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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE RESOLUTION

No. 8

Session of  
2021

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INTRODUCED BY DUSH, JANUARY 20, 2021

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REFERRED TO RULES AND EXECUTIVE NOMINATIONS, JANUARY 20, 2021

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A RESOLUTION

1 Declaring, in response to significant activities contravening  
2 the Pennsylvania Election Code, that the November 3, 2020,  
3 Pennsylvania General Election to appoint electors of  
4 President and Vice President is unlawful, void ab initio and  
5 invalid, and that the Commonwealth of Pennsylvania has failed  
6 to appoint electors of President and Vice President on the  
7 day prescribed by law; and exercising the plenary power of  
8 the General Assembly, under the Constitution of the United  
9 States, to appoint electors of President and Vice President.

10 WHEREAS, Article II, Section 1, Clause 2 of the Constitution  
11 of the United States empowers state legislatures, including the  
12 General Assembly of the Commonwealth of Pennsylvania, to direct  
13 the manner of appointing electors of President and Vice  
14 President of the United States; and

15 WHEREAS, The authority to conduct elections is further  
16 prescribed in Article VII of the Constitution of Pennsylvania;  
17 and

18 WHEREAS, Section 5 of Article I of the Constitution of  
19 Pennsylvania states "Elections shall be free and equal"; and

20 WHEREAS, Section 6 of Article VII of the Constitution of  
21 Pennsylvania states "All laws regulating the holding of  
22 elections by the citizens, or for the registration of electors,

1 shall be uniform throughout the State"; and

2 WHEREAS, Section 1 of Article II of the Constitution of  
3 Pennsylvania states "The legislative power of this Commonwealth  
4 shall be vested in a General Assembly, which shall consist of a  
5 Senate and a House of Representatives"; and

6 WHEREAS, The General Assembly has exercised its authority to  
7 establish election administration procedures for the  
8 Commonwealth of Pennsylvania under the act of June 3, 1937  
9 (P.L.1333, No.320), known as the Pennsylvania Election Code; and

10 WHEREAS, The Pennsylvania Election Code requires all mail-in  
11 ballots to be received by 8 p.m. on the day of the election; and

12 WHEREAS, The Pennsylvania Election Code requires election  
13 officials at polling places to authenticate the signatures of  
14 in-person voters; and

15 WHEREAS, The Pennsylvania Election Code requires that county  
16 boards of elections shall not meet to conduct a pre-canvass of  
17 absentee and mail-in ballots until 7 a.m. on Election Day,  
18 during which time defects on mail-in ballots would be  
19 identified; and

20 WHEREAS, The Pennsylvania Election Code prohibits the  
21 counting of defective absentee or mail-in ballots; and

22 WHEREAS, The Pennsylvania Election Code authorizes the use of  
23 watchers, selected by candidates and political parties, to  
24 observe the process of canvassing absentee and mail-in ballots;  
25 and

26 WHEREAS, The Commonwealth of Pennsylvania conducted an  
27 election on November 3, 2020, for the purpose of appointing  
28 electors of President and Vice President of the United States;  
29 and

30 WHEREAS, On September 17, 2020, less than seven weeks before

1 the November 3, 2020, election, the Supreme Court of  
2 Pennsylvania unlawfully and unilaterally extended the deadline  
3 for mail-in ballots to be received and mandated that ballots  
4 mailed without a postmark would be presumed to be received  
5 timely and could be accepted without a verified voter signature;  
6 and

7 WHEREAS, On October 23, 2020, less than two weeks before the  
8 November 3, 2020, election and upon a petition from the  
9 Secretary of the Commonwealth of Pennsylvania, the Supreme Court  
10 of Pennsylvania ruled that county Boards of Election need not  
11 authenticate signatures for mail-in ballots, thereby treating  
12 in-person and mail-in voters dissimilarly and eliminating a  
13 critical safeguard against potential election crime; and

14 WHEREAS, On November 2, 2020, the night before the November  
15 3, 2020, election and prior to the prescribed time for pre-  
16 canvassing mail-in ballots, the office of the Secretary of the  
17 Commonwealth of Pennsylvania encouraged certain counties to  
18 notify party and candidate representatives of mail-in voters  
19 whose ballots contained defects; and

20 WHEREAS, Predominantly Democratic counties permitted mail-in  
21 voters to cure defective ballot submissions while predominantly  
22 Republican counties followed the law and invalidated defective  
23 ballot submissions; and

24 WHEREAS, In certain counties in the Commonwealth of  
25 Pennsylvania, watchers were not permitted to meaningfully  
26 observe the pre-canvassing and canvassing activities relating to  
27 absentee and mail-in ballots; and

28 WHEREAS, Officials in the Executive and Judicial branches of  
29 the Commonwealth of Pennsylvania infringed upon the General  
30 Assembly's authority under the Constitution of the United States

1 and the Constitution of Pennsylvania by issuing decisions and  
2 providing guidance contravening the express provisions of the  
3 Pennsylvania Election Code; and

4 WHEREAS, Election officials in certain counties of the  
5 Commonwealth of Pennsylvania acted upon those decisions and  
6 guidance by the Executive and Judicial branches of the  
7 Commonwealth; and

8 WHEREAS, Election officials in certain counties of the  
9 Commonwealth of Pennsylvania took further actions to contravene  
10 the provisions of the Pennsylvania Election Code; and

11 WHEREAS, 3 U.S.C. § 1 states "The electors of President and  
12 Vice President shall be appointed, in each State, on the Tuesday  
13 next after the first Monday in November, in every fourth year  
14 succeeding every election of a President and Vice President";  
15 and

16 WHEREAS, The aforementioned events tainted and doomed the  
17 entirety of the process of appointing electors of President and  
18 Vice President on the day prescribed by law; and

19 WHEREAS, 3 U.S.C. § 2 states "Whenever any State has held an  
20 election for the purpose of choosing electors, and has failed to  
21 make a choice on the day prescribed by law, the electors may be  
22 appointed on a subsequent day in such a manner as the  
23 legislature of such State may direct"; and

24 WHEREAS, Article VI, Section 2, Clause 2 of the Constitution  
25 of the United States states "This Constitution, and the Laws of  
26 the United States which shall be made in Pursuance thereof; and  
27 all Treaties made, or which shall be made, under the Authority  
28 of the United States, shall be the supreme Law of the Land; and  
29 the Judges in every State shall be bound thereby, any Thing in  
30 the Constitution or Laws of any State to the Contrary

1 notwithstanding"; and

2 WHEREAS, The Secretary of the Commonwealth of Pennsylvania  
3 purported to certify the returns of Pennsylvania's election to  
4 appoint electors of President and Vice President on November 24,  
5 2020, and the Governor issued a certificate of ascertainment of  
6 presidential electors on the same day; and

7 WHEREAS, There are significant outstanding issues regarding  
8 the public's ability to confirm the returns as certified  
9 regarding electors of President and Vice President; therefore be  
10 it

11 RESOLVED, That the Senate of the Commonwealth of Pennsylvania  
12 do the following:

13 (1) Declare the aforementioned to be findings of fact.

14 (2) Condemn all infringement on the General Assembly's  
15 authority to establish election law pursuant to the  
16 Constitution of the United States and the Constitution of  
17 Pennsylvania.

18 (3) Declare the November 3, 2020, election process for  
19 appointing electors of President and Vice President for the  
20 Commonwealth of Pennsylvania as neither equal nor uniform,  
21 but instead as unlawful, void ab initio and the results  
22 thereof invalid.

23 (4) Dispute the certification of electors of President  
24 and Vice President by the Secretary of the Commonwealth of  
25 Pennsylvania and the Governor on November 24, 2020.

26 (5) Declare that the Commonwealth of Pennsylvania has  
27 failed to appoint electors of President and Vice President on  
28 the day prescribed by law in 3 U.S.C. § 1.

29 (6) Exercise its portion of the General Assembly's  
30 plenary power regarding electors of President and Vice

1 President as provided in Article II, Section 1, Clause 2 of  
2 the Constitution of the United States.

3 (7) Affirm the General Assembly's authority to pursue  
4 the aforementioned under the provisions of Article VI,  
5 Section 2, Clause 2 of the Constitution of the United States.

6 (8) Exercise its portion of the General Assembly's  
7 authority to decertify and withdraw the electors of President  
8 and Vice President certified by the Secretary of the  
9 Commonwealth of Pennsylvania and the Governor on November 24,  
10 2020.

11 (9) Reserve its portion of the General Assembly's  
12 authority to appoint electors of President and Vice President  
13 on a subsequent day in accordance with 3 U.S.C. § 2.

14 (10) Urge the Congress of the United States to recognize  
15 the General Assembly's authority in these matters, and to  
16 object to, and reject, the Commonwealth of Pennsylvania's  
17 electors for President and Vice President as certified by the  
18 Secretary of the Commonwealth of Pennsylvania and the  
19 Governor on November 24, 2020, as well as any votes cast by  
20 those electors;

21 and be it further

22 RESOLVED, That, upon passage, this resolution be transmitted  
23 to the Governor, the Congress of the United States and the Vice  
24 President of the United States.