



Common Cause New Mexico on an Independent Ethics Commission

Our current state ethics code is in need of an overhaul. We would like to implement a truly independent state ethics commission, in addition to more complete lobbyist and political action committee (PAC) disclosure laws. New Mexico routinely receives failing grades from various national organizations in transparency, accountability, and the risk of corruption, when areas like legislative accountability, public access to information, and transparency in the state budget process are analyzed.

Supporting an Independent Ethics Commission is a no-brainer for Common Cause New Mexico. While the majority of elected officials in New Mexico are honest, hard-working people, the few that skim the edges of the law are left to do as they please with no oversight from the Legislature or the executive branch. We support creating a commission to hear cases of corruption, mismanagement of state funds and ethical concerns by the public.

New Mexico is one of only nine states without an ethics commission. While some good measures have been introduced but failed to pass, other measures allowed the commission to keep almost its entire work secret – while threatening whistleblowers with fines and jail time for speaking out.

In 2010, Common Cause New Mexico along with the New Mexico Foundation for Open Government, the Greater Albuquerque Chamber of Commerce, AARP of New Mexico and the League of Women Voters joined together to raise objections to the secrecy provisions in the Ethics Commission proposals, saying that:

Under ethics-commission bills being considered during the current legislative session, a private citizen who files an ethics complaint and then decides to talk about it publicly could face penalties of up to \$26,000 and a year in jail. Ironically, a public official, public employee or lobbyist found to have actually committed an ethics violation in betrayal of the public trust would only receive a public reprimand from the ethics commission.

“It’s odd that the penalties for a complainant speaking publicly about a complaint would be astronomically harsher than any penalty the commission could dish out to a public official accused of misconduct,” Common Cause New Mexico Executive Director Steven Robert Allen said.

Most of the groups who are raising concerns believe that the establishment of a strong independent ethics commission is long overdue in New Mexico. As one of just a handful of states without such a body, New Mexico needs an independent, bipartisan commission to field and investigate ethics complaints

against public officials, as well as to serve in an advisory capacity on all issues related to ethics in government.

“The Chamber’s long term ethics advocacy efforts have been important to our overall mission,” Greater Albuquerque Chamber of Commerce President and CEO Terri Cole said. “An ethical government is essential to creating jobs. Businesses want to locate and grow in a place where good policy trumps good politics. The ethics commission legislation before us falls short of that goal. When the penalties for breaching confidentiality are much stiffer than the ethics violation itself, as is the case in this bill, that’s cause for sending this back to the drafting table.”

There are additional transparency concerns with the bills. Although confidentiality for the commission’s initial investigation and deliberations might make sense, these bills require that nearly all commission meetings, the entire hearing process and almost all documents collected and generated by the commission remain outside public view forever. The only documents that would be required to be released by this commission are advisory opinions, the final reports on investigations that result in a guilty finding and an annual report.

“Our sunshine laws and policies start from the presumption that government must be open by default, with any secrecy provisions carved out as narrowly as possible,” New Mexico Foundation for Open Government Executive Director Sarah Welsh said. “This bill takes the opposite approach. It starts from the presumption that all Commission documents, meetings and hearings related to ethics complaints must be secret, forever. It then carves out a narrow exception for one final report to be made public. I still haven’t heard a good explanation for why an ethics body needs such extraordinary secrecy privileges, and I don’t think the public will trust its pronouncements without more transparency.”

It’s also quite possible that the extreme penalties and the overall lack of transparency of this proposed commission will actually discourage people from filing complaints with the commission in the first place.

Common Cause New Mexico is dedicated to restoring the core values of American democracy, reinventing an open, honest and accountable government that serves the public interest, and empowering ordinary people to make their voices heard in the political process.

Viki Harrison, 505.205.3750, vharrison@commoncause.org