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The Honorable David G. Argall, Chairperson
Senate State Government Committee
Senate Box 203029
Room 171, Main Capitol
Harrisburg, PA 17120-3029

The Honorable Sharif Street
Minority Chairperson
Senate Box 203003
Room 535, Main Capitol
Harrisburg, PA 17120-3003

Chairperson Argall
Minority Chairperson Street
Members of the Senate
State Government Committee,

My name is Robert Caruso, and I am the Executive Director of the Pennsylvania State Ethics Commission. Accompanying me today are Brian Jacisin, the Commission's Chief Counsel and the Commission's Supervising Investigative Counsel, Jeffrey Frankenburger, who has primary responsibility for lobbying compliance and enforcement. We are here today, pursuant to the invitation of the Committee to provide testimony, offer comments, and answer any questions that members of the Committee may have regarding the Committee's review of Senate Bills 801 through 804. The Commission staff is appreciative of the invitation to participate in today's proceeding and is here to offer whatever assistance the Committee deems appropriate.

Since 2006 the Ethics Commission has been tasked with primary enforcement of the registration and reporting requirements of the Lobbying Disclosure Act as well as authority to issue advisory opinions concerning the Act. To complete these responsibilities, Commission staff has worked collaboratively with the Department of State who is responsible for managing the filing provisions of the Lobbying Disclosure Law.

The Commission's role in the enforcement of the registration and reporting requirements of Sections 13A04 and 13A05 begins with the Commission's Investigative Division receiving a listing from the Department of State of registrants which have not filed quarterly expense reports. The Investigative Division compares this list with the Department of State's lobbying database and will also check the Commission's database to determine if there were prior instances of noncompliance. Warning Notice Letters are sent to those registrants that have been identified and confirmed as having not filed quarterly expense reports. The majority of registrants receiving the Warning Notice Letters comply within thirty (30) days of receiving Notice. If a registrant fails to file any outstanding expense report within the thirty-day established grace period, the Investigative Division then issues a Notice of Alleged Noncompliance via certified mail. Registrants who are issued a Notice of Alleged Noncompliance must file an Answer with the Commission within thirty days. The bulk of registrants receiving the Notice of Alleged Noncompliance usually contact the Investigative Division to negotiate a Consent Agreement/settlement. In the event no Answer is filed, or no effort to settle a matter has been made, the Commission will notify the parties that a default has occurred. Once a default has occurred, the matter is ripe for consideration and the Commission will issue an adjudication with penalties administered in accordance with the Lobbying Disclosure Law.

Since 2014, the Commission has issued over 1,000 Warning Notice Letters resulting in the issuance/filing of approximately 91 Notices of Alleged Noncompliance, culminating in Commission Orders directing payment of over \$750,000.00. The total number of Warning Notice Letters typically tends to decrease during the first two quarters of each two-year reporting period and increases towards the last few quarters of each two-year reporting period.

The electronic registration system implemented by the Department of State has resulted in greater efficiency and less uncertainty for Commission Staff when initiating compliance proceedings. The Commission staff continues to work closely with the Department of State when responding to questions from registrants and the public concerning filing requirements and technical filing issues.

As requested, Commission staff who are most familiar with the Lobbying Disclosure Law have reviewed the package of bills, SB801 through SB804, and are supportive of the measures outlined in these pieces of legislation. Specific comments and suggestions are highlighted in addendum number 1. In addition, we have identified some other areas where it is believed improvements can be made to increase transparency and achieve greater compliance, those suggestions are also outlined in addendum 2 to this document.

The members and staff of the State Ethics Commission welcome the opportunity to make additional presentations and assist the Committee as it brings greater openness, transparency, limiting undue influence and improved ethical standards to the lobbying industry and public officials in our Commonwealth.

On behalf of the Commission, I would like to thank the Committee for the opportunity to make this presentation and we would be pleased to answer any questions that the Members of the Committee may have.

SENATE BILLS 801-804

The staff of the State Ethics Commission is supportive of Senate Bills 801-804 amending the Lobbying Disclosure Law (Act 134 of 2006). Although members of the Commission have not yet had the opportunity to review these pieces of legislation, Commission staff, who apply the Lobbying Law on a daily basis, view the proposed legislation as meaningful updates and reforms to promote greater transparency while also limiting undue influence and further establishing rules for ethical conduct.

The following comments are being offered regarding Senate Bills 801-804:

SENATE BILL 801:

Ethics Commission staff believes SB801 should clarify if the equity reporting and financial assistance reporting requirements are to be enforced and subject to the same penalties as registration and expense reporting. Also, the term lobbying as defined in SB801 limits the definition of lobbying to legislative action. We recommend that term include lobbying before an executive or administrative agency.

SENATE BILL 802:

Commission staff's only recommendation regarding this bill is the definition of political subdivision (page 2, lines 25-27) be consistent with the definition of political subdivision as defined in Section 1102 of the Ethics Act.

Political subdivision as defined in Section 1102 of the Ethics Act.

"Political subdivision." Any county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.

SENATE BILL 803:

Commission staff suggests the definition of political consultant be more clearly defined as political consultant and political consulting firm to be aligned with the definitions of lobbyist and lobbying firm as those terms are defined in the Lobbying Disclosure Law.

It is recommended that Section A06(5) be amended to be consistent with the language of Section A06(4) by adding to line 17 after reporting period... "for a lobbyist or during any calendar year for a political consultant."

SENATE BILL 804:

The Commission staff believes it will be able to develop and manage a training program for lobbyists. The task will be more challenging with the most recent amendment that vests responsibility for the Commission staff for both development and management of the training program for lobbyists.

Commission staff has not yet had sufficient time to calculate costs to develop and manage such a program, but it may require at least one additional staff member and costs for developing and implementing the training.

SUGGESTED AMENDMENTS TO THE LOBBYING DISCLOSURE LAW TO IMPROVE
TRANSPARENCY AND COMPLIANCE

- Eliminate the reporting threshold and require a reporting of all monies spent during the reporting quarter.
- 65 Pa.C.S. §13A05(b)(3)(iv) requires Principal/Lobbyist to provide written notice to each State official or employee who is listed in an expense report at least seven (7) days prior to the report's submission to the department. The Written Notice shall include the information which will enable the State official or employee to comply with section 1105(b)(6) and (7) of the Ethics Act. Each notice shall include both the amount incurred during the quarter and the cumulative amount incurred from January 1 through the end of the applicable quarter. It is recommended that a copy of the Written Notice be submitted to the State Ethics Commission and the Department of State.
 - In the alternative, in addition to the Written Notice, require a Principal/Lobbyist to include within the quarterly expense report the identity of each State official or employee who received Gifts/Travel/Lodging/Hospitality during the quarter regardless of the amount and include both the amount and the cumulative amount incurred from January 1 through the end of the applicable quarter, within the filed quarterly expense report.
- Require registrants (Principal/Lobbyist) to complete an on-line training (less than 30 minutes) prior to or within ten (10) days of registration or renewal or registration.
- Lobbying Regulations, specifically 51 Pa. Code §53.5(a)(b)(c), requires changes to the registration be submitted to the Department of State in writing within 14 days of a change in information.
 - Require a Principal/Lobbyist to reaffirm the accuracy of information contained upon a registration statement each quarter. This can be in conjunction with the filing of the quarterly expense reports.
 - Require a Principal to provide written Notice to the State Ethics Commission/Department of State within 30 days of a Principal dissociating with a Lobbyist/Lobbying Firm.
- Permit the State Ethics Commission and/or Department of State to serve Warning Notices, Notice of Non-Compliance, *etc.* via email to the designated/identified representative for the registered Principal/Lobbyist/Lobbying Firm.
- Require the identification of with whom and for how long direct communication occurred, upon quarterly expense reports. A reporting should also include the identification of which principal(s) interests were represented during the direct communication.

- Require Principal/Lobbyist to clearly state to the target of direct communication (public official/public employee) whom they (Principal/Lobbying) represents and that the communication is in furtherance of compensated lobbying efforts.
- Institute aggravated monetary penalties for registrants who violate registration/reporting requirements on multiple occasions.