



JOHN F. McKEON  
Chair

GORDON M. JOHNSON  
Vice-Chair

JOSEPH A. LAGANA  
ELIZABETH MAHER MUOIO  
ANDREW ZWICKER  
MICHAEL PATRICK CARROLL  
ERIK PETERSON

## New Jersey State Legislature

### ASSEMBLY JUDICIARY COMMITTEE

STATE HOUSE ANNEX

PO BOX 068

TRENTON NJ 08625-0068

MIRIAM BAVATI  
Office of Legislative Services  
Committee Aide  
(609) 847-3865  
(609) 292-6510 fax

July 24, 2017

New Jersey Transit Corporation  
Attn: Custodian of Records  
1 Penn Plaza East  
Newark, New Jersey 07105

Dear Custodian of Records:

Please find attached hereto a subpoena requesting certain documents concerning the financial and operating practices of the New Jersey Transit Corporation. The New Jersey Assembly Judiciary Committee will accept mail or messenger delivery of the requested records at the following address on or before 5:00 p.m., Monday, July 31, 2017: Miriam Bavati, Office of Legislative Services, State House Annex, Room 411, PO Box 068, Trenton, New Jersey 08625-0068. We also enclose herewith a copy of the Code of Fair Procedure. The preferred method of delivery of the requested records is compact disc, DVD, or similar format.

We look forward to your anticipated cooperation in this matter. If you have questions on this matter, please contact Miriam Bavati at the Office of Legislative Services at (609) 847-3865.

Very truly yours,

NEW JERSEY ASSEMBLY JUDICIARY COMMITTEE

John F. McKeon  
Chairman

MB/dd  
Enclosures  
c Members - New Jersey Assembly Judiciary Committee  
Kate McDonnell, Assembly Majority Office  
Kevin Logan, Assembly Republican Office  
Members - New Jersey Senate Legislative Oversight Committee  
Mark Magyar, Senate Majority Office  
Christopher Emigholz, Senate Republican Office

**NEW JERSEY ASSEMBLY JUDICIARY COMMITTEE**  
**S U B P O E N A**

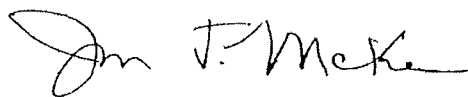
**TO** New Jersey Transit Corporation  
Attn: Custodian of Records  
1 Penn Plaza East  
Newark, New Jersey 07105

**WE COMMAND YOU**, Laying aside all and singular business and excuses, to produce all books, papers, correspondence, other documents and materials, and electronic records and data described below, that you have in your possession or have access to relevant to the New Jersey Assembly Judiciary Committee's inquiry and investigation into the financial and operating practices of the New Jersey Transit Corporation, as more particularly set forth on the attached Schedule A. These books, papers, correspondence, other documents and materials, and electronic records and data shall be returned on or before 5:00 p.m., Monday, July 31, 2017 to: Miriam Bavati, Office of Legislative Services, State House Annex, Room 411, PO Box 068, Trenton, New Jersey 08625-0068. The New Jersey Assembly Judiciary Committee is authorized to investigate or inquire into the financial and operating practices of the New Jersey Transit Corporation pursuant to Assembly Resolution No. 185 of 2016-2017.

Your production of documents is governed by the Code of Fair Procedure and Chapter 13 of Title 52 of the Revised Statutes. A copy of the Code of Fair Procedure is delivered to you herewith.

Failure to comply with this Subpoena shall make you liable for such penalties as are provided by law.

**WITNESS**, the hand of The Honorable John F. McKeon, Chairman of the New Jersey Assembly Judiciary Committee, on this 24th day of July, 2017.



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John F. McKeon, Chairman  
New Jersey Assembly Judiciary Committee

**SCHEDULE A**  
**(TO SUBPOENA DATED JULY 24, 2017, ISSUED BY THE**  
**NEW JERSEY ASSEMBLY JUDICIARY COMMITTEE.)**

Please deliver the following:

All documents and records of any kind, including, but not limited to, any (1) correspondence, (2) notes, (3) electronic mail transmissions, (4) text messages, (5) Blackberry Messenger messages (a/k/a "BBM messages"), (6) "instant messages," whether sent via a personal computational device or cellular phone via any and all Web- or cellular phone-based messaging systems, and/or (7) any other electronically stored data or information which is currently stored on any and all personal computational devices to which the New Jersey Transit Corporation ("NJT") has access or over which NJT has possession, dominion, or control, including, without limitation, devices commonly known as 'desktops,' 'laptops,' 'smartbooks,' 'tablets,' 'smartphones,' 'cellular phones,' or 'iPads,' whether used in a business, personal, or any other capacity, produced, created, sent, or received between the following dates relating to, regarding, reflecting, concerning, or constituting any of the following:

a. Between January 1, 2010 and the present date, information concerning all NJT personnel holding a position at a Senior Director or equivalent level and above, any positions reporting directly to the Executive Director of NJT or Deputy Executive Director of NJT, and all NJT personnel earning a minimum annual salary of \$70,000, including the resumes or curriculum vitae of the employee hired for each position, the date of hire for each position, information regarding the educational background of the employee hired for each position, the job posting for each position, and a description of the roles and responsibilities of each position, current to the date of this subpoena;

b. Between April 15, 2017 and the present date, all documents and records related to the National Railroad Passenger Corporation's (Amtrak) Infrastructure Renewal project at New York Pennsylvania Station (NY Penn Station) conducted or scheduled to take place between April 1, 2017 and August 31, 2017, and/or the NJT service and fare changes for the months of July and August 2017 related to the infrastructure renewal project at NY Penn Station during these months, including correspondence, electronic or otherwise, from or to Governor Christopher J. Christie, John Spinello, Commissioner Richard T. Hammer, Executive Director Steven Santoro, Jacqueline Halldow, Paul Wyckoff, Michael Lihvarcik, and Jai Patel; and

c. Corporate Policy 3.02B, current to the date of this subpoena.

Please produce a log of any documents and/or correspondence withheld from production on the basis of any claimed privilege or protection, or withheld or redacted for any reason, and retain such documents and/or correspondence.

## **PRODUCTION SPECIFICATIONS**

All records should be provided in a computer readable file format.

All files should be provided with related searchable text, with optical character recognition where appropriate. Electronic documents should be produced with searchable text for the entire document, metadata, and bibliographic information. Electronic spreadsheets and presentations should be produced in native format. Hard copy documents should be produced as they are kept, reflecting attachment relationships between documents and information about the file folders within which each document is found. Multi-page documents must be produced as single, properly unitized documents and not as several single-page documents.

Documents must be uniquely and sequentially Bates-numbered across the entire production, with an endorsement burned into each image. Each Bates number shall be of a consistent length, including leading zeroes in the number, and unique for each produced page.

## **Code of Fair Procedure**

### **52:13E-1. Definitions**

As used in this act:

(a) "Agency" means any of the following while engaged in an investigation or inquiry: (1) the Governor or any person or persons appointed by him acting pursuant to P.L.1941, c. 16, s. 1 (C. 52:15-7), (2) any temporary State commission or duly authorized committee thereof having the power to require testimony or the production of evidence by subpoena, or (3) any legislative committee or commission having the powers set forth in Revised Statutes 52:13-1.

(b) "Hearing" means any hearing in the course of an investigatory proceeding (other than a preliminary conference or interview at which no testimony is taken under oath) conducted before an agency at which testimony or the production of other evidence may be compelled by subpoena or other compulsory process.

(c) "Public hearing" means any hearing open to the public, or any hearing, or such part thereof, as to which testimony or other evidence is made available or disseminated to the public by the agency.

(d) "Private hearing" means any hearing other than a public hearing.

L.1968, c. 376, s. 1, eff. Dec. 27, 1968.

### **52:13E-2. Personal service**

No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of this act, and a general statement of the subject of the investigation. A copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the agency upon request therefor by the person summoned.

L.1968, c. 376, s. 2, eff. Dec. 27, 1968.

### **52:13E-3. Right to counsel; submission of proposed questions**

A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the agency shall ask the witness such of the questions as it may deem appropriate to its inquiry.

L.1968, c. 376, s. 3, eff. Dec. 27, 1968.

### **52:13E-4. Records of public hearings; copies**

A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such

testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

L.1968, c. 376, s. 4, eff. Dec. 27, 1968.

**52:13E-5. Sworn statement by witness; incorporation in the record**

A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record of the investigatory proceeding.

L.1968, c. 376, s. 5, eff. Dec. 27, 1968.

**52:13E-6. Persons affected by proceedings; appearance or statement of facts**

Any person whose name is mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the agency or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either to appear personally before the agency and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative at the option of the agency, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record of the investigatory proceeding.

L.1968, c. 375, s. 6, eff. Dec. 27, 1968.

**52:13E-7. Rights or privileges granted by agencies**

Nothing in this act shall be construed to prevent an agency from granting to witnesses appearing before it, or to persons who claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

L.1968, c. 376, s. 7, eff. Dec. 27, 1968.

**52:13E-8. Dissemination of evidence adduced at private hearing**

Except in the course of subsequent hearing which is open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview conducted before a single-member agency in the course of its investigation shall be disseminated or made available to the public by said agency, its counsel or employees without the approval of the head of the agency. Except in the course of a subsequent hearing open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview before a committee or other multimember investigating agency shall be disseminated or made available to the public by any member of the agency, its counsel or employees, except with the approval of a majority of the members of such agency. Any person who violates the provisions of this subdivision shall be adjudged a disorderly person.

L.1968, c. 376, s. 8, eff. Dec. 27, 1968.

**52:13E-9. Hearing conducted by temporary state commission**

No temporary State commission having more than two members shall have the power to take testimony at a public or private hearing unless at least two of its members are present at such hearing.

Nothing in this section, however, shall be deemed to prevent the State Commission of Investigation from conducting private hearings, on an investigation previously undertaken by a majority of the members of the commission, with one commissioner present, when so designated by resolution pursuant to the provisions of section 12 of P.L.1968, c. 266 (C. 52:9M-12).

L.1968, c. 376, s. 9, eff. Dec. 27, 1968. Amended by L.1984, c. 110, s. 5, eff. Aug. 3, 1984.

**52:13E-10. Right of members to file statement of minority views**

Nothing in this act shall be construed to affect, diminish or impair the right, under any other provision of law, rule or custom, of any member or group of members of a committee or other multimember investigating agency to file a statement or statements of minority views to accompany and be released with or subsequent to the report of the committee or agency.

L.1968, c. 376, s. 10, eff. Dec. 27, 1968.

## **Chapter 13 of Title 52 of the Revised Statutes**

### **Article 1. General Provisions.**

#### **52:13-1. Attendance of witnesses; production of books and papers; legal and clerical assistance**

Any joint committee of the legislature, any standing committee of either house, or any special committee directed by resolution to enter upon any investigation or inquiry, the pursuit of which shall necessitate the attendance of persons or the production of books or papers, shall have power to compel the attendance before it of such persons as witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. Any such committee shall also have the power to employ such legal and clerical assistance as it may deem necessary to the proper conduct of the investigation.

#### **52:13-2. Summons for witnesses; execution**

If any person upon being summoned in writing by order of any committee mentioned in section 52:13-1 of this title to appear before such committee and testify, fails to obey such summons, the speaker of the house of assembly or the president of the senate may, upon application to him, by warrant under his hand order the sergeant at arms of the house over which he presides to arrest such person and bring him before the committee, and the sergeant at arms shall thereupon execute the warrant to him so directed.

#### **52:13-3. Compensation of witnesses; swearing witnesses; perjury; immunity; refusal to answer or be sworn**

Witnesses summoned to appear before any committee authorized by this article or any other law to conduct an investigation or inquiry shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the state. All such witnesses may be sworn by any member of the committee conducting the investigation or inquiry; and all witnesses sworn before any such committee shall answer truly all questions put to them which the committee shall decide to be proper and pertinent to the investigation or inquiry; and any witness so sworn who shall swear falsely shall be guilty of perjury. No such witness shall be excused from answering any such questions on the ground that to answer the same might or would incriminate him; but no answers made by any witness to any such questions shall be used or admitted in evidence in any proceeding against such witness, except in a criminal prosecution against the witness for perjury in respect to his answers to such questions.

Any witness who refuses to answer any questions decided by the committee to be proper and pertinent shall be guilty of a misdemeanor; and any witness who, having been summoned to appear before any such committee, fails to appear in obedience to the summons or, appearing, refuses to be sworn shall be guilty of a misdemeanor.

#### **52:13-4. Expenses of investigations; payment**

The state treasurer shall, upon the warrant of the state comptroller, pay the fees and mileage of witnesses called, the compensation of legal and clerical assistance employed and the expenses of the sergeant at arms of either house in the execution of warrants



pursuant to section 52:13-2 of this title, when the same shall be certified as correct and necessary by the chairman of the committee under whose authority and by whose order the same shall have been incurred, but only when the chairman's certificate has received the approval of the governor.

## **Article 2. Contempts of Joint Legislative Committees.**

### **52:13-5. What constitutes contempt; report thereof to legislature**

Whenever, in any investigation or inquiry by any committee constituted by joint resolution of the legislature to enter upon or make such investigation or inquiry, any witness summoned or subpoenaed to appear before such committee to testify or to produce books, documents, papers or records, shall willfully neglect or refuse to appear in obedience to the summons or subpoena, or shall willfully neglect or refuse to produce any books, documents, papers or records commanded to be produced by the summons or subpoena, or shall refuse to be sworn or affirmed, or shall refuse to answer any question put to him which the committee shall decide to be proper and pertinent to such investigation or inquiry, or shall in any other way contemn the authority or privileges of the legislature, and the facts alleged to constitute any such contempt shall have been reported by any such committee to the legislature, the alleged contemner shall be tried, and the alleged contempt determined, as hereinafter provided.

### **52:13-6. Joint session to determine alleged contempt; order for arrest; service**

The senate and general assembly may by concurrent resolution direct that the senate and general assembly meet in joint session at a time and place therein fixed for the purpose of hearing the evidence and arguments regarding the alleged contempt and may order that a warrant, directed to any sergeant at arms of either house or of the joint session or to any sheriff, police officer, member of the state police, constable or other peace officer, issue in such manner as shall be prescribed in and by the concurrent resolution for the arrest of the alleged contemner and the production of him at the bar of such joint session, there to be heard.

### **52:13-7. Hearing by joint session**

At the time and place fixed as aforesaid, or at any adjournment, the joint session shall sit and summarily hear the evidence and the arguments relating to the alleged contempt. The joint session shall adjourn from time to time until the matter shall have been disposed of and the alleged contemner shall appear and attend at each and every such adjourned session.

### **52:13-8. Contemner's rights**

Any alleged contemner shall have the right to be heard before the joint session, to be represented by counsel, to call witnesses in his behalf, and to examine and cross-examine witnesses.

### **52:13-9. Determination of contempt by each house separately; concurrent resolution**

After the joint session shall have heard the evidence and such arguments as may be made, the senate and the general assembly shall separately convene and shall separately

consider and determine the alleged contempt; and the determination shall be by a concurrent resolution, which may originate in either house.

**52:13-10. Sentence; order of commitment**

Any person found to be guilty of a contempt of the legislature by a concurrent resolution of the two houses thereof, as hereinbefore provided, may be sentenced to imprisonment in the state prison or in the common jail of any county for any period not exceeding six months as shall be directed in and by the concurrent resolution determining the contempt, for the execution of which such concurrent resolution may order that a commitment shall issue, directed to any sheriff, police officer, member of the state police, constable or other peace officer, and to the keeper of the state prison or the keeper of the common jail of any county, which commitment shall be signed by the president of the senate and the speaker of the house of assembly in office at the date of the issue thereof.

**52:13-11. Continuing validity of commitment**

Any commitment issued in accordance with section 52:13-10 of this title shall remain valid and effective until the imprisonment therein set forth shall have been served, notwithstanding the legislature which directed the issue of the commitment may meanwhile have adjourned or ended.

**52:13-12. Bail of contemner**

Any judge of the Superior Court may let to bail any person apprehended for hearing on a charge of contempt under a warrant issued by direction of a concurrent resolution as provided in section 52:13-6 of this Title, in such amount and with such surety as the judge shall determine to be reasonable, to appear before the Joint Session of the Legislature, at the time and place fixed by the warrant as well as at any and all adjournments thereof, and to stand to and abide such determination and sentence as may thereafter be found or imposed against the person so apprehended. Such recognizances shall run in favor of the State of New Jersey and shall be filed by the judge in the office of the Secretary of State.

Amended by L.1953, c. 49, p. 853, s. 2.

**52:13-13. Powers given additional to other powers**

The powers given by this article shall be in addition to the powers given by article 1 of this chapter (s. 52:13-1 et seq.).

STATE OF NEW JERSEY, ss:

\_\_\_\_\_ being duly sworn according to law on his oath say that on the \_\_\_\_\_ day of \_\_\_\_\_, 2017 at \_\_\_\_\_ he served the within Subpoena upon New Jersey Transit Corporation, Attn: Custodian of Records by exhibiting the same to him and informing him of the contents thereof \_\_\_\_\_ and giving to New Jersey Transit Corporation, Attn: Custodian of Records a true copy thereof, addressed to New Jersey Transit Corporation, Attn: Custodian of Records, 1 Penn Plaza East, Newark, New Jersey 07105.

Subscribed and sworn to before me at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 2017.

\_\_\_\_\_

STATE OF NEW JERSEY

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New Jersey Assembly Judiciary Committee

to

New Jersey Transit Corporation  
Attn: Custodian of Records  
1 Penn Plaza East  
Newark, New Jersey 07105

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SUBPOENA

Duces Tecum

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Writ Returnable on or before  
5:00 p.m., July 31, 2017

to

New Jersey Assembly Judiciary Committee

**c/o Miriam Bavati  
Office of Legislative Services  
State House Annex  
Room 411  
PO Box 068  
Trenton, New Jersey 08625-0068**