No. 4:04 Civ. 04177 (D.S.D. Nov. 1, 2004).

See also *United States v. North Carolina Republican Party*, No. 5:92-cv-00161 (E.D.N.C. Feb. 27, 1992) (approving a consent decree in a case where the United States alleged that it violated Section 11(b) to send postcards to voters in predominantly African American precincts falsely claiming that voters were required to have lived in the same precinct for thirty days prior to the election and stating that it is a “federal crime to knowingly give false information about your name, residence or period of residence to an election official”).¹

¹ While voter intimidation need not involve physical threats, federal law of course prohibits using “force or threat of force” to intimidate or interfere with, or attempt to intimidate or interfere with, any person’s “voting or qualifying to vote” or serving “as a poll watcher, or any legally authorized election official, in any primary, special, or general election.” 18 U.S.C. § 245(b)(1)(A). The Deputy Attorney General recently issued [Guidance Regarding Threats Against Election Workers](#).



U.S. Department of Justice

There have been reports, with respect to some of the post-2020 ballot examinations, of proposals to contact individuals face to face to see whether the individuals were qualified voters who had actually voted. See, e.g., [Cyber Ninjas Statement of Work ¶ 5.1](#) (proposing to select three precincts in a large urban county to collect information from individuals through “a combination of phone calls and physical canvassing”).

This sort of activity raises concerns regarding potential intimidation of voters. For example, when such investigative efforts are directed, or are perceived to be directed, at minority voters or minority communities, they can have a significant intimidating effect on qualified voters that can deter them from seeking to vote in the future. Jurisdictions that authorize or conduct audits must ensure that the way those reviews are conducted has neither the purpose nor the effect of dissuading qualified citizens from participating in the electoral process. If they do not, the Department will act to ensure that all eligible citizens feel safe in exercising their right to register and cast a ballot in future elections.

If jurisdictions have questions about the constraints federal law places on the kinds of post-election audits they can conduct, they should contact the Voting Section of the Civil Rights Division. If citizens believe a jurisdiction has violated the Civil Rights Act’s election record retention and preservation requirements, or believe they have been subjected to intimidation, they can use the [Civil Rights Division's online complaint form](#) to report their concerns or call (800) 253-3931.

EXHIBIT I

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SENATE OF PENNSYLVANIA SENATE COMMITTEE MEETINGS

Wednesday, September 8, 2021

9:30 AM	COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT (public hearing on Senate Bill No. 797)	Omni William Penn Hotel 530 William Penn Place Pittsburgh, PA
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Thursday, September 9, 2021

1:00 PM	INTERGOVERNMENTAL OPERATIONS (public hearing on PA Department of State's last minute guidance to counties regarding the 2020 general election)	Hearing Room 1 North Office Bldg. (LIVE STREAMED)
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Monday, September 13, 2021

10:00 AM	LOCAL GOVERNMENT (S) and LOCAL GOVERNMENT (H) (joint public hearing on positives experienced for local government entities during COVID-19 pandemic)	Room 140 Main Capitol
10:30 AM	VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS (public hearing on the "Next Generation of Firefighters")	Flight 93 Memorial Learning Center 6424 Lincoln Hwy Stoystown, PA

Tuesday, September 28, 2021

10:00 AM	PERFORMANCE-BASED BUDGET BOARD (public hearing on addenda to the Performance-Based Budget Plans for the Department of Transportation, Department of Human Services, Department of Military & Veterans Affairs and Pennsylvania State Police; and review of the Keystone Special Development Zone Tax Credit for the Department of Revenue and Department of Community & Economic Development.)	Room 140 Main Capitol
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IF YOU REQUIRE AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING,
PLEASE CALL THE SENATE ADA COORDINATOR
(717) 787-7163 - VOICE
1-800-364-1581 - TTY
(717) 783-4296 - FAX

MEETINGS OF LEGISLATIVE AGENCIES

Wednesday, September 8, 2021

1:00 PM	PENNSYLVANIA COMMISSION ON SENTENCING (policy meeting) To attend virtually: https://bit.ly/PCSsept8Policy	204 E. Calder Way Suite 400 State College, PA
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Thursday, September 9, 2021

9:00 AM	PENNSYLVANIA COMMISSION ON SENTENCING (policy committee meeting) To attend virtually: https://bit.ly/PCSSEPT2021	204 E. Calder Way Suite 400 State College, PA
11:00 AM	PENNSYLVANIA COMMISSION ON SENTENCING (quarterly commission meeting) To attend virtually: https://bit.ly/PCSSEPT2021	204 E. Calder Way Suite 400 State College, PA

Thursday, September 23, 2021

10:00 AM	INDEPENDENT REGULATORY REVIEW COMMISSION (public hearing to consider Regulations No. 3251 Environmental Quality Board #7-552: Administration of the Land Recycling Programs; and No. 3273 Bureau of Professional and Occupational Affairs #16A-7103: Schedule of Civil Penalties - Crane Operators)	14th Floor Conference Room 333 Market Street Harrisburg, PA
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Friday, October 1, 2021

9:00 AM	CENTER FOR RURAL PENNSYLVANIA (public hearing to explore current policy approaches to solar development in PA and matters to consider when beginning and ending/decommissioning a solar project) to attend virtually: register in advance https://us06web.zoom.us/webinar/register/WN_MGUyRFwRRbSqApfd_gekLg	Shippensburg University Conference Ctr., 2nd Floor
11:15 AM	CENTER FOR RURAL PENNSYLVANIA (to conduct regular business affairs of the Center)	Shippensburg University Conference Ctr. 2nd Floor

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EXHIBIT J

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Senate of Pennsylvania



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HARRISBURG, PA

Subpoena Duces Tecum

In the Senate of Pennsylvania

From: Intergovernmental Operations Committee

To: The Honorable Veronica Degraffenreid, Acting Secretary
Department of State
302 North Office Building
401 North Street
Harrisburg, Pennsylvania 17120

You are hereby ordered by the Senate Intergovernmental Operations Committee to supply the following documents listed below. This material shall be delivered to the General Counsel, Senate Republican Caucus, Crystal H. Clark, Esquire, at Room 350 Main Capitol Building, Harrisburg, Pennsylvania, no later than Friday, October 1, 2021 at 4:00 p.m.

1. Any and all communications (emails, letters, notes of calls and/or meetings, or otherwise) from the Department of State to any County Election Director or member of a County's Elections Board between May 1, 2020 and May 31, 2021.
2. A copy of each and every version of all directives, guidance(s), policies, or procedures in effect at any time between August 1, 2020 and June 30, 2021 relating to elections, election systems, mail-in ballot applications, ballots, voting, compliance with state or federal election laws, polling places, and/or poll watchers.
3. All training materials used to train County election workers, poll workers, poll watchers, Judges of Election, inspectors, clerks, and all persons who staffed voting offices between August 1, 2020 and May 31, 2021.
4. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, address, and date of last voting activity of all registered voters within the Commonwealth of Pennsylvania as of May 1, 2021, by County.
5. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, address, and date of last voting activity of all registered voters within the Commonwealth of Pennsylvania as of November 1, 2020, by County.

6. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted in person in the November 2020 General Election, by County.
7. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by mail-in ballot in the November 2020 General Election, by County.
8. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by absentee ballot in the November 2020 General Election, by County.
9. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by provisional ballot in the November 2020 General Election, by County.
10. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted in person in the May 2021 Primary Election, by County.
11. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by mail-in ballot in the May 2021 Primary Election, by County.
12. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by absentee ballot in the May 2021 Primary Election, by County.
13. A complete list containing the name, date of birth, driver's license number, last four digits of social security number, and address of all individuals who voted by provisional ballot in the May 2021 Primary Election, by County.
14. A complete list of all changes to voter records made between May 31, 2020 and May 31, 2021.
15. A copy of the certified results for each and every race and/or ballot question on the 2020 General or 2021 Primary elections.
16. A copy of all reports of audits and/or reviews of the SURE system conducted by or for the Department of State between 2018 and the present, including, but not limited to, any audits conducted under 25 Pa.C.S. 1803(a).
17. A copy of the annual reports submitted to the Department in 2021 pursuant to 4 Pa. Code 183.17.

COPY

This subpoena is issued pursuant to permission granted to the Chair of the Senate Intergovernmental Operations Committee and in accord with the Constitution and Rules of the Senate of Pennsylvania.



Senator Cris Dush, Chair
Senate Intergovernmental
Operations Committee

Attest:



Megan Martin, Secretary
Senate of Pennsylvania

9/15/21

Date

COPY

EXHIBIT K

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Senate of Pennsylvania



HARRISBURG, PA

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF DAUPHIN)

Daniel Billings, being duly sworn according to law, says that he resides at 216 Ring Neck Drive, Harrisburg, Pennsylvania, in the County of Dauphin, that he is the Chief Sergeant-at-Arms of the Senate of Pennsylvania, specially deputized.

That he served on The Honorable Veronica Degraffenreid, Acting Secretary of the Commonwealth of Pennsylvania, VIA email to Timothy Gates, Chief Counsel, Pennsylvania Department of State, on the 15th day of September 2021, at 4:50 p.m., a subpoena duces tecum to require the furnishing of certain documents to the Senate Intergovernmental Operations Committee, via Crystal H. Clark, Esquire, 350 Main Capitol Building, Harrisburg, Pennsylvania, **no later than October 1, 2021 at 4:00 p.m.**, by command of The Honorable Cris Dush, Chair, Senate Intergovernmental Operations Committee, Senate of the Commonwealth of Pennsylvania, and The Honorable Megan Martin, Secretary of the Senate of the Commonwealth of Pennsylvania.



Daniel Billings

Daniel Billings
Chief Sergeant-at-Arms
Senate of Pennsylvania

In attached e-mail Daniel Billings

Received by