

1 HOUSE OF REPRESENTATIVES
2 COMMONWEALTH OF PENNSYLVANIA

3 * * * *

4 House Bill 1872
5 Public Official & Employee Ethics Act

6 * * * *

7 House State Government Committee

8 Irvis Office Building
9 Room G-50
10 Harrisburg, Pennsylvania

11 Tuesday, June 10, 2014 - 9:00 a.m.

12 --oOo--

13 COMMITTEE MEMBERS PRESENT:

14 Honorable Daryl Metcalfe, Majority Chairman
15 Honorable Stephen Barrar
16 Honorable George Dunbar
17 Honorable Eli Evankovich
18 Honorable Garth Everett
19 Honorable Matt Gabler
20 Honorable Fred Keller
21 Honorable Jerry Knowles
22 Honorable Tim Krieger
23 Honorable David Maloney
24 Honorable John McGinnis
25 Honorable Brad Roae
Honorable Rick Saccone
Honorable Dan Truitt
Honorable Mark Cohen, Minority Chairman
Honorable Mary Jo Daley
Honorable Marty Flynn
Honorable Dan Miller
Honorable Michael O'Brien
Honorable Michael Schlossberg
Honorable Brian Sims

1300 Garrison Drive, York, PA 17404
717.764.7801

Key Reporters

keyreporters@comcast.net

1 STAFF MEMBERS PRESENT:

2

3 Susan Boyle
4 Majority Executive Director

5 Pam Neugard
6 Majority Legislative Administrative Assistant

7 Amy Hockenberry
8 Majority Research Analyst

9 Karen Penica
10 Majority Research Analyst

11 Kim Hileman
12 Minority Executive Director

13 Linda Huntington
14 Minority Legislative Assistant

15

16

17

18

19

20

21

22

23

24

25

1 INDEX OF TESTIFIERS

2 TESTIFIERS	PAGE
3 Opening remarks by Majority Chairman 4 Metcalfe.....	4
5 Opening remarks by Representative Dunbar...	4
6 Senator Robert Teplitz.....	6
7	
8 Barry Kauffman, Executive Director..... 9 Common Cause Pennsylvania	23
10 Peggy Kerns, Director..... 11 National Conference of State Legislature Center for Ethics in Government	45
12 Pennsylvania State Ethics Commission	
13 Robin Hittie, Esquire, Chief Counsel.....	63
14 Robert Caruso, Executive Director.....	70

15
16
17 SUBMITTED WRITTEN TESTIMONY

18 (See other submitted testimony and handouts
19 online.)
20
21
22
23
24
25

1 MAJORITY CHAIRMAN METCALFE: Good
2 morning. Committee is called to order. Before we
3 take the roll, if I could ask everyone to please
4 rise and Representative Miller to lead us in the
5 pledge.

6 (Pledge of Allegiance).

7 MAJORITY CHAIRMAN METCALFE: Thank you,
8 Representative Miller.

9 This morning's hearing is on House Bill
10 1872 authored by Representative Dunbar. I'd like
11 to recognize Representative Dunbar for any opening
12 remarks he'd like to share related to his
13 legislation.

14 REPRESENTATIVE DUNBAR: Thank you, Mr.
15 Chairman.

16 And first off, I do want to express my
17 appreciation to the Chair for having this hearing
18 on this bill. The bill has my name on it, but it
19 is -- Make no mistake, this is a Reform Caucus
20 Government bill. There is a group of legislators
21 that have worked together on this legislation.

22 Essentially what it does is, for
23 financial disclosure issues, gifts, the limit on
24 reporting threshold for gifts would be reduced from
25 \$250 down to \$50, and for transportation and

1 lodging, it would reduce the reporting threshold
2 from \$650 to a hundred dollars. This is more in
3 line with a lot of other states. There also is a
4 portion where you can voluntarily elect to report
5 any gifts, even those below the threshold.

6 So, that's pretty much it in a nutshell,
7 and I welcome any questions.

8 MAJORITY CHAIRMAN METCALFE: Thank you,
9 Representative Dunbar.

10 Before we call our first testifier, I'd
11 like to ask our member secretary, Representative
12 McGinnis, to call the roll, please.

13 (Roll call off the record).

14 MAJORITY CHAIRMAN METCALFE: And
15 Representative Everett joined us since you started
16 the roll there, Representative McGinnis.

17 MINORITY CHAIRMAN COHEN: And
18 Representative Vitali is on leave.

19 MAJORITY CHAIRMAN METCALFE: And
20 Representative Maloney is just coming in the door.

21 Thank you.

22 REPRESENTATIVE MCGINNIS: I'm up to
23 date.

24 MAJORITY CHAIRMAN METCALFE: Thank you,
25 Representative McGinnis.

1 Our first testifier this morning is one
2 of our colleagues from the Senate, Representative
3 Teplitz. Like to take the mike and begin when
4 you're ready there, Senator.

5 SENATOR TEPLITZ: Thank you, Chairman
6 Metcalfe, Chairman Cohen. Thank you for inviting
7 me to appear today. More importantly, thank you
8 for taking up this bill.

9 I'm Rob Teplitz. I represent the 15th
10 Senatorial District, parts of Dauphin and York
11 counties. I am also the founder and the co-chair
12 of the new Government Reform Caucus. This is a
13 bipartisan, bicameral group that was formed last
14 year, March of 2013, in order to develop and
15 promote legislation that would increase
16 accountability, transparency and fiscal
17 responsibility in state government.

18 Our first co-chair was Representative
19 Bryan Cutler from Lancaster County. It's no
20 coincidence that we have a Senate member, a House
21 member, a Republican and a Democrat. This is to
22 emphasize the bipartisan and bicameral nature of
23 our group. Our co-chair for our second year,
24 beginning in our second year, is Representative
25 Dunbar. He has been active with us from the

1 beginning, and I was very pleased that he was
2 willing to take a leadership position in our
3 caucus.

4 The point, as I said, of what we've been
5 doing is to work on good government legislation.
6 We haven't been grandstanding; we haven't been out
7 trying to embarrass or attack anyone. We've been
8 working diligently over the past year meeting,
9 generally monthly, in order to focus on legislation
10 that our caucus could reach a consensus around.

11 In our discussions over the last year,
12 it just so happened, as we were trying to coalesce
13 around a reform or a series of reforms that we
14 would embrace and promote, we did come around on
15 the issue of gifts. And when that issue surfaced
16 earlier this year, we decided that this would be
17 the time to seize the opportunity to publicly raise
18 this issue.

19 We've reached a consensus on the gifts
20 issue around House Bill 1872, the bill introduced
21 by Representative Dunbar. There's a companion bill
22 in the Senate, Senate Bill 750, which was
23 introduced by Senator Eichelberger and Senator
24 Stack. As Representative Dunbar said, the bills
25 are pretty easy to understand. They reduce the

1 thresholds for gifts from 250 to \$50 to report for
2 hospitality, lodging; transportation from 650 to a
3 hundred dollars to report; and also encourage
4 voluntary disclosure below the thresholds.

5 The members of the Government Reform
6 Caucus recognize that there are other reasonable
7 approaches to this issue, but this is what we
8 reached a consensus on. Many of us, including
9 myself and others, would support a full ban. Many
10 of us, including myself, would support first-dollar
11 reporting. But this is the consensus that we
12 reached after substantive discussion.

13 It met the test that I laid out for the
14 caucus from the beginning, which is to come around
15 behind legislation that would be both meaningful
16 and passable. We believe that this passes that
17 test, and so, it has the support of the Government
18 Reform Caucus.

19 I would also mention as an aside, I
20 believe members of my own Senate Democratic Caucus
21 support this bill.

22 We believe that this is a good first
23 step. Greater disclosure leads to a disincentive
24 to accepting gifts and other expenses in the first
25 place. This is what happened in Kentucky. Others

1 can speak more knowledgeably about the details,
2 but, in Kentucky, there was an issue with gifts in
3 that state. They went to greater reporting, and
4 the reporting of it, or the obligation to report,
5 probably more accurately, created its own
6 disincentive to accepting gifts in the first place,
7 and that led to, unofficially, a gift ban to the
8 point where Kentucky then passed a bill formalizing
9 that and put on paper the ban that had arisen just
10 naturally as a result of the law.

11 The members of the caucus believe that
12 this is a good law. It's good first step. We'd
13 like to see this done in June while we're here.
14 There's no reason to think that it can't be, and
15 then we can move on to other reforms both on this
16 area and on other areas of state government.

17 Thank you for your time. I'd be happy
18 to answer any questions you might have.

19 MAJORITY CHAIRMAN METCALFE: Thank you.

20 It looks like the first question is
21 going to come from Representative Miller.

22 REPRESENTATIVE MILLER: Thank you,
23 Senator, for coming out. I thank the Chairman for
24 allowing this to be heard today.

25 I think you did make note to another

1 bill that would be more restrictive. I think there
2 was, if I recall, Representative Saccone's good
3 bill that he put forward. As a member of the
4 caucus, I appreciate what your words and what
5 Representative Dunbar have brought to the table
6 here today.

7 I wonder, though, one of the discussions
8 that was of interest, I thought, when we were
9 working through this bill was some of the examples
10 that people gave us to why \$50 felt practical to
11 some members. I know you mentioned some of us,
12 like myself, would have gone with more Rick's bill,
13 but I wonder if you can give a little example as to
14 why \$50 seemed to be something that could be
15 worked.

16 SENATOR TEPLITZ: Sure. There are a
17 couple of reasons for that.

18 The first is, there's a practical
19 challenge with reporting items below \$50 that show
20 up in your office; that come here on lobby days
21 that are dropped off that we're not even sure who
22 they came from. And I don't think it would be
23 appropriate for someone to be in technical
24 violation of the law because they failed to report
25 a pen or a T-shirt or a mug without even knowing

1 where it came from. That's 1.

2 Number 2: Even if you know where it
3 came from, it becomes a challenge just to keep
4 track of all of that stuff, and I think it's a fair
5 question as to whether it's worth it in order to do
6 that.

7 And I tried. Last year I was diligent
8 about trying to keep track and report everything,
9 and it was somewhat of a burden. So then the
10 question becomes, is it worth it? If we have
11 colleagues who are going to be corrupted by a
12 T-shirt or a coffee mug, then we've got bigger
13 problems.

14 And the third reason is, a lot of us
15 meet with constituents, real people, and they may
16 bring in a box of homemade cookies or something
17 that they made as a gester of appreciation. And I
18 don't know think any of us want to be in a position
19 of possibly offending by saying, no, I can't take
20 that.

21 I think what we're trying to do here is
22 deal with the worst parts of human nature without
23 getting rid of the best parts of human nature. And
24 so, having that gap, I think, allows for some of
25 those practical impacts to be dealt with but still

1 addressing the substantive, critical issue.

2 MAJORITY CHAIRMAN METCALFE: Thank you,
3 Representative Miller.

4 Representative Dunbar.

5 REPRESENTATIVE DUNBAR: Thank you, Mr.
6 Chairman. And thank you, Senator, for being here.

7 Again, going back to the caucus and
8 discussions we had, some of the naysayers were
9 saying, well, that's going to limit our ability to
10 meet with lobbyists and discuss things with
11 lobbyists. And then the values that we put, the
12 levels, the numbers that we came up with, \$50, can
13 you comment on how you feel that is like a good
14 level, a de minimis level?

15 SENATOR TEPLITZ: Yes. I think that's a
16 good point. I do think that these are minimal
17 levels that -- Again, we're dropping the gift
18 threshold by \$200. We're dropping the lodging,
19 hospitality, travel threshold by \$550. And so,
20 we're significantly providing greater disclosure,
21 which, in and of itself, is good but is also good
22 as a disincentive.

23 On the bigger issue, there's nothing to
24 prevent any of us from meeting with lobbyists and
25 having discussions on substantive issues in our

1 office during regular working hours. And frankly,
2 I prefer that because I have a young family that I
3 would prefer to see at night, and I would rather
4 have those kind of meetings during the day in an
5 open, transparent way in my office and not have to
6 spend the time being out to dinner and otherwise.
7 I mean, I'd rather do it that way, and I think many
8 of us feel the same way.

9 So, I don't think it impacts on our
10 ability to hear from lobbyists or others that are
11 advocating on bills.

12 MAJORITY CHAIRMAN METCALFE: Thank you,
13 Representative Dunbar.

14 Representative O'Brien.

15 REPRESENTATIVE O'BRIEN: Thank you, Mr.
16 Chairman. Good morning, Senator.

17 SENATOR TEPLITZ: Good morning.

18 REPRESENTATIVE O'BRIEN: This may be in
19 the category of how many angels could dance on the
20 head of a pin. But, nonetheless, it's my
21 understanding that, later on this morning, we'll
22 have a discussion on aggregate, okay?

23 Now, it's not uncommon for universities
24 around the state to invite members to a football
25 game where the face value of that ticket is less

1 than \$50. But, often they will offer four tickets.
2 So now, the aggregate value now becomes \$200, but
3 I'm using one; you're using one. So, it now breaks
4 to \$50 per person.

5 Where are we on this? Is it below,
6 above? What's your thought process on that?

7 SENATOR TEPLITZ: That's a good
8 question. And, in preparation for my testimony, I
9 did read the testimony from Common Cause that
10 raised that issue. I think it's a legitimate
11 issue. There's certainly no intention by our
12 caucus to create a bigger problem or create a
13 loophole.

14 This particular issue is not one that
15 came to our attention, but I would imagine that our
16 members would be in favor of changing a word or two
17 in order to address that issue. I mean, the last
18 thing we want to do is create a bigger problem.
19 So, I'm open to the solutions that Common Cause
20 presented in their testimony.

21 REPRESENTATIVE O'BRIEN: What's that,
22 change of a word or two? Clarify for me.

23 SENATOR TEPLITZ: Well, I think, dealing
24 with the fact that, as written, it appears that the
25 bill would open up the possibility of not having to

1 report because of individual instances not adding
2 up to an aggregate. So, I would be open to putting
3 that aggregate language back in. Certainly, I
4 would have to consult with Representative Dunbar
5 and Senator Stack and Eichelberger and the other
6 members who have coalesced around this.

7 It's not an issue that we've discussed
8 because I think there was a general understanding
9 that we were creating greater transparency and
10 reporting. So, I think it was likely just an
11 oversight on our part and one that could be easily
12 addressed.

13 REPRESENTATIVE O'BRIEN: Thank you,
14 Senator, and thank you, Mr. Chairman.

15 MAJORITY CHAIRMAN METCALFE:
16 Representative Saccone.

17 REPRESENTATIVE SACCONI: Yes. Thank
18 you, Senator. Thanks for the good work, and I
19 appreciate all the work that the caucus has done.

20 I just kind of throw this out to you to
21 get your response to this. Back to the de minimis
22 gifts, if someone drops off a coffee mug or a
23 T-shirt or whatever, the argument is -- What do you
24 think about this?

25 The argument is, well, if you don't

1 accept it, then you don't have to report it. You
2 just throw it away. You don't have to say, okay,
3 I'm going to take this T-shirt, which I don't want,
4 and I'm going to report it. Just throw it away.
5 And when you do that, then pretty soon people know,
6 hey, they're throwing away this stuff because they
7 can't accept it, then that's the disincentive for
8 them to stop giving it.

9 So, that's why I would like you to
10 consider pushing it down to zero, because we can
11 stop all this. There's no need for them to give me
12 a mug that I don't want or a little, you know,
13 whatever, curio, or whatever they bring in. I
14 don't want it.

15 I'd much rather, as you, meet with
16 lobbyists in my office than have to go out to
17 dinner and spend that time. So I hope you consider
18 that, thinking of that argument, or maybe you
19 already have.

20 SENATOR TEPLITZ: I don't disagree with
21 that point at all. As I said, our members -- We've
22 got about 40 members of both parties in both
23 chambers. There's maybe a little less than half of
24 that who have been regular attendees and
25 participants in our meetings. We've talked about

1 every facet of the gifts issue, and I'm not here to
2 defend accepting anything.

3 And I personally, speaking just for
4 myself, would vote for a complete ban, and I would
5 vote for stronger measures than what we have
6 coalesced around. But I think we've coalesced
7 around a good bill. It is stronger than the
8 current law. It is a good first step towards, I
9 think, getting to a complete ban based on the
10 experience of other states. But it's a matter of,
11 again, what is both meaningful and passable.

12 Even within a body like the Government
13 Reform Caucus of people who want to take the time
14 to meet and discuss regularly about these reform
15 issues, we didn't all agree. And that's not
16 because anyone was right or wrong or anyone is more
17 ethical or less ethical. I think there's a fair
18 divergence of opinions on it, and this is where we
19 ended up today, in 2014. I believe that passing
20 this bill in 2014 will get us to a stronger law in
21 the future, but this is a necessary first step.

22 MAJORITY CHAIRMAN METCALFE:
23 Representative Schlossberg.

24 REPRESENTATIVE SCHLOSSBERG: Thank you,
25 Mr. Chairman, and thank you, Senator Teplitz.

1 Maybe you're the wrong person to ask
2 this question, but this seems like, pretty much, a
3 no-brainer. I guess my question to you is, what
4 are the arguments against moving the threshold
5 down, and why are they incorrect, I guess?

6 SENATOR TEPLITZ: Well, I think, with
7 all of the government reform measures that are
8 discussed, this one and others, the resistance
9 seems to fall into two categories. There are those
10 who are satisfied with the status quo and would
11 prefer that that stay, and then there are those who
12 feel that the measure, whatever it is, doesn't go
13 far enough, and so, oppose something on that basis.

14 This is a compromise, just like any
15 piece of legislation, and I think it's a good
16 compromise. It's a fair one. Reducing the
17 thresholds, it's not down to zero, but reducing the
18 thresholds significantly creates greater
19 disclosure. And I'm convinced that there are
20 things that we and our colleagues would accept
21 under 250, knowing that we don't have to report,
22 that we would not accept knowing we would have to
23 report because it's above \$50; same thing with the
24 650 to a hundred on transportation, hospitality and
25 lodging.

1 So, I think those who oppose it have
2 their reasons, but it's our duty to address the
3 concerns of the public that are legitimate that
4 want to see us make reforms. And in this
5 institution where reforms tend to happen slowly,
6 this is a very strong first step.

7 REPRESENTATIVE SCHLOSSBERG: Thank you,
8 Senator.

9 SENATOR TEPLITZ: Thank you.

10 MAJORITY CHAIRMAN METCALFE: We have
11 three members left, so about probably three
12 questions, and we have about three and a half
13 minutes.

14 SENATOR TEPLITZ: I'll be brief.

15 MAJORITY CHAIRMAN METCALFE:
16 Representative Sims.

17 REPRESENTATIVE SIMS: Thank you, Mr.
18 Chairman, and thank you, Senator. I, of course,
19 will echo the sentiments regarding the good work of
20 the caucus.

21 Was there any discussion about this
22 legislation perhaps having a disproportionate
23 impact on urban and suburban legislators over rural
24 legislators, as in the average cost of a meal in
25 downtown Pittsburgh or Center City Philadelphia

1 versus in northern Potter County? And if so, would
2 that then have a chilling impact on those urban and
3 suburban legislators; the same meals, the same
4 meetings, because there would be such more of a
5 burden required of those urban legislators? Was
6 there any discussion about the sort of geography of
7 this?

8 SENATOR TEPLITZ: There wasn't, but I
9 can say that the members of the caucus who
10 participated in those discussions are from all
11 different types of geography, all different types
12 of district. So, with all of the discussion we
13 had, I think, if anyone felt strongly about that,
14 they would have brought it up.

15 REPRESENTATIVE SCHLOSSBERG: All right.
16 Thank you.

17 MAJORITY CHAIRMAN METCALFE:
18 Representative Roae.

19 REPRESENTATIVE ROAE: Thank you.

20 As far as the 50-dollar limit, a couple
21 examples of where that might be practical. Imagine
22 if you didn't have a pen or a pencil and you asked
23 somebody, hey, do you have an extra pen? If it's
24 zero, you're in violation of that. If somebody
25 pulls out a pack of gum and you say, oh, can I have

1 a stick of gum, you're in violation. Or if little
2 kids, a kindergarten class, does drawings and
3 brings them to your office and you hang them up,
4 you'd be in violation of the law.

5 So, considering all that, do you think
6 it might be reasonable to have the 50-dollar limit
7 and not try to push for a zero limit?

8 SENATOR TEPLITZ: Well, I think the
9 50-dollar threshold is intended to address
10 practical concerns, but there's an important part
11 of both bills that I think has been
12 under-discussed, which is, in the language of both
13 bills, we encourage voluntary disclosure below the
14 thresholds, and there's nothing that would stop
15 anyone from doing that. I've done that myself on
16 the disclosure forms that were due on May 1st. So,
17 there's no reason why we can't do that.

18 So, I think we can address the practical
19 issues, avoid technical violations, but still
20 encourage and get to greater disclosure.

21 REPRESENTATIVE ROAE: Thank you.

22 MAJORITY CHAIRMAN METCALFE:
23 Representative Knowles for our last question.

24 REPRESENTATIVE KNOWLES: Thank you, Mr.
25 Chairman. And this will be more of a statement.

1 Senator, thank you so much for your
2 efforts in this legislation. I would just like to
3 comment on what Representative Saccone said. I
4 commend you for your common-sense approach to this
5 legislation. I'm fully supportive of it. I, quite
6 frankly, practically would have no problem with the
7 zero. But you talked about the fact in terms of --

8 I mean, I get paranoid when somebody
9 comes into the office with things. And I can tell
10 you that, if I go to a chamber -- I can't imagine
11 going to the Schuylkill chamber, and I can't
12 imagine being there and them giving me a coffee mug
13 and saying, can't take that. I mean, they would be
14 offended. The little woman who comes into the
15 office with a dozen of cookies in appreciation, if
16 I said, can't take that, she would be offended.

17 So, I believe that your approach is
18 very common sense. I think it's practical. I
19 think we can say zero, and I could vote for zero.
20 I have no problem with that. But I think that the
21 approach that you're taking on this legislation is
22 good, and I commend you for that. Thank you.

23 MAJORITY CHAIRMAN METCALFE: Thank
24 you --

25 SENATOR TEPLITZ: Thank you,

1 Representative --

2 MAJORITY CHAIRMAN METCALFE: --

3 Representative Knowles.

4 SENATOR TEPLITZ: -- for the comments.

5 Thank you, Mr. Chairman, and I want to thank
6 Representative Dunbar for spearheading the effort
7 here in the House.

8 MAJORITY CHAIRMAN METCALFE: Thanks for
9 joining us today.

10 SENATOR TEPLITZ: Appreciate it.

11 MAJORITY CHAIRMAN METCALFE: Have a good
12 day.

13 Our next testifier is Mr. Barry
14 Kauffman, Executive Director of Pennsylvania Common
15 Cause. Barry, you can take a seat and the
16 microphone and begin when you're ready there, sir.

17 MR. KAUFFMAN: Thank you.

18 Good morning, Chairman Metcalfe,
19 Chairman Cohen and members of the House State
20 Government Committee. My name is Barry Kauffman,
21 and I'm the executive director of Common Cause
22 Pennsylvania.

23 Common Cause has been at the forefront
24 of efforts to enact legislation to establish high
25 ethical standards for Pennsylvania's public

1 officials for more than four decades. We thank you
2 for this opportunity to address the important issue
3 before you today, and we also want to offer a
4 special note of appreciation to Representative
5 Dunbar for the leadership he has shown with the
6 bipartisan, bicameral Government Reform Caucus that
7 has taken on restricting gifts as one of its goals.

8 I want to start by re-emphasizing a key
9 point from some of our prior testimonies, which
10 describe the guiding philosophy for our efforts
11 related to gift restrictions. At the turn of the
12 last century, famed government reform advocate
13 Wisconsin Senator Robert LaFollette said: Every
14 legal argument which any lobbyist has to offer, and
15 which any legislator ought to hear, can be
16 presented before committees, before the legislature
17 as a body, through the press, from the public
18 platform, and through printed briefs and arguments
19 placed in the hands of all members and accessible
20 to the public.

21 That really says it all. There is no
22 justification for those seeking action or favors
23 from government to provide anything other than
24 information to public officials. House Bill 1872
25 could begin to improve the current law.

1 In Section 1105(b)(6), the bill reduces
2 from 250 to \$50 the point in which tangible gifts
3 must be disclosed. This would provide the public a
4 better understanding of who is expending money to
5 influence their officials. Unfortunately, this
6 part of the bill also eliminates the aggregation
7 language. The aggregation language must be
8 restored so that a gift-giver cannot provide
9 multiple small gifts with values that together
10 exceed the 50-dollar limit.

11 For instance, a lobbyist could provide
12 an official and members of his or her family a
13 dozen individual 45-dollar sports team sweatshirts
14 with a total value of \$540 with no disclosure
15 necessary because each gift could be considered an
16 individual event.

17 If the aggregation clause is not
18 restored, the law could actually be weakened.
19 These types of lobbyist-provided perks really have
20 no place in Pennsylvania government. We urge you
21 to instead ban these types of gifts, gifts
22 provided -- I'm sorry -- lobbyist-provided perks
23 or, at a minimum, cap them at a very low level and
24 make them fully disclosable on a quarterly basis.

25 In Section 1105(b)(7), this bill

1 reduces from 650 to \$100 the level at which
2 transportation, lodging and hospitality expenses
3 must be disclosed. This is an important
4 strengthening of the law.

5 However, we have the same concern as
6 expressed for part 6. By eliminating the
7 aggregation language, it makes it fairly easy to
8 evade the reporting requirements. For example, a
9 lobbyist could give a public official a dozen
10 85-dollar tickets to a concert to give to family
11 members and friends, with a total value of over a
12 thousand dollars. Since none of these individual
13 tickets would trip the disclosure threshold, and
14 since the aggregation provision is eliminated, none
15 of this would be reportable. In this scenario, the
16 law would actually be weakened.

17 So, we have a few recommendations:

18 First, restore the aggregation language
19 in parts 6 and 7.

20 Two, remove the ban on these type of
21 payments and perks. I'm sorry. Move to a ban on
22 these types of payments and perks. At a minimum,
23 they should be capped aggregately, at a minimum and
24 an annual low level, and require everything under
25 the cap to be disclosed quarterly.

1 Third, Common Cause also urges you to
2 shift the hospitality, and, really, what I'm
3 talking about here is entertainment category to
4 gift section so as to capture the activities under
5 the lower gift threshold. The transfer of this
6 category should be applied to all relevant sections
7 of the ethics law.

8 In Section 1105(b), the bill encourages
9 voluntary reporting of gifts and hospitality that
10 fall under the thresholds of mandatory reporting.
11 This is a laudable enticement to fully report all
12 of these types of perks.

13 Another recommendation would be that you
14 upgrade the disclosure provisions to require the
15 identifying of the value, the date, the place, the
16 circumstances under which the gift was received,
17 including a brief statement regarding any public
18 policies or contracts which were discussed.

19 While we applaud this effort to move
20 closer to the goal of more ethical government in
21 Pennsylvania, House Bill 1872, unfortunately, does
22 not go far enough.

23 According to the data of the National
24 Conference of State Legislatures' website, it
25 appears that Pennsylvania is one of only 10 states

1 with no monetary limits on gifts. Ten states
2 appear to have full gift bans; more than 30 states
3 have restrictions on providing public officials
4 gifts, hospitality, entertainment or travel
5 benefits.

6 The good news is that the latest series
7 of scandals in PA has created the momentum that you
8 need to elevate the integrity of our government.
9 Do not squander this opportunity.

10 Fortunately, you have strong public
11 support for such reforms. In a poll conducted by
12 Terry Madonna for Democracy Rising in 2011, quote,
13 by 93 percent to 6 percent, voters want to prohibit
14 public officials from accepting anything of value
15 from those who are seeking to influence them,
16 unquote. An unscientific readers' poll conducted
17 by PennLive in March of this year showed similar
18 results.

19 Now, while many states have come to
20 grips with this problem, unfortunately,
21 Pennsylvania has not. Reasonable solutions are
22 known, and remedies have been implemented in other
23 places. And, oddly enough, lobbyists may not be
24 the bad guys in this scenario. In fact, many
25 lobbyists that I have talked with would love to

1 have a gift ban in place.

2 So what are the remedies to these
3 problems? The simplest remedy would be a flat-out
4 gift ban. That would eliminate the need to keep
5 records and do regular disclosure reports on gifts,
6 because any provision of gifts, hospitality,
7 entertainment or travel would be illegal.

8 The public official could still meet
9 with anyone, have dinner with anyone, or travel
10 with anyone he or she wants to, but it could not be
11 paid for by those seeking to influence the
12 official. If such out-of- office activities
13 occurred, they would be paid from the budget
14 expense accounts of the official. If the activity
15 were not official government business, then the
16 official would have to pay for himself or herself.

17 States such as Kentucky, Connecticut,
18 Iowa, Massachusetts, Minnesota, South Carolina,
19 Tennessee, Wisconsin and Arkansas have gift bans or
20 near gift bans and are known as the so-called
21 no-cup-of-coffee states.

22 Some of these states have reasonable
23 exceptions, such as permitting an official to speak
24 at an organization meeting and have the same meal
25 that all their participants have.

1 A second option would be to set a low
2 limit on the amount and types of gifts that could
3 be provided. This, of course, would require
4 recordkeeping by all gift-givers. For instance,
5 state law could be amended to prohibit any
6 lobbyist, contractor or other person seeking to
7 influence government decisions from giving a public
8 official any gifts or hospitality with monthly
9 aggregate values exceeding \$10 or an annual
10 aggregate value exceeding \$100.00.

11 Any gift that would be provided would
12 have to be recorded and reported by the giver
13 providing the description of the gift, the value of
14 the gift, the date it was provided, the
15 circumstances under which it was provided, and
16 identify any public policy or contract that was
17 discussed during the occasion.

18 Alabama, Alaska, Arizona, California,
19 Kansas, Maryland, Michigan, Ohio, Oklahoma, Oregon
20 and West Virginia have established variations of
21 this option. The bottom line is, Pennsylvania's
22 current ethics and lobbying laws are seriously
23 flawed on the subject of gifts and must be
24 dramatically strengthened.

25 Pennsylvanians want and deserve a

1 government in which they know their official's
2 loyalty is devoted to the voters and taxpayers
3 rather than special interests bestowing gifts.
4 They want and deserve a government in which their
5 officials' judgments are not biased by special
6 relationships reinforced by gift-giving, and they
7 want and deserve a government that they can trust
8 to make sound decisions on their behalf.

9 Protecting the integrity of Pennsylvania
10 government and citizens' confidence in our
11 governing institutions always must be one of your
12 top priorities. Otherwise, the work you produce
13 will always be suspect.

14 On April 17th, Representative Dunbar
15 correctly told FOX 43 News, quote: A black eye for
16 one is a black eye for all, and I think a lot of us
17 would like to correct that, unquote.

18 You now have an extraordinary
19 opportunity to dramatically raise the ethical
20 standards for Pennsylvania government.
21 Pennsylvanians are hungry for government they can
22 believe and trust in again. This is your chance to
23 restore that faith in government.

24 But will you decide to do just the least
25 you can do to appease the public for a while, or

1 will you move forward boldly to make Pennsylvania
2 one of the top states for governmental ethics
3 standards? It begins with you, and it could begin
4 today. You cannot allow this opportunity to slip
5 through your fingers again. Common Cause PA stands
6 ready to assist you with securing this important
7 achievement for Pennsylvania, and we thank you.

8 MAJORITY CHAIRMAN METCALFE: Thank you.
9 Representative Evankovich.

10 REPRESENTATIVE EVANKOVICH: Thank you,
11 Mr. Chairman. Thank you for your testimony, Mr.
12 Kauffman.

13 For the benefit of the members, I'm an
14 all-of-the-above government reform guy. I can
15 pretty much support any government reform out
16 there, and I believe the people I represent would
17 be behind me on that.

18 My question, though, is related to your
19 testimony in there being an all-out ban on -- go
20 back to the no-cup-of-coffee scenario, of which --
21 again, something that I could certainly support
22 emphatically.

23 My question is: At some point do you
24 envision taking that kind of stance actually
25 hindering part of the job that we do? You know,

1 it's easy to think about a nefarious dinner for
2 somebody trying to -- or a gift for somebody trying
3 to gain favor with you. But what about whenever
4 it's the American Legion giving you an honorary
5 membership so that you can go in and hear from
6 their members from time to time; or, if you're
7 taking a boat ride on the rivers in -- on the
8 Allegheny River, Monongahela River, to look at the
9 lock and dam system because there's something we
10 might have to do to fix that?

11 Do you envision an all-out gift ban at
12 any point hindering the process that we need to
13 undertake to actually understand some of the issues
14 that we're faced with making decisions on? Just --
15 My question, is that clear?

16 MR. KAUFFMAN: Yeah, and that's a very
17 fair question in all honesty. I'd have to say no,
18 because what we're really talking about is a change
19 of culture here, and changes of culture do take
20 transition periods.

21 When we look at the other states that
22 have this sort of no-cup-of-coffee rule, business
23 has not been hindered there at all. But even the
24 states that have gift bans, and maybe the folks at
25 NCSL will comment a little bit more about this,

1 they have exemptions for going to your chamber of
2 commerce and doing their annual dinner and having
3 the same meal that everybody else has.

4 You also can know if it's a trip to
5 explore needs for tax exemptions. People running
6 the local docks in Pittsburgh, that's official
7 business. You can do that right out of your
8 expense accounts. You always could; always can.

9 There's lots of other exemptions, such
10 as even taking gifts from long-term friends as long
11 as that friendship existed prior to you becoming a
12 public official. There are --

13 If you look at the other state laws,
14 there are a whole range of options for exemptions
15 which are common sense, and I can probably provide
16 you a list of those if you want it.

17 MAJORITY CHAIRMAN METCALFE:
18 Representative Cohen.

19 MINORITY CHAIRMAN COHEN: Thank you.

20 I agree with the question of what the
21 exemptions are is the key question. If you want to
22 carry it far, it could even be argued that --
23 tested that the letter from you has some value to
24 us and it ought to be disclosed.

25 MR. KAUFFMAN: And it is, by the way.

1 MINORITY CHAIRMAN COHEN: What?

2 MR. KAUFFMAN: And I will disclose that,
3 by the way, in my annual -- in my quarterly
4 lobbyist report.

5 MINORITY CHAIRMAN COHEN: You will
6 disclose?

7 MR. KAUFFMAN: The cost of doing this
8 testimony.

9 MINORITY CHAIRMAN COHEN: Okay. But
10 you're not recommending that we disclose it as a
11 gift?

12 MR. KAUFFMAN: No.

13 MINORITY CHAIRMAN COHEN: Okay. That's
14 good.

15 Yeah, I think we've got to see what the
16 exemptions are because the low-dollar -- figure
17 reports. I think Representative Roae's discussion
18 about pictures from kids, drawings from kids, is
19 that, you know, what's the value of that? I
20 suspect we also have to arbitrarily set forth,
21 either in law or regulation, some dollar amount for
22 what these things are worth, or else -- Things that
23 are mainly emotional content may or may not have
24 significant market value.

25 MR. KAUFFMAN: I mean, some states apply

1 these gift ban laws only to registered lobbyists,
2 those who hire registered lobbyists, or those
3 seeking government contracts.

4 Again, there's another approach that, if
5 you want to make sure -- And you can still always
6 take the gifts from little kids or take the key
7 chain that some local organization may drop off.

8 Although you may want to check out--I
9 only have this in hearsay--when the Casey
10 administration had its gift ban, they had a box in
11 each office where, you know, if you got the bowling
12 pin from the local bowling league or if you got the
13 keychain or the T-shirt that you really didn't
14 want, or the coffee mug, you put it in the box.
15 Once a week somebody came around with a cart and
16 picked all the boxes up and then they were
17 distributed to charities.

18 So, I mean, there's another option.
19 There are numerous options that you can use to make
20 this work.

21 MINORITY CHAIRMAN COHEN: Okay. Thank
22 you very much.

23 MAJORITY CHAIRMAN METCALFE:
24 Representative Dunbar.

25 REPRESENTATIVE DUNBAR: Thank you, Mr.

1 Chairman, and thank you, Mr. Kauffman, for your
2 testimony and your input. We certainly will take
3 this under consideration, some of your suggestions.

4 You had made a lot of references to
5 other states. Just out of curiosity, our present
6 limits of 250 and 650, where do we rank in
7 comparison to other states right now, presently?

8 MR. KAUFFMAN: Yeah. I wish I could
9 answer that because, like I said, it's sort of a
10 moving target. When you calculate in the
11 exemptions in all those other states, it's kind of
12 hard to determine that. I think our limits right
13 now are probably a little on the -- a bit on the
14 high side.

15 We did a re-study about 10 years ago
16 when the last set of lobbyist disclosure laws were
17 going through. We went through every single
18 state's lobby law; tried to calculate those things
19 out. When you think about the exemptions, it's
20 just very difficult to answer that question.

21 REPRESENTATIVE DUNBAR: Thank you.

22 MAJORITY CHAIRMAN METCALFE:
23 Representative Miller.

24 REPRESENTATIVE MILLER: Thank you, Mr.
25 Chairman.

1 Sir, there were two comments that you
2 made that I thought were of particular interest.
3 One was a change in culture, a reference to a
4 change in culture, and the second one was seeking
5 to influence.

6 Obviously, there's strategy that comes
7 in play with zero, 50, 25, whatever number somebody
8 picks, and how the implementation comes about.
9 Again, the whole point of what we've tried to do is
10 to further debate without pointing out any
11 individual, any other colleague or anybody else of
12 how they do business, okay? So the idea has been
13 to create a positive environment of discussion on
14 this matter.

15 Obviously, for me, coming in a year ago,
16 it's a little bit easier versus some colleagues
17 who've been in office for 10, 20 years, when the
18 culture, perhaps, arguably was different. Clearly,
19 though, we're in a different time. Clearly,
20 though, we are aware of ongoing issues that have
21 raised concerns about the current law as it is.
22 While I would support everything that you said
23 regarding a change of culture, I think that's
24 exactly what we're talking about.

25 In relation to some of the concerns that

1 some of my colleagues have raised today, you've
2 mentioned seeking to influence. That phrase,
3 seeking to influence, is not in the bill. And I
4 wonder, though, for example, perhaps -- like one of
5 my colleagues up here made a reference to say, a
6 stick of gum, a pen.

7 So I wonder, in those types of
8 examples -- You said seeking to influence. I
9 wonder if you can give us an example that perhaps
10 would address clearly how, if we were to change a
11 50-dollar threshold to perhaps go to zero, how that
12 could be practically done in a way that would,
13 perhaps, use your terms, to further the bill?

14 MR. KAUFFMAN: Yeah. You're getting on
15 the slippery slope there, so to speak. At what
16 point is where -- Bill Clinton might have said, it
17 depends what the meaning of is is.

18 That's just very difficult to determine.
19 Sure, I've gone to legislators' offices, and
20 although it's sort of a reverse situation, said,
21 oh, my pen stopped; doesn't have any ink anymore,
22 can I borrow one? I gave it back. But, sometimes
23 you walk out; you're busy, you forget.

24 There have to be reasonable exemptions.
25 The Ethics Commission can deal with that. I don't

1 think anybody's gonna raise an issue over a pen or
2 something like that.

3 But, as I said earlier, what we are
4 talking about is a change of culture. In other
5 states, from what I understand, folks, after a
6 period of time, do understand, you just don't bring
7 those kind of gifts to a public official. And when
8 I talk to new public officials here who are
9 freshman, they say, to use my kids' term, duh, why
10 hasn't this been done already?

11 So, I think there is an increasing
12 expectation of higher levels of integrity from
13 those who come in as new people. And then those
14 who have been sort of absorbed by the system --
15 Because almost everybody I've ever known who's come
16 to this institution comes with a Mr.-Smith-goes-
17 to-Washington attitude. But, slowly but surely
18 over the years, the system just kind of beats them
19 down with the whole range of culture that we do
20 have here.

21 I'm not sure if I really answered your
22 question or not, but I hope I got into it.

23 MAJORITY CHAIRMAN METCALFE: We do have
24 two more questions, so if we could answer those
25 quickly, we can finish up the testimony.

1 Representative Roae.

2 REPRESENTATIVE ROAE: Thank you.

3 I support the legislation. I am
4 concerned, though, about some of the loopholes
5 people might look for. Like, right now, in theory,
6 a lobbyist could invite a legislator to the
7 Pennsylvania Society in New York City; pay for a
8 hotel room. Say we ban that. That same lobbyist
9 could give that legislator a campaign donation,
10 give him 500 bucks for his campaign donation, and
11 say, hey, you should use some of your campaign
12 money and rent a hotel room and come to the
13 Pennsylvania Society in New York City; same thing
14 for a football ticket.

15 Our state doesn't really have limits on
16 campaign contributions like some states do. Do you
17 think -- How could we strengthen this legislation
18 to make sure that, rather than just giving money
19 one way as a gift, the same people give to the
20 exact same people but just as a political campaign
21 contribution?

22 MR. KAUFFMAN: Yeah, you've opened a
23 whole can of worms there now, which we could talk
24 about for days. I mean, clearly --

25 MAJORITY CHAIRMAN METCALFE: We only

1 have, like, a minute, and we have one more
2 question.

3 MR. KAUFFMAN: I'll make it quick. I'll
4 make it quick.

5 I mean, clearly, what we need to do is
6 have better enforcement of the standards already in
7 the campaign finance law, even though we have one
8 of the weakest campaign finance laws in the nation.
9 The campaign finance law says that contributions--
10 This is not a direct quote, but it's pretty close--
11 are to be used for the purpose of influencing the
12 outcome of an election, unquote.

13 So, if that was enforced, that you would
14 to prove it's for the purpose of influencing the
15 outcome of an election, that would take care of
16 part of your concern.

17 But, going back to the aggregation, the
18 elimination of that language is a problem because
19 you could give on the same day a person a 75-dollar
20 golf -- 50-dollar or 49-dollar, whatever it is,
21 golf cart fee; go to the pro shop, get them a box
22 of golf balls; go to the pro shop, get them a
23 T-shirt. All of those would be separate incidents,
24 and without the aggregation language, you'd never
25 trip the threshold for reporting.

1 MAJORITY CHAIRMAN METCALFE:

2 Representative Knowles for our final question.

3 REPRESENTATIVE KNOWLES: Thank you. I
4 will be as quick as I can.

5 Thank you, Mr. Kauffman, for your
6 testimony. Two real quick questions.

7 I think I could vote for a zero gift. I
8 could go with that, but I think there needs to be a
9 practical approach, and I think that's what's going
10 on here. My question to you -- Two questions:

11 Number 1: Do you think my constituents
12 think that I'm a crook because I take a coffee cup
13 from the chamber of commerce or because I take a
14 little plate of cookies from my friend Tilley? Do
15 you think the general public thinks I'm a crook if
16 I do that?

17 MR. KAUFFMAN: I won't begin to try to
18 guess to what -- to get into the minds of your
19 constituents.

20 Again, it's the change in culture thing
21 I'm talking about here. You can very politely
22 refuse to accept gifts. For instance, when I go
23 over and do a television program with PCN, they
24 always offer you a gift mug. I say, no, thank you.
25 I really have lots of gift mugs. It's a really

1 nice mug, but why don't you keep it or why don't
2 you give it to one of the homeless shelters around
3 here that can really use the mug. So there are
4 ways of politely refusing that gift.

5 As I said earlier, maybe what you want
6 to do is, and I'm not suggesting this, but is a
7 reasonable exception or a reasonable approach, is
8 make these rules apply to lobbyists, those who hire
9 lobbyists, and those seeking government
10 contractors. So, if you really want, you can take
11 the little box of cookies from a person who's a
12 constituent that just wants to do something nice
13 for you because they think you're a good
14 representative. We're certainly open to reasonable
15 exceptions, even in a complete gift ban scenario.

16 REPRESENTATIVE KNOWLES: Just to keep
17 the record straight, they don't give the cookies to
18 me. They give them to people that work in my
19 office.

20 MR. KAUFFMAN: All right.

21 REPRESENTATIVE KNOWLES: Thank you, sir.

22 MAJORITY CHAIRMAN METCALFE: Jerry.

23 REPRESENTATIVE KNOWLES: I confess.

24 MAJORITY CHAIRMAN METCALFE: Thank you,
25 sir, for your time today. We appreciate it.

1 MR. KAUFFMAN: Okay. Thank you.

2 MAJORITY CHAIRMAN METCALFE: Our next
3 testifier is Peggy Kerns. She's the director of
4 the Center for Ethics in Government from NCSL. I
5 think she's our furthest traveler today, coming in
6 from Colorado, I believe.

7 MS. KERNS: Yes.

8 MAJORITY CHAIRMAN METCALFE: Thank you
9 for joining us today. We appreciate you making the
10 trip.

11 MS. KERNS: Yeah. Thank you very much,
12 Representative.

13 I am Peggy Kerns, and I'm the director
14 of National Conference of State Legislatures,
15 Center for Ethics in Government, and what we do is
16 do two things: We go out and do value-based ethics
17 training for legislators and legislative staff, and
18 we also have a very extensive tracking of bills and
19 of legislation that we have on our website.

20 So my purpose here today is to do the
21 NCSL way, which is not to tell you that what you
22 should or should not do, but tell you what is being
23 done in other states. I certainly can respond to
24 some of the questions that some of you ask and
25 maybe give a little different answers than you've

1 heard before.

2 I bring today also my experience as a
3 former state legislator. I was a state rep in
4 Colorado for eight years and also minority leader
5 for a period of time before I came to NCSL. So,
6 sometimes I'll have to put on my former legislator
7 hat to talk to you.

8 But, I would say one thing. Your
9 constituents do not think that you are corrupt by
10 accepting a plate of cookies. That isn't what the
11 public cares about. They care about gifts that
12 influence public policy, and that is why the nine
13 states that are no-cup-of-coffee states, including
14 Kentucky and Wisconsin, Colorado and some others,
15 many of them have exceptions for de minimis gifts,
16 which means the coffee cup, the piece of candy or
17 whatever. It's gifts that influence the making of
18 public policy that the public is responding to.
19 This is one way -- By lowering your disclosure
20 laws, this is one way to do that.

21 In your packets, I've included a two-
22 page summary, which I'm not going to read because
23 you can do that yourself. But also, a chart that
24 one of you asked about, how Pennsylvania compares
25 in the aggregate, and that is on this chart that we

1 kind of hastily put together. You will see that,
2 in disclosure, most of the states that have
3 disclosure thresholds also have an aggregate
4 component to it for exactly some of the reasons and
5 some of the concerns that you all mentioned.

6 You can't really talk about disclosure
7 of laws unless you talk about gift laws. Forty
8 states have limits or prohibitions on public policy
9 lawmakers accepting gifts from lobbyists and
10 special interests. Mr. Kauffman is correct.
11 Pennsylvania is one of the 10 who does not. But,
12 these 10 that are left also have disclosure laws,
13 except for two, and that is Michigan and Vermont
14 have disclosure of nothing; neither financial
15 disclosures, like paperwork that you file when you
16 become a candidate or an elected official, or
17 disclosure of any kinds of gifts. So, it's a
18 pretty small pool left here.

19 But I do want to say that 35 states
20 require legislators to disclose gifts received from
21 lobbyists and others. The concern, like I said, is
22 just if gifts are from lobbyists; not from your
23 neighbor who brings you cookies or whatever.

24 But the rest of those states, 13 require --
25 that are left require the lobbyist to report. So

1 there's two ways of doing it. You can have the
2 legislator, the lawmaker, report, or you can have
3 the lobbyist report, and then some states require
4 both. Again, there's just two states, Michigan and
5 Virginia, that have nothing.

6 There are nine states that are
7 no-cup-of-coffee states. Of these, six require
8 disclosure. And you can say, well, if they're
9 no-cup-of-coffee states, why do they have to
10 disclose? Well, because they have de minimis
11 exceptions. For example, for travel that's been
12 reimbursed; gifts from non-lobbyists, or just gifts
13 in general on behalf of the -- that are given to
14 the legislature.

15 There are three states, Louisiana,
16 Minnesota and South Carolina, that do not require
17 disclosure of gifts because they have no exceptions
18 to gifts. In those three states, nothing can be
19 given to a legislator.

20 I have a section here on how
21 Pennsylvania's proposed legislation would compare
22 lowering the threshold to \$50. Four states have
23 this threshold: California, Colorado, Virginia and
24 Wisconsin, and the four states also have thresholds
25 below 50. So, out of those 35 states that have

1 disclosure, eight states would fit into the limit
2 that Pennsylvania is considering.

3 I think that travel can be an exception.
4 For example, Florida has a strong disclosure law.
5 Yet, every day, the first day of the session, the
6 Florida Floral Association presents the legislator
7 with a bouquet of flowers on their desk.

8 There has to be, as one of you
9 mentioned, a common sense approach to this, first
10 of all, to be obeyed; secondly, to make it
11 workable; and thirdly, to actually address the
12 issues that most concern the public.

13 I think I'll stop for now,
14 Representative, and take any questions.

15 MAJORITY CHAIRMAN METCALFE: Thank you,
16 ma'am. Our first question will be from
17 Representative Dunbar.

18 REPRESENTATIVE DUNBAR: Thank you for
19 being here. Since your organization is in touch
20 with a lot of these other states, and you had
21 mentioned that Pennsylvania -- this proposed bill
22 threshold of \$50 is comparable to some of these
23 other states, California, Colorado. I can't
24 remember them all.

25 But you have contact with legislators in

1 those areas. Has there been any pushback as far
2 as, oh, this is too hard; we can't report all this.
3 We can't track all this? Is there any problems
4 like that?

5 MS. KERNS: Not that I have heard of.
6 The lobby corps is usually for these, by the way.
7 It's not the lobby corps --

8 REPRESENTATIVE DUNBAR: I believe that.

9 MS. KERNS: Yes. -- that is of concern.
10 And I have been asked this question, but
11 I can't tell you this, is, what's been the effect
12 on the public. We don't know that, because, like
13 it's been referred to, culture changes are gradual
14 and take a long time. But the legislators have not
15 pushed back.

16 I would warn you, as you -- Because, as
17 my understanding is in talking to some of you, that
18 this is part of a movement; that this disclosure
19 limit is probably, in the long run, part of other
20 packages that will come through. But to be aware
21 of unintended consequences.

22 Alabama, two years ago, passed a very
23 strict gift law for all public officials, meaning
24 everybody from top to down; anybody who got a
25 public paycheck. And what happened -- And then the

1 legislature adjourned and then it became
2 Christmastime.

3 What happened was, what was caught up in
4 this sweep were gifts to teacher and little gifts
5 to teachers; you know, Starbucks gift cards, little
6 gifts or whatever; that the way the bill was
7 written and was being interpreted, that these
8 schoolkids' gifts had to be reported. Well, that
9 was crazy, actually. The legislature quickly
10 amended the bill because that was not their intent.

11 So as you move forward, I think the
12 best -- And keep your eye on what you're doing and
13 your focus on your goal. Don't just pass something
14 that sounds good and looks good, but actually think
15 it through about what we want to accomplish. And
16 like one Alabama legislator told me, nowhere in any
17 world would they have thought that what they
18 thought was a good piece and strong piece of
19 legislation, that passed pretty overwhelmingly in
20 both chambers, would have swept up teachers and
21 gifts that schoolkids give their favorite teacher.

22 MAJORITY CHAIRMAN METCALFE:
23 Representative Cohen.

24 MINORITY CHAIRMAN COHEN: Thank you.

25 So, would you suggest this legislation

1 being limited to people with decision-making
2 capabilities, such as -- on public policies, such
3 as legislators?

4 MS. KERNS: You know, at NCSL, we do not
5 promote one way or the other. That would be up to
6 you to decide. You could study other states and
7 how the wording is. But, I don't think statutes
8 have to contain every little tiny nuances, and I
9 think Mr. Kauffman referred to that, too.

10 I mean, the purpose of -- the concern on
11 the public on giving gifts is influencing public
12 policy. It's reasonable for states to have limits;
13 or for the 10 states that don't. It depends upon
14 the culture of the state, really, and disclosure
15 limits are reasonable.

16 But I think the key here is not the
17 little, tiny, de minimis gifts, because you could
18 easily make exceptions for those. It's the
19 aggregate amount, in which, if you see by this
20 chart, most states that have individual limits,
21 thresholds for disclosing gifts also include an
22 aggregate amount.

23 MINORITY CHAIRMAN COHEN: Has anybody
24 looked at the ethical standards for lawyers and
25 judges? I'm well aware that, as an attorney, if I

1 have a case before a judge, I can't invite the
2 judge out to dinner. I once had a client who
3 worked for the legislature who suggested that maybe
4 we ought to invite a judge out to dinner. I said
5 no, very emphatically.

6 The legal profession has worked out
7 standards limiting interaction and meals shared and
8 activities shared between judges and lawyers.
9 Maybe that might be of some relevance. Has any
10 state taken the approach of looking at those
11 standards?

12 MS. KERNS: I don't know that, because
13 our research and our ethic center is geared toward
14 legislators and legislative staff. Certainly, I've
15 read news stories where that is being addressed.
16 But as far as doing any tracking of that, I haven't
17 and I don't know.

18 MINORITY CHAIRMAN COHEN: Okay. Thank
19 you very much.

20 MAJORITY CHAIRMAN METCALFE:
21 Representative Knowles.

22 REPRESENTATIVE KNOWLES: Thank you, Mr.
23 Chairman.

24 Ms. Kerns, I just want to say that I
25 commend you for your logical common sense approach.

1 I think that the reason that maybe you see it a
2 little differently than Mr. Kauffman is the fact
3 that you were a state legislator.

4 You know, the best sound bite is zero.
5 But, there are so many -- It's just much more than
6 that in terms of dealing with the de minimis
7 things, dealing with the coffee cups, dealing with
8 the -- I really commend you for your approach,
9 because I think that you get it.

10 MS. KERNS: Well, thank you. I don't
11 disagree, actually, with anything Mr. Kauffman
12 said. I just, maybe because I've stood in your
13 shoes, see the other side.

14 And also, I understand from a maybe
15 broader perspective what most concerns the public.
16 But Mr. Kauffman said it, it's not the cookies
17 anybody gets in their office.

18 I remember, when I was a legislator,
19 there was a big deal because the Colorado movie
20 association, whatever they were called, would
21 always give legislators, at the beginning of the
22 session, a pass to movies, free movies, and it was
23 good for a year. I loved it because I went to
24 movies all the time. But, it had some effects.

25 It obviously was a perk that was not

1 available to the general public, so you put your
2 finger on that one. So, is that fair? Well, what
3 was the purpose of this movie pass to all the
4 legislators? We have a hundred legislators. It
5 was relationship-building. They occasionally had
6 bills before us. They were part of the chamber of
7 commerce and the Colorado Association of Commerce
8 and Industry lobby.

9 So, it was not a direct attempt to
10 influence us, but it was building relationships in
11 order to, at some point, influence us. Well, they
12 started to pull back on it, and then they just gave
13 it so it was good during the 120 days that we were
14 mandated by constitutional provision to be in
15 session, and then it fell away.

16 But another one was when the Colorado
17 Ski Association would take all the legislators up
18 to the mountains for a ski day; on a bus, provide
19 food and everything. I mean, that was a big-time
20 deal because the Colorado Ski Association is a
21 major tourist promoter. So, what was the purpose
22 of that ski trip? Well, once it became real public
23 and the general public did not have the opportunity
24 to take advantage of that, with enough reporting
25 going on, the Colorado ski industry decided, we

1 don't want this craziness. We're going to stop the
2 ski trip.

3 So, those things do fall away with
4 public pressure. Now, there wasn't any 100 of us
5 who would ever say that going out to dinner with a
6 lobbyist for a steak dinner and talking about my
7 bill that's coming up that you're against or for
8 would influence me, because it's part of our
9 socialization of the way we all live. However, in
10 the public arena, those things are looked upon
11 differently.

12 The Kentucky legislators will say, heck,
13 we just buy our own meal or we go to a cheap place
14 to eat. We haven't done anything different,
15 really, because we have a gift ban, but it has
16 created a different economic piece. But, we just
17 go to a cheaper place, because the focus of the
18 dinner was not to eat. It was to exchange
19 information about legislation or persuade or
20 dispersuade (sic) someone. So, they have found
21 other venues of which to do that. Again, that's a
22 practical application of a no-cup-of-coffee state
23 that doesn't allow anything, really.

24 It did cause some cultural problems for
25 a while, because we all like to go to these big

1 events. The Colorado Restaurant Association used
2 to have a big, wonderful thing at our convention
3 center with some of the 10 best restaurants in
4 town. That was the best place for me to go out and
5 seek votes for my bills with other legislators.
6 They no longer do that.

7 But, there are other ways of me getting
8 my votes. I don't have to go to a big expensive
9 event like that.

10 So, a cultural change, very definitely,
11 but the purpose of making public policy can still
12 be achieved, even with strong gift bans and strong
13 disclosure laws.

14 I feel like I'm getting on my soapbox
15 here, so maybe it's time to -- Yeah.

16 MAJORITY CHAIRMAN METCALFE: Any other
17 members?

18 (No audible response).

19 MAJORITY CHAIRMAN METCALFE: Ms. Kerns,
20 with your testimony and just kind of looking back
21 over it again, you said nearly 70 percent of all
22 reporting thresholds are set at \$100 or higher.
23 So, we would be going -- If we went to the \$50,
24 then we're gonna be in that 30 percent or so that's
25 less.

1 MS. KERNS: Yeah. The common threshold
2 is a hundred dollars, yeah.

3 MAJORITY CHAIRMAN METCALFE: I mean, the
4 states that have went to those lower limits,
5 because they are the minority of the states, were
6 there special circumstances that drove those
7 changes? How long have those changes been in
8 place? Is that something that's been over the --
9 recently in the last decade or so, or was it
10 something that they've had a tradition of in those
11 legislatures?

12 MS. KERNS: Well, there's no question
13 that the whole idea of gift bans and disclosure
14 limits has gained momentum in the last 10 years,
15 and more states are going to it.

16 You know, as far as the level which is
17 appropriate, I think that's up to you. But, again,
18 if it includes the threshold, it probably is okay.

19 I can't judge whether 50 or a hundred
20 is better. I don't know. So I don't think, maybe,
21 that is the question as much as what we're trying
22 to accomplish by this; is giving the public
23 information being transparent, letting the public
24 know the kinds of gifts that we receive. If
25 anybody wants to track voting, how you vote based

1 on your disclosure laws, sobeit.

2 So, even though this 50-dollar limit
3 would be in the minority of states, the exception
4 would be not having a threshold. And I do not know
5 of why these particular limits were set. I don't
6 know that at all. I think it was somebody just --
7 a caucus meeting deciding on a limit that was
8 acceptable. I don't think there's anything much
9 deeper than that.

10 MAJORITY CHAIRMAN METCALFE: I don't
11 know how familiar you are with what's happened
12 recently here in Pennsylvania with --

13 MS. KERNS: Yeah, I'm familiar.

14 MAJORITY CHAIRMAN METCALFE: -- the
15 sting operation that the Attorney General refused
16 to prosecute, and information's been turned over,
17 as I understand, to the Philadelphia District
18 Attorney. I think a lot of people were surprised
19 that our law would allow for anyone --

20 MS. KERNS: Right.

21 MAJORITY CHAIRMAN METCALFE: -- to
22 receive cash as a gift.

23 Do these other states allow for cash to
24 be given as a gift, because we've introduced
25 legislation to say, you shouldn't be allowed to

1 receive cash as a gift. I thought it was kind of
2 common sense that you didn't, but when you look at
3 the technical aspects of the law, it doesn't appear
4 to have covered that.

5 MS. KERNS: I don't have the figures in
6 front of me, but I do know that the majority of
7 states that have gift prohibitions and bans include
8 cash as part of that, too. That would be a gift.
9 Cash would be a gift and then would be subject to
10 any gift limits or bans that would exist.

11 MAJORITY CHAIRMAN METCALFE: So they
12 allow for the cash, but it's --

13 MS. KERNS: No. They would define a
14 gift, and they would define what the gift is. Cash
15 would be part of the gift, and then the state would
16 either set a -- do not allow any gifts like these
17 nine states or about, I think, 20 others who have
18 thresholds.

19 I do say that cash really is not a
20 problem in a lot of places. Even states that say
21 cash is a gift, therefore, is subject to the gift
22 ban, as is meals, trips, travel and all -- football
23 tickets. Like, in Arizona, that was a big deal.
24 Cash has not popped out as an issue in the
25 definition of gifts. Pennsylvania was one of the

1 first times that I had seen that.

2 MAJORITY CHAIRMAN METCALFE: Well,
3 hopefully it will in the future, because I
4 think -- when you talk about public perception, I
5 think it really reeks of corruption when you have
6 somebody alleged to have taken cash as a gift --

7 MS. KERNS: Right.

8 MAJORITY CHAIRMAN METCALFE: -- which --
9 I mean, it's kind of unbelievable to many of
10 us that the law already didn't cover it. So, it's
11 something that we need to correct.

12 MS. KERNS: But, you do have an
13 opportunity here to forge a new trail. The problem
14 with gift laws in 50 states is they're all over the
15 map, but they do reflect the culture and the
16 traditions of the state. And so --

17 The Watergate in 1974, there was a
18 flurry of states with no-cup-of-coffee, Wisconsin,
19 Minnesota, a bunch of states, and then they kind of
20 died down again. Then the Jack Abramoff scandal a
21 few years ago started this issue all over again,
22 and what we're seeing now is really the results of
23 that. A lot of it's on the congressional level,
24 but it permeates down, of course.

25 So, I mean, Pennsylvania can chart its

1 own course. It's good to know what other states
2 are doing, but you need to do what's right for you
3 and what you feel is right for the public. The
4 heck with what your next-door neighbors do.

5 MAJORITY CHAIRMAN METCALFE: Thank you
6 very much. Thanks for making the trip here to
7 Pennsylvania today. We appreciate you being with
8 us.

9 MS. KERNS: Yeah, my first trip to
10 Harrisburg. I was glad to come.

11 MAJORITY CHAIRMAN METCALFE: Make sure
12 you get a Capitol tour while you're here today.
13 Not that it's going to be a gift for you for coming
14 here, but it's available to the public and it's a
15 great tour, and check out the --

16 MS. KERNS: You know, I will accept any
17 gift that gives me a Capitol tour.

18 MAJORITY CHAIRMAN METCALFE: Enjoy your
19 stay and have a safe journey home, ma'am.

20 Our next testifiers will be from the
21 Pennsylvania State Ethics Commission. We have the
22 Chief Counsel, Robin Hittie, and also the Executive
23 Director, Mr. Robert Caruso, with us today. You
24 can begin when you're ready. Thank you for being
25 with us.

1 MS. HITTIE: Thank you, Mr. Chairman.
2 Good morning, Chairman Metcalfe, Chairman Cohen,
3 members of the committee. My name is Robin Hittie.
4 I'm the Chief Counsel for the Pennsylvania State
5 Ethics Commission, and seated to my left is Robert
6 Caruso, and he's the commission's executive
7 director.

8 Also with us today we have several of
9 our commissioners. We have our chairman, John
10 Bolger; our vice chairman, Nick Colafella;
11 Commissioner Mark Corrigan and Commissioner Roger
12 Nick, and you may be familiar with some of them.
13 All of us here today are available to answer any
14 questions you may have.

15 In looking over my remarks, I think most
16 of the points I had planned to make have already
17 been made very well, and I will not bore you by
18 reading two pages of typed comments. I think the
19 concepts that we've heard repeatedly today, echoed
20 by the various speakers that maybe need to be
21 take-aways from this hearing, are common sense,
22 practicality; you know, the interests of the
23 constituents doing what they've basically elected
24 you to do, and I think it's important to have the
25 enforcing body here. I think that's commendable;

1 to get the perspective of the Ethics Commission
2 because, frankly, it's very important to us what
3 you end up passing.

4 It's important that you consider all of
5 these concepts of common sense, practicality, and
6 achieving transparency in government because,
7 frankly, what you pass will be taken very seriously
8 by the commission when it's enforcing the law.
9 It's going to look very carefully at the wording
10 that you use and what was your intent. That's what
11 it's all about.

12 So, we're certainly supportive of any
13 amendments to strengthen the ethics act. We've
14 always been supportive of those, and we appreciate
15 the opportunity to be part of the conversation with
16 you.

17 The points that have been made about the
18 aggregate language, certainly, you'll see in my
19 comments, I made those as well. Perhaps one of the
20 alternatives you may consider is some sort of a
21 combination of reducing dollar amount thresholds,
22 maintaining some sort of aggregate component.
23 Those things are for the General Assembly, in its
24 wisdom, to sort out and to reach a proper and
25 appropriate law. We recognize that is not our

1 function. But, to the extent we can be of use to
2 you and offer helpful comments, we certainly want
3 to do that.

4 I guess the other point that is
5 important to the commission to make today is that,
6 as an enforcing body, we really are only as good as
7 we're able to do our functions, and that gets into
8 the area of funding. We would ask you to consider
9 whether it would be appropriate to include in the
10 legislation making the civil penalties and
11 administrative penalties that the commission
12 imposes dedicated funding for the operations of the
13 commission. It might be a way to keep the
14 commission functioning efficiently in these times
15 of fiscal constraint. So we would urge you to
16 consider that, and those comments are spelled out
17 in the summary that I provided to you today.

18 As you consider this legislation and the
19 wide range of other bills that are being considered
20 at this time, we offer our assistance to you.
21 We're here to bat ideas around with you and your
22 staff, and we certainly hope we will be able to be
23 of use to you as you move forward.

24 Thank you again for the opportunity to
25 address the legislation. And, at this time, we'll

1 be happy to answer any questions you have.

2 MAJORITY CHAIRMAN METCALFE: Thank you.

3 Our first question will be from
4 Representative McGinnis.

5 REPRESENTATIVE MCGINNIS: Thank you, Mr.
6 Chair.

7 Just trying -- I've heard the words ban,
8 prohibition used a lot this morning, but this bill
9 is not about banning anything, is it?

10 MS. HITTIE: No, it isn't; not as it's
11 drafted, no.

12 REPRESENTATIVE MCGINNIS: It's a simple
13 reporting measure so that, when there's an
14 exchange, it gets reported. It's about
15 transparency.

16 In your estimation, is that enough, or
17 is there -- is there, in your best of possible
18 worlds, a -- imperative to actually put bans on,
19 like on cash, gifts or something larger?

20 MS. HITTIE: I think it's really for
21 this General Assembly to weigh those thoughts and
22 to reach what it believes the people want. I
23 think -- You know, as a citizen, I would say that,
24 certainly, the headlines speak for themselves. The
25 people seem to want greater transparency, and,

1 certainly, I think there's support in the feedback
2 you're getting about gift bans or banning cash
3 gifts and the like.

4 But, all of that is something that
5 really is a legislative function, and the General
6 Assembly needs to consider all of those various
7 thoughts that are being put out there and see what
8 it feels is the appropriate result.

9 REPRESENTATIVE MCGINNIS: Well, thanks
10 for your testimony and thanks for the answer.

11 Thank you, Mr. Chair.

12 MAJORITY CHAIRMAN METCALFE: Thank you,
13 Representative McGinnis.

14 Representative Cohen.

15 MINORITY CHAIRMAN COHEN: Thank you.

16 Ms. Hittie, I'd like to know about
17 whether you have done any research on the idea that
18 the Ethics Commission could be financed by fees.
19 Is there any other operation; any other
20 governmental agencies in Pennsylvania operate that
21 way, where they keep all the money they fine?

22 MS. HITTIE: Well, first of all, just to
23 clarify, I'm not suggesting we keep all of the
24 money that is ordered. For example, restitution
25 would not come to the commission. That would go to

1 the appropriate body, whether it's a municipality
2 or into the state treasury.

3 But we're focusing specifically on the
4 administrative and civil penalties that are imposed
5 for failure to file statements of financial
6 interests; maybe even lobbying forms.

7 I have not conducted research in that
8 area. It is my understanding that the General
9 Assembly has, in prior instances, allowed for that
10 sort of thing to help fund an agency, but I'm not
11 prepared today to speak with absolute clarity on
12 that point.

13 MINORITY CHAIRMAN COHEN: Okay. Thank
14 you very much.

15 MAJORITY CHAIRMAN METCALFE:
16 Representative Dunbar.

17 REPRESENTATIVE DUNBAR: Thank you, Mr.
18 Chairman, and thank you for being here. It's
19 always a pleasure to see the State Ethics
20 Commission here as opposed to me being called on
21 the carpet in your office, I guess.

22 I appreciate your comments as far as
23 aggregation, and you had also mentioned about fines
24 and penalties. Just out of curiosity; if some form
25 of reform measures are taken, what type of

1 hardships does that present to the commission?
2 Does it make your job easier, more difficult? Is
3 there any cost?

4 MS. HITTIE: As far as reducing a dollar
5 amount of a threshold with some aggregate
6 component, I don't see that really as making our
7 job harder than it is now. What is making our job
8 hard right now is the same thing I think you
9 probably hear from all of the administrative
10 agencies, which is that we are underfunded. We
11 can't meet our expenses and do our job properly.
12 We're understaffed, and it's just a general problem
13 I know a lot of agencies are facing. In the scheme
14 of things, we're very small.

15 You probably are in a position to help
16 us more easily than a large agency. I'm just using
17 this opportunity, frankly, to throw that thought
18 out for you; that if you want to have real reform,
19 you need to have an enforcing body that can
20 function. And whether the law is providing for a
21 250-dollar threshold, a 50-dollar threshold, we
22 need to be able to function properly.

23 You make changes to the laws, but if
24 your enforcing body can't function because it has
25 no money, in the end, you really don't achieve the

1 practical result you're trying to achieve.

2 REPRESENTATIVE DUNBAR: And just out of
3 curiosity, because, prior to coming to the House, I
4 was a CPA by trade and dealing with the IRS and
5 audits and things like that, they were -- they
6 just -- randomly-generated type of things. Is that
7 what your office does as well?

8 MS. HITTIE: I'm sorry. Random --

9 REPRESENTATIVE DUNBAR: As far as, do
10 you have like -- Do you randomly audit financial
11 disclosure statements?

12 MR. CARUSO: We have typically done that
13 in the past, but over the last four years, we've
14 had to cut back on our random -- We don't call them
15 audits. We call them compliance reviews. We've
16 limited it more over the last several years to
17 areas where we typically receive a lot of
18 complaints. We will go to different municipalities
19 and we'll occasionally do a statewide audit of
20 maybe the Department of Revenue, or Labor and
21 Industry, a larger state agency.

22 But, with having the limited manpower,
23 we devote more of our resources toward
24 investigations because those are timed deadlines;
25 that we must complete them within a certain period

1 of time.

2 REPRESENTATIVE DUNBAR: Okay. Thank
3 you.

4 MAJORITY CHAIRMAN METCALFE: Any other
5 questions?

6 (No audible response).

7 MAJORITY CHAIRMAN METCALFE: Thank you
8 for joining us today. We appreciate it.

9 Thank you, Representative Dunbar, for
10 the legislation that you requested the hearing on
11 today. We look forward to working with you and
12 Representative Saccone and other members that have
13 introduced this type of legislation to move forward
14 and to bring about those reforms that the public
15 expects and that they deserve and that many of us
16 support. So, thank you, Representative Dunbar.

17 We don't have any additional meetings
18 planned for this week, although, members should be
19 alert to activity on the floor. If we do have
20 anything come up this week, it will be called from
21 the floor. We're getting into budget season.
22 There's a number of issues that I know are going to
23 be moving back and forth from House to Senate. So,
24 if the members could be alert to what's occurring
25 on the floor and any announcements from there. We

1 may be calling some meetings from the floor as we
2 move through the month of June and possibly through
3 the end of this week.

4 That's all we have for today. Motion by
5 Representative Knowles to adjourn; seconded by
6 Representative McGinnis. This meeting's adjourned.

7 (At 10:21 a.m., the hearing concluded).

8 * * * *

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Karen J. Meister, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript, to the best of my ability, of a public hearing taken from a videotape recording and reduced to computer printout under my supervision.

This certification does not apply to any reproduction of the same by any means unless under my direct control and/or supervision.

Karen J. Meister
Reporter, Notary Public