



## **Senate Counsel, Research, and Fiscal Analysis**

State of Minnesota

# **The Gift Ban – A Quick Look**

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## **Introduction**

The premise of the gift ban is simple: a lobbyist or principal (e.g. an entity that employs a lobbyist or engages in lobbying) may not give a gift to an official or request another person to give a gift on their behalf; an official may not accept a gift from a lobbyist or principal. Minnesota Statutes [§10A.071](#). This memo provides a brief overview of the gift ban and includes a flow chart designed to help determine whether a gift is prohibited by the gift ban.

## **Who is subject to the gift ban?**

The gift ban in Minnesota Statutes [§10A.071](#) applies to “officials.” This includes public officials, employees of the legislature, and local officials of a metropolitan governmental unit. There are many types of public officials who are subject to the gift ban, including members of the legislature, constitutional officers in the executive branch, and state agency or department commissioners. For a complete listing of public officials, refer to Minnesota Statutes [§10A.01](#), subd. 35.

## **Who is a lobbyist or principal?**

A lobbyist is a person who is either compensated more than \$3000 in a year or spends more than \$250 in a year and the compensation or expenditure is “for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.” Minnesota Statutes [§10A.01](#), subd. 21.

A principal is a person or association that either: 1) spends more than \$500 in a year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist or 2) spends at least \$50,000 in a year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units. Minnesota Statutes [§10A.01](#), subd. 33.

Lobbyists must register with the Minnesota Campaign Finance and Public Disclosure Board. Lobbyists and principals must submit reports to the Board. The Board maintains lists of lobbyists and associations. The lists are available on the Board’s website: [http://www.cfboard.state.mn.us/lob\\_lists.html](http://www.cfboard.state.mn.us/lob_lists.html).

## **What is a gift?**

A gift is defined as “money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.” The following items or services are also defined as a gift: meals; entertainment; loans of personal property for less than payment of fair market value; preferential treatment for purchases; honoraria; and payment of loans or other obligations. Minnesota Statutes [§10A.071](#), subd. 1; Minnesota Rules part [4512.0100](#), subd. 3.

A gift given to an official by an individual who is not a lobbyist or principal is still subject to the gift ban if the gift was given on behalf of or at the request of a lobbyist or principal. Similarly, a gift given to an individual who is not an official by a lobbyist or principal is still subject to the gift ban if it is intended or implied that the recipient will give the gift to an official.

## **Are there exceptions to the gift ban?**

Yes, there are exceptions to the gift ban. If an exception applies, then a gift may be accepted. Minnesota Statutes [§10A.071](#), subd. 3. The exceptions are:

- (1) a political contribution as defined in section 10A.01, subdivision 11;

- (2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (3) services of insignificant monetary value;
- (4) a plaque with a resale value of \$5 or less;
- (5) a trinket or memento costing \$5 or less;
- (6) informational material with a resale value of \$5 or less; or
- (7) food or a beverage given at a reception, meal, or meeting if:
  - (i) the reception, meal, or meeting is held away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program; or
  - (ii) the recipient is a member or employee of the legislature and an invitation to attend the reception, meal, or meeting was provided to all members of the legislature at least five days prior to the date of the event.

There are also two situations where the gift ban is not applicable. First, the gift ban is not applicable if: 1) the gift is given because of the recipient's membership in a group; 2) a majority of the members of the group are not officials; and 3) an equivalent gift is given to the other members of the group. Second, the gift ban is not applicable if the gift is given by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

### **What should an official do if he or she is uncertain about accepting a gift from someone?**

There are many places to look for assistance. The flow chart on the following page will help you consider the issue. There are also several sources you may contact to discuss gift ban issues. Tom Bottern and Alexis Stangl in Senate Counsel, Research, and Fiscal Analysis are available to assist Senators and Senate employees in discussing gift ban issues. Supervisors, managers, or caucus leaders are also valuable resources when considering these issues. You may also contact the Campaign Finance and Public Disclosure Board at (651) 539-1180 or toll free (800) 657-3889 or [cf.board@state.mn.us](mailto:cf.board@state.mn.us). The Board also has advisory opinions on gift ban scenarios that may provide guidance. Advisory opinions are available online: <https://reports.cfb.mn.gov/citizen-resources/the-board/board-decisions/advisory-opinions/>. You may search for opinions relating to the gift ban by selecting "Gift Ban" from the "Program" drop down menu.

Always keep in mind that while accepting a gift in some circumstances may be perfectly legal, there may be a public perception that the acceptance of the particular gift is inappropriate. In situations where acceptance of a gift is not prohibited by law, the decision to accept the gift is personal to you. Ultimately, the decision will be based on your personal perception of the situation. It may be helpful to consult the resources listed above to assist you in talking about possible perceptions and concerns.

### **Where can I learn more about the gift ban?**

For more detailed information on the gift ban, refer to the memo titled "Gifts to Public Officials," available on the Senate Website: <http://www.senate.mn/departments/scr/treatise/index.php#header>. The Campaign Finance and Public Disclosure Board's "Gift Ban Primer" is available online: [https://cfb.mn.gov/pdf/quicklinks/gift\\_ban\\_primer.pdf?t=1593539436](https://cfb.mn.gov/pdf/quicklinks/gift_ban_primer.pdf?t=1593539436).

