

GIFT-GIVING IN COLORADO POLITICS

THE NEED FOR ETHICAL
REFORM IN COLORADO'S
POLITICAL PROCESS



A REPORT BY
COLORADO COMMON CAUSE
WITH
COLORADO PUBLIC INTEREST RESEARCH GROUP
COLORADANS FOR CLEAN GOVERNMENT

ABOUT THE AUTHORS

Colorado Common Cause is a non-profit organization fighting for open, honest and accountable government. We work to strengthen public participation and to ensure that government and the political process serve the public interest, rather than the special interests.

Colorado Common Cause would like to thank August Ruckdeschel for his assistance researching and writing this report. We would also like to thank Spiros Protopsaltis and Ron Binz for editing and feedback.

CoPIRG is a non-profit, non-partisan organization working to deliver persistent, result-oriented public interest activism that encourages a fair economy and fosters responsive democratic government.

Coloradans for Clean Government is a six-member committee, co-chaired by **Pete Maysmith** and **Jared Polis**. Maysmith works with Common Cause; Polis is vice-chairman of the State Board of Education, an entrepreneur, philanthropist and civic leader. The other members of Coloradans for Clean Government are: **Ron Binz**, former state utility consumer advocate and state chair of Colorado Common Cause; **Martha Tierney**, a Denver attorney and government reform advocate who has worked with Common Cause for several years; **Shepard Nevel**, the chief of staff to Jared Polis and one of the authors, with Common Cause, of Denver's ethics code, adopted in 2001 and considered one of the strongest in the nation; and **Rex Wilmouth**, state director of the Colorado Public Interest Research Group, a public interest advocacy organization.

METHODOLOGY

This report is derived from information provided by disclosure forms submitted to the Colorado Secretary of State. Before 2006, public officials were required by Colorado statute (C.R.S. 24-6-203) to submit an annual disclosure of gifts, honoraria and other benefits received which was due on or before the 15th of January for each preceding calendar year. Information was drawn from these disclosure forms to accumulate gift totals for the 2005 calendar year. The gift totals were also aggregated by type of benefit received (entertainment, travel, meals, etc.). The gift totals include all 100 state legislators in the 2005 session and Governor Bill Owens.

Starting in July 2006, gift disclosure by public officials was required to be filed quarterly. The 2006 gift totals in this report include all gifts reported by all 100 state legislators and Governor Bill Owens in their July 15th filing. For purposes of this report, both 2005 and 2006 gift totals ignore previously unregulated, and now prohibited, "office account" expenditures provided by lobbyists .

BACKGROUND

During the 2005 legislative session, Colorado's sixty-five Representatives in the General Assembly reported receiving \$102,333 in gifts, tickets, entertainment, honoraria, and travel expenses – an average of \$1,570 per Representative. Colorado's thirty-five State Senators reported receiving \$41,102 – more than \$1,170 per Senator. Governor Bill Owens alone received \$57,102 in gifts in 2005.

Why do lobbyists spend such large amounts of money on gifts to public officials? The answer is obvious. Trips, gifts and other “freebies” provides increased access to legislators and gives lobbyists increased influence at the policy-making table. Unfortunately, ordinary citizens who cannot afford such gift-giving expenditures are often shut out of the decision making process. Lobbyist funded gifts, entertainment, and other expenditures bias policy debates on some of the most important issues for Coloradans, such as healthcare, taxes, and environmental policy. Lobbyists know they can forge deeper relationships with elected officials, and ultimately affect policy debates, when they offer public officials free tickets to professional sporting events, expensive conferences in exotic locations, and free meals at expensive restaurants.

Colorado is among the twenty-four states that do not limit lobbyist gifts in any form. Instead, lobbyists in our state are simply required to self-report such expenditures. Colorado lags behind many other states in ethical standards: seven US states have ban lobbyist gifts entirely and nineteen other states limit gifts. The lack of meaningful restrictions and clear ethical standards means that Colorado trails other states in safeguarding its democratic process by reining in lobbyist influence. It is time for Colorado to join the majority of US states and establish meaningful standards for its booming lobby industry.

THE LAW

Colorado law makes bribery a felony, but is very permissive when it comes to gifts from lobbyists to public officials. As a result, travel, lodging, honoraria for speeches and other events, meals and tickets to sports and cultural events are among the many gifts that state legislators and other public officials are allowed to accept freely.

Colorado law states that, *"A public officer, a member of the general assembly, a local government official, or an employee shall not accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value which would tend improperly to influence a reasonable person in his position to depart from the faithful and important discharge of his public duties: or which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken."* (C.R.S. 24-18-104.)

However, there are several important exceptions to this limitation, making lobbyist gifts quite permissible, such as:

- "Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;
- "Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;
- "Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events; and
- "Payment for speeches, appearances, or publications."

These exceptions leave a lot of room for undue lobbyist influence. While outright bribery – officials accepting gifts as a *quid pro quo* – is a felony, the practice of accepting lobbyists' gifts is legal, is common, and raises questions about the influence of special interests on government.

THE GIFTS

The extent of gift-giving in Colorado's legislative process is surprising. And it is hard to believe that gifts do not influence votes on the floor of the General Assembly. Consider the following examples of gifts that legislators received while in office in 2005.

- An IBM Pocket PC - \$629
- Helicopter Rides to "Inspect" Oil Fields - \$200
- Whitewater Rafting Trips (2) - \$320
- Ski Jackets (4) - \$400
- River Tours - \$350
- Autographed Jerome Bettis football - \$300
- Tickets to the Circus (3) - \$300
- Ski Lift Tickets & Lodging - \$320
- Rodeo Tickets - \$80
- Fly Fishing Lessons - \$50



These are just some of the more unconventional gifts that state legislators received during the 2005 legislative session. The total value of gifts to legislators grows quickly when we consider *traditional* gifts from lobbyists such as meals, golfing and green fees, tickets to sporting and other recreational events, and travel expenditures.

AND MORE GIFTS...

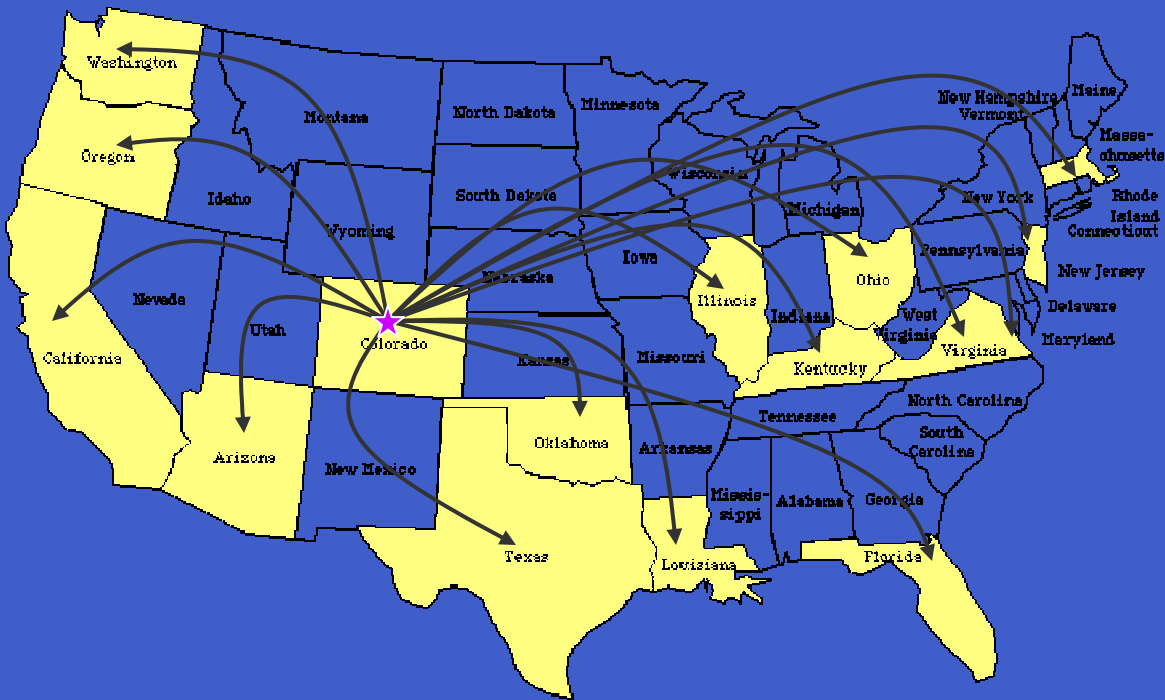
What other gifts did legislators receive during the 2005 legislative session?

1. \$3,788 in golfing and greens fees for thirty-two separate golf trips.
2. Twenty-seven sets of tickets to University of Colorado, Colorado State University, and University of Northern Colorado football games for a total of \$3,778 in free college football tickets.
3. \$1,392 in free tickets to Colorado Avalanche games.
4. \$1,966 in free tickets to Colorado Rockies games, representing nineteen separate occasions.
5. \$4,404 in free tickets to Denver Broncos games, including two sets of season tickets.
6. Forty separate sets of tickets to Nuggets games for a total of \$4,658 in free tickets.
7. During the 2005 concert season, state legislators received free tickets to performances by Elton John, Jimmy Buffett, BB King, Brian Wilson, Alicia Keys and George Strait. They were also provided an active theatre season, attending performances of *Wicked*, *Menopause: The Musical*, and *The Phantom of the Opera*.



TRAVEL

While these elected officials are *state* representatives, often *out-of-state* and *out-of-country* travel expenses are picked up by lobbyists and other special interests. Some trips and conferences are undoubtedly legitimate and help Colorado officials learn from other policymakers. However, many of these trips are sponsored by specific industries to promote a specific policy agenda and to curry favor with elected officials.



10 Trips to Israel (\$2,618 each)

1 Trip to Vancouver, Canada (\$750)

1 Trip to Prague & Slovakia (\$2,000)

1 Trip to Newfoundland, Canada (\$500)

1 Trip to China (\$5,000)

1 trip to Ottawa, Canada (\$748)

THE 2006 SESSION

Only six months of gifts and honoraria have been reported to date for 2006, but Legislative policymakers and Governor Bill Owens have already received an impressive list of freebies and handouts. Consider these totals:

- \$37,650 in honoraria or other forms of compensation
- \$31,097 in travel reimbursements
- \$4,908 for 58 tickets to Colorado Avalanche games
- \$2,245 for 11 tickets to Denver Broncos games
- \$2,374 for 34 tickets to Colorado Rockies games
- \$1,505 for 17 tickets to Denver Nuggets games
- \$3,152 for 19 rounds of golf
- \$1,736 for theatre tickets
- \$1,681 for meals and fundraisers
- \$7,243 for other gifts and entertainment

The value of travel reimbursements is particularly impressive. The Governor and State Legislature managed to accumulate \$31,097 in travel *during* the 2006 session. Traditionally, most officials receive travel perks *after* the legislative session has ended. Thus, we can expect reported lobbyist-provided travel expenditures to be even higher in the second half of the year, as lobbyists ramp-up for the 2007 legislative session.

CONCLUSION

The numbers contained in this report are taken directly from the reports that elected officials file about the gifts they receive. In the other direction, the Center for Public Integrity analyzes the expenditure reports filed by lobbyists. In 2005, lobbyists reported spending about \$1.5 million on gifts and entertainment to influence legislation in Colorado – \$1.3 million more than the elected officials report. The disparity may be explained in part by the lobbyist budgets for special events and receptions and by small gifts that legislators are not required to report. But, obviously, more research is needed to explain this difference in reporting.

The gifts and other perks handed out by lobbyists to elected officials must influence Colorado public policy. Otherwise, it's hard to explain why lobbyists and their clients dole out the gifts.

We think that lobbyist gifts and donations play too much of a role in our state politics. Public policy should be decided on the merits of the issue, not the strength of the lobbyist's relationship with decision makers. Most Coloradans cannot afford to send their elected officials on trips or buy them meals as a means to ensure their voices are heard at the State Capitol. It is time to level the playing field for all Coloradans and eliminate the use of lobbyist gifts as a way to build access and influence. We need to ask ourselves: Whose interests are best served by the *status quo*, the public interest or the special interests?

We think that banning gifts is an important step in reducing the influence of special interests at the Capitol and balancing the debate in the political forum. Decisions about healthcare, energy policy, the environment, and the economy should not take place in the Skybox of a Denver Broncos game. Nor should they occur at a Jimmy Buffett concert, in a helicopter or on the golf course.

As long as well-connected lobbyists can buy access to public officials through luxury sports boxes and conference junkets, special interests will keep their inside track. Policymaking will remain tilted in their direction. Self-reported disclosure helps, but it does not correct the significant imbalance between special interest access and public interest access. To promote the interests of Colorado's average citizens, we must take bold steps to reform the process and raise ethical standards in our government. Banning lobbyist gifts is an important first step.