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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

GAMING OVERSIGHT, CHAIRMAN

CAUCUSES

AUTISM AND INTELLECTUAL DISABILITIES
EARLY CHILDHOOD EDUCATION
LAW ENFORCEMENT, CO-CHAIRMAN
PA SAFE
SPORTSMEN'S

NORTHWEST DELEGATION, SECRETARY

March 26, 2023

As a courtesy to Mr. Epstein with Rock the Capital, the LAAC agreed after its February 2024 meeting to post relevant public comment received from Rock the Capital regarding the LAAC report. The following is the relevant public comment submitted to the LAAC by Mr. Epstein:

ROCK CAPITAL

"The price of apathy is to be ruled by evil men." – Plato

**Testimony of Rock the Capital
Re: "Statement of Financial Affairs of the
General Assembly: Year Ended June 30, 2023"
Submitted on February 29, 2024**

**Senate Republican Leadership Call for An Independent
Audit and A Reduction in the Legislative Surplus**

On February 6, 2004, the Legislative Audit Advisory Commission ("LAAC") convened a 12 minute "public hearing," but provided no opportunity for public comment. In addition, the LAAC refused to announce the size of the legislative surplus or to release the Audit they approved.

However, after the hearing, Representative George Dunbar (R -Westmoreland), the former head of the LAAC, said the surplus was \$298 million. This is an increase from last year's largesse which was \$261 million. Dennis Owens of WHTM 27 asked if the amount of the surplus was appropriate. Mr. Dunabr said, "That's a little excessive."

Senator Joe Pittman, the Republican Majority Leader said, "We have more in reserve than we need to, and we need to figure out how to properly spend that down." (February 14, 2024)

Senator Kim Ward, President Pro Tempore appeared on "This Week In Pennsylvania" on February 18, 2024. Senator Ward said, "I agree with Mr. Epstein. We should have an independent audit of our surplus."

Summary of Surplus Trends

- **Expenditures:**

2021:	\$417,709. (1)
2022:	\$419,549.
2023:	\$438,858.

- **Legislative surplus:**

2021:	\$233,636.
2022:	\$261,481.
2023:	\$298,569.

- **Pension obligations:**

2021:	\$ 49,602.
2022:	\$ 49,486.
2023:	\$ 51,898.

- **Post-Retirement Obligations**

2021:	\$ 1,290,184.
2022:	\$ 1,125,019.
2023:	\$ 940,786.

1 The 13 legislative service agencies – which include the Legislative Budget and Finance Committee, the Capitol Preservation Committee and the Independent Regulatory Review Commission – ended the year with \$107.4 million in reserve - which is an increase from \$101.9 million in reserve in 2022. The agencies currently have \$69 million in reserve.

Rock the Capital's Recommendations: Irregularities and Non Compliance

Historically, the legislature has ignored most of the observations and recommendations made by the Commission's certified public accountants. The Commission does not allow public input on how the legislature spends its surplus during its annual hearing.

Since at least 2008, the auditor hired to report on the surplus has recommended that the Legislature consider adopting a policy that establishes and monitors the appropriate amount of surplus, i.e., floors and ceilings. In the past, House and Senate Democratic and Republican caucuses both agreed the legislative surplus should be capped, but they have not reached an agreement on where it should be set.

The legislature uses a cash basis form of accounting. Accrual accounting gives a better indication of business performance because it shows when income and expenses occurred.

The legislature’s cash basis method of accounting does not reflect actual balances at any given moment. Cash basis accounting records revenue and expenses when cash related to those transactions actually is received or dispensed. “Accordingly, the accompanying financial statement is not intended to present changes in net position in conformity with accounting principles generally accepted in the United States of America.” (2)

Rock the Capital has collected recommendations made by auditors, legislators, regulators, and concerned citizens since 2006. We hope that the LAAC will strive to implement the following recommendations.

2 Notes to the Financial Statement

Note 1. Nature of Activities and Summary of Significant Accounting Policies

Basis of Presentation: The General Assembly of the Commonwealth of Pennsylvania prepares its financial statement on the budgetary basis of accounting, which approximates the cash basis of accounting modified for appropriations and certain commitments as discussed in Note 4. Accordingly, the accompanying financial statement is not intended to present changes in net position in conformity with accounting principles generally accepted in the United States of America.

1) The legislature rarely implemented the Auditor's Recommendations. The LAAC eliminated the Auditor's Recommendations in Fiscal Year, 2002 and Fiscal Year, 2023.

The Commission should reinstitute the practice of publishing the Auditor's recommendations.

2) The Commission should implement a protocol for capping the legislative surplus per Senator Pittman's suggestion.

3) The Audit should disclose the nature and amount of any findings of irregularities and improprieties.

4) The Audit should also provide descriptions of large, unusual, and/or inappropriate sums disbursed by use of the "advance appropriation method."

5) The Legislature has failed to implement recommendations made by the Commission's contracted CPA firms to consolidate House checking accounts. In the past, Auditors have recommended reducing the number of accounts to defeat the "...opportunity for errors to be committed..."

There is no reason to postpone consolidation and standardization of the accounts.

6) Throughout the Legislature, employees aren't required to itemize expenses they paid for with a credit card when they get reimbursed. A standard and uniform policy of itemized expenses accounting needs to be implemented.

7) In light of the matters disclosed and discussed in the Footnotes of previous Audited Financial Statements, it is obvious that the information presented is not useful from the standpoint of informing either the Legislative Audit Advisory Commission, members of the General Assembly, or the public as to the nature, appropriateness or efficacy of significant expenditures of tax dollars.

The Commission should implement a protocol that utilizes meaningful descriptions as to the nature of the amounts disbursed as well as the deficits in OPEB and pension liabilities.

8) The LAAC should incorporate meaningful classifications of expenditures by easily understandable expense classifications. The audited financial statements and related information should provide sufficient detail and clarity about expenditures for citizens to learn with reasonable certainty what activities are being conducted by the General Assembly and the appropriateness of such activities.

9) The Commission should adhere to Senator Ward's recommendation for an independent audit. The Audit should include a forensic audit of all leadership accounts, including but not limited to "advance appropriation disbursement accounts" under the direct or indirect control of the legislative leaders of the General Assembly, the Chief Clerk of the House and Senate, and/or their respective staff or other representatives.

10) The Commission should adopt and implement an opportunity period for public comment and public testimony at its next public meeting.

Clearly, the annual expenditures of the General Assembly are of vital interest to the public. Citizens have the right to know the nature and amount of all expenditures of their taxes, and that such expenditures advance legitimate public interests. Thank you for your attention to this request. We look forward to your reply.

Eric Epstein, Coordinator
Rock the Capital