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To: State Government Committee, Pennsylvania Senate  
From: Natalie O'Donnell Wood and Peggy Kerns, Center for Ethics in Government,  
National Conference of State Legislatures (NCSL)  
Date: April 28, 2014  
Re: State Gift Laws and Pennsylvania Comparison

*Disclaimer: The Center for Ethics in Government at NCSL does not rank states assessing the strength or weakness of their laws. We make no judgment on whether a law is effective or should be copied. We do not develop model legislation. Our research focuses on how ethics and lobbying laws apply to the legislative branch of government. The following analysis provides legislators and staff with information on how Pennsylvania's gift law compares to other states. We are not suggesting any particular changes or revisions. Ethics laws differ from state to state. We have found that the region of the country, local customs and traditions, and scandals and controversies, often influence the passing of ethics laws.*

### **State Gift Laws**

Every state has bribery laws and bans on giving and receiving gifts in exchange for favors. The growing trend is for states to further restrict gifts, even absent a quid pro quo. In 1957, Wisconsin became the first "no cup of coffee" state when it prohibited legislators from receiving anything of value from lobbyists. More states began to restrict gifts following the Watergate scandal in 1972. The Jack Abramoff scandal at the congressional level in 2006 spurred another round of reforms at the state level.

The Ethics Center divides gift laws loosely into three categories: zero tolerance or no cup of coffee, monetary gift thresholds, and bans on gifts that influence official action.

**Zero tolerance or no cup of coffee.** Nine states – Colorado, Florida, Kentucky, Louisiana, Massachusetts, Minnesota, North Carolina, South Carolina and Wisconsin – ban lobbyists from giving gifts to lawmakers. Exceptions exist within these stringent laws. In Wisconsin, legislators can accept anything of value if it also is available to the general public. Colorado allows gifts under \$50 from the general public. Florida has a gift exception for floral arrangements or other celebratory items given to legislators and displayed in the chambers the opening day of the session.

**Monetary thresholds.** Thirty states specify a monetary threshold on gifts, including food and beverages, to legislators (please refer to NCSL map for detail on which states fall into this category). Limits range from \$3 a day for gifts, food and beverages in Iowa, to \$500 for gifts and \$500 for entertainment a year in Texas. California's limit is \$10 a day, with an annual limit of \$440, which is raised slightly every other year by the state's Fair Political Practices Commission. In Oklahoma, lobbyists cannot spend more than \$100 during a calendar year on meals, tickets or gifts for each elected official. By regulation, the Rhode Island Ethics Commission prohibits all public officials from accepting any lobbyist's gift worth more than \$25 per instance and \$75 per year.

**No gifts that influence official action.** Although the list has grown shorter, 11 states, including Pennsylvania, place no monetary restrictions on gift giving (the others are Delaware, Hawaii, Mississippi, Missouri, New York, North Dakota, South Dakota, Vermont, Virginia and West Virginia). Pennsylvania's law prohibits gifts "if a vote, official action, or judgment of the public official or public employee or nominee or candidate for public office would be influenced." Virginia is poised to become the next state to move from this category into a state that has a monetary threshold, pending the legislature's approval of gubernatorial amendments to HB 1211, which would prevent the acceptance of certain gifts greater than \$250. Georgia transitioned from this category to the monetary threshold category during the 2013 session by instituting a \$75 limit on lobbyists' gift giving.

**Definitions are important and exceptions almost always exist.** Definitions can help provide guidance and some degree of clarity to a confusing and nuanced topic. NCSL's 50-state information on restrictions and prohibitions includes definitions of the various important terms used in state gift laws, most typically "gift" and "thing of value," or variations thereof. Gifts and things of value most often include, but not always, money, purchases, payments, services, items, property and entertainment-related expenses.

Gifts are almost better defined by what they are not. Although there is no general consensus among all the states, there are some themes. Typical exemptions are campaign contributions, gifts given by friends or relatives, loans made in the course of ordinary business, awards and educational items. Many states have also exempted small items or trinkets and use a variety of terms to describe them. Maryland, Minnesota, New Hampshire and West Virginia use "insignificant;" New York, Washington, West Virginia and Wyoming use "nominal;" and Alabama and Missouri use "de minimis."

No definition can encompass all situations. Even states that have seemingly comprehensive details about what is and is not a gift and to whom the law applies must revisit the issue when its practical application is challenged. Alabama redefined "public employee" after 2011 changes to its gift laws prohibited public school teachers from receiving students' gifts. New York made clarifications to the definition of a "widely attended event" in 2012. And in the 2014 legislative session, Washington examined legislation to explain what constituted an "infrequent occasion" for purposes of accepting gifts of food and beverage.



**To eat or not to eat?** In the maze of state gift laws, one question is asked frequently: When is it okay to eat? More than two-thirds of the states, including Pennsylvania, specifically exempt food and beverages from their gift laws in certain situations. Alaska, Michigan, Mississippi, Nebraska and North Carolina are among states that exempt food and beverages if they are immediately consumed. In Connecticut, Minnesota, Ohio, South Carolina and Tennessee, legislators can eat at an event if all legislators are invited. In Colorado, legislators can eat at a gathering if they give a speech or respond to questions from the audience and the event is not paid for by a registered lobbyist. One of Maine's exemptions allows consumption of food and beverage if the meal is served during a prayer breakfast.

**Disclosure.** Proponents of disclosure laws say they improve transparency and allow the public to decide if receiving gifts affects public policy. At least 32 states, Pennsylvania among them, require public officials to disclose gifts over a certain amount. In addition, laws in most states require that lobbyists disclose the gifts they give. In South Dakota, lobbyists must file detailed reports on all costs associated with lobbying. In Mississippi, the lobbyists' clients must report. North Dakota lobbyists must report lobbying expenditures over \$60. If a legislator inquires about the cost of a gift, the lobbyist must supply that information and the legislator can pay for it, if he so chooses.

**Conclusion.** The issue of gift laws has surfaced and resurfaced as a hot topic in state legislatures in the 15 years that the Ethics Center has tracked the issue – and state policies are ever-shifting. For comparison's sake, a 2002 Ethics Center publication listed only three states in the "zero-tolerance" category, about half the states fell into the monetary thresholds category, still others relied solely on disclosure, and a third prohibited gift giving or receiving if the gift was given or received to influence official action. To provide another measure, from 2010 to 2013, 45 states considered approximately 250 gift-related bills and enacted 20. Pennsylvania joins other states, such as Missouri, Ohio, Virginia and Washington, by examining changes to its gift laws in 2014.

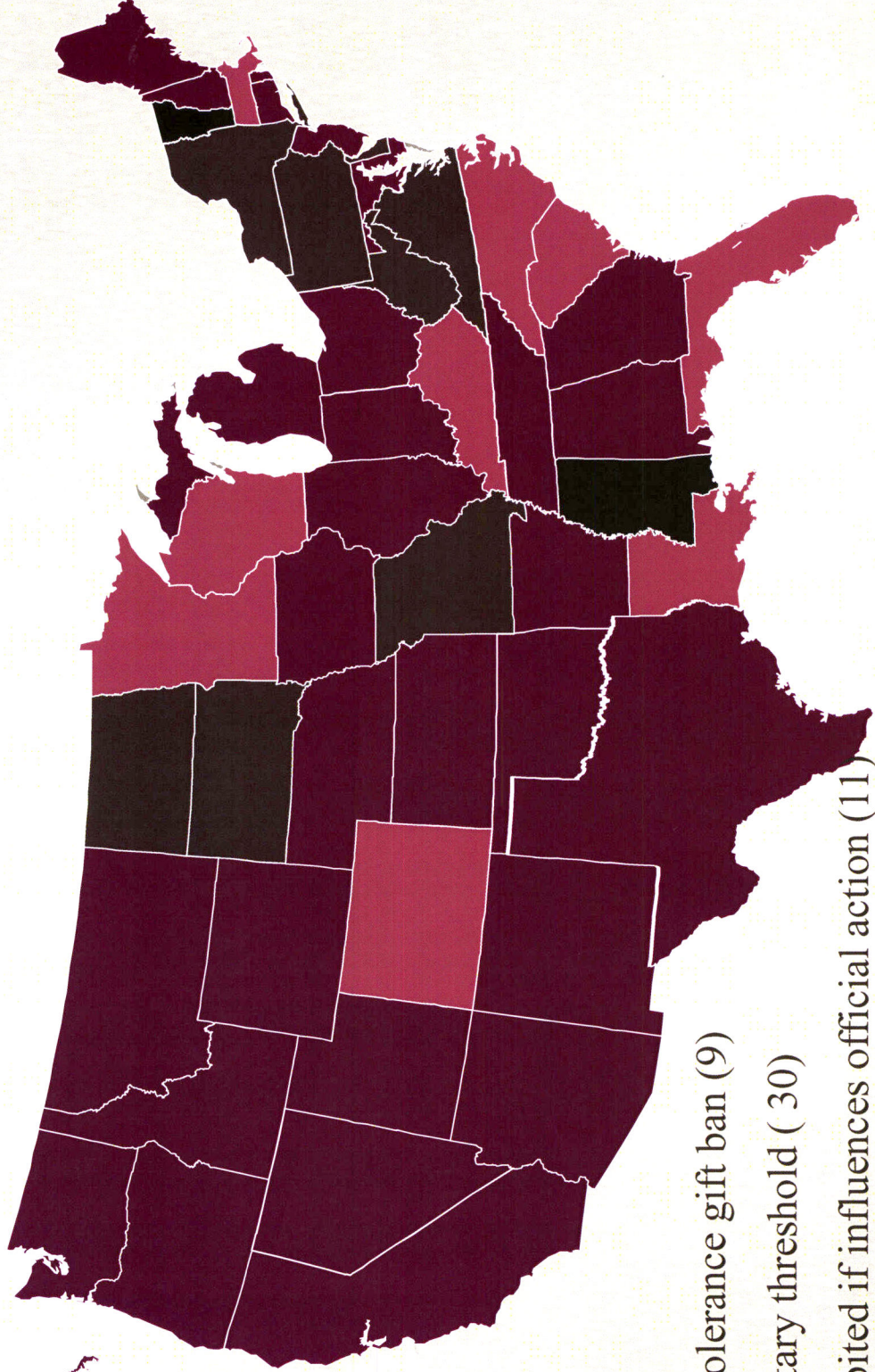




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# Gift Restrictions



Zero tolerance gift ban (9)

Monetary threshold (30)

Prohibited if influences official action (11)

