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February 16, 2010

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### **Good Government Groups Raise Objections to Secrecy Provisions in Ethics Commission Proposals**

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.

The bills have raised concerns among good government groups in New Mexico, who object to the proposed commission's extreme secrecy provisions. ("Secrecy a Fatal Flaw in Ethics Commission Plan," *Albuquerque Journal*, February 13, 2010).

"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."

The proposal is currently moving through both chambers.

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.

For these reasons, the New Mexico Foundation for Open Government, Common Cause New Mexico, the Greater Albuquerque Chamber of Commerce, AARP and the League of Women Voters of New Mexico ask legislators to amend these bills to remove these provisions.

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