



WEST VIRGINIA LEGISLATURE  
STATE CAPITOL  
CHARLESTON, WEST VIRGINIA 25305

**MITCH B. CARMICHAEL**  
PRESIDENT

**TIM ARMSTEAD**  
SPEAKER

June 22, 2018

The Honorable Charles S. Trump IV  
Chairman  
Committee on the Judiciary  
West Virginia Senate  
Building 1, Room 210-W  
Charleston, West Virginia 25305

The Honorable John Shott  
Chairman  
Committee on the Judiciary  
West Virginia House of Delegates  
Building 1, Room 418-M  
Charleston, West Virginia 25305

Dear Chairmen Trump and Shott:

The recent legislative audit, investigation and Federal court action related to the West Virginia Supreme Court of Appeals, including the Federal indictment announced on June 20, 2018, are cause for great concern among members of the Legislature and the citizens of West Virginia.

The purpose of this letter is to immediately require that the Joint Judiciary Committee, as a part of its June 2018 interim meetings, initiate a process of reviewing all available information for the purpose of evaluating impeachment proceedings which may be necessary for any member or members of the West Virginia Supreme Court of Appeals. Investigations regarding the troubling allegations at the West Virginia Supreme Court have been ongoing, including by legislative auditors. There is an ample and sufficient body of evidence available for your Committee to begin a review of these matters.

We require that the committee and staff immediately review all available evidence, including the Legislative Audit reports produced this year by the Legislative Auditor regarding the Supreme Court, the Judicial Investigation Committee complaint filed against Justice Loughry, and the Federal indictment which has been returned against Justice Loughry and any related materials. While all potential parties to

any matter such as an impeachment proceeding are entitled to a presumption of innocence, the serious allegations demand that we begin the process of evaluating whether formal impeachment proceedings are proper and advisable.

Some have suggested that impeachment proceedings can be initiated and concluded in a matter of a day or two. Based on research that has been conducted by legislative attorneys, staff members, and historical precedence, such an abbreviated timeframe is unrealistic. The long-established principles of due process and fairness, including the drafting of any articles of impeachment, the collection of evidence, questioning of any witnesses, the consideration by the House Judiciary Committee and, if any articles of impeachment are referred from the Committee, by the entire House of Delegates, will take many days. As an example, when the House of Delegates considered the impeachment of former State Treasurer A. James Manchin in 1989, the Judiciary Committee held a ten-day hearing that involved the questioning of 19 witnesses.

It is our opinion that the most efficient and time-effective manner of considering impeachment proceedings is for a subcommittee of the Joint Judiciary committee to undertake an immediate review of this matter as part of the open and public interim process. This review would allow the committee to reach a determination of whether it wishes to introduce and consider articles of impeachment against one or more members of the Supreme Court of Appeals as well as to consider and recommend to us any additional action deemed appropriate in relation to the current matters relating to the court.

Please plan to complete your review as soon as possible and in any event prior to the next regularly scheduled legislative interim meetings and provide recommendations to us, including recommendations as to whether a special session may be appropriate to take formal action related to any such potential impeachment. In the event your interim committee does, in fact, recommend the initiation of impeachment proceedings, we will work with Governor Justice to request that such a session be called. This subcommittee is authorized to have meetings as needed to accomplish your assigned task.

Due to the different responsibilities of the House and Senate relating to any impeachment proceedings, and the fact that Senate members would be called upon to essentially sit as jurors if any articles of impeachment were adopted by the House of Delegates, we believe that it would be appropriate for this matter to be considered in a subcommittee of the Joint Judiciary Committee composed only of House members. A separate subcommittee of the Joint Judiciary Committee consisting of the Senate members may wish to evaluate the rules that would be applied if and when any articles of impeachment were referred to the Senate by the House of Delegates.

As you begin this process, please advise if you believe that additional staff or resources are needed for your committee or subcommittee to undertake this assignment.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch B. Carmichael", written over a horizontal line.

Mitch B. Carmichael  
Senate President

A handwritten signature in blue ink, appearing to read "Tim Armstead", written over a horizontal line.

Tim Armstead  
Speaker of the House