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TTY USERS CALL VIA MD RELAY

August 8, 2005

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House, Room 107
Annapolis, Maryland 21401-1991

The Honorable Michael E. Busch
Speaker of the House
State House, Room H-101
Annapolis, Maryland 21401-1991

Dear President Miller and Speaker Busch:

The matter of the General Assembly's Special Committee on State Employee Rights and Protections deserves our attention. While I appreciate your recent guidance to the members of the panel, the continued conduct and public condemnations by certain members of the General Assembly and the Special Committee cast serious doubt on the objectivity of this inquiry. Despite the fact that the framework and focus of the Special Committee remain unstated, the purpose is becoming clear: to unfairly harass this Administration.

We have endured months of unfounded attacks by you and your colleagues in the legislature. This is an orchestrated campaign, being led by partisan political opponents, misstating and ignoring facts, attempting to challenge the ethical and legal integrity of the Ehrlich Administration. My willingness to endure these contemptible attacks, dismissing them merely as politics-as-usual, is over. I will not allow repeated misstatements to become the perceived truth.

For several months, I have pledged full cooperation with a fair and comprehensive inquiry into the personnel practices of my Administration, practices that I believe minimize the influence of politics on the State's personnel system. In March of this year, I wrote asking that you ensure fairness by preventing biased legislators – those who have already prejudged our personnel practices and those who have influenced (or attempted to influence) state personnel decisions in the past – from participating in the planned inquiry. You have yet to answer me. Your only response has been to appoint several legislators who have publicly stated their conclusions about matters to be reviewed by the Special Committee that are inconsistent with a fair and impartial review.

Similarly, for weeks, members of my staff have been asking for details of the Special Committee's plans. Key questions such as when will the Special Committee meet, who will participate, what will the focus of the Committee be, what legal ground rules will be established, and other relevant requests continue to be ignored. Six weeks ago, we asked for a copy of a legal opinion written in March 2005 by Assistant Attorney General Zarnoch that framed the legal ground on which the Committee stands. You have ignored this request as well, though we independently obtained Mr. Zarnoch's legal memorandum last Friday. This memo raises questions about whether the Special Committee has been legally authorized.

As you know, the drumbeat for an investigation and the chronicle of misstatements began after *The Washington Post* published its "rumor" exposé on the evening of February 8, 2005, which was used to falsely allege that the Ehrlich Administration organized a rumor spreading attack against a Baltimore City official. Immediately thereafter, certain state legislators called for an investigation into charges that members of my Administration had orchestrated rumors about a Baltimore City official. Senator Frosh, especially, promised to get to the bottom of who was responsible. *The Washington Post* reported that Senator Frosh "will ask top lawmakers to grant him subpoena power to conduct hearings into ... dirty tricks used to smear O'Malley." As soon as your colleagues in the Democratic Party, apparently including Senator Frosh, recognized that Democrats might have perpetrated the elaborate and fraudulent scheme, you neglected to pursue the truth.

Since then, the motivation for the investigation conveniently shifted several times. In the first case, it was imperative to investigate whether this Administration had indiscriminately fired uncounted numbers of civil servants and merit system employees for their political affiliations. Next, with no evidence to support the former claim and no political benefit in sight, an investigation was deemed necessary to determine whether uncounted numbers of merit system employees were fired for being disloyal. With still no facts, partisan legislators, including Speaker Busch, sensationally and falsely charged that the Ehrlich Administration was "reaching down into the bowels of bureaucracy and replacing civil servants with political appointees." Thereafter, you decided to attack my appointees, conceding of course, that the Administration had the right to make such appointments under the law. Apparently, that story did not have "legs" and so yet another re-direction to find out how terminated "at-will" employees were treated and why they were terminated, totally ignoring the information provided to you by the State Director of Personnel, appointed by the previous governor.

The Ehrlich Administration has not terminated one single employee because of their political beliefs. In this Administration, unique in Maryland history, party affiliation has never been a bar to employment or a condition of employment. Certainly you both know this to be true given your interest in recent appointments and reappointments to Executive branch positions, and State Boards and Commissions.

Hundreds of Democrats have been hired and appointed to state positions. Nearly half of my Cabinet and much of my senior staff are Democrats.

Furthermore, any terminations of civil servants and merit system employees by the Ehrlich Administration have been under the terms of the State Personnel Reform Act of 1996, applicable regulation, and established practices and procedures.

At the most recent meeting of the Legislative Policy Committee, when the Special Committee was established, President Miller said, and I assume Speaker Busch agreed, that the Committee would narrowly look into a handful of terminations of former political appointees. The personnel laws, written and approved by you, are clear in the Administration's authority to terminate the employment of political appointees: with a few exceptions, people serving in these so-called "at will" positions "may be terminated at any time for any reason whatsoever in the sole discretion of the appointing authority."

It is now apparent that your intention is to highlight the circumstances of a very small number of disgruntled former political appointees. It is no coincidence, of course, that these disgruntled former employees have retained the legal counsel of lawyers who are closely associated with the Maryland Democratic Party and who have contributed to the campaigns of Special Committee members.

The constantly shifting focus of the Special Committee, the stonewalling of repeated requests for basic information about the Special Committee, the relationship among members of the Special Committee and lawyers representing disgruntled former political appointees, and the course of conduct and public condemnations of the Administration by members of the Special Committee cast serious doubt as to the objectivity of your efforts.

Continued public condemnations by members appointed to the Special Committee make your respective claims of a fair and objective inquiry ring hollow. If you truly want a fair and honest review of the state's personnel system and the Ehrlich Administration's personnel practices, these members must be removed from the Special Committee. Doing so will demonstrate to me and more importantly to the people of Maryland that your actions mirror your words. Failing to do so will demonstrate your intentions to use hearsay, misstatements, and false representations to try to malign this office.

You have my continued commitment to cooperate with a legal, fair, and objective inquiry. I look forward to the day, in fact, when my Administration's personnel practices – and the changes we made to open a formerly closed personnel system to all Marylanders – are fairly examined.

I am not interested in wasting taxpayer dollars if you intend to keep biased legislators on the Special Committee and to use the investigation as a forum for disgruntled former political appointees and their partisan attorneys to level false charges.

Letter to Senate President Miller and Speaker Busch

August 8, 2005

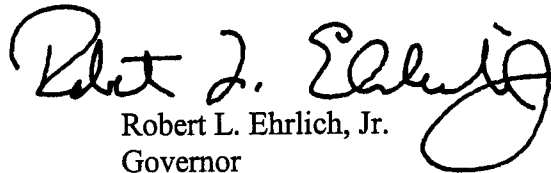
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Five months have passed since I first wrote to you pledging my cooperation and asking that you pursue a fair and objective inquiry. My letter remains unanswered and, while you say the Special Committee's work will be objective, there is ample evidence to the contrary. Its apparent focus has shifted repeatedly. Its ground rules are unstated. Members have reached conclusions before the Committee has even met. Members have accepted campaign contributions from attorneys representing disgruntled former political appointees.

If you really want the best for the State of Maryland and its citizens, I suggest that the three of us work together to establish a bipartisan commission spanning the legislative and executive branches of government to examine personnel practices in state government. Through an Executive Order, and with your input, we can ensure a fair and impartial process that has the confidence and support of all Marylanders. The commission, comprised of legislators, representatives of the Administration, and outside experts, can pursue a collaborative, comprehensive, and meaningful analysis of the state's personnel system and, at the same time, reject the partisan politics that have already engulfed this and other important governmental matters. The citizens of Maryland who we represent deserve no less.

I look forward to your consideration and your response.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert L. Ehrlich, Jr.", with a large, stylized flourish at the end.

Robert L. Ehrlich, Jr.
Governor