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HOUSE BILL NO. 1911

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on _____)

(Patron Prior to Substitute--Delegate Batten)

A BILL to amend and reenact §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; certain gifts prohibited; foreign countries of concern.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Bolivarian Republic of Venezuela, and the Syrian Arab Republic, including any agency, representative, or other entity under significant control of such countries.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered

27 pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or
28 (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local
29 agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to
30 aggregation for purposes of this prohibition.

31 C. No officer or employee of a state governmental or advisory agency or candidate required to file
32 the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or
33 receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value
34 in excess of \$100 within any calendar year for himself or a member of his immediate family from any
35 person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered
36 pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or
37 (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state
38 governmental or advisory agency of which he is an officer or an employee or over which he has the
39 authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation
40 for purposes of this prohibition.

41 D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate
42 or a member of his immediate family may accept or receive a gift of food and beverages, entertainment,
43 or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in
44 attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the
45 disclosure form prescribed in § 2.2-3117.

46 E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member
47 of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100
48 for which the fair market value or a gift of greater or equal value has not been provided or exchanged so
49 long as such foreign dignitary is not a representative of a foreign country of concern. Such gift shall be
50 accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines
51 established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of
52 the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

53 F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or
54 a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from
55 a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a
56 member of his immediate family on the basis of a personal friendship. Notwithstanding any other
57 provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee,
58 or candidate or his immediate family for purposes of this subsection. In determining whether a person
59 listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the
60 circumstances under which the gift was offered; (ii) the history of the relationship between the person and
61 the donor, including the nature and length of the friendship and any previous exchange of gifts between
62 them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax
63 deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar
64 gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

65 G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate
66 or a member of his immediate family may accept or receive gifts of travel, including travel-related
67 transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of
68 \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or
69 candidate has submitted a request for approval of such travel to the Council and has received the approval
70 of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in §
71 2.2-3117.

72 H. During the pendency of a civil action in any state or federal court to which the Commonwealth
73 is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General
74 who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person
75 that he knows or has reason to know is a person, organization, or business that is a party to such civil
76 action. A person, organization, or business that is a party to such civil action shall not knowingly give any
77 gift to the Governor or the Attorney General or any of their employees who are subject to the provisions
78 of this chapter.

79 I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council
80 every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year
81 period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as
82 published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole
83 dollar.

84 J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia,
85 judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any
86 district court. However, nothing in this subsection shall be construed to authorize the acceptance of any
87 gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of
88 Virginia.

89 **§ 30-103.1. Certain gifts prohibited.**

90 A. For purposes of this section:

91 "Widely attended event" means an event at which at least 25 persons have been invited to attend
92 or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
93 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
94 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

95 B. No legislator or candidate for the General Assembly required to file the disclosure form
96 prescribed in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift
97 for himself or a member of his immediate family with a value in excess of \$100 or any combination of
98 gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his
99 immediate family from any person that he or a member of his immediate family knows or has reason to
100 know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii) a
101 lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are not subject to
102 aggregation for purposes of this prohibition.

103 C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
104 immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of
105 admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a

106 widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form
107 prescribed in § 30-111.

108 D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate
109 family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the
110 fair market value or a gift of greater or equal value has not been provided or exchanged so long as such
111 foreign dignitary is not a representative of a foreign country of concern, as defined in § 2.2-3103.1. Such
112 gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines
113 established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of
114 the Commonwealth, but the value of such gift shall not be required to be disclosed.

115 E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
116 immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed
117 in subsection B if such gift was provided to the legislator or candidate or a member of his immediate
118 family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed
119 in subsection B may be a personal friend of the legislator or candidate or his immediate family for purposes
120 of this subsection. In determining whether a person listed in subsection B is a personal friend, the
121 following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the
122 history of the relationship between the person and the donor, including the nature and length of the
123 friendship and any previous exchange of gifts between them; (iii) to the extent known to the person,
124 whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the
125 gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the
126 disclosure form prescribed in § 2.2-3117 or 30-111.

127 F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
128 immediate family may accept or receive gifts of travel, including travel-related transportation, lodging,
129 hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or
130 provided by a person listed in subsection B when the legislator or candidate has submitted a request for
131 approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1.
132 Such gifts shall be reported on the disclosure form prescribed in § 30-111.

133 G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council
134 every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year
135 period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as
136 published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole
137 dollar.

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