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The Aftermath of Governor McDonnell’s Corruption Trial: Proposing Comprehensive Ethics Reform in Virginia

Lisa Jane Lindhorst*

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I. INTRODUCTION

Former Virginia Governor Bob McDonnell and his wife Maureen bowed their heads and wept as the word “guilty” poured from the court clerk’s mouth.¹ A federal jury convicted the couple of twenty counts of corruption, fraud, and bribery for illegally accepting over \$165,000 in gifts and loans from the CEO of a local company.² This is not the only widely publicized political scandal in Virginia’s recent history. The Washington Post also recently revealed that

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1. Larry O’Dell, *Bob McDonnell Convicted On Political Corruption Charges*, SALON (Sept. 4, 2014), http://www.salon.com/2014/09/04/bob_mcdonnell_convicted_on_political_corruption_charges/ (on file with *The University of the Pacific Law Review*); *Bob McDonnell’s Trial Comes to Merciful End, But The Weirdness And The Shame Remain*, HUFF. POST (Sept. 7, 2014), http://www.huffingtonpost.com/2014/09/06/mcdonnell-trial-ends_n_5776902.html (on file with *The University of the Pacific Law Review*).

2. O’Dell, *supra* note 1; *Bob McDonnell’s Trial Comes to Merciful End*, *supra* note 1.

Virginia's Attorney General Ken Cuccinelli accepted \$18,000 worth of gifts from the same CEO, including vacation getaways, family holidays at a luxurious estate, and an extravagant Thanksgiving dinner.³ In 2009, shortly before the Cuccinelli and McDonnell debacles, a federal Judge convicted Virginia Assembly member Phil Hamilton of bribery and extortion for using his power as Vice Chairman of the House Appropriations Committee to channel funds to Old Dominion University as a quid pro quo for securing a part-time teaching position there.⁴ Hamilton is currently serving a nine-and-a-half year prison sentence.⁵

The most troubling aspect of these political scandals is that although the egregious conduct amounted to fraud, corruption, bribery, and extortion under federal criminal laws, the activities were all legal under Virginia's ethics laws. The disparity between federal criminal laws and Virginia's ethics laws sheds light on how desperately Virginia needs more robust and comprehensive ethics standards. Part II highlights two problematic aspects of Virginia's ethics laws that allowed these scandals to occur and uses comparisons to laws in other states and at the federal level to illustrate Virginia's shortcomings, despite recent reform efforts.⁶ Part III proposes additional ethics reforms for Virginia to undertake, which include the creation of a robust ethics oversight and enforcement body and the adoption of stricter regulations on gifts that Virginia's state officials may accept.⁷ Part IV concludes with a brief warning about what Virginia's political future could look like absent such a reform.⁸

II. INADEQUACIES IN VIRGINIA'S CURRENT ETHICS LAWS

The breadth and depth of state ethics rules vary widely across jurisdictions, but all ethics laws share the common goal of promoting public trust in the government by regulating interactions with government officials that could lead to actual or apparent corruption.⁹ Every state in the nation codifies ethics

3. Peter Galuszka, *Cuccinelli And The Virginia Gift Scandal*, WASH. POST (July 11, 2013), http://www.washingtonpost.com/blogs/all-opinions-are-local/post/ken-cuccinelli-and-the-virginia-gift-scandal/2013/07/11/889360fc-ea53-11e2-8f22-de4bd2a2bd39_blog.html (on file with *The University of the Pacific Law Review*); Bob Gibson, *Virginia's Convicted: The Problems Behind 'Let Them Police Themselves'*, DAILY PROGRESS (Sept. 21, 2014), http://www.dailyprogress.com/news/columnists/virginia-s-convicted-the-problems-behind-let-them-police-themselves/article_e9535a1c-4184-11e4-96c1-0017a43b2370.html. (on file with *The University of the Pacific Law Review*).

4. Hugh Lessig & Kimball Payne, *Job Talks Preceded ODU Bill*, DAILY PRESS (Aug. 21, 2009), http://www.dailypress.com/news/dp-local_hamiltonline_0821aug21,0,6608958.story (on file with *The University of the Pacific Law Review*).

5. Gibson, *supra* note 3.

6. See *infra* Part II; see also *State Integrity Investigation*, CTR. FOR PUB. INTEGRITY, <http://www.publicintegrity.org/accountability/state-integrity-investigation/> (last visited Feb. 22, 2016) (on file with *The University of the Pacific Law Review*).

7. *Infra* Part III.

8. *Infra* Part IV.

9. See *State Integrity Investigation*, *supra* note 6.

standards that govern conduct of government officials in that particular state.¹⁰ Some states codify their ethics laws in statutes and others enshrine ethics standards in the state's Constitution.¹¹ Some states model their ethics laws on the federal government's standards, and others tailor them to the particular state.¹² Because of the variations between state ethics codes, some are more robust and effective than others. The State Integrity Investigation,¹³ for example, grades states from A to F according to which ethics laws most effectively reduce abuses of power, corruption, and betrayal of public trust.¹⁴

The State Integrity Investigation gave Virginia's ethics laws an "F" grade, remarking that "the state lacks the necessary oversight . . . [and w]hile other states have made efforts to ensure accuracy, often with the creation of an independent commission, Virginia's legislators are mostly left to police themselves."¹⁵ Virginia Governor McAuliffe recently cited the state's failing State Integrity Investigation grade as "one of the many warnings the state has received on its mediocre record on accountability and transparency."¹⁶ Local Newspapers and critics explain that "[a]ctivities illegal elsewhere are legal [in Virginia] simply because the law is silent or sieved with loopholes."¹⁷ This Part provides an overview of two specific areas of Virginia's ethics laws that are particularly problematic: the total absence of an ethics enforcement and oversight body, and the gaps in the rules governing gift giving to state officials that have persisted through recent reform efforts.

10. See *Links to States' Legislative Ethics and Lobbying Laws*, NAT'L CONF. OF STATE LEGIS., <http://www.ncsl.org/research/ethics/50-state-legislative-ethics-and-lobbying-laws.aspx> (last visited Apr. 16, 2016) (on file with *The University of the Pacific Law Review*).

11. For example, in Oklahoma, ethics provisions are found in Article XXIX of the State Constitution. See OKLA. STATE LEGIS., <http://www.oklegislature.gov/> (last visited Apr. 16, 2016) (on file with *The University of the Pacific Law Review*).

12. For links to the different state ethics laws throughout the nation, see *Links to States' Legislative Ethics and Lobbying Laws*, supra note 10.

13. The State Integrity Investigation is a data-driven analysis of each state's laws and practices that deter corruption and promote accountability and openness. Experienced journalists graded each state government on its corruption risk using 330 specific measures, and then ranked every state from 1 to 50. See *State Integrity Investigation*, supra note 6.

14. See *id.*

15. Caitlin Ginley, *States of Disclosure, Louisiana, Mississippi Movin' Up; 20 States Still Flunk*, CTR. FOR PUB. INTEGRITY (June 24, 2009), http://www.publicintegrity.org/investigations/states_of_disclosure/articles/entry/1428#continue (on file with *The University of the Pacific Law Review*).

16. Nicholas Kusnetz, *McAuliffe to Reform Virginia's Ethics Laws*, STATE INTEGRITY INVESTIGATION (Sept. 26, 2014), http://www.stateintegrity.org/mcauliffe_names_panel_to_reform_virginia_s_ethics_laws (on file with *The University of the Pacific Law Review*).

17. See Daniel Gilbert, *Electing Officials Failing to Ensure Transparency*, CULPEPER STAR EXPONENT (July 27, 2009), http://www2.starexponent.com/cse/news/state_regional/article/elected_officials (on file with *The University of the Pacific Law Review*); Jeff E. Shapiro, *The G-man is Sniffing at the Capitol*, TIMES DISPATCH (June 28, 2009), http://www2.timesdispatch.com/rtd/news/columnists_news/article/JEFF28_20090627-215004/276822 (on file with *The University of the Pacific Law Review*).

A. *Ethics Oversight and Enforcement Bodies*

Ethics enforcement bodies are the first line of defense in protecting the public's trust in its government. An ethics enforcement body is not sufficient to combat corruption on its own—comprehensive ethics laws are also necessary—but the quality of ethics laws mean little without an independent entity that investigates and enforces them.¹⁸ Perhaps unsurprisingly, the state with the highest overall Center for Public Integrity grade in the nation is also the state with the most robust enforcement system: New Jersey.¹⁹ Part of the reason for New Jersey's successful enforcement ranking is the state's use of an independent ethics commission that possesses a variety of enforcement powers.²⁰ Ethics commissions throughout the country vary significantly, but the mere presence of an ethics commission, regardless of its particular form, significantly bolsters ethics compliance due to its constant and authoritative presence.²¹

Virginia is one of only ten states²² in the nation that does not have an independent ethics commission.²³ Instead, Virginia has an ethics committee and an advisory council, both of which have no enforcement capabilities.²⁴ The Phil Hamilton scandal illustrates the futility of Virginia's ethics committee because Hamilton was able to use his trusted role in Virginia's House Appropriations Committee to channel funds to a private university to secure himself a job right in front of the ethics committee's dormant eyes.²⁵ This Part discusses the inadequacies of Virginia's ethics committee, explains how ethics commissions and ethics committees differ, and overviews the variations of state ethics commissions throughout the country.

1. *Inadequacies in Virginia's Current Ethics Oversight Bodies*

Instead of creating an independent ethics commission to enforce and oversee its ethics standards as most states have done, Virginia has a partisan ethics committee composed of elected officials with a very limited investigatory

18. Mike Mullen, *Putting Teeth in State Ethics Laws Requires Independent Enforcement*, ALLIANCE, http://www.stateintegrity.org/ethics_enforcement (on file with *The University of the Pacific Law Review*).

19. See *State Integrity Investigation*, *supra* note 6.

20. *Id.*

21. *Id.*

22. Ginley, *supra* note 15 (the others are Arizona, Idaho, New Hampshire, New Mexico, North Dakota, South Dakota, Vermont, and Wyoming); See also Kayla Crider & Jeffrey Milyo, *Do State Ethics Commissions Reduce Political Corruption? An Exploratory Investigation*, 3 UC IRVINE L. REV. 717, 720 (2013).

23. See *Links to States' Legislative Ethics and Lobbying Laws*, *supra* note 10; Christopher E. Piper, *Ethics in Virginia: Reforming Ethics and Conflict of Interest Laws in the 2010 Virginia General Assembly*, 14 RICH. J.L. & PUB. INT. 13, 14 (2010).

24. Piper, *supra* note 23, at 13.

25. *Id.*; Lessig & Payne, *supra* note 4.

mandate.²⁶ One significant shortcoming of Virginia's ethics committee is that it may only institute investigations against current members of the legislature.²⁷ As such, any ethics violations that Virginia's executive or judicial branch officials commit, or violations by legislators that have since left public office, fall outside the committee's jurisdiction.²⁸ Additionally, Virginia's ethics committee may only begin an investigation upon receipt of a signed and sworn complaint by a citizen of the state;²⁹ the committee may not initiate investigations *sua sponte*.³⁰

Once Virginia's ethics committee receives a complaint from a citizen and completes an investigation, the committee's only options are to dismiss the claim, refer findings to a Privileges and Elections Committee with recommendations,³¹ or refer findings to the Attorney General.³² Although the Privileges and Elections Committee can remove the transgressor with a two-thirds majority vote and the Attorney General can choose an "action he deems appropriate," the ethics committee itself has no such power.³³ The committee also does not have authority to offer advisory opinions on the law, which inhibits the committee from disseminating standards and norms beyond the precise fact pattern being investigated.³⁴ In sum, Virginia's ethics committee is significantly limited in its ability to oversee and enforce the state's ethics rules.

Virginia lawmakers have made several unsuccessful attempts to strengthen the power of Virginia's ethics enforcement bodies. After the Hamilton scandal, Virginia's legislature proposed multiple bills to strengthen the power of the ethics committee, none of which made it into law.³⁵ Governor McDonnell attempted a reform effort when he used the promise of an independent ethics commission as a platform in his 2009 gubernatorial campaign.³⁶ Once voters elected McDonnell, however, he decided against the commission, claiming it was

26. Piper, *supra* note 23, at 15.

27. VA. CODE ANN. § 30-116 (2009).

28. *Id.* In the case of Hamilton, he resigned after losing his bid for reelection, after which he fell outside the Panel's jurisdiction, and was therefore only subject to criminal extortion charges for his quid pro quo with ODU. See Piper, *supra* note 23, at 15.

29. See VA. CODE ANN. § 30-114.

30. Meaning on the committee's own initiative. See *id.*

31. *Id.* § 30-116(2).

32. *Id.* The committee refers to the Attorney General if the committee believes the legislator being investigated *willfully* violated the law. *Id.*

33. Piper, *supra* note 23, at 16.

34. VA. CODE ANN. § 30-114.

35. See, e.g., H.B. 1140, 2010 GEN. ASSEMB., REG. SESS. (Va. 2010) (as introduced Jan. 13, 2010); H.B. 813, 2010 GEN. ASSEMB., REG. SESS. (Va. 2010) (as introduced Jan. 13, 2010). Compare H.B. 814, 2010 GEN. ASSEMB., REG. SESS. (Va. 2010) (as introduced Jan. 13, 2010), and S.B. 186, 2010 GEN. ASSEMB., REG. SESS. (Va. 2010) (as introduced Jan. 13, 2010), with H.B. 655, 2010 GEN. ASSEMB., REG. SESS. (Va. 2010) (enacted).

36. See Sean Gorman, *Ethics Panel Deemed Unnecessary*, TIMES DISPATCH (Aug. 13, 2012) <http://www.politifact.com/virginia/promises/bob-o-meter/promise/985/establish-ethics-commission/> (on file with *The University of the Pacific Law Review*).

redundant with his creation of a state inspector general's (IG) office.³⁷ The IG's mandate, however, is primarily to root out fraud, waste, and abuse in government, and the IG may only investigate ethics violations of government officials if the governor, attorney general, or a grand jury makes a request.³⁸ As recent events demonstrate, these limitations on the IG's authority are particularly problematic when the individuals violating ethics requirements are the individuals who should be requesting IG investigations.³⁹

In 2014 and 2015, Governor McAuliffe fought for the creation of an independent ethics commission, but lawmakers refused.⁴⁰ Instead, the Virginia legislature created and funded a nine-member advisory council, with members appointed by the governor and General Assembly.⁴¹ The council merely issues advisory opinions for lawmakers requesting guidance, and approves or denies lawmakers' requests to take lobbyist-funded trips that exceed the gift cap.⁴² Lawmakers also rejected McAuliffe's proposed amendment that gave the council power to randomly audit lawmakers' disclosure forms.⁴³ As such, the council merely responds to state officials' self-initiated inquiries and cannot investigate or enforce any ethics violations independently.⁴⁴ Thus, even with these recent reform efforts, Virginia's ethics oversight and enforcement system remains one of the weakest in the nation.⁴⁵

2. *Strengths and Variations Amongst State Ethics Commissions Across the Nation*

It is important to examine the various types of ethics commissions states use throughout the country before proposing an effective ethics commission for Virginia. Ethics commissions vary across jurisdictions, but all commissions generally meet monthly to undertake investigations, hold hearings on alleged ethics violations, issue advisory opinions, and impose punishments for ethics

37. See *id.* This is ironic considering McDonnell committed bribery and fraud right under the IG's nose.

38. See VA. OFFICE OF THE INSPECTOR GEN., <https://osig.virginia.gov/about/> (last visited Apr. 16, 2016) (on file with *The University of the Pacific Law Review*).

39. See, e.g., O'Dell, *supra* note 1.

40. See Bob Brown, *Omnibus Ethics Bill Backed by House Committee*, TIMES DISPATCH (Feb. 4, 2015), http://www.richmond.com/news/virginia/article_530b46f1-7f26-59a0-a5d4-9c9471ed9d99.html (on file with *The University of the Pacific Law Review*).

41. See Senate Bill 649 and 143, and House Bill 1211. The Bill summaries are contained in the Legislation Tracking website, <http://leg1.state.va.us>. See Jim Nolan, *Lawmakers Reach Agreement On Ethics Reform*, TIMES DISPATCH (Mar. 8, 2014), http://www.timesdispatch.com/news/state-regional/lawmakers-reach-agreement-on-ethics-reform/article_ebbf3cf0-a6e6-11e3-8763-001a4bcf6878.html (on file with *The University of the Pacific Law Review*).

42. *Id.*

43. See Nolan, *supra* note 41.

44. See *id.* In fact, the panel cannot even respond if an official goes against the panel's recommendation. *Id.*

45. Piper, *supra* note 23, at 20.

violations.⁴⁶ Regardless of how ethics commissions vary from state to state, the power and function of an ethics commission in general is superior to that of an ethics *committee*.⁴⁷ Ethics commissions are more independent because they consist of members of the public and gubernatorial appointees, whereas ethics committee members are partisan-elected officials.⁴⁸ Ethics commissions also have a wide range of enforcement tools at their disposal,⁴⁹ whereas ethics committees are merely investigatory and refer their findings to another body for adjudication.⁵⁰ Most importantly, ethics commissions have a more effective and intimidating presence because they conduct routine checks and *sua sponte* investigations,⁵¹ as opposed to merely meeting to *respond* to complaints.⁵²

Additionally, ethics commissions also vary widely from commission to commission in terms of composition, appointment procedures, term lengths, jurisdiction, and enforcement power.⁵³ Some state ethics commissions have a combination of partisan members and members of the public, others have only members of the public, and still others have only partisan members with varying restrictions on how to split the membership down party lines.⁵⁴ Twenty-eight states forbid their commissioners from holding other public office, office in a political party or campaign committee, or employment by lobbyist groups until their term on the commission ends.⁵⁵ Some states bar commissioners from holding public office anywhere from one to five years before their commission term begins,⁵⁶ and other states also prohibit commissioners from assuming public office anywhere from one to three years *after* their commission term ends.⁵⁷

46. See Crider & Milyo, *supra* note 22, at 721.

47. See *id.*; Piper, *supra* note 23, at 14; *Links to States' Legislative Ethics and Lobbying Laws*, *supra* note 10.

48. Piper, *supra* note 23, at 14–15; *Links to States' Legislative Ethics and Lobbying Laws*, *supra* note 10.

49. See *infra* next paragraph.

50. See Part II.A.1 (discussing the shortcomings inherent in Virginia's ethics commission); Piper, *supra* note 23, at 16.

51. *Reforming Ethics and Conflict of Interest Laws In The 2010 Virginia General Assembly*, 14 RICH. J.L. & PUB. INT. 13, 14–15 (2010); *Links to States' Legislative Ethics and Lobbying Laws*, *supra* note 10.

52. See Part 0.0.0; Piper, *supra* note 23, at 14–15; *Links to States' Legislative Ethics and Lobbying Laws*, *supra* note 10.

53. Crider & Milyo, *supra* note 22, at 720.

54. *Id.* at 721. For example, commissions in Iowa, Missouri, Ohio, and Tennessee are evenly split between the two *major* parties. However, Colorado, Maine, Nevada, New Jersey, North Carolina, Oregon, and Texas merely require that no single party hold a majority of commission seats.

55. See *id.* at 721.

56. See, e.g., GA. CODE ANN. § 21-5-4(d) (2003). The Georgia State Ethics Commission eligibility requirements prohibit the appointment of anyone who has held federal, state, or local public office within the five-year period *prior* to appointment; CONN. GEN. STAT. ANN. § 1-80(b) (West 2000); ME. REV. STAT. ANN. TT. 1, § 1002(2) (1989); 65 PA. CONS. STAT. ANN. § 1106(a) (West 2000). Other states with such pre-appointment requirements include Connecticut, Maine, and Pennsylvania, with periods ranging from one to five years).

57. For example, Missouri and Arizona. See MO. ANN. STAT. § 105.955 (West 1997); ARIZ. REV. STAT. ANN. § 38-504 (2001).

Another important variation between state ethics commissions is who appoints each commissioner and how long each commissioner serves on the commission. In Delaware, for example, the governor appoints the members of the commission and the Senate confirms each appointee.⁵⁸ In Oregon, the governor appoints three of the commission's members, and Democratic and Republican leaders of the House and Senate recommend the other four members.⁵⁹ Most states also stagger the terms of their commissioners to ensure retention of institutional knowledge.⁶⁰ These staggered terms range from three years in Maine⁶¹ and Pennsylvania,⁶² to six years in Iowa,⁶³ Montana,⁶⁴ and Ohio.⁶⁵

The jurisdictional reach of state ethics commissions varies as well. Although some states only permit their ethics commission to investigate and penalize transgressors who currently hold public office, other states allow their commission to proceed against transgressors even after they have left state service.⁶⁶ For example, in New York, state employees remain subject to the jurisdiction of the ethics commission after leaving state service, so long as the commission's investigation begins within one year after the employee leaves public service.⁶⁷ Other jurisdictions have been slower to follow New York's lead, but these states lament the enforcement difficulties that occur when the commission's jurisdiction ends after the government official leaves office.⁶⁸

Ethics commissions throughout the country also differ in enforcement capabilities. Common ethics commission enforcement powers include the ability to remove transgressors from office, disqualify them from future elections, impose future employment bans upon them, and require them to pay hefty fines or serve prison sentences.⁶⁹ The range of civil and criminal penalties that state commissions impose range from \$100 fines with no prison term in Wisconsin,⁷⁰ to \$10,000 fines with a maximum five-year term of imprisonment in Pennsylvania,⁷¹ to a \$50,000 maximum fine in Oklahoma.⁷² In addition, some

58. DEL. CODE ANN. TIT. 29, § 5808(b) (2003).

59. OR. REV. STAT. ANN. § 244.250 (West 2003).

60. See Crider & Milyo, *supra* note 22, at 721.

61. ME. REV. STAT. ANN. TIT. 1, § 1002 (Supp. 2004).

62. PA. CONS. STAT. ANN. § 1106(b) (West 2000).

63. IOWA CODE ANN. § 68B.32(2) (West 1999).

64. MONT. CODE ANN. § 13-37-103 (2003).

65. OHIO REV. CODE ANN. § 102.05.

66. Crider & Milyo, *supra* note 22, at 721.

67. See, e.g., Michael Slackman, *Albany Ethics Case That Died Points to Loophole, Not a Crime*, N.Y. TIMES, Feb. 25, 2005, at A1.

68. See Crider & Milyo, *supra* note 22, at 721.

69. For example, in Ohio, a conviction based on a violation of ethics laws can result in disqualification from holding public office or employment for up to seven years. See OHIO REV. CODE ANN. § 2921.43(E).

70. WIS. STAT. ANN. § 19.58; 65

71. PA. CONS. STAT. ANN. § 1109(a) (West 2000).

72. OKLA. STAT. ANN. TIT. 74, § 62, App. 257:1-1-11 (West 2000).

states impose unjust enrichment penalties, such as treble damages in Pennsylvania,⁷³ and fines based on a percentage of the amount of unjust enrichment in Nebraska.⁷⁴ Commissions that monitor financial disclosure forms also have penalty schemes for late filers ranging from a one-time fee to a per-day fine.⁷⁵ Regardless of these variations in enforcement powers amongst different commissions, the efficacy of ethics commissions in general is largely attributable to the presence of at least some significant enforcement capability.⁷⁶

A brief look at New Jersey, which the State Integrity Investigation gave the highest “Ethics Enforcement” rank to, provides a valuable illustration of an effective ethics commission.⁷⁷ New Jersey got its “A” State Integrity Investigation grade because of the state’s independent ethics agency has broad powers of investigation and a rigorous structure that prevents outside interference.⁷⁸ New Jersey’s ethics commission consists of seven commissioners: four members of the public (not more than two of whom are of the same political party) that serve four-year staggered terms until the appointment of their successors,⁷⁹ and three executive branch gubernatorial appointees who serve until the governor appoints a successor.⁸⁰ The Governor also picks which two public members will serve as chairman and vice-chairman of the commission.⁸¹ Additionally, New Jersey’s ethics commission has a unique toll-free hotline for anonymous complaints, which the commission only dismisses if “patently frivolous.”⁸² This combination of independent commissioners, staggered terms, and anonymous complaints procedures plays a big role in New Jersey’s outstanding reputation in the area of ethics oversight and enforcement.⁸³ Although a robust enforcement commission is vital to a functioning system of ethics laws, the substantive ethics laws each state charges its commission with enforcing are similarly crucial.

73. PA. CONS. STAT. ANN. § 1109(c).

74. NEB. REV. STAT. ANN. § 32-1612

75. See, e.g., OHIO REV. CODE ANN. § 102.02(F) (the Ohio Ethics Commission imposes a \$10 per-day late fine, up to a maximum of \$250); OHIO REV. CODE ANN. § 102.99 (knowingly failing to file a financial disclosure form carries potential penalties of up to \$1,000 and six months’ jail time); LA. REV. STAT. ANN. § 42.1157(A)(5)(b) (Supp. 2005) (the Louisiana Ethics Administration Program imposes a \$50 per-day fine, up to \$1,500); HAW. REV. STAT. ANN. § 84.17(i) (the Hawaii State Ethics Commission imposes an initial fine of \$50, plus a \$10 per-day fine, with no maximum limit).

76. Mullen, *supra* note 18.

77. *Id.*

78. *Id.*

79. *State of New Jersey, State Ethics Commission*, <http://www.state.nj.us/ethics/about/> (last visited Apr. 27, 2016) (on file with *The University of the Pacific Law Review*).

80. *Id.*

81. *Id.*

82. Mullen, *supra* note 18 (meaning the complaint, without a doubt, has no value; citing New Jersey ethics commission’s executive director, Peter Tober).

83. *Id.*

B. *Ethics Rules Governing Gifts to Government Officials*

Stringent gift rules to ensure government officials do not wrongfully use their public positions for private gain are of particular importance to any state ethics laws, because the majority of public corruption cases involve government officials receiving extravagant gifts, meals, or entertainment.⁸⁴ The Washington Post's incessant coverage of streams of expensive gifts between the CEO of a prominent local company⁸⁵ and former Virginia Governor McDonnell and his family⁸⁶ illustrate the consequences of gaps in the rules governing gift giving to state officials. Until last year, Virginia had no cap on the value of gifts elected officials could receive; there was merely a *reporting* requirement.⁸⁷ Moreover, Virginia did not require state officials to disclose gifts given to their immediate family, regardless of the value.⁸⁸ The State Integrity Investigation ranked Virginia 47th out of 50 due to the ineffectiveness of these gift caps and disclosure rules, and gave Virginia a grade of "F."⁸⁹ Although Virginia lawmakers recently attempted to address this glaring issue in Virginia's ethics laws, Governor McAuliffe tacitly acknowledged the inadequacy of the reform efforts.⁹⁰ This Part discusses the shortcomings of Virginia's gift rules and employs a comparison to the U.S. federal government gift rules to illustrate particularly troublesome aspects of Virginia's current standards.

84. See, e.g., Rosalind S. Helderman & Matt Zapotosky, *Ex-VA Governor Robert McDonnell Guilty of 11 Counts of Corruption*, WASH. POST (Sept. 4, 2014), http://www.washingtonpost.com/local/virginia-politics/mcdonnell-jury-in-third-day-of-deliberations/2014/09/04/0e01ff88-3435-11e4-9e92-0899b306bba_story.html (on file with *The University of the Pacific Law Review*); Bill Marsh, *Making Connections at the Skybox*, N.Y. TIMES (Jan. 1, 2006), <http://www.nytimes.com/imagepages/2006/01/01/weekinreview/20050101marsh.graph.html> (on file with *The University of the Pacific Law Review*) (discussing the infamous case of lobbyist Jack Abramoff, who bought politicians expensive sports game tickets, then closed them in on political deals at the games); Robert L. Jackson, *The Resignation of Jim Wright: Speaker's Downfall*, LA TIMES (June 1, 1989), http://articles.latimes.com/1989-06-01/news/mn-1334_1_public-man-ethics-committee-official-conduct (on file with *The University of the Pacific Law Review*) (discussing scandal in which House Speaker Jim Wright illegally accepted \$145,000 in gifts from Ft. Worth developer George A. Mallick, Jr.).

85. Star Scientific is a Richmond-based dietary supplement company.

86. Helderman & Zapotosky, *supra* note 84.

87. This disclosure requirement was very vague. For example, the nature of the gift and the date of transactions were not required. *Id.*; Piper, *supra* note 23, at 15.

88. This is the loophole that is probably the largest contributor to covering up the McDonnell scandal, as most gifts were given to McDonnell's wife. See Piper, *supra* note 23, at 15.

89. See Kusnetz, *supra* note 16.

90. For example, see Senate Bill 649 and House Bills 1211, and 2070. See also Editorial Board, *Virginia Officials have a Chance to Add Teeth to Ethics Reform Legislation*, WASH. POST (Mar. 30, 2015), https://www.washingtonpost.com/opinions/virginia-officials-have-a-chance-to-add-teeth-to-ethics-reform-legislation/2015/03/30/c9961500-d718-11e4-b3f2-607bd612aeac_story.html (on file with *The University of the Pacific Law Review*).

1. *Inadequacies in Virginia's Laws Regulating Gifts to State Officials*

Virginia's current laws regulating gift giving to state officials are sieved with loopholes. In 2014, Virginia lawmakers passed Senate Bill 649 and House Bill 1211, which set a \$250 cap on individual *tangible* gifts state officials may receive from lobbyists and other related sources,⁹¹ and required disclosure of such gifts when given to state officials' immediate family members.⁹² Although a welcome step in the right direction, local newspapers characterized these new laws as "a handful of watered-down reforms, stripped of meaningful changes to the rules governing gifts and disclosure, which are among the weakest in the nation."⁹³ The Washington Post went as far as to call these 2014 laws "so slack it would be disingenuous to refer to it as 'reform.'"⁹⁴

The legislature responded to the attacks on their inadequate reform efforts with a 2015 bill that reduced the \$250 gift cap to \$100 and included *intangible* gifts into the definition as well.⁹⁵ However, as ProgressVA⁹⁶ Executive Director Anna Scholl explained, "[a]pproving the \$100 aggregate gift cap was literally the least legislators could do . . . [t]hey took action on a single, headline-grabbing

91. See *id.*; see also Nolan, *supra* note 41. These additional prohibited sources include a lobbyist's principal; or a person, business, or organization who is a party to, or seeking to become a party to, certain governmental contracts.

92. Rachel Weiner, *Virginia Lawmakers Detail Ethics Reform Idea*, WASH. POST (Jan. 7, 2014), http://www.washingtonpost.com/local/virginia-politics/virginia-lawmakers-detail-ethics-reform-plans/2014/01/07/3ad5c6ac-7734-11e3-8963-b4b654bcc9b2_story.html (on file with *The University of the Pacific Law Review*). Governor McAuliffe signed an executive order upon entering office which restricts all of Virginia's executive branch employees from accepting gifts over \$100 from any single source (which includes gifts to their family members); however, this limitation does not apply to the other branches. Jim Nolan, *McAuliffe's Ethics Panel Recommends Changes On Gift, Disclosure, Conflict Rules*, TIMES DISPATCH (Nov. 14, 2014), http://www.timesdispatch.com/news/state-regional/mcauliffe-s-ethics-panel-recommends-changes-on-gift-disclosure-conflict/article_c344f081-fb86-5feb-89b9-899c461fd0f6.html?mode=jqm (on file with *The University of the Pacific Law Review*) [hereinafter *McAuliffe's Ethics Panel Recommends Changes*].

93. See Jim Nolan, *Va. Ethics Measure is Seen As Inadequate*, DAILY PROGRESS (Apr. 2014), http://www.dailyprogress.com/news/va-ethics-measure-is-seen-as-inadequate/article_b65cb470-c973-11e3-addf-001a4bcf6878.html?mode=jqm (on file with *The University of the Pacific Law Review*) [hereinafter *Va. Ethics Measure*]; *Virginia's New Ethics Reform Commission Is A Welcome Step*, WASH. POST (Sept. 26, 2014), http://www.washingtonpost.com/opinions/virginias-new-ethics-reform-commission-is-a-welcome-step/2014/09/26/f4056ede-44fc-11e4-9a15-137aa0153527_story.html (on file with *The University of the Pacific Law Review*); *McAuliffe's Ethics Panel Recommends Changes*, *supra* note 92.

94. Editorial Board, *Virginia's Ethics Bill Won't Rein in Richmond's Common Excesses*, WASH. POST (Feb. 27, 2014), http://www.washingtonpost.com/opinions/virginias-ethics-bill-wont-rein-in-richmonds-common-excesses/2014/02/27/8913913a-9f31-11e3-a050-dc3322a94fa7_story.html (on file with *The University of the Pacific Law Review*).

95. Bob Brown, *Legislature Approves Ethics Bill with \$100 Aggregate Gift Cap*, TIMES DISPATCH (April 17, 2015), http://www.richmond.com/news/virginia/government-politics/article_1d1225c8-3929-5099-8ce5-eace700186c9.html (on file with *The University of the Pacific Law Review*).

96. PROGRESSVA, VIRGINIA'S 2015 ETHICS REFORM: AN ANALYSIS OF HB2070 AND ITS IMPACT ON GIFT GIVING IN RICHMOND (2015). ProgressVA is a multi-issue progressive advocacy organization that combines cutting edge online organizing and communications with rapid and hard-hitting earned media strategies.

item while refusing to approve a litany of proposals to strengthen the ethics bill and increase transparency.”⁹⁷ The 2014 and 2015 reform efforts left two glaring loopholes. First, under Virginia’s current gift rules there are no caps on, nor disclosure requirements for, gifts that government officials may receive on account of “friendship,” nor any oversight body to determine when a purported friendship is legitimate.⁹⁸ The looseness of the term “friendship” paired with the absence of an oversight body to define the term paves the way for unencumbered exploitation of this loophole.

The second loophole that persisted through recent reform efforts is that the new gift regulations still allow private parties to pay for state officials’ travel to meetings and conferences with no disclosure requirement.⁹⁹ Specifically, the new laws do not include reimbursement for travel to national conferences in their definition of a “gift.”¹⁰⁰ Consequently, such travel is not subjected to a gift limit and state officials do not need to disclose the amount they were reimbursed nor the source of such reimbursement.¹⁰¹ This loophole allows elected officials to accept free travel to lavish functions from special interests completely undetected.¹⁰² Governor McAuliffe attempted to close this loophole in his proposed amendments in HB 2070 and SB 1424, which lawmakers outright rejected.¹⁰³ Anna Scholl voiced her disapproval, stating “[s]hame on members of the General Assembly for rejecting the Governors commonsense proposals to close glaring loopholes in the ethics legislation” and “[i]t’s simply pathetic and disgraceful these politicians put their own personal enrichment and convenience ahead of integrity and transparency.”¹⁰⁴ Thus, despite recent reform efforts, gift caps and disclosure rules in Virginia remain ill equipped to end the stream of political scandals permeating the state.

2. *Federal Gift Caps and Disclosure Laws as a Successful Model for Virginia*

A comparison to the strict and comprehensive laws governing gift giving to U.S. federal government officials illuminates the shortcomings of Virginia’s

97. *General Assembly Refuses to Close Travel Loopholes in Ethics Bill*, BLUE VIRGINIA (Apr. 17, 2015), <http://www.bluevirginia.us/diary/13180/virginia-news-headlines-friday-morning> (on file with *The University of the Pacific Law Review*).

98. *See Va. Ethics Measure*, *supra* note 93. The only limitation is that lobbyists cannot be considered a friend. *Id.*

99. Patrick Wilson, *Virginia Lawmakers Approve New Gift Limit Rules*, PILOT ONLINE (Apr. 18, 2015), <http://hamptonroads.com/2015/04/virginia-lawmakers-approve-new-gift-limit-rules> (on file with *The University of the Pacific Law Review*).

100. *PROGRESSVA*, *supra* note 96.

101. *Id.*

102. *General Assembly Refuses to Close*, *supra* note 97.

103. *Id.*

104. *Id.*

current standards.¹⁰⁵ The general rule that applies to federal government employees is that they may not receive gifts over \$50¹⁰⁶ from any outside source that is not family or a close friend.¹⁰⁷ The federal government designed its comprehensive and detailed gift regulations to protect the integrity of the federal government by ensuring government officials “act impartially and do not give preferential treatment to any private organization or individual.”¹⁰⁸ The federal rules clearly define from whom government officials may receive gifts and broadly define “gift,” including detailed exceptions and exclusions.

First, government employees cannot accept any gifts, directly or indirectly, from a “prohibited source.”¹⁰⁹ A “prohibited source” includes people or organizations conducting business (or seeking business) with the federal employee’s agency, people that the employee’s agency regulates, and people who have an interest in the performance or nonperformance of the federal employee’s official duties.¹¹⁰ Second, government employees cannot accept any gifts given on account of their “official position.”¹¹¹ The federal rules also carve out a clearly defined exception for gifts from family members and personal friends to ensure such legitimate gift-giving practices persist.¹¹² To qualify as a gift due to a personal relationship, however, the origin of the friendship, the history of gift giving between the parties, and the nature and value of the gift must all indicate that this gift had no basis in a business relationship.¹¹³ The Office of Government Ethics (OGE)¹¹⁴ extends particular scrutiny to “friendships” that develop on the job to prevent any unethical manipulation of this exception.¹¹⁵

In addition to having nuanced and comprehensive rules governing gift giving to government employees, the federal government also effectively disseminates these standards through the OGE’s user-friendly website, which provides detailed guidance and training materials about the restrictions applicable to Government officials.¹¹⁶ This combination of detailed parameters for gifts to federal

105. Jessica Tillipman, *Gifts, Hospitality, and The Government Contractor*, 14-7 BRIEFING PAPERS 1, 1 (June 2014). The federal rules also govern gift giving between government employees; however, this Article only addresses the rules governing gifts from outside sources.

106. Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.202 (2016).

107. *See id.*

108. *See id.*

109. *See id.* § 2635.202(a), (d), (e).

110. *Id.* § 2635.203(d).

111. Meaning any gift that would not have been offered if the employee were not working for the government. *See id.* § 2635.203(a)(2).

112. *See id.* § 2635.204 (b); *see also* Tillipman, *supra* note 105, at 3.

113. *See* Tillipman, *supra* note 105, at 3.

114. A centralized federal agency that coordinates ethics interpretations and standards for all three branches of government. *See* U.S. OFFICE OF GOV’T ETHICS, <http://www.oge.gov> (last visited Jan. 25, 2016) (on file with *The University of the Pacific Law Review*).

115. *See* Tillipman, *supra* note 105, at 4.

116. *See* U.S. OFFICE OF GOV’T ETHICS, *supra* note 114.

government employees, and the effective dissemination and enforcement of those standards, minimizes the opportunity for exploitable loopholes.

III. PROPOSAL FOR COMPREHENSIVE ETHICS CODE REFORM IN VIRGINIA

Despite recent efforts to reform Virginia's ethics laws, the patchwork of bodies that the state charges with ethics oversight responsibility are still fraught with limitations, and the state's recent attempts to strengthen gift caps and gift disclosure laws are still sieved with loopholes. The inadequacies in Virginia's ethics laws, which have and will continue to tempt political scandal, are in dire need of further reform. Virginia's ethics law reform should include the creation of a powerful, nonpartisan, permanent ethics enforcement commission made up of members of the public, and the adoption of more comprehensive rules regulating who may give gifts to government officials.

A. *Creating a Permanent, Independent, and Powerful Ethics Commission*

Virginia's legislature should replace the state's ethics committee and advisory council with an independent state ethics commission that combines the strengths of successful commissions throughout the nation. Unlike Virginia's current ethics committee, which is partisan and powerless,¹¹⁷ the proposed ethics commission would be independent, perform meaningful ethics audits, impose stringent penalties for transgressions, and conduct mandatory ethics training for all state officials and employees. In addition, the proposed commission would hold monthly meetings to undertake investigations, hear allegations of ethics violations, and issue advisory opinions on the law.

The composition of Virginia's ethics commission should take into account the need for political independence, expertise, and a diversity of perspectives. To ensure maximum independence, the commission should be bipartisan, with a combination of members of the public and gubernatorial appointees, and no single political party should hold a majority of seats.¹¹⁸ Moreover, Virginia should prohibit its ethics commissioners from holding public office two years before and after their role on the commission, to ensure absolute independence and protect against Hamilton-like *quid pro quos*.¹¹⁹ Each commissioner should serve staggered four-year terms, to ensure that the commission retains a level of institutional knowledge as experienced commissioners leave and new, potentially

117. See Part 0.0.0 (discussing the inadequacies of Virginia's current ethics commission).

118. See Part 0.0.0 (discussing the differing compositions of ethics commissions throughout the country). These composition rules are consistent with the national trend toward depoliticized independent ethics commissions. Of thirty-nine states with statewide ethics commissions, almost all are bipartisan, and twenty-eight are composed entirely of public members. See Crider & Milyo, *supra* note 22, at 721.

119. Two years falls within the middle of the range used by other states. See Part 0.0.0 (discussing the pre- and post-employment limitations states place on ethics commissioners).

inexperienced commissioners join.¹²⁰ The commissioners should also elect their own Chair and Vice-Chair for two-year terms, but only public members should fill these leadership positions to ensure the governor appointees do not exert undue influence on the commission.¹²¹ This composition will ensure the ethics commission is impartial, rich with institutional knowledge, and representative of a variety of perspectives.

Virginia's ethics commission should also have innovative enforcement powers and broad jurisdiction. The commission's enforcement tools should include removing or suspending the transgressor from office, demoting the transgressor, publicizing the transgressor's wrongdoing, attaining restitution from the transgressor for any inappropriate financial benefits, and instituting a variety of fines against the transgressor.¹²² The commission should also be able to enforce penalties for incoming or former commissioners that violate their pre or post-commission employment restrictions.¹²³ The commission's jurisdiction should also include government officials who committed an ethics violation while holding public office, but have since left state service—provided that the Commission's investigation begins within one year from the date the transgressor committed the alleged violation.¹²⁴ This expanded jurisdiction would prevent state employees from escaping liability for ethics breaches simply by leaving office, yet the one-year requirement ensures some limitation on this power.¹²⁵ The combination of broad jurisdiction and robust enforcement powers will ensure Virginia's ethics commission retains a conspicuous and authoritative presence.

In addition to the composition, jurisdiction, and enforcement powers of Virginia's ethics commission, the commission's core mandate must include the dissemination of the ethics standards throughout the state. Specifically, the commissioners should brief and train every state employee—either in person or online—on ethics requirements applicable to their position.¹²⁶ Moreover, the commission should require each employee to sign a document that certifies he or she has undergone ethics training, and understands and vows to uphold the state ethics rules.¹²⁷ Ensuring the commission provides comprehensive ethics training is essential for widespread adherence to these newly created standards.

120. See Part 0.0.0 (discussing the term limits other states adopt for their commissioners).

121. Having public members hold leadership positions may be (or at least appear) more democratic and fair than having the governor's appointees running the meetings.

122. For example, an automatic fine of up to \$50 per day for failing to file required disclosure and authorization forms in a timely manner. See Part 0.0.0 (discussing the range of enforcement tools states empower their state commissions with).

123. \$10,000 maximum per infraction is the national trend. See Piper, *supra* note 23, at 16.

124. See Part 0.0.0 (discussing the jurisdictional limitations states place on ethics commissions).

125. See Piper, *supra* note 23, at 15.

126. See Part 0.0.0 (discussing the OGE's dissemination of ethics standards and training materials to federal government employees).

127. See *id.*

Critics of the proposal of this ethics commission may raise the concern that Virginia's state officials would never vote for, create, nor consent to the creation of an ethics commission charged with such far-reaching powers, because the commission would place significant burdens on their own lives. Such a concern, however, is inapposite in Virginia's case due to the recent national attention the state's lax ethics standards garnered.¹²⁸ The incessant airing of Virginia's political scandals in the Washington Post, the national attention on the McDonnells' criminal corruption trial,¹²⁹ the internal calls for reform by the new Governor himself,¹³⁰ and the widespread ridicule of Virginia lawmakers for recently rejecting Governor McAuliffe's proposal for such a commission¹³¹ all put Virginia legislators under a powerful spotlight to address these inadequacies regardless of the consequences to their individual lives. The establishment of this independent, powerful, and multidimensional ethics commission would be a significant step towards ensuring Virginia's elected officials exhibit greater ethics compliance in the future.

B. Adopting Stricter Definitions of Who Can Give Gifts to Government Officials

In addition to establishing an ethics commission, the Virginia legislature should enact stricter and more comprehensive rules regarding who may give gifts to government officials, which the commission can then enforce. Although Virginia's legislature recently attempted to reform the state's gift caps and disclosure requirements,¹³² additional legislation must address the gaping holes that this prior attempt failed to patch.¹³³

First, Virginia lawmakers should adopt clearer and stricter regulations on who can give gifts to state officials. The federal ethics rules include a provision that bars government officials from receiving gifts over the gift cap amount from "prohibited sources," and another provision that bars government employees from receiving gifts *on account of their official position*,¹³⁴ the latter of which Virginia does not have. Adding this catchall provision that forbids the receipt of gifts given because of a government employee's official position will limit the potential for exploitation of the rules by someone who is not a prohibited source,

128. See, e.g., *Bob McDonnell's Trial Comes to Merciful End*, *supra* note 1.

129. *Id.*

130. See Kusnetz, *supra* note 16.

131. See Ginley, *supra* note 15 (emphasizing that Virginia legislators are effectively left to police themselves).

132. See Part 0.0.0 (discussing Senate Bill 649 and House Bill 1211).

133. See Part 0.0.0 (discussing the gaps and criticisms of Senate Bill 649 and House Bill 1211).

134. See Part 0.0.0 (discussing the definitions the federal government uses in gift regulations).

but is nonetheless interested in influencing the actions of Virginia's state officials.¹³⁵

Relatedly, Virginia needs stricter rules defining the boundaries of permissible gift giving between friends/family and state officials.¹³⁶ As it stands now, Virginia's gift laws provide no suitable parameters defining the very loose terms of "personal friendship," and there is no oversight body ensuring the characterization of the relationship as a personal friendship is legitimate.¹³⁷ Similar to the federal rules, Virginia's ethics laws should outline factors that must be met to prove that the source gave a state official a gift based on their personal friendship rather than their business relationship, including a history of personal gift giving that existed prior to the commencement of any business relationship.¹³⁸ The proposed ethics commission,¹³⁹ like the federal government's Office of Government Ethics, should extend exceptional scrutiny to these "friendship" transactions to ensure that state employees do not exploit this prospective loophole in the state's ethics laws.¹⁴⁰

Lastly, Virginia lawmakers should include reimbursement for travel to national conferences in the definition of a "gift," so that such travel is subject to gift limits and disclosure requirements. Until interest groups are forced to disclose and limit their funding of state officials' travel, such interest groups will continue to have a secret avenue around the state's new gift caps. Without having to disclose who is paying for state officials to attend certain events, interest groups can continue to influence the agenda of state officials without anyone knowing their involvement, which completely undermines Virginia's ethics reform efforts to date.¹⁴¹ Thus, Virginia lawmakers should revisit and adopt Governor McAuliffe's proposed disclosure requirements for such travel arrangements.¹⁴² The benefit of adopting these comprehensive and detailed exclusions to the gift rules is that when items given to state officials do not squarely fall within the well-defined exceptions, the law will *presume* they are gifts.

Critics of this reform proposal may argue that even if Virginia's legislature does pass these comprehensive reforms to the state's gift cap requirements, state officials may still decline to follow the rules. To support this concern, critics may cite ethical failures and egregious scandals in other states, despite the states'

135. "Prohibited source" means the individual may not be a lobbyist or someone seeking business with the government.

136. This is a category exempt from regulation in Virginia's current law, which leads interested parties to try to characterize their relationship with state officials as a "friendship" to escape facing any gift caps.

137. See Part 0.0.0.

138. See Part 0.0.0 (discussing federal rule 5 C.F.R. § 2635.204 (b), which outlines these factors).

139. See Part 0.0.

140. See Part 0.0.0 (discussing the close scrutiny the OGE pays to such transactions).

141. See Part II.B.1; Editorial Board, *supra* note 90.

142. See Part II.B.1.

near-perfect ethics standards on paper.¹⁴³ The proposed gift-law reform, however, uses the federal laws as a model to avoid the weaknesses of current gift caps and disclosure laws in other states, thereby decreasing the possibility that ethics issues afflicting other states would occur in Virginia after this reform.¹⁴⁴ Moreover, the concern that state officials will not follow a law is a feeble justification for the avoidance of making the law in the first place. Once a law is made, it will create new norms, place state officials under a brighter spotlight, and make standards legally enforceable. Even if this comprehensive reform does not eradicate Virginia's pattern of corruption, the reform will at a minimum result in *less* corruption than is currently escaping adjudication under the Commonwealth's weak ethics laws.

IV. CONCLUSION

Virginia's current ethics laws are sieved with loopholes and in dire need of a more complete reform.¹⁴⁵ The two most troubling aspects of Virginia's ethics laws are the absence of an independent ethics commission to oversee and enforce ethics laws and the glaring loophole in the rules governing what a gift is and who state officials may receive gifts from.¹⁴⁶ Examples of robust and effectual ethics rules in states throughout the nation and at the federal level provide valuable and well-tested models of the type of reform Virginia needs to undertake.¹⁴⁷ It is crucial for Virginia's legislature to put aside their ideological differences and formulate a bipartisan proposal to systematically reform the commonwealth's ethics laws. Absent comprehensive reform, the people of Virginia will continue to lose trust in their government and the Washington Post will continue to stream stories of the egregious scandals that Virginia's broken system of ethics laws engenders.

143. See, e.g., Jed Lewison, *Leading New Jersey Paper Calls for Investigation of Yet Another Potential Christie Scandal*, DAILY KOS (Jan. 27, 2014), <http://www.dailykos.com/story/2014/01/27/1272884/-Leading-New-Jersey-paper-calls-for-investigation-of-yet-another-potential-Christie-scandal#> (on file with *The University of the Pacific Law Review*). For example, New Jersey faces frequent ethics violations despite holding the highest State Integrity Investigation ranking.

144. See Part 0.0.0.

145. See generally Laura Vollezza, *McAuliffe Vows to Amend Ethics Bills to Close Loopholes*, WASH. POST (Mar. 27, 2015), https://www.washingtonpost.com/local/virginia-politics/mcauliffe-vow...loopholes/2015/03/27/2e87b766-d48f-11e4-8fce-3941fc548f1c_story.html (on file with *The University of the Pacific Law Review*) (describing the loopholes in Virginia's current ethics laws).

146. Ginley, *supra* note 15.

147. See generally *Links to States' Legislative Ethics and Lobbying Laws*, *supra* note 10 (providing examples of the model ethics rules that Virginia should adopt).