

THE LEGALITY OF A ‘THANK YOU’: A LOOK AT THE  
FEDERAL GOVERNMENT’S ROLE IN REGULATING  
STATE AND LOCAL GOVERNMENT GRATUITIES

*Our country is too large to have all its affairs directed by a single government. Public servants at such a distance, & from under the eye of their constituents, must, from the circumstance of distance, be unable to administer & overlook all the details necessary for the good government of the citizens, and the same circumstance, by rendering detection impossible to their constituents, will invite the public agents to corruption, plunder & waste.*

–Letter from Thomas Jefferson to Gideon Granger<sup>1</sup>

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1. Letter from Thomas Jefferson to Gideon Granger (Aug. 13, 1800), in 9 THE WORKS OF THOMAS JEFFERSON IN TWELVE VOLUMES 138, 139 (Paul Leicester Ford ed., 1905).

## INTRODUCTION

Government corruption is a common refrain in American politics. News of corruption occurs at all levels of government, including with state and local officials.<sup>2</sup> In fact, government corruption has been the top fear of Americans for ten years.<sup>3</sup> More than 69 percent of respondents in the 2025 Survey of American Fears by the Babbie Center at Chapman University were “afraid” or “very afraid” of government corruption.<sup>4</sup> Legislation and regulations exist at the federal, state, and local levels to attempt to combat corruption.

One piece of anti-corruption legislation, 18 U.S.C. § 666(a)(1)(B), was recently challenged in the Supreme Court’s 2024 term.<sup>5</sup> *Snyder v. United States*<sup>6</sup> centered around the issue of gratuities: Does the statute criminalize corrupt gratuities received by state and local officials, or does it only apply to bribes?<sup>7</sup> The Court ruled the statute only applied to bribes, resolving a circuit split and leaving gratuities enforcement to the states.<sup>8</sup>

This Comment begins by discussing the history of the federal statute criminalizing bribes or “rewards” for state and local officials. Then, it looks at the statute’s counterpart for federal officials to see how both statutes have been used to criminalize “gratuities” in the past. Next, the Comment analyzes the Supreme Court’s decision in *Snyder v. United States* to leave gratuities regulation to state and local governments. Additionally, this Comment looks at three states to survey how they deter state and local officials from accepting bribes and gratuities. In contributing to new scholarship, this Comment compares state laws to the federal statute to determine whether the federal statute should be amended explicitly to outlaw gratuities. Ultimately, this Comment argues that the issue of gratuities should be left to the states.

There are more than 19 million state and local government employees across the United States.<sup>9</sup> Positions range from full-time office staff to elected officials and from first responders to district

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2. *E.g.*, Robert Carter, *Alabama’s Political Corruption: Three Governors and One House Speaker Convicted of Crimes Give State a Reputation*, BIRMINGHAM WATCH (Apr. 12, 2017), <https://perma.cc/RE4Y-LRMG>; Press Release, U.S. Dep’t Just., Mississippi District Attorney, Mayor of Jackson, and Jackson City Council Member Charged with Bribery and Other Offenses (Nov. 7, 2024), <https://perma.cc/259R-PZ6V>.

3. *See* Robert Hitchcock, *What Americans Fear Most in 2025: Chapman University’s Annual Survey Reveals Top Fears and the Psychology Behind Them*, CHAPMAN UNIV.: CHAPMAN NEWS (Oct. 21, 2025), <https://perma.cc/8MLC-59PZ>.

4. *Id.*

5. *Snyder v. United States*, 144 S. Ct. 1947 (2024).

6. 144 S. Ct. 1947 (2024).

7. *Id.* at 1951.

8. *Id.* at 1959–60.

9. *Id.* at 1956–57.

attorneys—many positions are only part-time or volunteer.<sup>10</sup> Each state has its own unique laws for government officials, including provisions criminalizing bribes and gratuities at both the state and local levels.<sup>11</sup>

Before the Supreme Court's decision in *Snyder v. United States*, federal prosecutors also appeared to have jurisdiction over state and local officials who accept bribes and gratuities.<sup>12</sup> If the official's organization, agency or government received more than \$10,000 of federal funding—which state and local governments do<sup>13</sup>—the official could be sentenced to up to 10 years in prison.<sup>14</sup> The law, 18 U.S.C. § 666, could be used against a state or local official who

corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of \$5,000 or more . . . .<sup>15</sup>

The federal statute had been used to criminalize bribes and gratuities. While neither “bribe” nor “gratuity” is included explicitly in the language, federal prosecutors long applied both actions to the statute.<sup>16</sup> According to the Court in *Snyder*, however, the distinction between the two terms is clear: bribes are “payments made or agreed to *before* an official act in order to influence . . . that future official act,” while gratuities are made “*after* an official act as a token of appreciation.”<sup>17</sup> While trial and appellate courts agreed with prosecutors' application of § 666 to bribes, courts disagreed on whether or not it applied to gratuities. The First and Fifth Circuits excluded gratuities from 18 U.S.C. § 666(a)(1)(B) prosecution,<sup>18</sup> while the Second, Sixth, Seventh, Eighth, and Eleventh Circuits agreed that the statute included gratuities.<sup>19</sup> The Court agreed to hear *Snyder v. United States* to resolve the circuit split.

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10. See generally U.S. CENSUS BUREAU, 2022 CENSUS OF GOVERNMENTS, INDIVIDUAL STATE DESCRIPTIONS: 2022 (2024) (describing the numerous departments, boards, and agencies that fulfill small roles in local governments).

11. *State Gift Laws*, NAT'L ASS'N ATT'YS GEN. (2025), <https://perma.cc/WCK3-Y462>.

12. See *Snyder*, 144 S. Ct. at 1954.

13. OFF. OF MGMT. & BUDGET, ANALYTICAL PERSPECTIVES: BUDGET OF THE U.S. GOVERNMENT, FISCAL YEAR 2024, at 77 (2024).

14. 18 U.S.C. § 666(a).

15. *Id.* § 666(a)(1)(B).

16. See *Snyder*, 144 S. Ct. at 1951.

17. *Id.*

18. See *United States v. Fernandez*, 722 F.3d 1, 6 (1st Cir. 2013); *United States v. Hamilton*, 46 F.4th 389, 399 (5th Cir. 2022).

19. See *United States v. Bonito*, 57 F.3d 167, 171 (2d Cir. 1995); *United States v. Abbey*, 560 F.3d 513, 521 (6th Cir. 2009); *United States v. Agostino*, 132

## I. THE LANDSCAPE OF GOVERNMENT GRATUITIES

A. *The Pre-Snyder Approach: Federal Government Involvement*

The federal government first began targeting state and local corruption in the 1970s, long before 18 U.S.C. § 666(a)(1)(B) was drafted.<sup>20</sup> With varying levels of success, federal prosecutors had attempted to use several different statutes: the Hobbs Act, mail and wire fraud statutes, the Travel Act, and RICO.<sup>21</sup> Federal prosecutors at the time believed that “corrupt schemes at the state and local level . . . [were] at least as corrosive of the governmental process as corruption at the federal level.”<sup>22</sup> Federal prosecutors had broad discretion, working to “fill a vacuum” left by state and local governments that did not file corruption charges against their own officials.<sup>23</sup> But none of the above federal statutes specifically addressed corruption against state and local officials, so Congress took action.

18 U.S.C. § 666 was enacted as part of 1984’s Comprehensive Crime Control Act.<sup>24</sup> In the original statute, Congress used language from 18 U.S.C. § 201—the bribery and gratuities statute regulating federal officials—to criminalize the same actions when committed by state and local officials.<sup>25</sup> Section 201(b) criminalizes bribes,<sup>26</sup> while § 201(c) criminalizes gratuities.<sup>27</sup> The separation of the two crimes has been supported by the Court, which said that bribery and

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F.3d 1183, 1190 (7th Cir. 1997); *United States v. Zimmerman*, 509 F.3d 920, 927 (8th Cir. 2007); *United States v. McNair*, 605 F.3d 1152, 1190–91 (11th Cir. 2010) (citing *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 404 (1999)).

20. See Theodore Richardson, Comment, *The Road to Hell Is Paved with Vague Intentions: Prosecutorial Development of 18 U.S.C. § 666 and Its Effect on Local Officials*, 10 TEX. A&M L. REV. ARGUENDO 28, 32 (2023).

21. See *McNally v. United States*, 483 U.S. 350, 352 (1987); *Skilling v. United States*, 561 U.S. 358, 369 (2010); *United States v. LeFaivre*, 507 F.2d 1288, 1290 (4th Cir. 1974); *United States v. Altomare*, 625 F.2d 5, 6 (4th Cir. 1980); *McCormick v. United States*, 500 U.S. 257, 261 (1991).

22. Andrew T. Baxter, *Federal Discretion in the Prosecution of Local Political Corruption*, 10 PEPPERDINE L. REV. 321, 322 (1983) (alteration in original) (quoting Thomas H. Henderson, Jr., *The Expanding Role of Federal Prosecutors in Combating State and Local Political Corruption*, 8 CUMB. L. REV. 385, 386 (1977)).

23. *Id.* (quoting Richard L. Thornburgh, *Preface to the United States Courts of Appeals: 1974–75 Term Criminal Law and Procedure*, 64 GEO. L.J. 173, 173 (1975)).

24. Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, 98 Stat. 2143 (1984).

25. See *id.* (adding 18 U.S.C. § 666, including § 666(b) criminalizing a state or local official receiving anything of value “for or because of the recipient’s conduct in any transaction”).

26. 18 U.S.C. § 201(b).

27. *Id.* § 201(c).

gratuities are “two separate crimes” with “two different sets of elements.”<sup>28</sup> Section 201 also delineates punishments for bribery and gratuity offenses,<sup>29</sup> and it has much harsher sentencing guidelines for bribery, which carries a fifteen-year penalty, than gratuities, which carries a two-year penalty.<sup>30</sup> When the original text of § 666 was enacted, the separate gratuity provision supported this distinction, clearly allowing the federal gratuities prosecution of state and local officials. Section 666 is similar to § 201(c), which made it a crime for state and local officials to receive “anything of value personally for or because of any official act performed or to be performed” could be prosecuted.<sup>31</sup> As 18 U.S.C. § 666 became law, federal prosecutors then had a clear way to prosecute state and local corruption.

But Congress later changed course. Just two years after § 666 was first enacted, Congress amended the law to remove the gratuities provision and enact the current language.<sup>32</sup> Now, the language closely resembles only the bribery provision of § 201.<sup>33</sup> There is little legislative history on why the change was made, but as the Court in *Snyder* said, it “would be strange to interpret § 666 . . . to mean the same thing now that it meant back in 1984.”<sup>34</sup> The amended, current bill makes it a crime to “corruptly” be influenced or rewarded “in connection with any business, transaction, or series of transactions . . . involving any thing of value of \$5,000 or more.”<sup>35</sup> While the dissent in *Snyder* argues that “reward” clearly showed Congressional intent to regulate gratuities,<sup>36</sup> “reward” has been used in other bribery statutes.<sup>37</sup> Statutes use the term to focus on the timing of the agreement, not the timing of payment, which could be after the official act.<sup>38</sup>

Additionally, both § 666 and the federal bribery language in § 201(b) use the term “corruptly,” but the federal gratuities provision does not.<sup>39</sup> Interpreting the statute as a “two-for-one bribery-and-gratuities statute” also subjects state and local officials to much harsher gratuities penalties than those given to federal officials.<sup>40</sup> As the Court in *Snyder* noted, interpreting the current federal statute to include gratuities would “authorize[] punishing gratuities to state

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28. *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 404 (1999).

29. *Id.* § 201(b)–(c).

30. *Id.*

31. 18 U.S.C. § 201(c).

32. Criminal Law and Procedure Technical Amendments Act of 1986, Pub. L. No. 99-646, 100 Stat. 3613 (1986).

33. *See Snyder v. United States*, 144 S. Ct. 1947, 1949 (2024).

34. *Id.* at 1955.

35. 18 U.S.C. § 666(a)(1)(B).

36. *See Snyder*, 144 S. Ct. at 1960–62 (Jackson, J., dissenting).

37. *See* 18 U.S.C. § 600.

38. *Id.*

39. *Compare id.* § 666, *with id.* § 201(c).

40. *Snyder*, 144 S. Ct. at 1949–50.

and local officials five times more severely than gratuities to federal officials—10 years for state and local officials compared to 2 years for federal officials.”<sup>41</sup>

Over the years, the Court has narrowly interpreted Congressional intent and statutory structure on all levels of corruption statutes, saying a statute that “can linguistically be interpreted to be either a meat axe or a scalpel should reasonably be taken to be the latter.”<sup>42</sup> *Snyder* was simply the latest in a long line of decisions limiting the overreach of federal prosecutors.<sup>43</sup>

Despite the confusion and circuit split on criminalizing gratuities via 18 U.S.C. § 666, federal prosecutors used it numerous times over the years to combat state and local corruption. From 1994 to 2023, more than 2,000 people had cases filed against them under 18 U.S.C. § 666(a).<sup>44</sup>

### *B. What Changed: Snyder’s Abandonment of Federal Gratuities Regulation*

The alleged illegal gratuity in *Snyder* stemmed from something incredibly common to state and local officials across the country: outside employment.

James Snyder, the former mayor of Portage, Indiana, was convicted under 18 U.S.C. § 666(a)(1)(B) for accepting a \$13,000 check.<sup>45</sup> The story behind the check is a convoluted one, as it came one year after the city paid a local truck company \$1.1 million to purchase five trash trucks.<sup>46</sup> Snyder was mayor when the truck company was contracted for the purchase.<sup>47</sup> He was also mayor when the truck company gave him the check.<sup>48</sup> According to investigators and federal prosecutors, the check was an illegal gratuity for the trash truck contract.<sup>49</sup> However, if you asked Snyder and the truck company, the \$13,000 was payment for Snyder’s consulting services for the company.<sup>50</sup> Like many state and local officials, Snyder had employment outside of his official government duties: He ran a

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41. *Id.* at 1950.

42. *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 412 (1999).

43. *See Snyder*, 144 S. Ct. at 1960 (Gorsuch, J., concurring) (“[C]ourts cannot ‘rely upon prosecutorial discretion to narrow the’ scope of an ‘otherwise wide-ranging’ criminal law.” (quoting *Marinello v. United States*, 584 U.S. 1, 11 (2018))).

44. *Federal Criminal Case Processing Statistics Data Tool*, U.S. DEP’T JUST. (2025), <https://perma.cc/7XAC-ARAX> (for “United States Code citation,” enter “18:666 A”). This includes both bribery and gratuity charges against officials, and the persons charged for influencing them.

45. *See Snyder*, 144 S. Ct. at 1954.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

consulting business.<sup>51</sup> Arguing he had a personal contract with the company to provide consulting services, Snyder said the check was payment for consulting—not for his role as mayor in the truck purchase.<sup>52</sup>

Nevertheless, Snyder was prosecuted and convicted in federal court under 18 U.S.C. § 666(a)(1)(B).<sup>53</sup> He was sentenced to one year and nine months in prison.<sup>54</sup> It is worth noting that Snyder was not charged under Indiana criminal law, nor charged or disciplined under state or local ethics rules.<sup>55</sup> Only the federal government sought to prosecute Snyder.

On appeal, Snyder argued that § 666 did not apply to gratuities given after the official act.<sup>56</sup> Since he received the \$13,000 after the city chose the trash truck company, he argued that his acceptance of the check would not fall under 18 U.S.C. § 666(a)(1)(B).<sup>57</sup> He argued less about whether or not his actions fit the “corruptly” *mens rea* of the criminal statute, instead saying gratuities in general should not be subject to prosecution under the statute.<sup>58</sup> The Seventh Circuit Court of Appeals disagreed and affirmed his conviction.<sup>59</sup> He appealed again, requesting the Supreme Court grant certiorari to step in and resolve the circuit split.<sup>60</sup>

The Supreme Court asked one question: Does 18 U.S.C. § 666(a)(1)(B) criminalize state and local officials who accept gratuities—“for example, gift cards, lunches, plaques, books, framed photos, or the like”—given after the official act?<sup>61</sup> Calling gratuities a “token of appreciation,” the 6–3 opinion authored by Justice Brett Kavanaugh was clear: “[t]he answer is no.”<sup>62</sup>

The Court held that 18 U.S.C. § 666(a)(1)(B) only applied to bribes, not gratuities. Justice Kavanaugh gave six reasons for his decision: text, legislative history, statutory structure, punishments under the statute, federalism, and fair notice.<sup>63</sup>

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51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.*

55. *See id.* (excluding any mention of state charges, which do not exist).

56. *Id.*

57. *See id.*

58. *See id.*

59. *Id.*

60. *Id.*

61. *Id.* at 1951.

62. *Id.*

63. *See id.* at 1954–58.

C. *State Law: How States Regulate Gratuities*

All fifty states have some sort of ethics requirements to which state and local officials must adhere.<sup>64</sup> Forty-nine states—all but Mississippi—have gift laws for state officials.<sup>65</sup> Local officials also must sometimes adhere to state gift laws.<sup>66</sup> Additionally, cities and towns often have local ordinances regarding officials' ethics.<sup>67</sup> Gift laws, a term often synonymous with gratuities, tend to fall into one or more of three categories: general laws, source laws, and intent laws.<sup>68</sup>

General restrictions prohibit officials from receiving a gift of any kind, while source laws prohibit gifts from specific parties, “such as a lobbyist or a person working in an industry subject to the official's authority.”<sup>69</sup> On the other hand, intent-based restrictions stop officials from receiving gifts where the giver seeks to influence the official's duties.<sup>70</sup> Intent restrictions are those most similar to 18 U.S.C. § 201 and § 666. For example, § 201(b)(2) criminalizes a public official who “corruptly demands, seeks, receives, [or] accepts” a gift for actions in office, while § 666(a)(1)(B) criminalizes one who “corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded” for government business.<sup>71</sup> Most states have gift laws addressing both source and intent.<sup>72</sup>

This Comment will not provide a fifty-state survey of all gifts laws, but it will focus on three states with source and intent restrictions: Indiana (where the alleged illegal gratuity in *Snyder* occurred), North Carolina (where this journal is based), and Alabama (where “gratuity” is explicitly listed in the gift law).

Indiana law criminalizes both state and local officials who accept bribes.<sup>73</sup> In contrast, Indiana's administrative code only lists civil penalties for state officials who accept certain kinds of gratuities.<sup>74</sup> The regulation of local officials who accept gratuities is left to local governments.<sup>75</sup> *Snyder* was the mayor of Portage, Indiana, a town

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64. *See State Gift Laws, supra* note 11.

65. *Id.*

66. *See id.*

67. *See id.*

68. *Id.*

69. *See id.*

70. *Id.*

71. Compare 18 U.S.C. § 201(b)(2), with *id.* § 666(a)(1)(B).

72. *State Gift Laws, supra* note 11.

73. *See* IND. CODE § 35-44.1-1-2(a)(2) (2025).

74. *See* 40 IND. ADMIN. CODE § 2-3-9 (2025); 42 IND. ADMIN. CODE § 1-5-1 (2025).

75. *See* 42 IND. ADMIN. CODE § 1-5-1 (2025) (specifically regulating the conduct of “a state employee or special state appointee” and their immediate families, making no reference to the conduct of local government officials).

whose municipal code has a gratuities ban on the books: Local officials must adhere to strict requirements when accepting gifts from contractors doing business with the city.<sup>76</sup>

North Carolina also has several laws regulating bribes and gratuities received by government officials. One statute prohibits state and local officials from “deriv[ing] a direct benefit from . . . [any] contract” they were involved in as part of their official duties.<sup>77</sup> The facts of *Snyder* could have potentially been prosecuted as a misdemeanor under this statute if occurring in North Carolina. Like Indiana, the state’s criminal bribery law applies to both state and local officials.<sup>78</sup> It also does not extend to gratuities, requiring the prosecutor to specify “[t]he specific act or omission sought to be obtained,” implying an illegal agreement must be made before the official’s action.<sup>79</sup>

North Carolina’s gift law does provide detailed explanations for what is considered an illegal gift, though it does not use the term “gratuity” explicitly.<sup>80</sup> But it only applies to “[a] covered person or a legislative employee,” not including local officials.<sup>81</sup> However, local ordinances like those of Winston-Salem, North Carolina, do enforce gift and gratuity limitations on local officials,<sup>82</sup> as well as disallow beneficial interests in contract selection.<sup>83</sup>

The last state considered in this Comment is Alabama. Comparatively, Alabama has the strictest state regulations of gratuities for local officials. Both state and local officials fall under Alabama ethics laws.<sup>84</sup> The bribery law only applies to actions that “will thereby be corruptly influenced,”<sup>85</sup> implying the same interpretation of this statute as the Court’s interpretation of § 666 in *Snyder*.<sup>86</sup> But the Alabama Ethics Act goes further: It prohibits all public officials and employees from accepting gifts and gratuities, except in limited circumstances.<sup>87</sup> Intentionally violating the law can be prosecuted as a felony, while unintentional violations are a misdemeanor.<sup>88</sup> Under the Alabama Ethics Act, Snyder could have been prosecuted at the misdemeanor or felony level, depending on the

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76. PORTAGE, IND., MUN. CODE OF ORDINANCES § 2-178(e)–(f) (2025).

77. N.C. GEN. STAT. § 14-234(a)(1) (2025).

78. *See id.* § 14-217(a).

79. *Id.* § 14-217(b)(2).

80. *Id.* § 138A-32.

81. *Id.* § 138A-32(a).

82. *City of Winston-Salem Ethics Policy*, CITY WINSTON-SALEM (2025), <https://perma.cc/3VN2-Z6XA>.

83. *See id.*

84. *Guidelines for Public Officials and Employees*, ALA. ETHICS COMM’N (2025), <https://perma.cc/TP6B-FDXL>.

85. ALA. CODE § 13A-10-61(2) (2025).

86. *Snyder v. United States*, 144 S. Ct. 1947, 1954–55 (2024).

87. ALA. CODE § 36-25-7 (2025).

88. *Id.* § 36-25-27(a)(1), (2).

extent to which prosecutors could prove the intent behind the \$13,000.<sup>89</sup>

## II. WHY *SNYDER* WORKS: PUTTING GRATUITY REGULATION ON THE STATES

### A. *Already Handled: States Have Gratuity Provisions on the Books*

As mentioned above, all fifty states have some form of law or regulation to deter corruption at the state and local levels.<sup>90</sup> These reflect state and local policy decisions while still promoting anti-corruption efforts. States are better suited to regulate gratuities because state and local officials are more in tune with the priorities and needs of their communities. State and local governments can also keep a closer eye on potential concerns, stopping gratuities and corruption before they start. In fact, each state surveyed for this Comment, and most others, has some form of mandatory ethics training for officials.

Each state's training looks slightly different, and not all states require the training of all officials, but the idea rings clear: states can train officials on where the line is for illegal gifts and gratuities. Most trainings are also interactive and relevant to the culture and community of the state, keeping officials engaged and providing tangible examples of legal and illegal actions.<sup>91</sup>

For example, the North Carolina Ethics Commission has scheduled live trainings and an interactive online module for self-paced learning.<sup>92</sup> Under the State Government Ethics Act, the training is mandated for "public servants, legislators, legislative employees and ethics liaisons" within six months of employment and every two years after.<sup>93</sup> The author of this Comment took the training—it is available to the public—to see how effectively it covers state gift and gratuity requirements. The training detailed each aspect of the state's requirement, giving examples to help officials distinguish between legal and illegal gifts.<sup>94</sup> It even provided a decision tree, helping officials determine if the gift is acceptable, ensuring they understand—and have fair notice of—the gift laws to which they must adhere.<sup>95</sup>

In fact, the training offered examples that would resonate with many North Carolina locals. Many officials are likely fans of the

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89. *Snyder*, 144 S. Ct. at 1954.

90. *State Gift Laws*, *supra* note 11.

91. *See, e.g., Mandatory Ethics Education*, N.C. STATE ETHICS COMM'N (2025), <https://perma.cc/5KK2-T6J9>.

92. *Id.*

93. *See id.*

94. *See Ethics Education On-Demand Program*, N.C. STATE ETHICS COMM'N (Mar. 18, 2021), <https://perma.cc/44HJ-KSPB>.

95. *See id.*

Carolina Hurricanes or one of the state's many collegiate basketball teams. The training had specific examples and questions to teach officials when they could (or could not) legally accept tickets to those games—going so far as to delineate between basketball tickets to Duke University, a private institution, as opposed to the University of North Carolina at Chapel Hill, a public institution.<sup>96</sup> This level of training would never be feasible at the federal level to ensure state and local officials understand the vague bribery and gratuities interpretation of § 666 pre-*Snyder*.

The federal government does have detailed guidance and training for federal officials encompassed in 18 U.S.C. § 201.<sup>97</sup> Specific federal regulations exist to detail gifts and gratuities requirements for federal officials, including examples to ensure officials understand the guidelines.<sup>98</sup> All branches of the federal government have explicit ethics requirements regarding bribery and gratuities, much like the training provided by North Carolina.<sup>99</sup> For example, members of Congress, along with their staff, must receive ethics training—including training on bribes and gratuities—within sixty days of their start date.<sup>100</sup> Training is also required annually, similar to the bi-annual requirement for North Carolina officials.<sup>101</sup>

This type of federal training would never be possible for state and local officials. Federal agencies simply do not have the bandwidth to track training requirements for 19 million state and local officials.<sup>102</sup> Additionally, implementing nationwide training would be a huge undertaking for the federal government. The training would need to be easily accessible, provide concrete examples like North Carolina's college basketball teams, and have a tracking system so the federal government could ensure completion. Such a training would be too burdensome for federal agencies to implement and monitor. Additionally, there is no one centralized location listing all state and local officials, so the federal government would be hard-pressed simply to find everyone to whom the training would apply. Thus, state

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96. *See id.*

97. *See generally* U.S. OFF. GOV'T ETHICS (2025), <https://perma.cc/6VV4-FC9M>.

98. *See, e.g.*, 5 C.F.R. § 2635.202 (2024).

99. *See id.*; *Training*, U.S. HOUSE REPRESENTATIVES: COMM. ON ETHICS (2025), <https://perma.cc/VY2Y-JMGQ>; *Gifts to the Judicial Branch*, U.S. COURTS (2025), <https://perma.cc/3NQ9-76RF>.

100. *Training*, *supra* note 99.

101. *See id.*

102. *See Snyder v. United States*, 144 S. Ct. 1947, 1951 (2024). The U.S. Office of Government Ethics solely focuses on ensuring federal executive branch agencies and their approximately 2.7 million employees adhere to ethics policies. It alone had a budget of more than \$25 million in 2024. Having similar federal oversight at the state and local level would exponentially increase costs to taxpayers. *See* U.S. OFF. OF GOV'T ETHICS, AGENCY FINANCIAL REPORT: FISCAL YEAR 2024, at 23 (2024).

and local officials would be left in the lurch as to whether their seemingly innocent actions violated federal law.

Training also helps ensure a fundamental cornerstone of due process in American criminal jurisprudence: fair notice. The full doctrine of fair notice is too complex for this Comment, but the idea is that people cannot be punished for illegal actions that they could not have reasonably known were illegal.<sup>103</sup> Officials at all levels of government should know what laws apply to them and what happens if they do not follow them.<sup>104</sup> Ethics training at the state or local level accomplishes this goal, as do detailed state and local laws.

In contrast, the interpretation of 18 U.S.C. § 666(a)(1)(B) pre-*Snyder* was incredibly vague, leaving it up to officials to determine if their acceptance of “anything of value” constituted a “reward[]” for any official act.<sup>105</sup> The Court discussed in detail how the current statute did not meet the fair notice requirement.<sup>106</sup> As an example, Justice Kavanaugh said,

[A] county official could meticulously comply with her county’s local gratuities rules—say, by declining a \$200 gift card but accepting a \$100 gift card from a neighbor as thanks for her diligent work on a new park—but still face up to 10 years in federal prison because she accepted a thing of value in connection with an official act.<sup>107</sup>

Even if the statute was amended to define an illegal gratuity more clearly, there is too much nuance in state and local governments for federal prosecutors to play a role.<sup>108</sup> Officials live in the communities in which they serve, and the smaller the government, the more day-to-day interactions an official may have with constituents.<sup>109</sup> With many officials employed outside their government capacity, constant interaction with constituents is expected.<sup>110</sup> A local mayor’s title in the community will inevitably affect their relationship with local businesses, but that is not necessarily a crime, nor should it be.<sup>111</sup> A federal effort to prosecute state and local officials for gratuities “creates potential for all aspects of personal affairs to be criminalized.”<sup>112</sup> State and local government entities are better suited to regulate their own officials accepting gifts

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103. *See Notice*, BLACK’S LAW DICTIONARY (12th ed. 2024).

104. *See Snyder*, 144 S. Ct. at 1958.

105. 18 U.S.C. § 666(a)(1)(B).

106. *See Snyder*, 144 S. Ct. at 1957–58.

107. *Id.* at 1957.

108. *See Richardson*, *supra* note 20, at 33.

109. *See id.* at 31, 33.

110. *See id.* at 33.

111. *Id.*

112. *Id.*

and gratuities because they have the resources and nuance to ensure the laws meet community needs and are clearly explained to officials.

*B. Federalism: 19 Million Officials with Unique Responsibilities*

The most compelling argument *Snyder* makes for leaving gratuities prosecution to the states is perhaps the oldest one: federalism. The notion of federalism is as old as the United States of America, if not older. Deliberated amongst the nation’s framers at the Constitutional Convention, and a cornerstone of the Constitution, federalism is the relationship of dual sovereignty that the federal government has with state governments.<sup>113</sup> Specifically, *Snyder* supports the historical beliefs of anti-federalists, who wanted stronger state governments and “oppose[d] strengthening the federal government.”<sup>114</sup> This idea is enshrined in the Constitution via the Tenth Amendment: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”<sup>115</sup>

Applying these ideals to all levels of government, the Supreme Court has long held that states have the “prerogative to regulate the permissible scope of interactions between state officials and their constituents.”<sup>116</sup> Here, the idea of state and local self-governance means federal gratuities prosecution “significantly infringe[d] on bedrock federalism principles.”<sup>117</sup> State and local governments have a patchwork of laws and regulations on officials accepting gratuities.<sup>118</sup> These specialized approaches give officials “nuanced state and local policy judgments about when gifts expressing appreciation to public officials for their past acts cross the line from the innocuous to the problematic.”<sup>119</sup> State and local officials should be allowed—within reason—to regulate their interactions with their constituents, particularly in circumstances as muddy as gratuities and appreciation for official acts.

Opponents of *Snyder*’s interpretation of § 666 say that the federal funding requirement of § 666 gives the federal government the ability to prosecute state and local officials.<sup>120</sup> But this argument is weak; the federal funding does not have to apply to the actions of the individual being prosecuted.<sup>121</sup> A local government receiving federal funding for any service would be subject to any gratuity prosecution, no matter how unrelated. Also, the extent to which state and local

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113. *Federalism*, BLACK’S LAW DICTIONARY (12th ed. 2024).

114. *Antifederalist*, BLACK’S LAW DICTIONARY (12th ed. 2024).

115. U.S. CONST. amend. X.

116. *McDonnell v. United States*, 579 U.S. 550, 576 (2016).

117. *Snyder v. United States*, 144 S. Ct. 1947, 1956 (2024).

118. *State Gift Laws*, *supra* note 11.

119. *Snyder*, 144 S. Ct. at 1956.

120. *See id.* at 1961 (Jackson, J., dissenting).

121. *See Sabri v. United States*, 541 U.S. 600, 606–08 (2004).

governments receive federal funds means that federal prosecutors would have carte blanche to prosecute any official for any gratuity, no matter how far removed the gratuity was from federal money.

Federal prosecution of gratuities would “suddenly subject 19 million state and local officials to a new and different regulatory regime for gratuities.”<sup>122</sup> Many of these 19 million officials are part-time; even some full-time officials have outside employment to offset a *de minimis* government salary.<sup>123</sup> These local nuances “can create complications for regulating gifts to those officials, and [state and local] rules often reflect that reality.”<sup>124</sup> Pre-*Snyder*, 18 U.S.C. § 666(a)(1)(B) had a vague and seemingly endless scope, calling into question the “thank you” tokens of appreciation millions of officials receive from their community members for a job well done.<sup>125</sup> Giving states and local governments the ability to regulate gifts and gratuities—something they already do—protects the dual sovereignty at the foundation of the Constitution by keeping state matters solely within the states.

### C. Sound Policy: Federal Court Control

There are also many ancillary reasons supporting the proposition that state and local governments are the proper authorities to regulate gratuities. Public policy dictates prosecution should fall outside federal purview to prevent overcriminalization and overcrowding in the federal judiciary.

Any statutory amendment post-*Snyder* regarding gratuities prosecution would still include the stipulation in 18 U.S.C. § 666(b): For prosecution to be allowed under the federal law, the state or local government must receive more than \$10,000 “under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance” in “any one year period.”<sup>126</sup> All fifty states and most—if not all—local governments receive some sort of federal funding.<sup>127</sup> In 2022 alone, approximately \$1.2 trillion of federal funding went to state, local, tribal, and territorial governments.<sup>128</sup>

Additionally, federal regulation of state and local government corruption does not require the corruption to be “for or because of any official act” as it requires of federal officials under 18 U.S.C. § 201.<sup>129</sup> Courts have previously ruled that § 666’s language is broader, allowing federal prosecutors to file charges on any alleged corruption,

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122. *Snyder*, 144 S. Ct. at 1957.

123. *Id.* at 1952.

124. *Id.*

125. *See id.*

126. 18 U.S.C. § 666(b).

127. OFF. OF MGMT. & BUDGET, *supra* note 13, at 77.

128. *Id.*

129. *Compare* 18 U.S.C. § 666, *with id.* § 201(c).

even if it has minimal ties to the state or local government's federal funding.<sup>130</sup> The wording of § 666 focuses “not on the official's actions, but rather on the business of the agency that the official serves, and the benefit need only be ‘in connection with’ (that is, related to) these activities.”<sup>131</sup> This lack of a direct link between the alleged action and federal funding is a vast overreach of the federal government's role in state and local governance. Federal prosecution of gratuities could lead to state and local officials being punished for actions unrelated to federal funding that their constituents deem acceptable.

On top of the federalism concerns, there are practical concerns in giving the federal government such a vague and broad scope of prosecutorial power. The number of judges in federal district and appellate courts has not increased in more than thirty years.<sup>132</sup> In contrast, the number of filings in federal district courts has increased by more than 30 percent.<sup>133</sup> This has led to a drastic overcrowding of dockets in the federal judiciary, leading to increasingly long lapses of time in the resolution of a suit.<sup>134</sup> Overcrowding is especially pertinent in criminal cases like § 666 prosecutions, where the Sixth Amendment requires that criminal defendants have a speedy trial.<sup>135</sup> For example, *Snyder* originated with charges filed in federal district court in November of 2016.<sup>136</sup>

There have also been movements to reduce the federal court workload and overcriminalization simply by making conflict of interest policies an issue for civil courts.<sup>137</sup> Focusing mostly on administrative or civil proceedings, criminal court could be reserved for “exceptional cases.”<sup>138</sup> This movement has not gained traction in recent years, but is worth mentioning in this Comment because of the Court's curtailing federal prosecution of alleged corruption. Additionally, some states appear to follow this approach. For example, the Indiana Administrative Code imposes civil penalties against officials who accept gratuities outside the law.<sup>139</sup>

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130. See *Sabri v. United States*, 541 U.S. 600, 605 (2004).

131. Mark S. Gaioni, *Federal Anticorruption Law in the State and Local Context: Defining the Scope of 18 U.S.C. § 666*, 46 COLUM. J.L. & SOC. PROBS. 207, 247 (2012).

132. Tierney Sneed, *Even After Unanimous Senate Approval, a Bill Addressing Dire Judge Shortage Faces Uphill Climb in the House*, CNN (Sep. 8, 2024), <https://perma.cc/7HJL-XS4Y>.

133. *Id.*

134. *Id.*

135. U.S. CONST. amend. VI.

136. Press Release, U.S. Dep't Just., Lake County, Indiana, Sheriff and Portage, Indiana, Mayor Indicted Separately on Public Corruption Charges (Nov. 18, 2016), <https://perma.cc/6D7R-M4LS>.

137. See Richardson, *supra* note 20, at 42.

138. *Id.*

139. 42 IND. ADMIN. CODE § 1-5-1 (2025).

III. WHAT COULD GO WRONG?: POTENTIAL CONCERNS POST-*SNYDER*

The dissenting opinion in *Snyder* is a strong rebuke of allowing state and local governments to regulate their own gratuities prosecutions: “Officials who use their public positions for private gain threaten the integrity of our most important institutions. Greed makes governments—at every level—less responsive, less efficient, and less trustworthy from the perspective of the communities they serve.”<sup>140</sup>

A form of bias or favoritism, cronyism is defined as “the unfair practice by a powerful person . . . of giving jobs and other favors to friends.”<sup>141</sup> Focusing on the “other favors” part of the definition, corruption via cronyism is a concern at all levels of government.

The dissenting opinion in *Snyder* expressed concern that without federal oversight and prosecution, corrupt gratuities could go unchecked at the state and local levels.<sup>142</sup> This argument has been echoed throughout the years, with “many assert[ing] that federal prosecutors must intervene when the corruption penetrates the very offices in charge of prosecutions under state law, or when the local authorities, for political or other reasons, are otherwise unwilling to prosecute.”<sup>143</sup> Concerns abound that state and local prosecutors “overlook corruption that may be simply a way of ‘doing business’ in that jurisdiction.”<sup>144</sup>

Federal prosecutors do not run for office like many state and local prosecutors, and they often have more expansive resources to investigate and bring charges.<sup>145</sup> Even in the short amount of time since *Snyder* was decided, numerous officials across the country have been charged under the now-remaining bribery provisions of 18 U.S.C. § 666.<sup>146</sup>

The dissent expressed concerns that this corruption could go unchecked in state and local governments.<sup>147</sup> Prior gratuities

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140. *Snyder v. United States*, 144 S. Ct. 1947, 1960 (2024) (Jackson, J., dissenting).

141. *Cronyism Synonyms*, MERRIAM-WEBSTER: THESAURUS (2025), <https://perma.cc/LT54-E6EN>.

142. *See Snyder*, 144 S. Ct. at 1972 (Jackson, J., dissenting).

143. Charles N. Whitaker, Note, *Federal Prosecution of State and Local Bribery: Inappropriate Tools and the Need for a Structured Approach*, 78 VA. L. REV. 1617, 1623 (1992).

144. *Id.* at 1623–24.

145. United States Attorneys for each federal district are appointed by the President. *See Offices of the United States Attorneys*, U.S. DEP’T JUST. (2025), <https://perma.cc/3JGJ-MNXC>. Lower levels of federal prosecutors are hired by the U.S. Department of Justice. *See Legal Careers*, U.S. DEP’T JUST. (2025), <https://perma.cc/GE5T-464Y>.

146. *See, e.g.*, Press Release, U.S. Dep’t Just., New York City Mayor Eric Adams Charged with Bribery and Campaign Finance Offenses (Sep. 26, 2024), <https://perma.cc/B5N2-LZSS>; U.S. Dep’t Just., *supra* note 2.

147. *See Snyder*, 144 S. Ct. at 1972 (Jackson, J., dissenting).

prosecutions under the statute created a pattern where federal prosecutors focused on clearly “corrupt” gratuities, not simple gift-giving and nominal gifts that concerned the Court.<sup>148</sup> But statutory interpretation “cannot construe a criminal statute on the assumption that the Government will ‘use it responsibly.’”<sup>149</sup> The idea that federal prosecutors say they would not prosecute against small gifts and tokens of appreciation does not mean the statute is proper.

Additionally, the fact remains that state and local prosecutors routinely prosecute government corruption under state law.<sup>150</sup> There have been concerns about state prosecutors being unwilling to prosecute other state and local officials, but there are numerous instances of prosecutors adhering to their official duties—even at the risk of backlash—and prosecuting fellow officials for bribery, cronyism, and other forms of corruption.<sup>151</sup>

For example, in one of the states surveyed in this Comment, former Alabama Attorney General Luther Strange “vowed to do something” about corruption when he was elected to office in 2010.<sup>152</sup> He hired a “renowned” prosecutor and gave him one job: “root out corruption wherever you find it.”<sup>153</sup> When writing about his time as Attorney General, Strange said he gave the “team the resources they needed to put together the best team of corruption fighters in the country—Alabama’s own Untouchables.”<sup>154</sup> From Strange’s election in 2010 to his published writing in 2017, he said his prosecutors “convicted over two dozen public officials and secured the impeachment of a sheriff for human trafficking and drug offenses.”<sup>155</sup> Alabama state prosecutors also held the then-speaker of the house responsible for corruption: “But when the evidence was clear and beyond dispute, they did the only right thing they could do about the corruption they found—expose it, no matter what the cost.”<sup>156</sup> Even after Strange left the office, the team’s work continued, securing a guilty plea and resignation from a sitting governor.<sup>157</sup>

There are also numerous ways for other local jurisdictions and officials to step in and investigate potential corruption. In the past, state prosecutors have used law enforcement from another city or county than where the corruption is allegedly occurring, limiting any

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148. *See id.* at 1970.

149. *McDonnell v. United States*, 579 U.S. 550, 576 (2016) (quoting *United States v. Stevens*, 559 U.S. 460, 480 (2010)).

150. *See, e.g.*, Matt Hart & Bob Riley, *Sen. Luther Strange: The Importance of Taking on Corruption*, AL.COM (Dec. 3, 2017), <https://perma.cc/8YSQ-DFDE>.

151. *Id.*

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

157. *See Carter, supra* note 2.

potential conflicts of interest between investigators and the suspected official.<sup>158</sup> Some states have also appointed entire commissions of special prosecutors and law enforcement from other areas of the state to investigate another state jurisdiction.<sup>159</sup> At the state level, prosecutors and attorneys general can have separate, walled-off units focused on corruption investigations, much like internal affairs or inspectors general in different government agencies.<sup>160</sup>

State and local prosecutors have shown through the years that they are willing to combat corruption at all levels of government, so prosecuting illegal gratuities should be no different. Additionally, states have tailored bribery and gratuity legislation based on specific state needs and desired policy goals. Prosecutors can effectively target corrupt and illegal gratuities, avoiding innocent ones, due to the clarity in state law and ethics codes.

#### IV. A PATH FORWARD: OPTIONS FOR GRATUITY REGULATION POST- *SNYDER*

##### A. *No Gratuities for Governing: Attempts to Amend 18 U.S.C. § 666(a)(1)(B)*

The Court's decision in *Snyder* affects 19 million public officials and their constituents, but it was one of the lesser-known decisions from the 2024 term. Although it was highlighted in state and local government circles, it was barely mentioned in the mainstream media compared to other cases handed down in 2024.<sup>161</sup> Despite this lack of public discourse on the issue, federal lawmakers jumped at the chance to reinstate gratuities prosecution by amending 18 U.S.C. § 666(a)(1)(B).

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158. See Norman Abrams, *The Distance Imperative: A Different Way of Thinking about Public Official Corruption Investigations/Prosecutions and the Federal Role*, 42 LOY. U. CHI. L.J. 207, 228 (2011).

159. *Id.*

160. *Id.* at 229.

161. See, e.g., Dana Difilippo, *Lawmakers Aim to Tweak New Jersey's Bribery Law to Beat Gratuity Defense*, N.J. MONITOR (Oct. 23, 2024), <https://perma.cc/94P2-QTZD>; Hannah Meisel, *SCOTUS Ruling Could Upend Federal Corruption Cases for Madigan, Allies*, CAPITOL NEWS ILL. (June 27, 2024), <https://perma.cc/L7Y2-M635>; Greg Mermelstein, *Snyder v. U.S.: Federal Corruption Statute Doesn't Prohibit "Gratuities" to State and Local Officials*, NAT'L ASS'N FOR PUB. DEF. (Sep. 9, 2024), <https://perma.cc/MD6G-FG5W>.

The “No Gratuities for Governing Act” was introduced in the House of Representatives less than two months after *Snyder* was announced.<sup>162</sup> The bill sought to amend 18 U.S.C. § 666 to criminalize officials who

directly or indirectly, knowingly and purposefully demands, seeks, receives, accepts, or agrees to receive or accept anything of value of \$1,000 or more personally for or because of any official act . . . in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of \$5,000 or more.<sup>163</sup>

Violation of this gratuities provision would be punishable by up to two years in prison.<sup>164</sup> Despite being introduced in August 2024, the bill remained in committee and was not considered for a vote in the 118th Congress.<sup>165</sup> This proposed language would address many of the Court’s concerns: delineating gratuities from bribery, more closely matching gratuities punishments for federal officials, and providing better fair notice to state and local officials because of its explicit language.<sup>166</sup> The bill sought to “clarify the offense pertaining to illegal gratuities concerning programs receiving Federal funds,” but the proposed changes do not explicitly add “gratuity” language to the statute.<sup>167</sup>

A corresponding Senate bill—“Stop Corrupt Gratuities Act”—was proposed in September 2024;<sup>168</sup> it also was not brought to a floor vote during the session.<sup>169</sup> While similar, the Senate proposal had key differences. Most notably, it is more explicitly tailored to gratuities than the House bill, changing the statute’s heading to “[t]heft, bribery, or gratuities” and adding a specific gratuities subsection to the bill.<sup>170</sup> But it still has vagueness problems: The statute criminalizes a state or local official who “solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person.”<sup>171</sup> The House bill set a threshold of \$1,000 for gratuities that could be punished, but the Senate bill is vague.<sup>172</sup> This

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162. No Gratuities for Governing Act of 2024, H.R. 9389, 118th Cong. (2024).

163. *Id.* § 2.

164. *Id.*

165. *See All Actions: H.R.9389 — 118th Congress (2023-2024)*, CONGRESS.GOV (2025), <https://perma.cc/93Y9-E4Q2>.

166. No Gratuities for Governing Act of 2024, H.R. 9389, 118th Cong. § 2 (2024).

167. *Id.*

168. Stop Corrupt Gratuities Act, S. 5186, 118th Cong. (2024).

169. *See All Actions: S.5186 — 118th Congress (2023-2024)*, CONGRESS.GOV (2025), <https://perma.cc/5TKK-B73W>.

170. Stop Corrupt Gratuities Act, S. 5186, 118th Cong. § 2 (2024).

171. *Id.*

172. No Gratuities for Governing Act of 2024, H.R. 9389, 118th Cong. § 2 (2024).

vague language would likely not hold up to scrutiny by the Court, as statutory text and fair notice were two of the Court's main concerns with the current language.<sup>173</sup> The House and Senate bills both proposed punishments of no more than two years in prison for a violation, and like the current statute, gratuities were only subject to prosecution if they involved government business worth \$5,000 or more.<sup>174</sup>

Neither bill was passed during the 118th Congress: Both remained in committee when the session ended. The “No Gratuities for Governing Act” was reintroduced in the 119th Congress but remains in committee.<sup>175</sup> Any bill proposed to add explicit gratuities language would likely face scrutiny at all levels of government based on the Court's federalism and fair notice arguments. It is also worth noting that other federal corruption statutes commonly used to prosecute state and local officials remain in effect, though they do not specifically focus on public corruption like § 666.

### *B. States Strengthening: Efforts to Increase Gratuities Regulations Under State Law*

One of the Court's main discussions in *Snyder* was federalism: states should have the authority to regulate their own state and local governments.<sup>176</sup> States have “the prerogative to regulate the permissible scope of interactions between state officials and their constituents,” so *Snyder* argues that gratuities regulation is a part of this prerogative.<sup>177</sup>

In the aftermath of the *Snyder* decision, some state legislators are working to ensure state ethics laws effectively protect against corrupt gratuities. While all states have ethics legislation for state and local officials, many face the same problems found in 18 U.S.C. § 666(a)(1)(B). Most do not explicitly include “gratuity” in the law and are vague on what constitutes a reward or gift, so the Court's reasoning in *Snyder* could also apply to these laws. But several states are working to ensure gratuities are explicitly prohibited in certain circumstances.

*Snyder*'s home state of Indiana has proposed the best example of new legislation specifically to ban state and local officials from accepting gratuities. A state representative filed a bill at the start of the state's 2025 legislative session to “make sure Indiana law is clear that, with limited exceptions, offering a gratuity to a public servant,

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173. *Snyder v. United States*, 144 S. Ct. 1947, 1954–55, 1957–58 (2024).

174. No Gratuities for Governing Act of 2024, H.R. 9389, 118th Cong. § 2 (2024); Stop Corrupt Gratuities Act, S. 5186, 118th Cong. § 2 (2024).

175. No Gratuities for Governing Act of 2025, H.R. 4175, 119th Cong. (2025).

176. *See Snyder*, 144 S. Ct. at 1956–57.

177. *McDonnell v. United States*, 579 U.S. 550, 576 (2016).

or accepting one, is prohibited.”<sup>178</sup> The bill defines a gratuity as “a payment made to a public servant after an official act as a reward or token of appreciation.”<sup>179</sup> The bill does list exceptions to the definition, including goods and services valued at less than \$100 or subject to a reporting requirement under another state law.<sup>180</sup> A state or local official who solicits or accepts a gratuity who “knows or reasonably should know that the gratuity is offered as a reward for; an official act performed by the public servant in the public servant’s official capacity” can face misdemeanor charges.<sup>181</sup> The charge can be upgraded to a felony if the “fair market value” of the gratuity is at least \$750.<sup>182</sup>

The specificity of Indiana’s bill exemplifies the Court’s argument that states are the better avenues for gratuities prosecution. The bill provides an explicit definition of a gratuity and exceptions to the charge.<sup>183</sup> It also divides the potential charge based on the value of the gratuity.<sup>184</sup> Most notably, however, the proposed bill devises a clear test of what constitutes accepting an illegal gratuity.<sup>185</sup> The test brings charges against a state of local official who

(1) solicits or accepts a gratuity from another person; and

(2) either:

(A) solicits the gratuity as a reward for; or

(B) knows or reasonably should know that the gratuity is offered as a reward for;

an official act performed by the public servant in the public servant’s official capacity.<sup>186</sup>

By using a clear, multi-part test, officials would have fair notice of what actions could lead to charges, using the test as a checklist of what not to do when interacting with constituents and the public. Additionally, prosecutors could use the test in court, proving the elements and factors for a conviction without having to prove “corrupt” intent as listed in 18 U.S.C. § 666(a)(1)(B).<sup>187</sup> Indiana’s

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178. Dan Carden, *Indiana Lawmakers May Prohibit Gratuities Paid to Public Servants*, NWI.COM (Jan. 17, 2025), <https://perma.cc/R2S6-JL5T>.

179. H.B. 1110, 124th Gen. Assemb., Reg. Sess. § 2 (Ind. 2025).

180. *Id.* § 2.5(1)(A), (2).

181. *Id.* § 2.5(d).

182. *Id.*

183. *Id.* § 2.5(a).

184. *Id.* § 2.5(c)–(d).

185. *Id.* § 2.5(d).

186. *Id.*

187. 18 U.S.C. § 666(a)(1)(B).

proposal resolves the Supreme Court's original concerns with the text of 18 U.S.C. § 666(a)(1)(B), clearly delineating the elements and punishments of a gratuities violation. The bill also resolves the Court's federalism concern: the specificity of the state bill reflects the "nuanced state and local policy judgments about when gifts expressing appreciation to public officials for their past acts cross the line from the innocuous to the problematic."<sup>188</sup> As of this writing, the bill is still in the Indiana legislature.<sup>189</sup>

#### CONCLUSION

The federal government does not need to amend 18 U.S.C. § 666(a)(1)(B) to make gratuities illegal at the federal level. States already have laws in place to protect state and local governments from "corrupt" gratuities without involving the federal government. The current language of the statute criminalizes the actions of state and local officials "influenced or rewarded" by bribes.<sup>190</sup> The timing element of bribery makes it easy for federal prosecutors to determine whether the law has been violated. However, gratuities' inherent vagueness, as well as the vast differences in state and local governments, mean the issue should be left to the states. States already have ethics laws and training for public officials based on the unique needs and responsibilities of officials in that state, limiting the need for federal government involvement.

It is worth noting, however, that *Snyder* may not have been the most suitable avenue for the Court to overrule gratuities corruption under 18 U.S.C. § 666(a)(1)(B). For many, the controversial case seemed to be a clear example of corruption,<sup>191</sup> far different than the many innocuous examples that concerned the Court.<sup>192</sup>

As states continue with current ethics laws and potentially craft new legislation post-*Snyder*, it will be interesting to see to what extent the elimination of gratuities from 18 U.S.C. § 666(a)(1)(B) changes the state and local landscape for public officials. Will states propose legislation like the Indiana bill, establishing a clear test for gratuities prosecution? Will Congress attempt to amend § 666? Will federal prosecutors turn to other corruption statutes to continue prosecuting state and local officials? Or will the goal in *Snyder* ring true, leaving gratuities corruption prosecution in state and local courts?

As for former Mayor James Snyder, the Supreme Court's ruling in his favor was not the end of his legal troubles. The Supreme Court

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188. *Snyder v. United States*, 144 S. Ct. 1947, 1956 (2024).

189. H.B. 1110, 124th Gen. Assemb., Reg. Sess. (Ind. 2025); Alexandra Kukulka, *Ban on Gratuities for Public Officials Approved by Indiana House*, CHI. TRIB. (Feb. 3, 2026), <https://perma.cc/HHT4-AK6S>.

190. 18 U.S.C. § 666(a)(1)(B).

191. *See Snyder*, 144 S. Ct. at 1967–68 (Jackson, J., dissenting).

192. *See id.* at 1958 (majority opinion).

remanded his case to the Seventh Circuit Court of Appeals for additional proceedings consistent with the Court's decision outlawing gratuities prosecution under § 666(a)(1)(B).<sup>193</sup> In late 2024, the appeals court decided that Snyder could be retried by federal prosecutors solely on a bribery theory.<sup>194</sup> The appellate court ruled that the indictment against Snyder accused him of violating § 666(a)(1)(B) without distinguishing between theories of bribery and gratuity.<sup>195</sup> Thus, federal prosecutors are still able to retry Snyder solely on the theory of bribery, "a theory that Snyder corruptly solicited or demanded or accepted or agreed, in advance of the transactions, to accept anything of value in connection with the transactions."<sup>196</sup> The Constitution's clause against double jeopardy does not apply to Snyder, according to the appeals court, because "the evidence was sufficient to convict on a bribery theory" alone.<sup>197</sup> Snyder was recently sentenced to three years on probation for defrauding the Internal Revenue Service.<sup>198</sup>

The vast majority of Americans are concerned about government corruption.<sup>199</sup> But for all the reasons listed here, winning back the public's trust should be left for state and local governments to do on their own, without federal involvement in prosecuting gratuities.

*Sydney Basden\**

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193. United States v. Snyder, No. 21-2986, 2024 WL 4834037, at \*1 (7th Cir. Nov. 20, 2024).

194. *Id.*

195. *Id.*

196. *Id.* at \*2.

197. U.S. CONST. amend. V; *Snyder*, 2024 WL 4834037, at \*2.

198. Dan Carden, *Criminal Sentencing of Former Portage Mayor Moved to January*, NWI.COM (Sep. 29, 2025), <https://perma.cc/GQ79-NXJN>; *New Judge Sets Snyder Sentencing Date for March 10*, CHI. TRIB. (Jan. 20, 2026), <https://perma.cc/VA83-WNLU>; Alexandra Kukulka, *Former Portage Mayor James Snyder Sentenced to 3 Years on Probation for Federal IRS Charge*, CHI. TRIB. (Mar. 10, 2026), <https://www.chicagotribune.com/2026/03/10/former-portage-mayor-james-snyder-sentenced-to-3-years-on-probation-for-federal-irs-charge/>.

199. See Hitchcock, *supra* note 3.

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