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One Hundred Eighteenth
Congress of the United States
House of Representatives

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May 1, 2023

The Honorable Al Schmidt
Pennsylvania Department of State
302 North Office Building, 401 North Street
Harrisburg, PA 17120

Dear Acting Secretary Schmidt,

As Chairman of the U.S. House of Representatives Committee on House Administration, which has broad oversight of our nation's federal elections, I write today to express my deep concerns over ongoing ballot issues in Pennsylvania. For voters to have confidence in our elections, they must have reason to believe that they will be afforded the right to vote and that their ballot will be counted according to law. Unfortunately, Pennsylvania has recent record of a number of serious elections issues, threatening many voters' confidence in the system.¹ I understand that you were recently appointed to this position and inherited many of these issues from previous leadership at the Department of State, and I look forward to partnering with you as you right the ship.

In 2021, several counties across the state ran out of ballot paper during an off-year primary where, among other things, voters considered the emergency powers of the governor.² During that same election in Lancaster County, there was a ballot printing error that resulted in half of all mail-in ballots having to be counted by hand as 14,000 multi-sheet ballots were printed in the wrong order.³

Similarly, in last year's primary, Lancaster County had a printing problem when a vendor mailed ballots with the wrong ID code that prevented scanning machines from reading them. As a result, only one-third of the over 21,000 plus ballots affected were able to be properly scanned while the remaining ballots had to be transferred to fresh ballots.⁴

¹ 2022 Midterms Look Back Series: Government Voter Suppression in Luzerne County, Pennsylvania: Hearing Before the Committee on House Administration, 118th Cong. (2023). <https://cha.house.gov/committee-activity/hearings/2022-midterms-look-back-series-government-voter-suppression-luzerne>.

² Michael Rubinkam, *Polling places run out of ballots in Pennsylvania primary*, Associated Press (May 18, 2021) <https://apnews.com/article/pa-state-wire-pennsylvania-wilkes-barre-elections-97a47c896e73aeeadaa63d234630a245a>.

³ *Id.*

⁴ Geoff Mulvihill, Michael Rubinkam, *Printing errors mar mailed ballots in Oregon, Pennsylvania*, Associated Press (May 18, 2022) <https://apnews.com/article/2022-midterm-elections-government-and-politics-pennsylvania-lancaster-bd842e11a00211eb61e8e4fcd53adbc8>.

In that same primary, at least 25 precincts in Berks County ran into electronic poll book problems that resulted in election officials rushing to use back-up paper poll books to sign voters in.⁵ There is no question that some voters left the polls after the electronic poll books failed and it is indefensible that the only testing before widespread use in the primary occurred at five precincts the previous fall.⁶

Infamously, on election morning of the 2022 midterm election, approximately one-third of precincts in Luzerne County ran out of ballot paper, thereby denying voters their constitutionally protected right to vote.⁷ In response to that travesty, the Luzerne County Board of Elections, which had the statutory authority to investigate the matter⁸, instead voted to hand off any investigation to the District Attorney.⁹ After five months of investigating, the District Attorney has produced nothing.

To ensure the voters of Luzerne County had some recourse, the Committee on House Administration held a full committee hearing on March 28th, featuring testimony from voters that described in detail what took place on Election Day 2022.¹⁰ Disappointingly, county and state officials refused to testify, continuing to deny Luzerne County voters needed answers.

Most recently, earlier this month, election officials in Lancaster County had to rectify another ballot controversy as more than 18,000 ballots allowed voters to choose only one judicial candidate, when they were legally allowed to choose two.¹¹ In response, over 15,000 of the affected ballots were intercepted by postal officials to ensure they were not counted. While voters will receive replacement ballots with corrected wording and a sheet of instructions, it is unclear what relief the 3,000 voters that have had their ballots processed will receive.

This record does not inspire the confidence necessary for the American people to have faith in our elections. Based on this record, please detail what steps your office has taken to:

- (i) rectify all the above controversies,
- (ii) ensure these problems, and similar ballot controversies do not occur again, and

⁵ David Mowery, Karen Shuey, David Mekeel, *Judge's order keeps Berks polls open until 9 p.m. due to electronic poll books problem*, Reading Eagle (May 17, 2022) <https://www.readingeagle.com/2022/05/17/berks-electronic-poll-books-problems-election/>.

⁶ *Id.*

⁷ Jennifer Learn-Andes, *Bipartisan frustration over paper debacle as Luzerne County Election Board begins adjudication*, Times Leader (Nov. 9, 2022) <https://www.timesleader.com/news/1584739/bipartisan-frustration-over-paper-debacle-as-luzerne-county-election-board-begins-adjudication>.

⁸ 25 Pa. Stat. § 2642(i).

⁹ Carter Walker, *This Pennsylvania county ran out of paper on Election Day. Now the district attorney is investigating*, Spotlight PA (Nov. 15, 2022) <https://www.spotlightpa.org/news/2022/11/pa-election-2022-luzerne-county-paper-shortage-da-investigation/>.

¹⁰ 2022 Midterms Look Back Series: Government Voter Suppression in Luzerne County, Pennsylvania: Hearing Before the Committee on House Administration, 118th Cong. (2023). <https://cha.house.gov/committee-activity/hearings/2022-midterms-look-back-series-government-voter-suppression-luzerne>.

¹¹ *Printing Error Forces Pennsylvania County to Replace Ballots*, Associated Press (April 17, 2023)

<https://www.usnews.com/news/us/articles/2023-04-17/printing-error-forces-pennsylvania-county-to-replace-ballots>.

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- (iii) restore trust with Pennsylvania voters that their ballot will be counted and counted according to law.

I look forward to your response. Please send your response and any questions you may have by May 15, 2023, to Caleb Hays, General Counsel and Deputy Staff Director, at Caleb.Hays@mail.house.gov.

Sincerely,

Bryan Steil
Chairman
Committee on House Administration

BGS/ad