States With Anti-corruption Measures for Public Officials [S.W.A.M.P.] Index Report 2018

Coalition for Integrity

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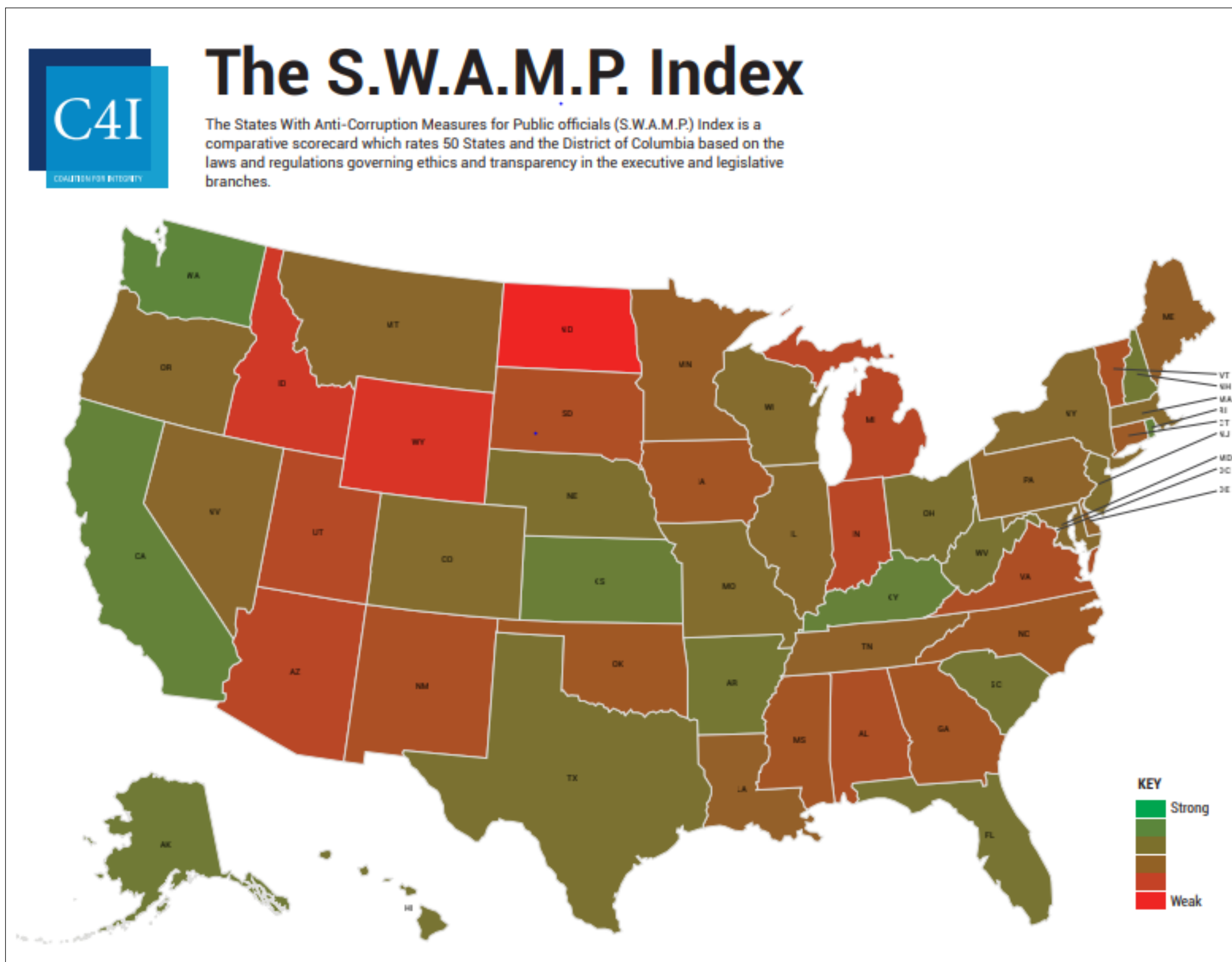
The S.W.A.M.P. Index

The Index of States With Anti-corruption Measures for Public officials [S.W.A.M.P.] analyzes the laws of the 50 States and District of Columbia relating to the scope, independence and powers of ethics agencies, acceptance and disclosure of gifts by public officials, transparency of funding independent expenditures and client disclosure by legislators. It is an objective analysis, based on current state laws and regulations governing ethics and transparency in both the executive and legislative branches.[1]



1. In a majority of states, judicial ethics is subject to a separate legal and regulatory framework and administered by a separate entity. We expect to produce a similar index for the judiciary in the future.

Why This Project?

Battling corruption requires an extensive tool box of laws promoting ethical behavior, enhancing transparency, enabling effective enforcement and ensuring accountability. This is particularly important on the state level, where executive branch officials and legislators make daily decisions and spend trillions of dollars on roads, health, education, welfare and other programs. At a time when the U.S. Congress is often deadlocked and the federal government is de-regulating, the states are exercising more power than at other times in U.S. history. In fact, according to a 2016 Gallop poll, a majority of people favor concentrating more power in the states.

Many have noted the link between a strong ethics regime and trust in the government. State laws are often the first line of defense against corruption and cover thousands of elected or appointed officials and state employees nationwide. In reviewing the first two years of New York State's ethics agency, the New York City Bar Association and Common Cause, pointed to the most important reason to have a strong and effective ethics agency:

> because ethics rules are based on both the fact and appearance of impropriety, they serve to require a mode of official behavior that reduces cynicism and encourages the people's trust in government and their willing participation in the political process.[2]

As the 2018 election approaches, the Coalition for Integrity wants voters to understand the "state of ethics" in their state so they can better evaluate candidates, demand commitments to improve the legal framework and judge proposed reforms. At the same time, those elected in November on the state level will have a comprehensive view of how the ethics framework in their state compares with that in other states. They will also have access to a description of best practices to draw from.

In McDonnell v. United States, the Supreme Court unanimously held that the states have the right to regulate "the permissible scope of interactions between state officials and constituents."[3] Our goal is to contribute to a more comprehensive and effective legal framework to govern those interactions and enhance trust in state governments.

2. New York City Bar Association and Common Cause, Hope for JCOPE at 2 (March 14, 2014).
3. McDonnell v. United States, 136 S. Ct. 2355, 2379 (2016).

What Constitutes a Strong Legal Framework for Public Ethics?

- All states should have an independent ethics agency with jurisdiction over elected and appointed executive branch officials, legislators and executive and legislative branch employees.
- A toothless ethics agency serves no purpose. Whether there are one or two agencies with jurisdiction over all elected officials and public servants, the agency needs wide powers to investigate and sanction all government personnel.
- Proceedings of the ethics agency should be open to the public once there is a determination that probable cause exists indicating a violation has occurred.
- Legislators should be subject to the same treatment as elected executive branch officials and employees. In states where legislatures have a separate ethics entity, it should be independent of the legislature, composed of members of the public and not legislators.
- Members of an ethics agency should be statutorily protected from removal without cause.
- Gift rules should apply equally to all government officials and should prohibit all gifts above a reasonable threshold, regardless of the source and regardless of the intent of the recipient or the gift-giver.
- Reporting all gifts above a reasonable threshold should apply equally to all government officials.
- Legislators should disclose the names of all clients for whom they work, whether the client directly hires the legislator or hires the entity which employs the legislator.
- States should take the lead in mandating disclosure of the beneficial owners of LLCs and donors to 501(c) organizations which contribute to independent spenders.

What Questions Did We Ask?

We asked eight questions, focusing on the words of the relevant laws and regulations rather than the subjective impressions of journalists and other experts as has been the practice in other reviews of state ethics.[4] We recognize that having good laws is not enough to prevent corruption and that, as a consequence, our index captures only part of the ethics framework. Enforcement is a key element in curbing unethical practices. Another very important element, which we have not addressed, is the source and adequacy of funding of the ethics agency. In a dramatic example, the Oklahoma Ethics Commission recently filed suit against Gov. Mary Fallin, legislative leaders and others for allegedly failing to provide adequate funding.[5]

ETHICS AGENCIES

The first set of questions address the fundamental framework for promoting and enforcing ethical behavior – an independent body, which has a governing board protected from removal without cause, strong investigative powers and the ability to sanction offenders. It does not matter whether there is one or two – or in the case of Alaska – three ethics agencies. What does matter is whether elected and appointed executive branch officials and employees and state legislators are covered by the ethics agencies.[6]

One key element of a strong ethics regime is the independence of the entity from political interference. We recognize that politics and cronyism play a role in the appointment process in many ethics agencies. In almost all cases, the appointments are made by the governor and the majority leaders of the state legislatures. For example, the head of the New York State ethics agency has always been headed by a director who previously worked for Governor Andrew Cuomo, while he was either governor or attorney general.[7] Statutory language prescribing the reasons for removal of these appointees protects these appointees when they carry out their duties properly. We have given no credit in cases where there is no such statutory language, where the statute allows for removal at the pleasure of the appointing authority and, for the legislative branch, where

4. Center for Public Integrity and Global Witness, 2015 State Integrity Index; Oguzhan Dincer and Michael Johnston, Measuring Illegal and Legal Corruption in American States: Some Results from 2017 Corruption in American Survey

5. Barbara Hoberock, Tulsa World, "Oklahoma Ethics Commission files lawsuit against Gov. Mary Fallin, legislative leaders" (Jun 26, 2018).

6. We have not included legislative branch employees because they rarely have decision-making authority and therefore pose less of a risk of corruption.

7. Kay Dervishi, City and State NY, "What has JCOPE actually done?" (August 5, 2018).

the ethics agency is composed of legislators.

The authority to investigate – on its own initiative or upon referral – is essential to enforcing the ethics laws and deterring corrupt behavior. The fact that the authority is shared with an inspector general or another specialized body does not detract from its effectiveness. To carry out an effective investigation, the agency must be able to compel testimony and production of documents. The proceedings of ethics agencies should be public to promote transparency and enhance the trust of the public in the operations of the ethics agency. Like criminal proceedings, information should be available once there is probable cause that a violation has occurred, and the hearings should be open to the public. The notion that ethics investigations are more sensitive than criminal proceedings or deserve more confidentiality is misplaced.

The final piece is the enforcement powers of the ethics agency. No matter how strong the ethics rules are, effective enforcement is crucial to deter wrongdoing and provide a meaningful incentive to public officials to refrain from improper conduct. Our experience from enforcement of other laws, like Foreign Corrupt Practices Act, illustrates how compliance increases with effective enforcement. If the agency's enforcement powers are limited, then its ability to compel ethical behavior is undermined. In cases, where enforcement of ethical standards is "outsourced" to the criminal justice system, the likelihood of prosecution is limited to the most egregious cases.[8]

There are a range of sanctions available, with the most extreme and least authorized being termination of employment. In cases of elected officials, both executive and legislative, this option is unavailable and the only avenue is impeachment.   Nonetheless, there are personnel actions that can provide effective deterrence, such as censure, reprimand, suspension. The ability to enjoin improper behavior or force compliance and to issue fines for noncompliance are essential tools.[9]

GIFTS

Gifts are the most obvious focus of ethics regulations. They take myriad forms, of which cash is probably the least used – alternatives include hotel accommodations, meals, tickets to sporting events, payment of honoraria for speaking, wedding and birthday presents, funeral flower arrangements, discounted purchases, loans, etc. Giving or accepting a gift in return for a specific

8. The need for enforcement has been clearly stated in another context, which applies equally to ethics. "No matter how sound the rules are for regulating the conduct of market participants, if the system of enforcement is ineffective – or is perceived to be ineffective – the ability of the system to achieve the desired outcome is undermined." G20 Working Group 1, Final Report, Enhancing Sound Regulation and Strengthening Transparency at 44 (March 25, 2009).

9. We have not looked, however, at the size of available fines, though we recognize that de minimus amounts are unlikely to act as a deterrent.

official act – or failure to act – is subject to criminal bribery statutes in every state. This kind of quid pro quo can be difficult to prove. Moreover, states need gift rules which take into account that gifts are an obvious way of building personal relationships, gaining attention, providing a chance to talk in an informal setting, demonstrating good will, and supporting a certain position – all ways of indirectly influencing action by a public official or employee.[10]

Gifts from sources with a substantial reason to influence the recipient obviously pose the most serious ethical risks. In the case of a legislator, a high risk is posed when he or she is given gifts from a lobbyist, a lobbyist's principal or someone acting on behalf of a lobbyist. High-risk sources are broader in the case of an executive branch official or employee, including not only lobbyists, but also government contractors and entities subject to licensing and regulation.

All gifts from these high-risk sources should be prohibited. However, states rules vary considerably and are often confusing with different rules applying to legislators and executive branch officials and employees. Few states prohibit all gifts, regardless of the source; while others apply an objective test to determine whether a gift is proper by asking would a reasonable person believe that the gift would tend to influence the recipient's official action. Others focus on a subjective test of whether the gift giver had the intent to influence an act of the recipient or rely entirely on criminal bribery statutes. In all cases, there are usually numerous exceptions.[11]

CAMPAIGN FINANCE

Outside money in elections has dramatically increased since the Supreme Court's ruling on Citizens' United in 2010, allowing corporations and unions to use their treasury funds to pay for independent expenditures and electioneering communications.[12] Shortly after the Citizens' United decision, the U.S. Court of Appeals for the D.C. Circuit struck down the federal contribution limits for "independent expenditure committees."[13] The court ruled that contributions to political action committees (PACs) that make only independent expenditures cannot be limited. These independent expenditure-only committees are commonly referred to today as 'Super PACs'.

10. The clearest example is the case of VA Governor Robert McDonnell, who accepted cash, designer clothes and other gifts from a person seeking state action from Virginia government officials. McDonnell was acquitted on federal charges, which required proof that the Governor had taken "official acts" in return for these gifts. Since McDonnell's actions had been limited to setting up meetings and making introductions, the court determined his conduct did not constitute "official acts." McDonnell v. United States, 136 S. Ct. 2355 (2016). At the time these events took place, Virginia had no ethics agency and such gifts were not prohibited by state law. Laura Vozella, Washington Post, Virginia legislature adopts stricter gift standards for public officials (Apr. 17, 2015).

11. Many of the exceptions are fairly standard, such as gifts from family members, coffee or tea during a meeting, a momentum for giving a speech. Others are more questionable, such as the exclusions of meals and entertainment for Pennsylvania lawmakers which do not exceed $650.

12. See Citizens' United v. Federal Elections Commission, 558 U.S. 310 (2010)

13. SpeechNow v. Federal Elections Commission, No. 08-5223, D.C. Cir. (2010)

On the federal level, Super PACs are not subject to the same campaign spending limits that apply to PACs. In addition to raising money from individuals and corporations, Super PACs may accept money from entities such as limited liability companies (LLCs), or social welfare organizations, trade associations, labor unions and other entities subject to provisions of Section 501(c) of the Internal Revenue Code. The LLCs which contribute to Super PACs do not have to disclose their beneficial owners and, similarly, 501(c) organizations do not have to publicly disclose their donors.[14] So while these entities are disclosed as donors to Super PACs, the original source of funding remains hidden. Some information about 501(c)(4) donors had been available through IRS filings, but in July 2018 the Internal Revenue Service revised its regulations to end the requirement for 501(c)(4) groups to disclose the names of their large donors to the IRS.[15]

The amount of Super PAC campaign-related spending is astounding. According to a new report[16] from Issue One, the top 15 donors to Super PACs gave $600 million between January 2010 and December 2016, accounting for more than 75 percent of the money spent by these organizations during that time period.

Every state has its own rules on PACs and Super PACS and, with rare exceptions, there is a similar lack of transparency with respect to the underlying donors. If voters know the ultimate sources behind campaign spending, they are better able to assess the credibility of the campaign advertisements financed by independent spenders, as well as judge the candidates themselves.

The question about campaign finance regulation has two parts. The first part, asks if "independent spenders" must reveal the identities of their contributors. These spenders may be PACs, LLCs, SuperPACs, 501(c) organizations—any person making independent expenditures. In general, the states require disclosure of donors with variations on the threshold amount for reporting. The second part asks more narrowly about truly "dark money" in the context of independent expenditures. If a 501(c) group or an LLC contributes to the entity making independent expenditures, must that entity disclose the 501(c) group's funders or the beneficial owners of the LLCs? At this level, anonymity prevails and voters have no way of knowing who is behind the independent campaign ads. Unfortunately, only a few states even begin to address this second level of disclosure.

14. A recent court ruling in CREW v. FEC and Crossroads Grassroots Policy Strategies, No. 16-259, D.C. Cir. (2018), should lead to additional disclosure of donors by 501(c)(4)s which contribute to Super PACs. On Sept. 18, 2018, the Supreme Court refused to stay the entry into force of the D.C. District Court ruling invalidating certain Federal donor disclosure rules. It is not likely that the Federal Election Commission, which has been deadlocked in the past, will issue new rules on the subject quickly. As a result, there is much uncertainty about the scope of disclosure required. Josh Gerstein And Maggie Severn, Politico, "Supreme Court move could spur more dark-money disclosure" (Sept. 18, 2018).

15. Internal Revenue Service, Rev. Proc. 2018-38, "Returns by exempt organizations and returns by certain nonexempt organizations" (July 16, 2018).

16. Issue One, Dark Money Illuminated (Sept. 2018).

CLIENT DISCLOSURE

According to the National Conference of State Legislators, only ten state legislatures provide full-time employment at reasonable salary levels, while 14 are part-time with quite low compensation, requiring legislators to have other sources of income in order to make a living. Regardless of whether their employment is full or part-time or in between, almost all state legislators have reported some sort of outside income creating a huge opportunity for conflicts of interest.[18]

The Center for Public Integrity and The Associated Press reviewed the financial disclosure forms of 6,933 state legislators and discovered that "three out of four lawmakers had income from other employment."[19] The report described numerous examples of state legislators acting in their own financial interest and the interest of their clients.

In most states where legislators are required to file a financial disclosure form, they are required to report the name of their employer so some information is available to judge whether their legislative actions pose a conflict of interest. The question, however, addresses the requirement to disclose client names – an equally important source of potential conflict.[20]

What Did We Find?

The Index of States With Anti-Corruption Measures for Public officials (S.W.A.M.P.) scores the 50 States and the District of Columbia based on answers to the eight questions described above: scope and independence of ethics agencies, powers of those agencies, acceptance and disclosure of gifts by public officials, transparency of funding independent expenditures and client disclosure by legislators.

The index uses a scale of 0 to 100, where 100 is a perfect score. There is wide variation in state laws and regulations governing ethics and transparency in the executive and legislative branches. The chart on the next page illustrates the number of states in the five scoring ranges: 0-20%, 21%-40%, 41%-60%,61%-80% and 81%-100%.

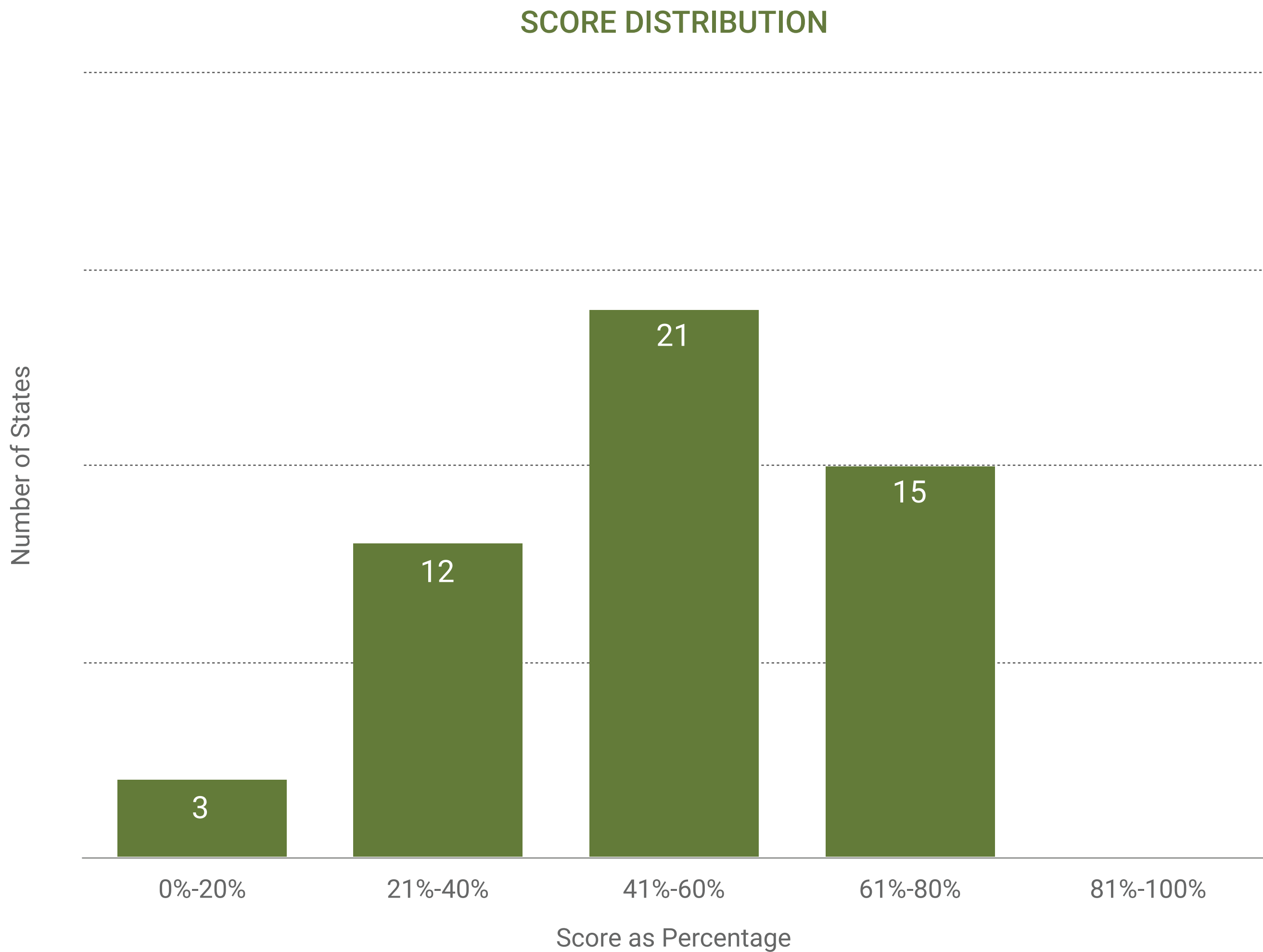
17. National Conference of State Legislators (NCSL), "Full and Part-Time Legislatures," (June 14, 2017). The full-time legislatures are mostly the states with the largest population, while the part-time ones are "most often found in the smallest population, more rural states."

18. NCSL reported that there were 7,383 state legislators in March 2013.

19. David Jordan, Center for Public Integrity and The Associated Press, "Who's Calling the Shots in State Politics? Q&A: What we learned from digging into state legislators' disclosure forms" (updated Apr. 23, 2018).

20. Liz Essley Whyte and Ryan J. Foley, Center for Public Integrity and The Associated Press, "Who's Calling the Shots in State Politics? Conflicted Interests: State lawmakers often blur the line between the public's business and their own." (Updated Aug. 20, 2018)

Overall Score Distribution



- No state achieved a perfect score, and in fact, no state qualified for the top 20th percentile.
- 36 states score below 60% and 21 states score below 50%.
- Three states, Washington (78%), Rhode Island (75%) and California (75%) land at the top of the score chart.
- New Mexico, which scored 36% has a proposed constitutional amendment on the November 2018 ballot to create an ethics commission. The proposed measure gives the commission the authority to investigate and adjudicate ethics violations.
- North Dakota, which scored 0, also has a measure on the November 2018 ballot to amend the

North Dakota Constitution to create an independent ethics commission. However, the ballot measure is silent on the scope or powers of the commission.

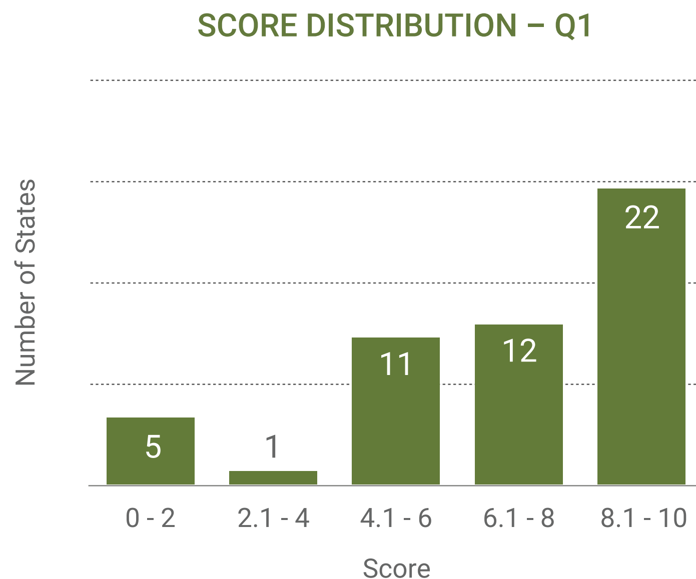
- Vermont, which created an ethics commission earlier this year, scores 37% but the commission has no independent investigative authority, no authority to issue subpoenas or hold public hearings with respect to complaints and no authority to sanction violations.
- By contrast, Washington State which scored 78% has an Executive Ethics Board and a Legislative Ethics Board, both of which have authority to independently investigate, hold public hearings, issue reprimands and impose fines. The state also has strong gift rules which prohibit elected and appointed executive branch officials and legislators from accepting more than $50 worth of gifts, in aggregate, in a calendar year or in a single gift from multiple sources.

ETHICS AGENCIES

Question 1: Is there an ethics agency, with the authority to conduct its own investigations, including public hearings and subpoena power?

15 states got a perfect score on Question 1. This means they have one or more ethics agencies with jurisdiction over the executive branch (appointed, elected, and employees) and legislators. In addition, these agencies have the powers necessary to conduct independent investigations, compel testimony and documents through subpoenas.

The graph displays the distribution of scores for Question 1. The potential score ranges from 0 points to 10 points.



Scope of Coverage of Independent Ethics Agencies

- Five states (Arizona, Idaho, New Mexico, North Dakota, and Wyoming) have no independent ethics agencies whatsoever so they received a score of 0 for Question 1. There are ballot

initiatives that will be voted on in the November 2018 election in New Mexico and North Dakota to create independent ethics agencies.

- New Mexico's proposed amendment stipulates that the commission will have the authority to investigate and adjudicate ethics violations and have subpoena power.
- The Vermont State Ethics Commission, which came into being on January 1 of this year, has no investigative authority and no power to issue subpoenas, hold public hearings or sanction violations.
- The scope of jurisdiction varies from state to state, though in a majority of states (29) all executive branch officials and employees and legislators are covered by an independent ethics agency.
- Three states (Delaware, Maryland, and Montana) have full jurisdiction over the executive branch, but limited jurisdiction over legislators. Delaware and Maryland have jurisdiction over the members of the General Assembly solely regarding financial disclosure, while in Montana the ethics agency cannot investigate if a complaint involves a "legislative act".
- Four states (Indiana, Iowa, Michigan, and South Dakota) have ethics agencies with jurisdiction over the executive branch officials and employees, but not legislators.
- The 10 remaining states have independent ethics agencies with mixed jurisdictions. For example, Utah's ethics agency has authority only over elected officials.

Authority to Conduct Investigations, Hold Public Hearings, and Subpoena

- Of the 46 states with independent ethics agencies that have jurisdiction over all or most executive branch officials and employees:
  - 36 can initiate and conduct their own investigations
  - 27 are required to hold public hearings
  - 42 have subpoena power
- Of the 42 states with independent ethics agencies that have jurisdiction over legislators for at least some rules:
  - 33 states have the full authority to conduct investigations

- 24 are required to hold public hearings
- 38 states have the authority to issue subpoenas

Question 2: Does the ethics agency have the ability to sanction, including personnel actions, injunctions, and fines?

Having an independent ethics agency is important, but an ethics agency without the ability to act on its findings and sanction offenders is meaningless. States that received full credit for this question have one or more ethics agencies with jurisdiction over the executive and legislative branch, with the power to take personnel actions (including termination of an official not subject to impeachment), enjoin an official and impose fines.

- Only three states (Louisiana, New Jersey and Rhode Island) received full credit on question two because their sanctioning power extends to legislators and that power included all forms of sanction (other than termination for elected officials).
- Another three states (Alaska, Indiana and Iowa) have robust powers, but only with respect to the executive branch.
- Of the 11 states which received 0 points, five are those without any independent ethics agency (Arizona, Idaho, New Mexico, North Dakota and Wyoming). Six state agencies have no ability to sanction or impose fines (Florida, Maine, Michigan, Utah, Vermont and Virginia).

Question 3: Are the members of the ethics agency protected from removal without cause?

To receive full points for this question the members of the independent ethics agency must be protected from removal without cause through statutory language.

- 28 states statutorily protect the members of their ethics agencies which have jurisdiction over both the executive and legislative branch from removal without cause and received full credit.
- An additional six states have legislative ethics agencies whose members are protected from removal without cause.

- Some states only have jurisdiction over a particular branch and received partial credit. For example, there is statutory language relating to removal of members of two of the three ethics agencies in Alaska and none protecting the members of the third agency.
- Nine states with independent ethics agencies did not have statutory protections from removal without cause for their members (Alabama, Colorado, Connecticut, Georgia, Indiana, Nevada, Oregon, Virginia and Wisconsin).

GIFTS

Our questions ask about two classes of rules – rules pertaining to gifts from high-risk sources (lobbyists, lobbyists' principals, and government contractors) and rules for all others.

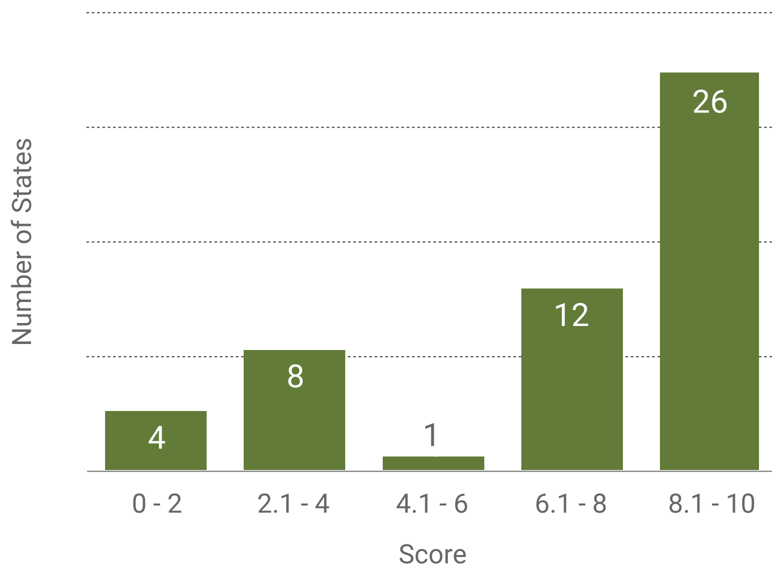
In order to receive full points for Questions 4 and 5 states need to have a prohibition on all gifts regardless of the source or a cap on aggregate receipts of $250 or more. In addition, there should be no loopholes in the gift definition beyond fairly standard exceptions. (Standard exceptions include gifts from family members, tea or coffee at meetings, or honoraria for speeches).

- Three states (New Hampshire, New Mexico and Washington) got a perfect score for both Questions 4 and 5.
- Overall, with a few exceptions, the laws prohibiting or limiting gifts to executive branch officials are stronger than those applied to legislators.
- Gift rules for high-risk sources are much stronger.

Question 4: Are elected and appointed executive branch officials and legislators prohibited from accepting gifts from high-risk sources (lobbyists, lobbyists' principals, government contractors) in an aggregate of $250 or more?

- 16 states received a perfect score because they prohibit or cap aggregate receipts for gifts at $250 for legislators and executive branch officials and the laws have only standard exceptions.

- Six states (Georgia, Kansas, Kentucky, Minnesota, New Jersey and New York) got a perfect score for their laws pertaining to executive branch officials, but only a 'Moderate' score for their treatment of legislators.
- Four states (South Carolina, South Dakota, Tennessee, Wisconsin got a perfect score for legislators but only a 'Moderate' score for the executive branch.

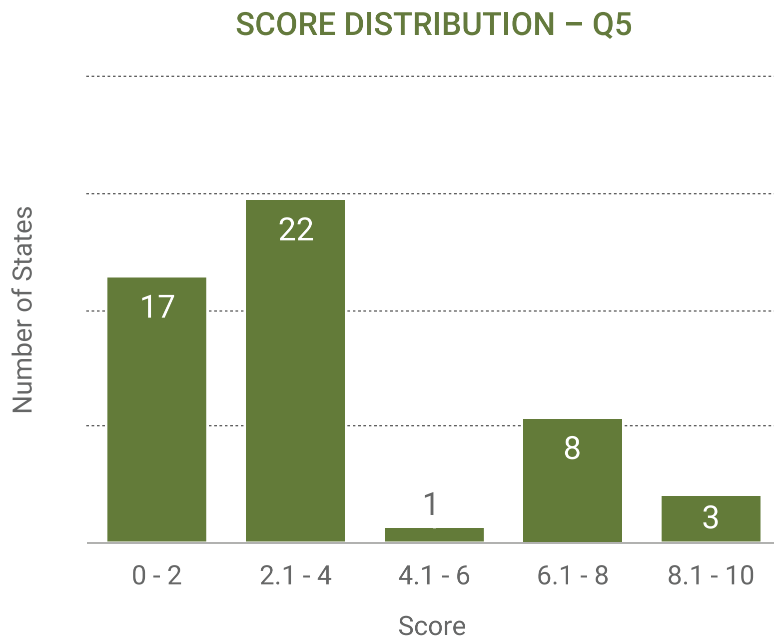


- Two states (North Dakota and Missouri) received a score of 0 because they have no explicit prohibitions on gifts.
- Nine states (Alabama, Alaska, Arizona, Arkansas, California, Colorado, Montana, Nebraska and Nevada) received a 'Moderate' score (a score of 7) for their treatment of both executive officials and legislators. This means that covered officials' gift acceptance turns on an objective test (a reasonable person's perception of "tendency to influence") OR else they may accept gifts from some high-risk sources, but others are prohibited.
- Seven states (Hawaii, Idaho, Maine, Massachusetts, Michigan, Texas and Wyoming) received a 'Minimal' score (a score of 3) for their treatment of both executive officials and legislators because the rule relies either on a criminal statute or the test was a subjective one (i.e. the gift giver's intent).

Question 5: Are elected and appointed executive branch officials and legislators prohibited from accepting gifts from persons other than high-risk sources in an aggregate of $250 or more?

- 8 states received a 'Moderate' score for their treatment of both executive officials and legislators. This means that gift acceptance turns on an objective test (a reasonable person's perception of "tendency to influence") or is subject to a broad category of exceptions.

- 22 states received a 'Minimal' score for their treatment of both executive officials and legislators. This means that gift acceptance is governed by a criminal statute or turns on a subjective test (the gift giver's "intent to influence") or the annual limit was above $250, or the gift definition excludes gifts of $250 or less.



Question 6: Are elected and appointed executive branch officials and legislators required to publicly disclose gifts that they receive?

There is a large amount of variation among state gift disclosure requirements. In order to receive full credit for this question, states must require full public disclosure of every gift below $250 in aggregate value.

- 13 states got a perfect score.
- 19 states received a score of 0. This means there is no public disclosure of any gifts, regardless of the source.
- Some states had high reporting thresholds, such as Arizona, Kansas, and Illinois ($500), New York ($1,000) or Pennsylvania ($650 for entertainment and meals accepted by legislators).
- Other states only required reporting of gifts from lobbyists or high-risk sources (Maryland, North Carolina, Rhode Island, South Carolina, Virginia and West Virginia) or related to certain gifts (New Hampshire and Washington).

CAMPAIGN FINANCE

Question 7: Does the state require reporting of contributors to independent spenders?

The question has two levels of inquiry. The first part asks if "independent spenders" must reveal the identity of contributors who donated to them. These spenders may be PACs, LLCs, SuperPACs or 501(c) organizations. Most states follow the federal disclosure rules, though with varying thresholds for contributions. The second level asks more narrowly about truly "dark money" in the independent expenditure context: if a 501(c) group or an LLC contributes to the entity making independent expenditures, must the 501(c) group's funders be disclosed as well, or the beneficial owners of the LLCs? On this level, we have found very few states with piercing disclosure requirements.

- California requires 501(c) organizations which contribute to "SuperPACs" to file disclosure reports. Those reports must contain the name of any person who has made over $1000 in donations to the 501(c) (unless it was specifically earmarked not to be a part of political contributions or expenditures).
- The District of Columbia Office of Campaign Finance can require a business contributor, including a LLC, to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the deemed relevant to enforcing the provisions of the campaign finance rules.
- In Delaware and Ohio, there is minimal additional reporting of owners of LLCs which contribute to independent spenders.
- Alaska, Connecticut, Maryland and Minnesota have minimal additional reporting requirement for donors to 501(c) organizations which contribute to independent expenditures.

CLIENT DISCLOSURE

Question 8: Do legislators have to disclose client names as part of their financial disclosure reports?

Client disclosure is an important way to determine whether a legislator has a conflict of interest in matters on which he or she acts or refrains from acting. It is not sufficient to list the name of the employer, such as a consulting firm. The potential conflict arises from the clients for whom the legislator provides services, as an employee of that firm.

- Only Oregon got a perfect score. Oregon requires that legislators must disclose the identity of each person for whom the person has performed services for a fee greater than $1,000 if that person has a "legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority."
- 17 states received partial credit because they had some client disclosure requirements. Some states require reporting if the client is a lobbyist or if the service provided requires interaction with a state agency. Others define a very narrow class of clients or limit disclosure to very specific and narrowly defined circumstances.

What Needs to Be Done?

- Voters should demand commitments to address the shortcomings in their state ethical legal framework identified in this report.
- In states without an independent ethics agency or ones with limited jurisdiction or power, this means a constitutional amendment where required or legislative action if possible.
- States with a stronger legal framework should focus on adequate funding of their ethics agencies, effective enforcement of the rules and enhanced transparency.
- Legislators should hold themselves to high standards and not be subject to less stringent rules than those applied to the executive branch.

Appendix 1: State Rankings Table

Rank	State	Score
1	Washington	78%
2	California	75%
3	Rhode Island	75%
4	Kentucky	74%
5	District of Columbia	72%
6	Kansas	72%
7	Alaska	69%
8	New Hampshire	67%
9	Arkansas	66%
10	South Carolina	65%
11	Florida	64%
12	Hawaii	64%
13	West Virginia	63%
14	Texas	62%
15	Ohio	61%
16	Nebraska	60%
17	New Jersey	59%
18	Missouri	58%
19	Colorado	57%
20	Wisconsin	57%
21	Maryland	56%
22	New York	56%
23	Massachusetts	56%
24	Oregon	55%
24	Illinois	55%
26	Nevada	54%
27	Montana	54%
28	Pennsylvania	51%

Rank	State	Score
29	Delaware	50%
30	Tennessee	50%
31	Louisiana	48%
32	Maine	48%
33	Minnesota	46%
34	Connecticut	44%
35	Oklahoma	42%
36	North Carolina	42%
37	Iowa	40%
38	Mississippi	40%
39	Georgia	40%
40	Vermont	37%
41	New Mexico	36%
42	Alabama	35%
43	Virginia	35%
44	South Dakota	34%
45	Utah	31%
46	Indiana	28%
47	Michigan	28%
48	Arizona	28%
49	Idaho	16%
50	Wyoming	12%
51	North Dakota	0%

*Note: Our final scores are rounded to the nearest percent. Because of this several states appear to have the same score, however, only two states – Oregon and Illinois – received the exact same score. This is reflected as a tie in the official rankings. For more information on the precise scores see our Score Chart.

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