

Judge finds legislative council service in violation of IPRA

Written by Gallupsun Staff
Friday, 21 April 2023 03:25



Dear Editor,

The New Mexico Foundation for Open Government applauds the decision by New Mexico First Judicial Court Judge Kathleen McGarry Ellenwood ruling the New Mexico Legislative Council Service violated the Inspection of Public Records Act by failing to fulfill a request from Ethics Watch for public records regarding the 2021 Junior Appropriations Act.

In the suit filed in December 2021, Ethics Watch requested spreadsheets containing the complete list of appropriations and the name of the House and Senate member submitting the appropriation for the 2021 Junior Appropriations bill (the bill that allocates an amount of funds to each legislator for them to direct to projects of their choosing). The House Appropriations and Finance Committee and Senate Finance Committee compiled the spreadsheets with data about the received appropriations requests.

The IPRA request that led to the lawsuit had been made by Ethics Watch earlier that October, seeking several LCS records. The LCS responded to the request but did not supply the specific records requested. In the denial, the LCS argued that Ethics Watch was not entitled to any documents because they were protected by the LCS's confidential services statute and/or the Speech and Debate clause. McGarry Ellenwood rejected both arguments.

In her decision, McGarry Ellenwood wrote, "The purpose of IPRA would be defeated if this request is denied. The legislature cannot hide behind this section to hide this information and obviously the subsequent actions by the legislature support the idea that this was not the intent

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of section 2-3-13.z. This is really the essence of the legislative process.”

McGarry Ellenwood said there was no difference between the appropriations in the junior bill being tied to a specific legislator and a certain legislator sponsoring a bill.

“In each circumstance the public becomes aware of what their specific legislator is doing on their behalf,” she said.

She said the documents are public records and they relate to public business.

Sincerely,

Melanie J. Majors

Interim Executive Director