

## New Mexico Ethics Watch sues N.M. Legislature

Written by By Kathleen Sabo Executive Director N.M. Ethics Watch  
Thursday, 30 December 2021 09:09

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New Mexico Ethics Watch filed a lawsuit against the New Mexico Legislative Council Service – the legislative branch’s records custodian – and the New Mexico Legislature for withholding documents related to identifying the legislators responsible for specific appropriation requests in major appropriations bills from this year’s regular session.

To identify individual legislators and their requested appropriations, NMEW requested all memoranda and reports generated by the House Appropriation and Finance Committee, the Senate Finance Committee and their subcommittees concerning House Bill 2 – the general appropriation act funding the government – prior to the final vote on House Bill 2 on the floor of the House in the 2021 legislative session in October. Ethics Watch also asked for the same type of documents from those committees related to Senate Bill 377, another spending bill popularly called “House Bill 2 Junior.”

Additionally, New Mexico Ethics Watch asked for all requests for capital outlay expenditures by individual legislators, which were spuriously identified in the Legislature’s required publication of final capital outlay projects as “sponsored by: Statewide,” instead of identifying the specific legislators who requested these expenditures. A year ago, the Legislature required publication of a searchable list of capital expenditures with “the amount of the allocation designated by each legislator and the governor.” Designating many of these as “Statewide” violates this law.

However, the Legislative Council Service denied the lion’s share of NMEW’s requests. The agency asserted that the records it withheld were exempt from disclosure under the state Inspection of Public Records Act. The agency claimed that these records are “confidential and privileged communications that are integral to the deliberative process and are not subject to disclosure” under IPRA, citing statutory law, a joint rule, and the Constitution of New Mexico.

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New Mexico Ethics Watch's Dec. 21 complaint claims that the denial of records is unlawful, in that none of the legal bases cited by the defendants in their Inspection of Public Records Act denial, exempt the withheld records from disclosure under IPRA. Additionally, Ethics Watch claims the defendants failed to comply with their mandatory, statutory duty to identify the withheld requested records and explain their IPRA denial for each.

The state Inspection of Public Records Act exists so that New Mexico citizens can gain the greatest possible insight and information into state government affairs. For too many years the Legislature has kept secret from the public important parts of the appropriation process, which involves billions of dollars of taxpayer money. This is one of the state government's most egregious affronts to transparency.

The lawsuit points out several examples since the 1990s of New Mexico legislators found guilty of directly profiting from bills which they sponsored, or for which they solicited bribes. New Mexico Ethics Watch believes more transparency could help prevent such abuses of the public trust.

***New Mexico Ethics Watch is a nonprofit, nonpartisan organization and a principal leader in ethics reform, advocacy, and education in New Mexico. Our values are that ethics is for everyone; that good government leads to improved schools, healthier communities, and better business, and attention to ethics in public life leads to more equitable opportunities for all.***

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