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## STATE ETHICS COMMISSION'S OCTOBER 1, 2021 REPORT ON JURISDICTION:

Review and Recommendations

To: New Mexico Legislature  
&  
Gov. Michelle Lujan Grisham

STATE of NEW MEXICO



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## EXECUTIVE SUMMARY

In 2019, when the Legislature enacted the State Ethics Commission's initial enabling legislation, the Legislature required the State Ethics Commission to report by October 2021 whether the Legislature should extend the Commission's jurisdiction. See Laws 2019, Ch. 86, § 37(A). The Commission recommends the following expansions of the Commission's jurisdiction with respect to the Commission's administrative proceedings:

- Expand the Commission's subject matter jurisdiction to include those provisions of the New Mexico Constitution that limit emoluments, extra compensation, and legislative interests in civil offices and in contracts—namely, Article IV, Section 27; Article IV, Section 28; Article V, Section 12; and Article XX, Section 9 of the New Mexico Constitution. These constitutional provisions are at the center of the state's ethics laws and naturally fall within the State Ethics Commission's constitutional mandate and competence.
- Expand the Commission's personal jurisdiction to include jurisdiction for public agencies, as NMSA 1978, Section 10-16G-2(J) defines that term. Personal jurisdiction for both entity and individual respondents would enable the Commission to issue remedies against state agencies and state instrumentalities that would remain effective even if the official or employee who is directly responsible for a violation separates from the agency or from state service altogether.

After receiving the views of local governments across New Mexico and consulting with other state ethics commissions, the Commission does not recommend that, in the 2022 legislative session, the Legislature expand the Commission's personal jurisdiction in administrative proceedings to include the officials and employees of county and municipal governments, special districts, or school districts. While such an expansion might be sound in a future legislative session, the Commission does not recommend this expansion now. The Commission already has certain authority and responsibilities with respect to local governments—including the responsibilities to provide trainings and the discretionary authority to file civil enforcement actions to remedy violations of the Governmental Conduct Act, the Procurement Code, the Anti-Donation Clause, and the Campaign Reporting Act. These current responsibilities and powers, which are separate from the Commission's jurisdiction to decide administrative complaints, enable the Commission, in its opening years, to further New Mexico's ethics laws as they apply to the county and local governments. Furthermore, through FY22, the Commission has appropriated funds for only 5 FTE, which is insufficient to undertake a large expansion of the Commission's adjudicatory role to investigate and decide administrative complaints. Once the Commission has grown in capacity and is better able to execute its current

authority, the Commission might recommend an expansion of personal jurisdiction, after further consultation with New Mexico's county and municipal governments.

In lieu of a large expansion of jurisdiction in the Commission's adjudicatory role, the Commission does recommend two policy changes with respect to local governments:

- Amend NMSA 1978, Section 10-16G-8 (2019) to allow the Commission to receive requests for advisory opinions from the officials or employees of local governments, special districts and school districts and to issue advisory opinions in response to those requests. Currently, the Commission is not authorized to receive a request for an advisory opinion from an official or employee at the local government level. If the Commission were able to render advice to the officials and employees of local governments, the Commission could provide a needed service, particularly in counties and municipalities that might lack in-house counsel.
- Require the county and municipal governments to appoint the clerk or manager as the local government's "chief ethics officer," who shall have the ability to request advisory opinions and shall also have a bi-annual reporting requirement to the Commission for any ethics issues that arise related to the Governmental Conduct Act, the Procurement Code, the Anti-Donation Clause, and the Campaign Reporting Act (as it applies to county elected officials). These reports would inform the Commission of ethics issues at the local level. The chief ethics officer could also liaison with the Commission to receive trainings related to the state's ethics laws as they apply to local governments.

The Commission appreciates the support of the Legislature and the Governor to enhance ethical and transparent government in New Mexico.

Submitted: October 1, 2021

**State Ethics Commissioners**

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## ORIGIN OF THIS REPORT

Following ratification by over 75% of New Mexico electors voting in the 2018 general election, Article V, Section 17 of the New Mexico Constitution creates the State Ethics Commission as an “independent state agency under the direction of seven commissioners . . . .”<sup>1</sup> The Constitution authorizes the Commission to

initiate, receive, investigate and adjudicate complaints alleging violations of, and issue advisory opinions concerning, standards of ethical conduct and other standards of conduct and reporting requirements, as may be provided by law, for state officers and employees of the executive and legislative branches of government, candidates or other participants in elections, lobbyists or government contractors or seekers of government contracts and have such other jurisdiction as provided by law.<sup>2</sup>

The Commission’s authority under the Constitution must be “provided by law” and, hence, is not self-executing. In other words, the Constitution leaves it to the Legislature to say which “standards of conduct and reporting requirements” the Commission may oversee and, beyond the categories of persons that Section 17(B) specifies, against whom else the Commission may adjudicate alleged violations. Further, the Constitution provides that the Commission “shall have other such powers and duties and administer or enforce such other acts as further provided by law.”<sup>3</sup> This provision reserves to the Legislature the authority to assign the Commission with additional powers and responsibilities.<sup>4</sup>

In 2019, the First Session of the Fifty-Fourth Legislature enacted enabling legislation for the Commission, creating the State Ethics Commission Act and amending several statutes regarding New Mexico’s governmental conduct, procurement, and disclosure statutes.<sup>5</sup> This legislation gives the Commission a broad array of authority to adjudicate complaints, issue advisory opinions, and prosecute civil enforcement actions in state court.<sup>6</sup> The provisions regarding the Commission’s organization became effective on July 1, 2019, and the provisions enabling the Commission’s authority became effective on January 1, 2020.<sup>7</sup>

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<sup>1</sup> N.M. Const., art. V, § 17(A).

<sup>2</sup> N.M. Const. art. V, § 17(B).

<sup>3</sup> N.M. Const. art. V, § 17(C).

<sup>4</sup> See *id.*

<sup>5</sup> See Laws 2019, Ch. 86, §§ 1-34, 37-42.

<sup>6</sup> See, e.g., NMSA 1978, § 10-16G-9 (2019, as amended 2021).

<sup>7</sup> See Laws 2019, Ch. 86, § 41.

The initial legislation also required the Commission to report to the Legislature and the Governor by October 1, 2021, “regarding whether to extend [the] commission’s jurisdiction.”<sup>8</sup> The Legislature provided:

B. If the report recommends extension of the state ethics commission’s jurisdiction, the report shall address:

(1) a detailed plan for implementation of an extension of the commission’s jurisdiction and a proposed time line [sic] for implementation;

(2) the estimated number of additional employees and other resources needed by the commission to perform its expanded duties;

(3) estimated budget increases needed for the commission to perform its expanded duties; and

(4) recommended changes to existing law.<sup>9</sup>

This report is prepared and submitted in compliance with that mandate.

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<sup>8</sup> See Laws 2019, Ch. 86, § 37(A).

<sup>9</sup> Laws 2019, Ch. 86, § 37(B).



# OVERVIEW OF THE COMMISSION'S CURRENT JURISDICTION AND CAPACITY

## THE COMMISSION'S CURRENT JURISDICTION

Before considering proposed expansions of the Commission's jurisdiction, we present an overview of the Commission's current jurisdictional profile. By "jurisdiction," we mean (and understand the Legislature to mean) the Commission's power to decide an administrative complaint alleging a violation of a provision of law and to provide a remedy when a violation is found to have occurred.<sup>10</sup> This concept combines both the Commission's subject-matter jurisdiction (*i.e.*, which laws the Commission has authority to enforce) and the Commission's personal jurisdiction (*i.e.*, the persons who are subject to the Commission's adjudicative process and remedies).<sup>11</sup>

NMSA 1978, Section 10-16G-9(A)(1) through (9) (2019) sets forth the Commission's **subject-matter jurisdiction**. In its adjudicatory role, the Commission currently has the authority to decide whether there has been a violation of the following nine laws:

1. the **Campaign Reporting Act**, NMSA 1978, §§ 1-19-25 to -36 (1979, as amended 2021);
2. the **Financial Disclosure Act**, NMSA 1978, §§ 10-16A-1 to -9 (1993, as amended 2021);
3. the **Gift Act**, NMSA 1978, §§ 10-16B-1 to -5 (1993, as amended 2019);
4. the **Lobbyist Regulation Act**, NMSA 1978, §§ 2-11-1 to -10 (1977, as amended 2021);
5. the **Voter Action Act**, NMSA 1978, §§ 1-19A-1 to -17 (2003, as amended 2021);
6. the **Governmental Conduct Act**, NMSA 1978, §§ 10-16-1 to -18 (1993, as amended 2019);
7. the **Procurement Code**, NMSA 1978, §§ 13-1-28 to -1999 (1984, as amended 2019);
8. the **State Ethics Commission Act**, NMSA 1978, §§ 10-16G-16 to -18 (2019, as amended 2021); and

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<sup>10</sup> See, e.g., *Jurisdiction*, BLACK'S LAW DICTIONARY (11th ed. 2019).

<sup>11</sup> See *Subject-matter jurisdiction*, BLACK'S LAW DICTIONARY (11th ed. 2019); *Personal jurisdiction*, BLACK'S LAW DICTIONARY (11th ed. 2019).

9. **Article IX, Section 14 of the New Mexico Constitution** (i.e., the “Anti-Donation Clause”).<sup>12</sup>

The Commission’s personal jurisdiction is established by Article V, Section 17(B) of the Constitution and Section 10-16G-9(A) of the State Ethics Commission Act. First, the Constitution sets a floor under the Commission’s **personal jurisdiction**. Under the Constitution, the following persons are subject to the Commission’s adjudicatory process: “state officers and employees of the executive and legislative branches of government, candidates or other participants in elections, lobbyists . . . government contractors . . . [and] seekers of government contracts . . . .”<sup>13</sup> In addition to this set of persons, Section 10-16G-9(A) provides that the following sets of persons are within the Commission’s jurisdiction: “public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists’ employers . . . .”<sup>14</sup>

Putting the constitutional and statutory provisions together, the Commission’s personal jurisdiction extends to all officials and employees in the executive and legislative branches of state government; all officials and employees in any instrumentality of the state; all persons subject to the Campaign Reporting Act, including all candidates, campaign committees, political committees, legislative caucus committees, reporting individuals, and treasurers of campaign committees or political committees; all lobbyists and lobbyists’ employers having disclosure duties under the Lobbyist Regulation Act; and all contractors to the state and seekers of contracts with the state.<sup>15</sup>

Under current law, therefore, many persons are subject to the Commission’s jurisdiction. There are approximately 47,000 persons employed by the State of New Mexico;<sup>16</sup> over 1,400 persons subject to the Campaign Reporting Act; 1332 lobbyists and lobbyist employers; and perhaps a few hundred persons who have reporting

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<sup>12</sup> Effective January 1, 2022, the Commission will also have subject matter jurisdiction for the Revised Uniform Law on Notarial Acts, NMSA 1978, §§ 14-14A-1 to 14-14A-32 (2021). See Laws 2021, Ch. 109, § 16.

<sup>13</sup> See N.M. Const., art. V, § 17(B).

<sup>14</sup> “Public officials” and “public employees” are defined terms under the State Ethics Commission Act, such that a “public official” means “a person elected to an office of the executive or legislative branch of the state or a person appointed to a public agency,” § 10-16G-2(L), a “public employee” means “an employee of a public agency,” § 10-16G-2(K), and a “public agency,” in turn, means

any department, commission, council, board, committee, agency, or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance authority, the New Mexico exposition center authority, the New Mexico hospital equipment loan council and the New Mexico renewable energy transmission authority.

§ 10-16G-2(J).

<sup>15</sup> See N.M. Const., art. V, § 17(B); § 10-16G-9(A).

<sup>16</sup> See U.S. Bureau of Labor Statistics, Data Tools, <https://www.bls.gov/data/#employment>; 41,088 active suppliers to the State of New Mexico (as of July 21, 2021)



obligations under the Financial Disclosure Act who are not also employees of the State of New Mexico.

## **THE COMMISSION'S CURRENT CAPACITY**

The Commission's statutory responsibilities fall on **five** employees: an Executive Director (exempt), a General Counsel (exempt), an Attorney III (classified personnel service), a Staff Manager (classified personnel service), and an Executive Assistant (exempt).<sup>17</sup> These employees are responsible for administering and investigating administrative complaints filed with the Commission. They are also responsible for much more: In addition to its jurisdiction for administrative complaints, the Commission also issues advisory opinions, prosecutes and litigates civil enforcement actions in state court, provides trainings on ethics laws, conducts rule makings, and undertakes other statutory assignments—such as appointing members to the Citizen Redistricting Committee, which the Commission's employees currently assist in staffing under a reimbursement-based memorandum of understanding. In sum, the Commission current jurisdictional profile and statutory responsibilities greatly exceed the current capacity of its current five-FTE staff.

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<sup>17</sup> The Commission also has a Special Projects Coordinator II (exempt) on its organizational listing. During FY21, the Commission employed this position and had adequate appropriations to do so. Because of budget reductions for FY22, however, the Commission lacks sufficient appropriations to continue funding this position through FY22, absent a supplemental appropriation in the upcoming legislative session.

## METHODOLOGY

### SEPARATING RECOMMENDATIONS BY TYPE OF JURISDICTION

In preparation of this report, the Commission focused on two separate questions: First, whether to recommend that the Legislature expand the Commission's **subject-matter jurisdiction**, allowing the Commission to decide violations of additional statutes or constitutional provisions. Second, whether to recommend that the Legislature expand the Commission's **personal jurisdiction** to include additional classes of persons and, specifically, the officials and employees of New Mexico's counties and municipalities.

### METHODOLOGY RELATED TO SUBJECT-MATTER JURISDICTION

Regarding the first question about subject-matter jurisdiction, Commission staff surveyed the requests for advisory opinions that had been submitted to the Commission to ascertain the relevance of ethics laws beyond those laws that Section 10-16G-9(A) enumerates.<sup>18</sup> Under the State Ethics Commission Act, the Commission "may issue advisory opinions on matters related to ethics."<sup>19</sup> The Commission issues advisory opinions on all "matters related to ethics," even those concerning laws beyond the Commission's subject-matter jurisdiction.<sup>20</sup> As such, requests for Commission advisory opinions—and the Commission's opinions—offer a view into ethics issues that might extend beyond the statutes under the Commission's current jurisdiction. Similarly, Commission staff have also reviewed referrals from the Office of the State Auditor and the Office of the Attorney General, as well as reviewed the press reporting on relevant ethics issues arising under laws for which the Commission currently lacks subject-matter jurisdiction.

### METHODOLOGY RELATED TO PERSONAL JURISDICTION

Regarding the second question about personal jurisdiction, Commission staff conducted several lines of research. Commission staff (i) reviewed and compiled the Commission's current statutory responsibilities regarding local government officials and employees; (ii) surveyed local governments around New Mexico to understand if there are local ethics bodies in their jurisdictions and to solicit their views on expansion of the Commission's jurisdiction; (iii) interviewed the directors and senior staff of other state ethics commissions that have personal jurisdiction for both state and local officials and employees; and (iv) conducted a literature review on the costs of corruption and benefits of ethics bodies.

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<sup>18</sup> The State Ethics Commission's formal advisory opinions are available on [www.NMOneSource.com](http://www.NMOneSource.com), as published by the New Mexico Compilation Commission.

<sup>19</sup> See NMSA 1978, § 10-16G-8(A).

<sup>20</sup> See State Ethics Comm'n Adv. Op. 2021-08, at n.3 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-02 (Feb. 5, 2021).

- **Review of Commission’s current authority.** While the Commission, in its adjudicatory role, lacks personal jurisdiction over local government officials and employees, the Commission interacts with them in several ways under current law.
- **Survey of local governments in New Mexico.** Commission staff contacted all 33 counties and approximately 80 municipalities having a population greater than 1,000 to request information about local ethics ordinances and ethics review boards and to solicit their views about the Commission’s jurisdiction. To this end, Commission staff deployed a survey addressed to the county and municipal managers and worked with New Mexico Counties and the New Mexico Municipal League to circulate the survey. (See Ex. 2). The survey asked basic questions about the existence of local ethics codes and ethics adjudicatory bodies, as well as inquiring about local views of the expansion of Commission jurisdiction. Commission staff also independently reviewed county and municipal information to gather information regarding local ethics ordinances and local ethics adjudicatory boards or committees. Commissioners and Commission staff also solicited the views of local government officials, at least one of whom (Javier Sánchez, the Mayor of Española) presented on this topic at the Commission’s October 2, 2020 meeting.
- **Interviews with ethics commissions in other states.** In addition to gathering information from New Mexico’s local government employees, Commission staff also considered ethics bodies in other states. Commission staff reviewed the jurisdictions of other state ethics commissions in other jurisdictions across the United States. Of those other-state commissions that have some jurisdiction for both state and local government officials and employees, Commission staff interviewed the executive staff of those other-state commissions, including state ethics commissions in Alabama, Arkansas, California, Florida, Georgia, Louisiana, Maryland, Massachusetts, Montana, Nevada, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and West Virginia. Those interviews covered the jurisdictional profiles and budgets of other-state commissions, as well as how other commissions that have handled adjudications, enforcement, and training on applicable ethics laws for both state and local government officials and employees. In total, Commission staff interviewed the senior staff of 18 other state ethics commissions.

## FINDINGS

### **[1] THE COMMISSION'S CURRENT AUTHORITY WITH RESPECT TO LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES**

While the Commission, in its adjudicatory role, lacks jurisdiction over the officials and employees of local governments, school districts, and special districts that are not “instrumentalities of the state,” the Commission currently interacts with those officials and employees in several ways, as provided by law.

1. The Commission currently has the discretionary authority to file civil actions in state court against local government officials and employees to enforce provisions of the Governmental Conduct Act, the Procurement Code, the Campaign Reporting Act (with respect to candidates for county elected office), and the Anti-Donation Clause.<sup>21</sup>
2. Subject to staff availability and resources, the Commission staff currently provides informal, letter advisory opinions to the officials and employees of local public bodies. See 1.8.1.9(B) NMAC.
3. The Commission currently offers trainings on New Mexico’s ethics and disclosure laws, on request, to local public bodies and local government affiliates.<sup>22</sup>

In sum, with respect to local governments, and as staff time and agency resources permit, the Commission currently has (i) the discretionary power to prosecute civil enforcement actions, (ii) the responsibility to provide governmental conduct trainings, and (iii) the ability to offer advisory letters. At present, however, the Commission has only appropriated funds for 5 FTE and, thus, lacks the resources to sufficiently perform its current statutory functions vis-à-vis local governments, special districts, and school districts.

### **[2] ETHICS ORDINANCES AND ETHICS BODIES AT THE LOCAL LEVEL**

There is a wide range of ethics oversight structures among county and municipal governments. Some of the larger local governments in New Mexico have local ethics ordinances, complaint processes, and adjudicatory bodies like the State Ethics

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<sup>21</sup> See NMSA 1978, § 10-16G-9(F) (2019, as amended 2021) (“The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section.”); NMSA 1978, § 10-16-8(B) (1995, as amended 2019) (“The state ethics commission may institute a civil action in district court . . . if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act.”); NMSA 1978, § 13-1-196 (1984, as amended 2019) (“[T]he state ethics commission is empowered to bring a civil action for the enforcement of any provision of the Procurement Code . . .”).

<sup>22</sup> Cf. NMSA 1978, § 10-16-13.1 (1993, as amended 2019) (“The state ethics commission shall advise and seek to educate all persons required to perform duties under the Governmental Conduct Act of those duties.”).

Commission.<sup>23</sup> In contrast to several of the larger local governments, however, smaller county and municipal governments have less articulated means of adjudicating and remedying breaches of governmental ethics. For example, many local governments rely exclusively on their human resources policies and disciplinary procedures for handling ethics issues relating to local government employees.<sup>24</sup> Approximately 36% of New Mexico's population resides in municipalities that have ethics oversight ordinances and structures, and approximately 48% of New Mexico's population resides in counties that have ethics oversight ordinances and structures. (See Ex. 2).

### **[3] LOCAL PERSPECTIVES ON THE EXPANSION OF THE COMMISSION'S JURISDICTION**

Commission staff contacted all 33 counties and approximately 80 municipalities having a population greater than 1,000 to request information about local ethics ordinances and ethics review boards and to solicit their views about the Commission's jurisdiction. To this end, Commission staff deployed a survey addressed to the county and municipal managers. As seen in Ex. 2., (Page) 15 counties and 30 municipalities responded to the Commission's survey. Support and opposition to expansion of the Commission's personal jurisdiction for local government officials and employees was evenly mixed. Seven counties and 16 Municipalities expressed a favorable opinion of jurisdictional expansion, while 7 counties and 13 municipalities expressed a negative opinion of jurisdictional expansion. In contrast to these mixed reactions, 38 out of 45 survey respondents (84% of survey respondents) expressed favorable views of receiving advisory opinions from the Commission. (Ex. 2). Please consult Exhibit 2 for a more detailed presentation of local perspectives on the expansion of the Commission's jurisdiction.

### **[4] PERSPECTIVES OF OTHER STATE ETHICS COMMISSIONS**

After conducting interviews with the directors and senior staff of other commissions that interact with both state and local officials and employees, a few dominant themes emerged:

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<sup>23</sup> See, e.g., Bernalillo County Code of Conduct Review Board, <https://www.bernco.gov/boards-commissions/code-of-conduct-review-board/> (last accessed Aug. 12, 2021); Roosevelt County Ethics Board, <https://www.rooseveltcounty.com/wp-content/uploads/2021/02/BoardofEthicsRulesAdoptedFiled.pdf> (last accessed Aug. 12, 2021); Sandoval County Ethics Board, <https://www.sandovalcountynm.gov/ethics-board/> (last accessed Aug. 12, 2021); Santa Fe County Ethics Board, [https://www.santafecountynm.gov/committees/county\\_ethics\\_board](https://www.santafecountynm.gov/committees/county_ethics_board) (last accessed Aug. 12, 2021); City of Albuquerque Board of Ethics, <https://www.cabq.gov/clerk/ethics-1/board-of-ethics> (last accessed Aug. 12, 2021); City of Santa Fe Ethics and Campaign Review Board, [https://www.santafenm.gov/ethics\\_and\\_campaign\\_review\\_board](https://www.santafenm.gov/ethics_and_campaign_review_board) (last accessed Aug. 12).

<sup>24</sup> See, e.g., Los Alamos County Ordinance 02-240 (Ex. 2); Eddy County (Ex. 2); San Juan County (Ex. 2); Luna County (Ex. 2); Chaves County (Ex. 2).

- Commissions with personal jurisdiction for both state and local officials and employees consistently estimated that local governments accounted for approximately 70% to 75% of their total volume of work, across administrative adjudications, advisory opinions and letters, and educational presentations.
- The directors of other-state commissions also consistently predicted that New Mexico’s commission would require double to triple the annual budget that is appropriated for an agency that is fully staffed to handle only state officials and employees. Directors stressed the need for appropriations and staffing levels adequate to the high workload that accompanies local governments, both administrative case load and advisory letters. One acting director in Nevada pointed out that the overbearing workload had recently caused key staff to separate from their positions.
  - The experience of the Oklahoma Ethics Commission is particularly illustrative on the dangers of statutory mandates far exceeding budget appropriations. The Oklahoma Ethics Commission’s responsibilities were expanded in 2014 to cover campaign finance and financial disclosure duties as they applied to Oklahoma county and municipal offices.<sup>25</sup> Within a few years, however, the Oklahoma Ethics Commission was severely underfunded as compared to its statutory responsibilities. The Oklahoma Ethics Commission filed a constitutional challenge in the Oklahoma Supreme Court to enforce a provision of the Oklahoma Constitution that provides the Commission “shall receive an annual appropriation by the Legislature sufficient to enable it to perform its duties as set forth in this Constitutional Amendment.”<sup>26</sup> The Oklahoma Supreme Court denied the Oklahoma Ethics Commission’s petition, and the Oklahoma Commission struggles to perform its constitutional and statutory mandates.<sup>27</sup>
- The directors and senior staff of other-state commissions also consistently opined that the service to local governments was important and worthwhile,

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<sup>25</sup> See Okla. Stat. Title 19, §§ 138.11-138.19 (eff. Jan. 1, 2015).

<sup>26</sup> Okla. Const. art. XXIX, § 2; see App. To Assume Original Juris. and Pet. for Decl. Relief and Writs of Mandamus and/or Prohibition, *State of Oklahoma ex rel. Oklahoma Ethics Comm’n v. Fallin, et al.*, No. 117149 (Okla. Jun. 26, 2018). See also “Oklahoma Ethics Commission files lawsuit against Gov. Mary Fallin, legislative leaders,” TULSA WORLD (Jun. 26, 2018), [https://tulsaworld.com/news/capitol\\_report/oklahoma-ethics-commission-files-lawsuit-against-gov-mary-fallin-legislative/article\\_94ba2fc0-58dc-5189-9d1e-56c29fdbf648.html](https://tulsaworld.com/news/capitol_report/oklahoma-ethics-commission-files-lawsuit-against-gov-mary-fallin-legislative/article_94ba2fc0-58dc-5189-9d1e-56c29fdbf648.html)

<sup>27</sup> Order, *State of Oklahoma ex rel. Oklahoma Ethics Comm’n v. Fallin, et al.*, No. 117149 (Okla. Sept. 24, 2018); see also “Oklahoma Supreme Court rules against Ethics Commission in funding battle against Legislature,” TULSA WORLD (Sept. 26, 2018), [https://tulsaworld.com/news/state-and-regional/oklahoma-supreme-court-rules-against-ethics-commission-in-funding-battle-against-legislature/article\\_1a233119-ba62-5d0d-82e1-95b5a616d4b8.html](https://tulsaworld.com/news/state-and-regional/oklahoma-supreme-court-rules-against-ethics-commission-in-funding-battle-against-legislature/article_1a233119-ba62-5d0d-82e1-95b5a616d4b8.html)



particularly where local governments were less likely to have ready access to legal counsel on the application of governmental ethics and procurement laws. One director said he believed that, among government entities, local political subdivisions had the greatest effect on the lives of average residents.

## **[5] FINDINGS RELATED TO THE COMMISSION'S SUBJECT MATTER JURISDICTION**

Ethics commissions across the states focus on laws regarding the conduct of public officials, public employees, candidates and lobbyists with respect to confidential information, conflict of interest, revolving door, financial disclosure, gifts, improper compensation, misuse of public office, nepotism, and public contracts and procurement.<sup>28</sup> While New Mexico's State Ethics Commission has a personal jurisdictional profile that, currently, is not as expansive as other state commissions that have jurisdiction for both state and local officials and employees, New Mexico's commission has a broader subject-matter jurisdiction than most other state ethics commissions. New Mexico's commission oversees all the main subject matters that ethics commissions generally handle—and more. No other director reported that their commission had jurisdiction to adjudicate violations of their state's procurement laws or constitutional anti-donation provisions, much less laws regulating the conduct of notaries public and unauthorized notarial acts.<sup>29</sup>

While the Commission's subject matter jurisdiction broadly covers New Mexico's ethics laws, it is not exhaustive. There remain several other central and peripheral ethics laws for which the Commission currently does not have jurisdiction. The most central of these are the constitutional provisions that control (i) legislative interests in civil offices and contracts and (ii) forms of extra compensation and emoluments. The Commission also currently lacks jurisdiction for more peripheral ethics statutes, including New Mexico statutes prohibiting nepotism;<sup>30</sup> and statutes prohibiting certain financial interest and contracts by members of boards of regents and employees of state educational institutions.<sup>31</sup> While the Commission does not have subject matter jurisdiction for these laws, the Commission interacts with them in other ways. For example, the Commission has issued advisory opinions interpreting Article IV, Section 28 of the New Mexico Constitution.<sup>32</sup> The Commission's staff has also provided trainings to members of boards of regents of state educational institutions,

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<sup>28</sup> See Council on Government Ethics Laws Blue Book, 2020 Ethics Update (prepared for 42<sup>nd</sup> Annual Conference: Dec. 1-15, 2020), *available at* [https://cdn.ymaws.com/www.cogel.org/resource/resmgr/cogel\\_blue\\_books/cogel\\_2020\\_ethics\\_blue\\_book.pdf](https://cdn.ymaws.com/www.cogel.org/resource/resmgr/cogel_blue_books/cogel_2020_ethics_blue_book.pdf)

<sup>29</sup> NMSA 1978, §§ 14-14A-1 to 14-14A-32 (2021)

<sup>30</sup> NMSA 1978, §§ 10-1-10 to 10-1-11 (1925).

<sup>31</sup> NMSA 1978, § 21-1-17 (1889, as amended 2009); NMSA 1978, § 21-1-35 (1923, as amended 1999)

<sup>32</sup> See State Ethics Comm'n Adv. Op. 2021-09 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-08 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-02 (Feb. 5, 2021).

apprising them of the applicable prohibitions surrounding financial interests and contracts.<sup>33</sup>

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<sup>33</sup> For example, on March 23, 2021, the Commission's senior staff presented on "Ethics Law for University Regents" to the Board of Regents of Eastern New Mexico University.

## RECOMMENDATIONS

### RECOMMENDATIONS REGARDING EXPANSION OF THE COMMISSION'S SUBJECT-MATTER JURISDICTION

The Commission recommends the Legislature expand the Commission's subject-matter jurisdiction to include those provisions of the New Mexico Constitution regarding (i) legislative interests in civil offices and contracts; and (ii) extra compensation.

#### 1. Article IV, Section 28 of the New Mexico Constitution

The Constitution prohibits members of the Legislature from being appointed to certain civil offices and having interests in certain contracts. Article IV, Section 28 provides:

No member of the legislature shall, during the term for which he was elected, be appointed to any civil office in the state, nor shall he within one year thereafter be appointed to any civil office created, or the emoluments of which were increased during such term; nor shall any member of the legislature during the term for which he was elected nor within one year thereafter, be interested directly or indirectly in any contract with the state or any municipality thereof, which was authorized by any law passed during such term.<sup>34</sup>

This prohibition on interests in contracts and appointments to certain civil offices protects a bedrock principle of government ethics—namely, that legislators should use the powers of their offices “only to advance the public interest and not to obtain personal benefits and not to obtain personal benefits or pursue private interests.”<sup>35</sup> As such, the prohibition in Article IV, Section 28 falls squarely within the Commission's mission. Unsurprisingly then, the Commission has already issued three formal advisory opinions advising how Article IV, Section 28 applies in various circumstances.<sup>36</sup> Because the Commission repeatedly has been asked to interpret Article IV, Section 28, and because the constitutional provision is so squarely within the Commission's ambit, the Commission recommends its subject-matter jurisdiction be expanded to include the constitutional provision.

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<sup>34</sup> N.M. Const., art. IV, § 28.

<sup>35</sup> See NMSA 1978, § 10-16-3(A).

<sup>36</sup> See State Ethics Comm'n Adv. Op. 2021-09 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-08 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-02 (Feb. 5, 2021).

## **2. The Extra-Compensation Clauses of the New Mexico Constitution**

The New Mexico constitution contains three separate prohibitions on extra compensation to officers and employees of the state.<sup>37</sup> First, Article IV, Section 27 provides “No law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this constitution.” Second, Article V, Section 12, in pertinent part provides “The compensation herein fixed [for certain executive officers] shall be full payment for all services rendered by said officers and they shall receive no other fees or compensation whatsoever.” Third, Article XX, Section 9 provides “No officer of the state who receives a salary, shall accept or receive to his own use any compensation, fees, allowance or emoluments for or on account of his office, in any form whatever, except the salary provided by law.”

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<sup>37</sup> See N.M. Const., art. IV, § 27; art. V, § 12; and art. XX, § 9.

## RECOMMENDATIONS REGARDING THE COMMISSION'S PERSONAL JURISDICTION

### Expansion of jurisdiction for entity respondents

The Commission recommends that its personal jurisdiction for administrative complaints be extended to include “public agencies” as the State Ethics Commission Act defines that term.<sup>38</sup> Currently, the Commission has jurisdiction for the officials and employees of public agencies, but not for the entities themselves. The Commission routinely dismisses entity respondents in its administrative proceedings, sometimes to the detriment of the state’s ethics laws.

Lack of jurisdiction for the entity respondents hampers the Commission’s ability to vindicate New Mexico’s ethics laws, including the Governmental Conduct Act, the Procurement Code, and the Anti-Donation Clause because the Commission cannot issue injunctive remedies that should apply to the entire entity, and not just the individual respondents. For example, the Governmental Conduct Act prohibits a state agency from “enter[ing] into a contract with, or tak[ing] any action favorably affecting, any person or business that is represented personally in the matter by a person who has been a public officer or employee of the state within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the public officer or employee.”<sup>39</sup> If the Commission finds that a former public official or employee is representing a business with respect to a contract that the former official or employee approved, the Commission under current law cannot order the state agency to refrain from contracting or taking favorable action towards the represented person or business. Likewise, if the Commission finds that a transaction violates the Procurement Code or the Anti-Donation Clause for an individual respondent to make a certain transaction of public funds, then no other official or employee at the agency should be able to approve the transaction. The Commission should have the ability to render an administrative decision and remedy that results in enforcement of these important laws.

### Recommendations concerning local governments

The Commission does not recommend an expansion of the Commission’s personal jurisdiction at this early juncture in the Commission’s operations. While such expansion to include the officials and employees of county governments, municipal governments, special districts, or school districts might make sense at a future date, the Commission recommends against an expansion of the Commission’s personal jurisdiction for administrative complaints in the 2022 legislative session. The Commission makes this recommendation for the following reasons:

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<sup>38</sup> See § 10-16G-2(J).

<sup>39</sup> See NMSA 1978, § 10-16-8(A)(1) (2011).

- 1.** The Commission is significantly understaffed to handle a wider range of personal jurisdiction in the Commission's quasi-judicial capacity. At the time of this report, the Commission has only five staff members. Conversations with the leadership of other state ethics commissions that have jurisdiction for both state and local government officials and employees suggest that the Commission would need between double and triple its annual budget appropriation for FY21 to handle the increased workload that comes with jurisdiction for local public officials and employees. (See Ex. 1). At a future date, and only after the Commission has received budget commensurate with its current responsibilities, the Commission might be in a better position to recommend such a large expansion. To invite expanded jurisdiction with the Commission's current and limited staff is not sound.
  
- 2.** The Commission can more efficiently vindicate the Governmental Conduct Act, the Procurement Code, the Campaign Reporting Act, and the Anti-Donation Clause as applied to the officials and employees of local and district governments through civil enforcement actions than through adjudications of administrative complaints. There are several reasons why Commission-initiated civil enforcement is a more efficient means of vindicating the ethics laws than administrative adjudications:
  - a.** First, the Commission's investigatory and adjudicatory processes for administrative complaints do not incentivize prompt investigations or settlements. The penalties for violations of the ethics laws are likely too slight to motivate either deterrence or settlement.<sup>40</sup> Moreover, the State Ethics Commission Act provides representation, funded by the state, for any respondents to an administrative complaint.<sup>41</sup> For a respondent with free legal counsel and the prospect of, at worst, a \$250 fine, there is very little reason to settle. Rather, the incentives are the opposite. The respondents' counsel, paid hourly on contracts with the Risk Management Division, have incentives to litigate every issue. These incentives create litigation and prevent the Commission from swiftly investigating and adjudicating administrative complaints.
  
  - b.** Second, complainants often file ethics complaints that are outside of the Commission's jurisdiction or obviously do not state a claim under a law for which the Commission has subject matter jurisdiction. Such complaints are a drag on Commission resources. Expansion of

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<sup>40</sup> See, e.g., NMSA 1978, § 10-16-18(B) (authorizing a \$250 civil fine for a violation of the Governmental Conduct Act).

<sup>41</sup> See § 10-16G-10(K).



jurisdiction for local government officials is likely to invite additional complaints that lack merit (assuming that they are even within the Commission's jurisdiction) and are motivated for political and media-coverage reasons. This drag on Commission resources is unnecessary to vindicate New Mexico's ethics laws, where the Commission currently has the authority to file civil enforcement actions to remedy violations of those laws.

- c.** Third, expansion of the Commission's jurisdiction for administrative complaints to include the officials and employees of local governments will create a jurisdictional quagmire for those local governments that already have ethics adjudicatory boards that investigate and enforce local ethics ordinances. Ideally, complainants would decide whether to file a complaint in their local ethics board, alleging a violation of a local ordinance or in the State Ethics Commission, alleging a violation of New Mexico statutory law. Likely, however, complainants will submit complaints to the State Ethics Commission alleging violations of local ordinances. This jurisdictional confusion will also create a drag on Commission resources—which, again, is unnecessary to vindicate the ethics laws as they apply to locals, given the Commission's authority to file civil enforcement actions.

Instead of an expansion of its personal jurisdiction to include the officials or employees of local governments, special districts or school districts, the Commission recommends two policy changes:

- 1.** First, the Commission recommends that the Commission be able to receive requests for advisory opinions from the officials or employees of local governments, special districts and school districts and to issue advisory opinions in response to those requests. Currently, the Commission is not authorized to receive a request for an advisory opinion from an official or employee at the local government level.<sup>42</sup> If the Commission were able to render advice to the officials and employees of local governments, the Commission could provide a needed service, particularly in counties and municipalities that might lack in-house counsel. This recommendation is also supported by the counties and municipalities that responded to the Commission's survey. In fact, 38 out of 45 survey respondents (84% of survey respondents) expressed favorable views of receiving advisory opinions from

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<sup>42</sup> See NMSA 1978, § 10-16G-8 (2019),

the Commission. This included instances where respondents were opposed to jurisdictional expansion. (See Ex. 2).

- 2.** Second, the Commission recommends that the Legislature require the county and municipal governments to appoint the clerk or manager as the local government's "chief ethics officer," who shall have the ability to request advisory opinions and shall also have a bi-annual reporting requirement to the Commission for any ethics issues that arise related to the Governmental Conduct Act, the Procurement Code, the Anti-Donation Clause, and the Campaign Reporting Act (as it applies to county elected officials). These reports would inform the Commission of ethics issues at the local level. The chief ethics officer could also liaison with the Commission to receive trainings related to the state's ethics laws as they apply to local governments.

# EXHIBIT 1



## **STATE ETHICS COMMISSION**

Report on Jurisdiction

HIGHLIGHTS OF INTERVIEWS WITH OTHER STATE  
ETHICS COMMISSIONS REGARDING  
JURISDICTION FOR LOCAL GOVERNMENTS

## DESCRIPTION

Throughout 2021, the New Mexico State Ethics Commission staff conducted interviews with the executive directors of other state ethics commissions with jurisdiction for both state and local government. The Commission sought to understand the responsibilities and resources required for an ethics oversight body to maintain administrative jurisdiction or any level of support for both state and local government bodies concurrently. The staff interviewed the following ethics commissions:

- |                  |                    |
|------------------|--------------------|
| 1. Alabama       | 10. Nevada         |
| 2. Arkansas      | 11. Oklahoma       |
| 3. California    | 12. Oregon         |
| 4. Florida       | 13. Pennsylvania   |
| 5. Georgia       | 14. Rhode Island   |
| 6. Louisiana     | 15. South Carolina |
| 7. Maryland      | 16. Texas          |
| 8. Massachusetts | 17. Virginia       |
| 9. Montana       | 18. West Virginia  |

In each interview, Commission staff requested information on the interviewee commission’s jurisdictional profile, agency structure, staffing, resources, and workload. Additionally, the Commission staff sought insight on the process of expanding jurisdiction.

## KEY OBSERVATIONS

- The average local-level workload across ethics commissions is approximately three times (3X) greater than their respective workloads for state-level issues and support.
- For five ethics commissions interviewed, the commission’s local portfolio was 8X to 9X greater than their workload for the state.
- Across all segments of work: administrative cases, advisory opinions, and trainings, the local workload was between 2X – 3X higher than the state.
- The average number of staff across commissions with both state and local jurisdiction is 19 employees.
- The median number of staff across commissions with both state and local jurisdiction is 13 employees.
- The average budget for FY20 across ethics commissions with state and local jurisdiction was \$2,714,102

## DISTRIBUTION OF STATE & LOCAL WORK ACROSS STATE ETHICS COMMISSIONS:

STATE	STATE WORKLOAD	LOCAL WORKLOAD
Alabama	15%	85%
Arkansas	23%	72%
California	45%	55%
Florida	25%	75%
Georgia	28%	72%
Louisiana	25%	75%
Massachusetts	10%	90%
Montana	10%	90%
Nevada	30%	70%
Oklahoma	50%	50%
Oregon	14%	86%
Pennsylvania	14%	86%
Rhode Island	30%	70%
South Carolina	25%	75%
Texas	36%	64%
Virginia	40%	60%
West Virginia	25%	75%
<b>AVERAGE:</b>	<b>26%</b>	<b>74%</b>

## EXAMPLES OF LOCAL ETHICS OVERSIGHT AND SUPPORT

### Alabama Ethics Commission

In 2019, the Alabama Commission received over 500 complaints, provided just under 1000 advisory opinions, and conducted 68 trainings. According to their Executive Director, 85% of complaints and advisory opinions pertain to the local level, and over 90% of trainings are provided to local government bodies.

### Virginia Conflict of Interest and Ethics Advisory Council

In 2019, the Virginia Ethics body handled approximately 2,800 phone calls and 6,600 emails related to providing ethics support. In 2020, they handled 1650 phone calls and 7,200 emails. According to their Executive Director, over 60% of those requests for advice originated from local government bodies.

### West Virginia Ethics Commission

In 2020, the West Virginia commission received 125 complaints. Of the complaints received, 95 related to local public officials (76%).

### Massachusetts State Ethics Commission

In 2019, the Massachusetts commission received 815 complaints of which 87% related to local officials. In 2020, the Massachusetts commission received 5,714 requests for advice, 90% of which originated from local officials. In 2020, they provided approximately 70 trainings, of which 80% were to local government bodies.

## GUIDANCE FROM OTHER STATE ETHICS COMMISSIONS' DIRECTORS

1

Expanding administrative jurisdiction to include locals will require a significant increase in staff by approximately 2X to 3X. Expansion is not advisable without adequate staffing.

2

Expanding administrative jurisdiction to include locals will require a budget increase of between 3X and 4X at the same time or before the SEC receives local jurisdiction. Expansion is not advisable without adequate funding.

3

Communicating with locals about the nature of expanded jurisdiction and support is important for effective enforcement, particularly for clarifying the parameters of the oversight and support and building trust.

## PERSPECTIVES FROM OTHER STATE ETHICS COMMISSION DIRECTORS

All state ethics commissions interviewed maintained a positive perspective of their respective commissions providing ethics oversight and support to local government bodies. The primary reasons cited are as follows:

1. Centralized ethics oversight results in more uniform and effective administration of the state's ethics laws.
2. Local governments often need independent outside oversight which is insulated or removed from local politics.
3. Centralized oversight provided by the state is more cost effective for many local governments which may not have the budget for ethics oversight.

## CONSIDERATIONS

Of the other state commissions interviewed, the majority stated that public officials are not provided state-funded counsel to defend against allegations of ethics violations, as such allegations are necessarily outside the scope of the official duties of public officials and employees. Of the commissions interviewed, no other commission leadership noted that their respective state provided state-funded outside counsel to respondents in commission administrative proceedings. New Mexico's practice of providing state-funded risk management counsel to respondents in Commission administrative proceedings stands in marked contrast to the practice nationwide. The associated costs should be considered before the Legislature enacts any expansion of the Commission's personal jurisdiction to include local government officials and employees.





**STATE ETHICS COMMISSION**

Report on Jurisdiction

HIGHLIGHTS OF SURVEY RESPONSES FROM NEW MEXICO  
COUNTIES AND MUNICIPALITIES

## ANALYSIS OF SURVEY RESPONSES OF COUNTIES THAT RESPONDED TO SURVEY:

1. Valencia County
2. De Baca County
3. Eddy County
4. County of Lincoln
5. Guadalupe County
6. San Juan County
7. Sandoval County
8. Hidalgo County
9. Roosevelt County
10. Harding County
11. Mora County
12. City of Hobbs
13. Chaves County, New Mexico
14. Luna County
15. Incorporated County of Los Alamos

**45% of NM counties responded.**

## MUNICIPALITIES THAT RESPONDED TO SURVEY:

1. Village of Cimarron
2. Village of Taos Ski Valley
3. City of Rio Rancho
4. City of Moriarty
5. City of Belen
6. City of Elephant Butte
7. City of Gallup
8. Village of San Ysidro
9. Artesia City Council
10. Village of Los Lunas
11. Village of Bosque Farms
12. Village of Corrales
13. City of Lordsburg
14. Town of Taos Town Council
15. Village of Milan
16. The City of Raton
17. City of Anthony
18. City of Eunice
19. Village of Tularosa
20. Village of Hatch
21. Village of Logan
22. Village of Williamsburg
23. City of Hobbs
24. City of Texico
25. Town of Mountainair
26. Town of Dexter
27. City of Roswell
28. City of Clovis
29. City of Albuquerque

**8% of NM municipalities responded.**

## COUNTIES WITH AN ETHICS BODY:

1. Bernalillo County
2. Santa Fe County
3. Sandoval County
4. Roosevelt County
5. Incorporated County of Los Alamos

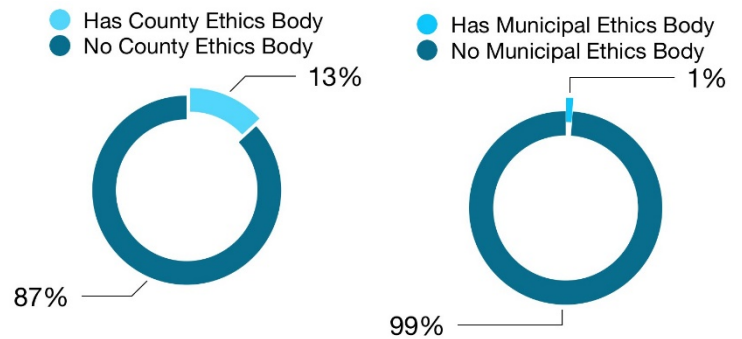
**12 of the counties that responded do not have an ethics body.**

## MUNICIPALITIES WITH AN ETHICS BODY:

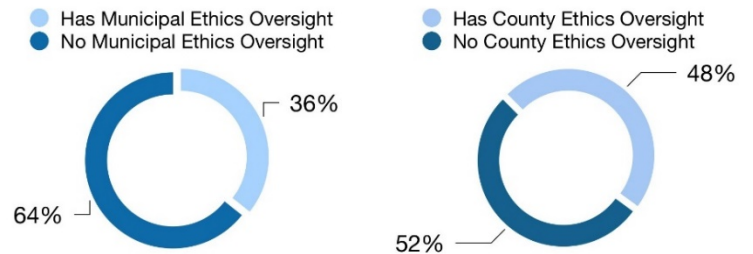
1. Albuquerque
2. Santa Fe
3. City of Rio Rancho
4. Village of Taos Ski Valley

**26 of the municipalities that responded do not have an ethics body.**

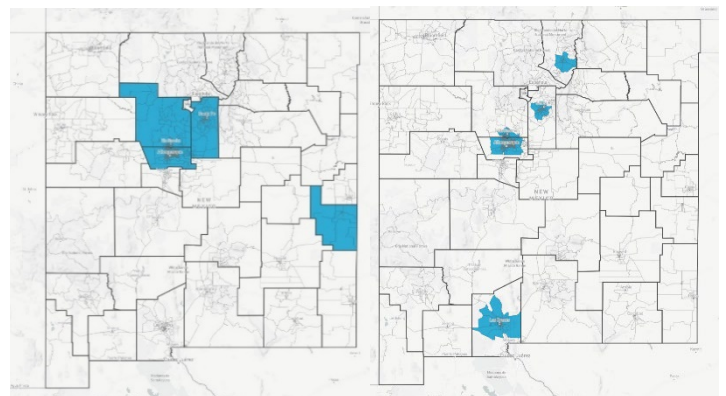
## ETHICS COVERAGE ACROSS NM COUNTIES AND MUNICIPALITIES (BY ENTITY)



## ETHICS COVERAGE ACROSS NM COUNTIES AND MUNICIPALITIES (BY STATE POPULATION)

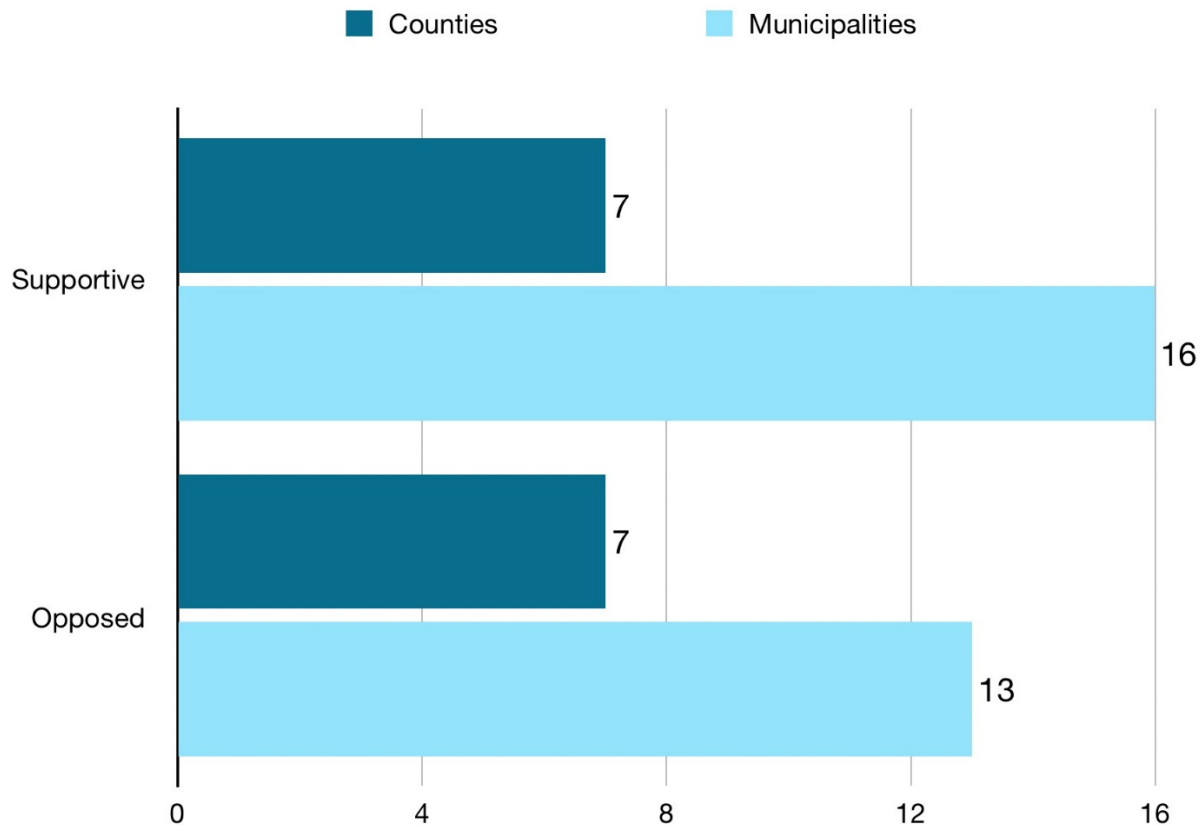


## ETHICS COVERAGE ACROSS NM COUNTIES & MUNICIPALITIES (BY GEOGRAPHY)



## COUNTIES AND MUNICIPALITIES ON ETHICS COMMISSION JURISDICTION EXPANSION

\*Includes only survey respondents\*



### COUNTIES AND MUNICIPALITIES SUPPORTIVE OF JURISDICTIONAL EXPANSION:

- **7** Counties and **16** Municipalities expressed a favorable opinion of jurisdictional expansion.
- Of the local government bodies that replied to the Commission's survey, **8** expressed favorable opinions of jurisdiction expansion but stipulated that it would be best if it were applied in some tailored manner, e.g., only applying to elected officials and not public employees or including laws other than the procurement code.
- At least **2** survey respondents mentioned that jurisdiction expansion would be a benefit to local public bodies that don't have the resources to facilitate internal ethics oversight.
- **16** survey respondents indicated that ethics oversight might ultimately decrease costs incurred by their local government or acknowledged the potential for increased costs of ethics oversight and maintained a favorable opinion of jurisdiction expansion.

### COUNTIES AND MUNICIPALITIES OPPOSED TO JURISDICTIONAL EXPANSION:

- **7** Counties and **13** Municipalities expressed a negative opinion of jurisdictional expansion.
- **28** survey respondents mentioned the potential for increased costs of ethics oversight.

- **11** survey respondents cited concerns that a state body would not understand the issues at the local level.
- **5** survey respondents with some form of ethics oversight cited concerns that jurisdictional expansion would be redundant relative to existing ordinances or modalities of addressing ethics violations.
- **16** survey respondents with no formal local ethics oversight body indicated a negative view of SEC jurisdiction expansion.

### **Number of Counties and Municipalities Supportive of Receiving Advisory Opinions from the Commission**

- 3. 38** out of **45** survey respondents (**84%** of survey respondents) expressed favorable views of receiving advisory opinions from the Commission. This included instances where respondents were opposed to jurisdictional expansion.

## APPENDIX

<b>HIGHLIGHTS OF INTERVIEWS WITH OTHER COMMISSIONS:</b>	Pages 23 - 26 of Report
<b>ANALYSIS OF SURVEY RESPONSES:</b>	Pages 27 - 30 of Report
<b><u>SURVEY RESPONSES:</u></b>	Pages 1 - 175 of Appendix

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<b>COUNTIES</b>	<b>PAGE</b>		
		Corrales	84
Chaves County	1	Dexter	88
De Baca County	5	Elephant Butte	92
Eddy County	9	Eunice	96
Guadalupe County	13	Gallup	100
Harding County	17	Hatch	104
Hidalgo County	21	Hobbs	108
Lincoln County	25	Logan	112
Los Alamos Incorporated County	29	Lordsburg	116
Luna County	33	Los Lunas	120
Mora County	37	Milan	124
Roosevelt County	41	Moriarty	128
San Juan County	45	Mountainair	132
Sandoval County	49	Raton	136
Valencia County	53	Rio Rancho	141
		Roswell	145
		San Ysidro	149
		Taos (Town)	153
		Taos Ski Valley (Village)	159
		Texico	163
		Tularosa	167
		Williamsburg	171
<b>MUNICIPALITIES</b>			
Albuquerque	57		
Anthony	60		
Artesia	64		
Belen	68		
Bosque Farms	72		
Cimarron	76		
Clovis	80		

