



STATE ETHICS COMMISSION

FY23 Budget Request to Legislative Finance Committee, Subcommittee B

Jeremy Farris, State Ethics Commission Executive Director
September 23, 2021, 1:30pm / State Capitol, Room 307

1. What the State Ethics Commission does:

- Adjudicates administrative complaints concerning New Mexico's ethics and disclosure laws
- Files and litigates civil lawsuits to enforce the State's ethics and disclosure laws
- Issues advisory opinions, promulgates a model code of ethics, and provides trainings

2. Commission achievements during past year:

- Launched "Proceedings Portal," and adjudicated 40 administrative complaints in 2020 and 19 cases in 2021 (13 cases remain pending, either in pre-hearing motions practice or investigation)
- Entered hearing office agreements with Hon. Edward Chávez (retired Chief Justice of New Mexico Supreme Court), Hon. Alan Torgerson (retired federal Magistrate Judge), and Hon. James Starzynski (retired federal Chief Bankruptcy Judge)
- Prevailed in district court on two separate challenges to the Commission's subpoenas
- Issued 12 advisory opinions (available on www.NMOneSource.com) and 15 advisory letters
- Filed civil action and settled with Council for a Competitive New Mexico, forcing CCNM to disclose it received \$470,000 from PNM Resources, which CCNM used to fund independent expenditures
- Entered pre-litigation settlement with Committee to Protect New Mexico Consumers, forcing CPNMC to disclose it expended \$264,193 on independent expenditures related to Nov. 2020 ballot question on PRC
- Appointed three members to Citizen Redistricting Committee, including the Chair, following a competitive application and interview process
- Provided continuing legal education and ethics trainings to audiences around New Mexico
- Promulgated a proposed code of ethics, and amendments regarding the Commission's advisory opinions and rules of procedure for administrative cases (See 1.8.1 – 1.8.4 NMAC)

- Received an unmodified auditor’s opinion confirming the Commission’s fiscal health for FY20

3. The Commission requests a FY23 appropriation of \$1,277,400:

- **The Commission urgently needs more personnel**
- The Commission received a FY22 appropriation of \$910,300, a 5% decrease compared to FY21 and, as result, has current funding for only 5 FTE
- The Commission seeks budget increases in the 200s for additional personnel and the 400s for associated costs of additional personnel (IT equipment, DoIT service costs, subscriptions and licenses)
- The requested FY23 appropriation would provide funding for **9 FTE**, allowing the Commission to restore funding for its Special Projects Coordinator and hire an Attorney IV, a Paralegal-A, and a Database Administrator I

4. Considerations supporting the Commission’s FY23 request:

- The Commission has **no staff vacancies** and requires more staff to minimally satisfy its constitutional and statutory duties
- As part of its core functions, the Commission handles intensive civil litigation:
 - To investigate administrative complaints, the Commission petitions for and issues subpoenas. Under statute, respondents in Commission administrative cases are entitled to state-funded attorneys. Since the Commission’s inception, RMD has already paid over \$140,000 to outside counsel to defend respondents and, in only two cases, has paid over \$83,000 for respondents to challenge Commission subpoenas in court—challenges which the Commission prevailed on. **Because the State pays for respondents to challenge the Commission’s subpoenas, the Commission should also provide the Commission with adequate staff to litigate those challenges.**
 - The Commission files civil actions to enforce New Mexico’s ethics and disclosure statutes; in dark-money-disclosure cases, defendants are often well-heeled and fund a litigated defense. Also, in appropriate cases, the Commission participates as amicus curiae where third-party litigation involves the interpretation of one of New Mexico’s ethics or disclosure provisions.
 - The Commission handles all its litigation in-house, preserving its contracts budget for contracts with IT-service providers, hearing officers, and outside auditors.
 - The Commission needs additional staff (and certainly more than 5 FTE) to investigate ethics complaints and to enforce compliance with New Mexico’s ethics and disclosure laws.
- In 2021, the Legislature tasked the Commission with additional responsibilities, including the selection and appointment of members of the Citizen Redistricting Committee and additional jurisdiction for the Revised Uniform Law on Notarial Acts.