

STATE OF SOUTH CAROLINA

Curtis M. Loftis Jr., Treasurer of the State of  
South Carolina,

Petitioner,

Vs.

Thomas C. Alexander, President of the South  
Carolina Senate, on Behalf of the South  
Carolina Senate.

Respondents.

IN THE SUPREME COURT OF SOUTH  
CAROLINA

SUMMONS

**RECEIVED**

**Apr 10 2025**

S.C. SUPREME COURT

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the office of Barnwell Whaley Patterson & Helms, LLC, P.O. Drawer H, Charleston, SC 29402, within twenty (20) days after service hereof, exclusive of the day of service. If you fail to answer the Complaint within the aforementioned timeframe, judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

By: s/ Shelly Kelly

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- and -

**Exhibit A to Petition for Original Jurisdiction  
and Expedited Hearing**

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April 10, 2025

STATE OF SOUTH CAROLINA

Curtis M. Loftis Jr., Treasurer of the State of South Carolina,

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IN THE SUPREME COURT OF SOUTH CAROLINA

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND MOTION FOR PRELIMINARY INJUNCTION**

PETITIONER CURTIS M. LOFTIS, JR., TREASURER OF THE STATE OF SOUTH CAROLINA, by and through undersigned Counsel, hereby files and serves this Complaint for Declaratory and Injunctive Relief and Motion for Preliminary Injunction. Petitioner would respectfully show unto the Court as follows:

1. Petitioner Curtis M. Loftis Jr. currently serves as Treasurer for the State of South Carolina, a Constitutional office to which he was duly elected on a statewide basis.
2. Petitioner's Petition for Original Jurisdiction of the Supreme Court, as well as this Motion and Complaint are filed and asserted in his capacity as a statewide elected official.
3. The Respondent, the Honorable Thomas C. Alexander, is the current President of the South Carolina Senate, and is named a party on behalf of the South Carolina Senate, as well as its committees and subcommittees—namely, the Senate Finance Committee and its Constitutional Budget Subcommittee ("Subcommittee"). Respondent is named in his official capacity.
4. As set forth below, Petitioner Loftis seeks a declaration of the Court that the State Treasurer, as a statewide elected official, is not subject to removal from office via Article XV, Section 3 of the South Carolina State Constitution. Petitioner further requests that, consistent with such declaration, the Court grant temporary and permanent injunctive relief prohibiting the

Senate's removal proceeding instituted pursuant to its "Sense of the Senate" and accompanying resolution contained in Senate Bill 534.

### **Factual Background**

5. During or before November 2022, former Comptroller General Richard Eckstrom and/or the Comptroller General's Office ("CGO") determined that mapping errors within the State's financial book of record, the South Carolina Enterprise Information System ("SCEIS"), had contributed to the CGO's overstatement of the State's General Fund, as represented in the Annual Comprehensive Financial Report ("ACFR") for multiple prior years, by approximately \$5.87 billion.

6. The Comptroller General is legally responsible for issuing the State's ACFR "in conformance with Generally Accepted Accounting Principles (GAAP)." 2024-25 State Appropriations Act, Proviso 97.2.

7. As such, Eckstrom and/or the CGO determined that this error necessitated the issuance of a "restatement" in the ACFR for Fiscal Year Ended June 30, 2022 ("ACFR Restatement") to publicly correct the overstated General Fund cash published by the CGO in previous ACFR's.

8. In calculating the amount of the overstatement to disclose in the ACFR Restatement, the CGO included as cash in the ACFR General Fund a \$1.8 billion balance represented in a SCEIS Fund (an accounting software ledger) as "SCEIS Fund 30350993," which the CGO had previously excluded from its ACFR calculation. This Fund was assigned to the State Treasurer's Office (STO) in SCEIS system access and operations, although it was easily accessible to the CGO or any other user with statewide access, including certain members and staff of the General Assembly.

9. Using the \$1.8 billion represented in SCEIS Fund 30350993, as well as \$517 million of Department of Transportation funds that had been excluded from the ACFR General Fund, the CGO reduced what would have otherwise been the \$5.87 billion restatement of ACFR General Fund cash to a \$3.5 billion restatement.

10. On or about November 29, 2022, the Comptroller General issued the ACFR for Fiscal Year Ended June 30, 2022, containing the ACFR Restatement disclosing the overstatement of General Fund cash and fund equity in previous ACFR's "by a cumulative amount of \$3.530 billion." That ACFR did not disclose the calculations or methodology described above.

11. On or about February 9, 2023, Senate Finance Committee Chairman Harvey Peeler charged the Constitutional Budget Subcommittee with investigating the CGO's ACFR Restatement further.

12. On or about February 17, 2023, the Subcommittee sent Comptroller General Eckstrom a letter notifying him that it intended to "investigate the circumstances in connection with the errors made in reporting the State's ACFR by the Comptroller General's Office."

13. Shortly thereafter, the Subcommittee issued a *Report on the Investigation of the FY2022 Annual Comprehensive Financial Report Restatement* ("Eckstrom Report") setting forth purported investigative findings and making recommendations, including the removal of Eckstrom as Comptroller General. Shortly thereafter, Comptroller General Richard Eckstrom resigned.

14. The following year, the Subcommittee requested Petitioner's attendance at a Subcommittee meeting to present the budget requests of the Office of the State Treasurer—a presentation that typically lasts approximately twenty minutes—on April 2, 2024.

15. Instead of discussing the budget as represented, the Subcommittee aggressively (and without notice) questioned Petitioner for over six hours regarding a broad range of topics including Petitioner’s initial campaign to be elected State Treasurer, statutory interpretation, agency reports, personnel turnover, and complex accounting matters pertaining to the ACFR and SCEIS.

16. On or about April 16, 2024, the Constitutional Subcommittee of the Senate Finance Committee issued its *Interim Report of Findings and Recommendations on the \$1.8 Billion Discrepancy in Treasury Balances and Certain Other Matters* (“Interim Report”), which made numerous inaccurate interim findings (which are not relevant to the matter before the Court) regarding Petitioner.

17. Thereafter, the Department of Administration engaged a forensic accounting firm, AlixPartners LLP, to perform a forensic accounting to ascertain the disposition of the residual balance of SCEIS Fund 30350993 in accordance with Proviso 93.19. AlixPartners LLP issued its *State Treasury Forensic Accounting Review Final Report* (“AP Report”) on January 15, 2025.

18. According to the AP Report, approximately \$1.6 billion of the residual balance in SCEIS Fund 30350993 resulted from non-cash appropriations entries that the CGO entered into certain accounts and STO thereafter entered into the Fund as cash. STO’s subsequent investigation revealed that the CGO had informed it that the appropriations entries had been removed from these accounts (when in fact they had not been, unbeknownst to the STO) and directed them to commence transferring the balances of those accounts through the aforementioned conversion fund. The STO followed the CGO’s directives.

19. On or about March 25, 2025, the Subcommittee issued a report titled *Final Report of Findings and Recommendations on the \$1.8 Billion Discrepancy in Treasury Balances and*

*Certain Other Matters* (“Final Report”), dated March 25, 2025, bearing the name of the Subcommittee and its members.

20. Ostensibly, the Subcommittee’s aforementioned report was the product of an unscheduled oversight committee investigation pursuant to S.C. Code § 2-2-40. It appears that the Chairman of a standing committee delegated the committee’s full investigative power and authority to the Subcommittee. While such delegation is permitted under §2-2-30(D) for scheduled oversight studies and investigations, the statute does not make such an arrangement permissible in this matter. While not relevant to the constitutional question before the Court, there remains an open legal question as to whether a subcommittee—as opposed to a standing committee—may lawfully conduct an unscheduled investigation.

21. Unlike the Subcommittee’s investigation preceding and resulting in the Eckstrom Report, the Subcommittee never provided Petitioner with written notice of an investigation articulating the scope thereof.

22. Upon information and belief, the Subcommittee never deposed any person with direct knowledge of or participation in the aforementioned SCEIS conversion activities, as it could have done pursuant to §2-2-50(B) (assuming *arguendo* the subcommittee investigation was initiated in accordance with state law).

23. Upon information and belief, the subcommittee did not issue a request for information to the STO, the CGO, or the State Auditor’s Office pursuant to §2-2-50(A) and did not request information from any other agency involved in the underlying facts of the Subcommittee’s investigation. Said requests for information are required to be answered under oath and certified as true and correct by the head of the recipient agency.

24. On or about February 26, 2025, the STO voluntarily released its report pertaining to, *inter alia*, the SCEIS Fund 30350993, the AlixPartners report, and the Subcommittee’s interim report and proceedings.

25. On April 2, 2025, the Senate served on Petitioner a “Sense of the Senate” invoking Article XV, Section 3 of the South Carolina Constitution for the purpose of removing Petitioner from office based on the causes for removal contained in the Final Report.

26. This document informed the Petitioner that he would be afforded an opportunity to present a defense to the allegations on April 21, 2025 prior to the Senate’s vote on a Concurrent Resolution to remove Petitioner as State Treasurer.

27. Senate Bill 534, entitled “A Concurrent Resolution Regarding the Removal of an Executive Officer on the Address of Two Thirds of Each House of the General Assembly Pursuant to Article XV, Section 3 of the South Carolina Constitution,” was introduced on April 2, 2025 and would direct the removal of Petitioner as State Treasurer upon its passage by the Senate and the House of Representatives.

28. Article XV, Section 3 of the Constitution sets forth an extraordinarily broad standard of conduct justifying removal, and allows the official in question only minimal process to contest the grounds for removal: “For any willful neglect of duty, or other reasonable cause, which shall not be sufficient ground of impeachment, the Governor shall remove any executive or judicial officer on the address of two thirds of each house of the General Assembly: Provided, that the cause or causes for which said removal may be required shall be stated at length in such address, and entered on the Journals of each house: And, provided, further, that the officer intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defense, or by his counsel, or by both, before any vote for such address; and in all

cases the vote shall be taken by yeas and nays, and be entered on the Journal of each house respectively.”

29. The General Assembly has indicated that the manner and method of removal set forth in Section 3 of Article XV applies to “State officers elected by the General Assembly.” S.C. Code Ann. § 8-11-60.

30. By comparison, Article XV, Sections 1 and 2 of the Constitution apply explicitly to “officials elected on a statewide basis, state judges, and such other state officers as may be designated by law.” Those Sections demand a more severe degree of misconduct to justify removal from office and afford the official more robust procedural rights, including the requirement that Senators shall be under oath or affirmation while sitting for and/or trying the impeachment a two-thirds vote of “all members elected” for removal.

31. Furthermore, Section 3 utilizes a “hearing” afforded the officer charged instead of a “trial” as called for by Sections 1 and 2. The ‘Sense of the Senate’ illustrates the difference between an appropriate impeachment trial and a Section 3 hearing. For example, it does not permit the calling of witnesses to testify in the proceedings. (*See Sense of the Senate*, April 2, 2025). Traditionally, a trial involves the presentation sworn witness testimony, with the right of cross examination.

32. Notably, Article XV, Section 1 provides that “The House of Representatives alone”—***not*** the Senate—“shall have the power of impeachment in cases of serious crimes or serious misconduct in office by officials elected on a statewide basis, state judges, and such other state officers as may be designated by law.”

33. The plain language of Article XV of the South Carolina Constitution makes it clear that the Petitioner, as an “official elected on a statewide basis,” cannot be removed from office via the procedure set forth in Section 3.

34. Petitioner is aware that Respondent will likely contend that, in *McDowell v. Burnett*, 92 S.C. 469, 75 S.E. 873 (1912), the Court, in *dicta*, observed that statewide elected officials might be subject Section 3 (Section 4 at that time) removal, as well as impeachment under Sections 1 and 2. However, as Petitioner will explain in greater detail in his Brief, Article XV was substantially and significantly revised in 1971; as a result, the *dicta* observations of *McDowell* Court, which were wholistic and comparative in its analysis of Article XV, do not govern this matter.

35. Respondent’s actions to remove Petitioner, a statewide elected official, by application of Section 3’s less demanding evidentiary and procedural standards are improper and unconstitutional.

36. Respondent’s initiation of a removal action of Petitioner, a statewide elected official, is an unconstitutional usurpation of the power of the House of Representatives, which holds the exclusive authority of impeachment, under Article XV, Section 1 of the South Carolina Constitution.

37. The removal of Petitioner, a statewide elected official, through application of the less demanding evidentiary and procedural standards set forth in Article XV, Section 3, as Respondent intends to do, would unconstitutionally disenfranchise South Carolina voters.

38. The removal of Petitioner, a statewide elected official, through application of the less demanding evidentiary and procedural standards set forth in Article XV, Section 3, as Respondent intends to do, would constitute an irreparable, unconstitutional imposition of

legislative authority over the executive branch, and would potentially establish a precedent for the same unconstitutional imposition of legislative authority over the judicial branch.

**FOR A FIRST CAUSE OF ACTION**  
(Declaratory Judgment)

39. Petitioner repeats and re-alleges the allegations of the preceding paragraphs above herein, verbatim.

40. Pursuant to its authority under Article V, Sections 1 and 5 of the Constitution, as well as S.C. Code §§ 15-53-20, *et seq.*, the Court should declare that removal via Article XV, Section 3 of the Constitution is not available against an elected statewide official such as the Treasurer and that the only constitutionally-authorized means of removal in Article XV is via the impeachment process set forth in Sections 1 & 2 of Article XV.

Therefore, Petitioner prays that this Court grant his motion herein for a temporary restraining order and injunction pending the resolution of this matter before the Court, and thereafter declare judgement in favor of Plaintiff upon its cause of action for declaratory judgment.

**MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

1. Petitioner repeats and re-alleges the allegations of the preceding paragraphs above herein, verbatim.

2. Under the powers of the Court in its original jurisdiction and additionally pursuant to Rule 65(b), S.C.R.C.P., the Court may issue a preliminary or temporary injunction in order to prevent imminent harm and preserve the status quo. Petitioner hereby moves for a temporary restraining order, followed by a temporary injunction, against the Senate from taking any further formal action or proceeding in the pursuit of a removal of Petitioner from office pursuant to Article XV, Section 3 of the Constitution until the Court issues a final ruling on this Petition.

Respectfully submitted,

By: *s/ Shelly Kelly*  
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*Counsel for Petitioner South Carolina  
Office of the State Treasurer*

April 10, 2025

Sense of the Senate  
State Treasurer Article XV, Section 3 Hearing  
April 2, 2025

Be it the Sense of the Senate:

(A) Pursuant to the provisions of Section 3, Article XV of the South Carolina Constitution, 1895, the Senate, by this motion, establishes the procedure by which State Treasurer Curtis Loftis is admitted to a hearing in his own defense, or by his counsel, or by both, prior to a vote on a Concurrent Resolution to remove the State Treasurer from office.

(B) On Monday, April 21, 2025, at noon, the Senate shall convene and immediately resolve itself into the Committee of the Whole to afford a hearing to Treasurer Loftis to provide a defense to the causes for removal contained in the Final Report of Findings and Recommendations on the \$1.8 Billion Discrepancy in Treasury Balances and Certain Other Matters, published to the Senate on March 26, 2025 (Report).

(C) The Chairman of the Committee of the Whole shall be the President of the Senate, who shall preside over the Committee of the Whole, recognize members, maintain decorum, and enforce the provisions of this Sense of the Senate motion.

(D) Senators Grooms and Goldfinch are designated to present the causes for removal contained in the Report and to respond to the defense provided by Treasurer Loftis. The Senate presenters shall have up to one hour and thirty minutes to present the causes for Treasurer Loftis' removal. Following the presentation of his defense by Treasurer Loftis, the Senate presenters shall have up to thirty minutes to respond. Having provided documentation to Treasurer Loftis via online publication of the Report on the website of the Senate Finance Committee on March 25, 2025, the Senate Sergeant at Arms shall serve upon the State Treasurer a physical copy of the Report and of this motion upon its adoption. The Senate presenters may provide any additional documentation for members of the Committee of the Whole to consider so long as those documents are provided to Treasurer Loftis at least seven days prior to the hearing. No witnesses may be called by the Senate presenters.

(E) The State Treasurer may be represented by defense counsel and shall provide the name of such designated counsel to the Clerk of the Senate within seven days of service of this motion. The privilege of the floor shall be extended to Treasurer Loftis and his counsel for the duration of the meeting of the Committee of the Whole. Treasurer Loftis shall be allowed up to three hours to present any defense he desires to the causes for removal presented. Treasurer Loftis may provide any documentation for members of the Committee of the Whole to consider so long as those documents are provided to the Clerk of the Senate at least seven days prior to the hearing. No witnesses may be called by the Treasurer.

**Exhibit B to Petition for Original Jurisdiction and Expedited Hearing**

Sense of the Senate  
State Treasurer Article XV, Section 3 Hearing  
April 2, 2025

(F) Each member of the Committee of the Whole is permitted no more than ten minutes total for questioning of the Senate presenters, Treasurer Loftis and his counsel, or both. Questions may only be asked at the conclusion of the Senate presenters' response to Treasurer Loftis' defense.