



Coalition for Integrity

June 19, 2019

Representative Garth D. Everett, Chair
Representative Kevin J. Boyle, Democratic Chair
Committee on State Government
House of Representatives
Harrisburg, PA

Dear Representatives Garth and Boyle:

I am writing on behalf of the Coalition for Integrity, a non-profit organization which works with a broad network of individuals and organizations to combat corruption and promote integrity in the public and private sectors. When government is for sale, it destroys public trust in democratic institutions and denies people the right to accountable, responsive government and the rule of law. Our view is simple: Democracy is best served when elected officials are wholly committed to representing the public interest.

Background. Last October, the Coalition for Integrity released its [States With Anti-Corruption Measures for Public Officials \(S.W.A.M.P.\) Index](#). The index rates the 50 States and the District of Columbia based on the laws and regulations governing ethics and transparency in the executive and legislative branches of individual states. Pennsylvania received a score of 51% and ranked 28. The major reason for this low score was the State's failure to effectively prohibit acceptance of gifts, particularly by legislators, and lack of transparency in reporting gifts.

Pennsylvania's ethics statute does not ban the acceptance of gifts, except where the gift is given or taken with the objective or effect of improper influence.¹ Furthermore, there is no monetary definition of a gift, and a gift does not include meals, beverages, entertainment or recreation.² Executive Branch employees, appointees and officials are prohibited by Executive Order from accepting gifts from a defined category of givers,³ but legislators are free to do so. Pennsylvania also sets a very high threshold of \$650 for disclosure of gifts of transportation, lodging and hospitality.⁴

Comments on Proposed Legislation. House Bill 1291, introduced on April 25, 2019, addresses a major source of potential corruption by prohibiting "acceptance of transportation, lodging, hospitality, cash and gifts" from prohibited sources – those persons with interests which would or could be affected by the actions of the executive or legislative official or employee. We applaud the transparency introduced by the proposed legislation – requiring disclosure of any gifts of transportation, lodging or hospitality, regardless of value. Reducing the reporting threshold for other gifts to \$50 is also a significant advance.

¹ [65 PA.C.S § 1103\(b\) and \(c\).](#)

² [65 PA.C.S. § 13A03.](#)

³ [PA Exec. Order No. 2015-01 \(Jan 20, 2015\).](#)

⁴ [65 PA.C.S § 1105\(b\)\(7\).](#)

It is not clear how the new prohibition would be enforced. 65 Pa. Cons. Stat. §1109 sets out the penalties for violations of the Ethics Standards. But it refers only to violations of §§1103(a), (b) and (c) and financial disclosure filing requirements. To be truly effective, the proposed legislation should clarify the penalties for violation.

Suggested Improvements. There are improvements that can be made to the proposed legislation. The main one is to ban solicitation or acceptance of gifts from any source, not just prohibited sources.⁵ The State of Washington has such a provision, prohibiting elected and appointed executive branch officials and legislators from accepting more than \$50 worth of gifts, in aggregate, in a calendar year or a single gift from multiple sources, regardless of the source.⁶ Similarly, the U.S. House of Representatives Official Rules prohibit legislators and employees of the legislative branch from accepting any gift valued at more than \$50 at one time or \$100 in a calendar year from any source.⁷ The U.S. Senate gift rule is similar.⁸

Many states set monetary limits with respect to acceptance of gifts – it is a bright line that makes it easier to avoid difficult decisions about the appropriateness of a gift. For example, Kansas prohibits executive branch elected and appointed officials from accepting any gift provided because of such person’s official position, valued at more than \$40.⁹ In New Hampshire, executive branch officials and employees may not accept any gift – defined as valued at more than \$25, given with a purpose of influencing or affecting the official conduct of such official or employee.¹⁰ Legislators in New Hampshire may not accept any gift from anyone, but in this case a gift is defined as (i) money in any amount, (ii) anything else worth more than \$50, or (iii) multiple gifts aggregating to more than \$250 over the course of a calendar year.¹¹ U.S. federal executive branch employees are subject to a \$20 limit.¹²

With respect to the list of prohibited sources, we would urge you to add the following as a fifth prohibited source -- “an organization a majority of whose members are described in paragraphs (a)(1) through (4) of this section.” This would prohibit prohibited sources from avoiding the gift rules by using trade associations or other organizations. This suggestion is based on the definition of prohibited source by the U.S. Office of Government Ethics.¹³

⁵ The Office of Government Ethics defines a “prohibited source” as “any person who: (1) Is seeking official action by the employee’s agency; (2) Does business or seeks to do business with the employee’s agency; (3) Conducts activities regulated by the employee’s agency; (4) Has interests that may be substantially affected by the performance or nonperformance of the employee’s official duties; or (5) Is an organization a majority of whose members are described in paragraphs (d)(1) through (4) of this section.” [5 CFR 2635.203\(d\)](#).

⁶ [Wash. Rev. Code § 42.52.150\(1\)](#).

⁷ U.S. House of Representatives, [Rules of the House](#), Rule XXV(5)(B)(1) (January 6, 2015).

⁸ U.S. Senate, [Code of Official Conduct](#), Rule XXXV (March 2015).

⁹ [Kan. Stat. § 46-237a\(b\)](#).

¹⁰ [N.H. Rev. Stat. § 15-B:3\(III\)](#); [N.H. Rev. Stat. §§ 15-B:2\(V\)\(a\)\(1\), \(2\)](#).

¹¹ [N.H. Rev. Stat. § 14-C:3\(III\)](#); [N.H. Rev. Stat. § 14-C:2\(IV\)\(a\)](#).

¹² Office of Government Ethics, Standards of Ethical Conduct for Employees of the Executive Branch, [5 CFR 2635.204\(a\)](#).

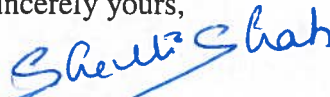
¹³ Id. at [5 CFR 2635.203\(d\)](#).

We would also highly recommend that the prohibition in §1103.1(a) of House Bill 1291 be expanded to cover not just a spouse but also immediate family members of a public official or public employee. We note that lobbyists in Pennsylvania are required to report gifts, hospitality, lodging, etc. to immediate family members, which is defined as sibling, child, parent and in-laws.¹⁴ This is a broader definition than the one in the Ethics Standards, which excludes in-laws.¹⁵

House Bill 1291 represents a positive step that would increase Pennsylvania's score in the S.W.A.M.P. Index to approximately 62 out of 100. This is a significant improvement. The bill does a lot to deter corruption and enhance citizen trust in public officials and employees, particularly legislators. While there is always some room for improvement we find House Bill 1291 to be a major advancement.

We hope that our comments are useful as the House and Senate work to pass this important legislation.

Sincerely yours,



Shruti Shah
President & CEO

¹⁴ [65 PA.C.S. § 13A03\(b\)\(2\)\(6\).](#)

¹⁵ [65 PA.C.S. § 1101.2\(b\).](#)